

Electronic Alert

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Remember to Storm-Proof Your Inclement Weather Policy

By Amy Angel

With the ice and snowstorm causing so much disruption last month, many employers are reviewing their inclement weather policies to ensure compliance with best practices and applicable laws, especially when it comes to whether to pay employees for missed time. Here are a few considerations to be sure you are ready for the next major weather event.

Be sure your policies are clear on how and when employees will be notified in the event you decide to close due to inclement weather. For unionized employers, inclement weather policies are mandatory subjects of bargaining.

Even if you remain open, most businesses should leave it to each employee to decide whether it is safe for them to report to work based on the conditions in their immediate area. State who they must report to in the event they will be late or are unable to report to work. If employees are expected to work from home, your policy should address that as well.

Be clear whether an employee will be paid for missed time or if they must use accrued paid time off. Non-exempt employees must be paid for all hours actually worked, including time spent working from home or an alternate location. While a nonexempt employee paid by the hour does not need to be paid for any time missed due to inclement weather, they can be allowed (or required) to use paid time off to cover any time they miss.

In general, an employer must pay exempt employees their full salary for any workweek in which they perform any work. If the business is closed for less than a full workweek due to inclement weather, exempt employees who are ready and willing to work must receive their full salary for that week if they performed any work during the workweek. If the business remains open and an exempt employee chooses not to report to work, the employer is not required to pay them so long as the employee performs no work during that day. Keep in mind that checking email from home would be considered performing work.

But what if a business closes its offices and instructs their employees to work from home? Whether to pay exempt employees under these circumstances may depend on the employee's individual circumstances. For example, whether you must pay them may depend on why they are not working. Is it because their power or internet is out? Or is it because they chose to spend the day sledding?

Regardless, an employer may require exempt employees to use accrued paid time off for time missed due to inclement weather. However, if an exempt employee has exhausted their PTO, there are still circumstances in which they must still be paid their regular salary.

For questions relating to inclement weather policies and how to pay employees during inclement weather or other emergency closures, contact Amy Angel at 503-276-2195 or aangel@barran.com.