



IN THE BUSINESS OF YOUR SUCCESS®

When Weather's Frightful, What Are the Rules for Paying Employees?

When extreme weather occurs, employers may be forced to close or employees may be unable to report to work. In this Tip you will read some considerations, and best practice guidance, for handling compensation related issues during absences and closings resulting from inclement weather.

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Extreme winter weather is upon much of the country this time of year. Many areas have already experienced record breaking low temperatures and inclement weather causing disruptions to normal business operations. Snow storms and other weather conditions can down power lines, create unsafe travel conditions, and hinder business productivity. When this happens, employers may be forced to close depending on the severity of the storm.

The following are some considerations, and best practice guidance, for handling compensation related issues during absences and closings resulting from inclement weather.

- » **Paying non-exempt employees when business closes for full day.** Generally, whether or not an employee must be paid for full-day closures depends on his or her status as an exempt or non-exempt employee. The Fair Labor Standards Act (FLSA) requires that all non-exempt employees be paid at least the minimum wage for all hours worked during the workweek. If non-exempt employees miss work because of inclement weather (either because the company is closed or because they are unable to make it to the business location), there is no requirement to pay them, regardless of the duration of the absence. However, some employers choose to voluntarily pay non-exempt employees if the business is closed due to inclement weather.
- » **Paying exempt employees when business closes for full day.** Exempt employees, on the other hand, must receive their full salary in any workweek in which they perform any work regardless of the number of hours worked. If the business location closes because of inclement weather for less than a full workweek, the employer must pay an exempt employee his or her full salary, as long as the employee worked any part of the workweek.
- » **Paying non-exempt employees when business closes after they report to work.** It is important to remember that non-exempt employees must be paid for all the time they actually work plus all time they report to work and are required to stay until a decision about closing is made. There is no federal requirement for employers to pay non-exempt employees a minimum number of hours if they report to work when there is no work available due to weather or related circumstances. However, some states do have report-in pay requirements. Employers should check their applicable state laws to ensure compliance.
- » **Paying employees who cannot report to work when the company remains open.** If the company remains open during inclement weather and exempt employees fail to report to work, the FLSA permits employers to make salary deductions for absences of one or more full days, because it is considered an absence for personal reasons other than sickness or disability. However, deductions from an exempt employee's pay for partial-day absences are prohibited. Thus, if an exempt employee performs any work from home (e.g., checks work email) or reports to work for an hour and then chooses to go home because of the weather, employers are required to pay the employee his or her full salary for that workweek. Again, if non-exempt employees do not

report to work because of inclement weather and do not perform any work from home, there is no requirement to pay them, unless the employer's policy or practice promises otherwise.

- » **Requiring the use of paid time off (PTO).** Under federal law, employers may generally require both non-exempt and exempt employees to use accrued vacation or PTO for the time missed due to inclement weather. However, if exempt employees do not have accrued PTO available, they will still be entitled to their full salary for the workweek as long as they have performed any work within that workweek. Note: Some states do not permit employers to require the substitution of PTO in these cases. Employers should check state law to ensure compliance.
- » **Offering alternative work arrangements.** As an alternative to employees missing work (because they cannot reach the office or because the office must close), employers may consider offering work-from-home arrangements or allowing non-exempt employees to make up missed hours during the same workweek. When non-exempt employees perform work from home, they should be clearly instructed to record all time spent working, including time spent checking and responding to emails and phone calls.

An important part of being prepared for weather-related emergencies is to address how your company's pay practices may be impacted by a business location closing. Pay practices and other related issues should be described in detail in a written company policy in accordance with the FLSA and applicable state laws, and companies should have a plan for processing and approving payroll even when the business may be closed.



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