



Mineral



Question of the Week

September 27, 2023

Question

We have an exempt employee who has been taking a lot of long lunches and my boss wants to deduct time from her paid time off (PTO) bank. Can we dock her PTO for taking a long lunch?

ANSWER

You can deduct hours from this exempt employee's PTO bank for time she was scheduled to work but *didn't work*, but if it wasn't made clear that you expected her to follow a set schedule, you'd only want to do this going forward. However, we'd suggest considering a different approach.

First, speak to her about the long lunches. It's possible she simply misunderstands how long her lunch breaks are supposed to be and is taking what she believes to be the correct amount of time. Ensure she understands what the consequences will be if she continues to take long lunch breaks. This discussion alone might solve the problem.

Second, if the long lunch breaks persist, follow your standard disciplinary process. While PTO deductions are an option, they may not actually discourage the behavior you want to stop. If the employee is willing to use PTO to take long lunches, she may just continue taking them. Additionally, as this employee's position is classified as exempt, if her PTO bank is exhausted, a deduction from her salary for missed time would not be permissible.

This Q&A does not constitute legal advice and does not address state or local law.