

Dear HR Knowledge, We dealt with many employees not showing up to work due to bad weather last year. What should we do to prepare for this?

It might be the beginning of fall in New England, but to quote Game of Thrones, winter is coming! Winter is a time of year that makes the weather and employees' attendance unpredictable. It's also the time of the year when many employers are faced with the inconvenience of business closures. This leaves employers questioning how employees should be paid when the business shuts down or when employees cannot make it to work.

While most businesses have the option of whether they wish to close their doors during inclement weather, employers must understand how to pay employees to ensure compliance under the Fair Labor Standards Act (FLSA). The short answer to the question of how to pay employees is: it depends on whether the employee is exempt or nonexempt.

Exempt employees

Under the FLSA, exempt employees must receive their full salary for any week in which he or she performs any work, regardless of the number of days or hour worked. There are a few exceptions, but most of them do not apply to incremental weather closures, unless the business is closed for a full workweek; in that case, exempt employees do not need to be paid if they perform no work whatsoever. However, if an exempt employee works remotely, checks an occasional email, or takes a call, this is considered work performed and the employee should be paid his or her full salary.

If the business is open and the employee decides not to make the trek in and they cannot work remotely, employers can debit an exempt employee's accrued paid time off. When there is no accrued paid time off available, and no policy that outlines expectations, exempt employees are still entitled to their full salary.

Nonexempt employees

Nonexempt employees (hourly paid) must be paid for all time spent working. Whether the employer closes its doors or not, when nonexempt employees do not work, they do not need to be paid. When a business closes early, nonexempt employees only need to be paid for the hours actually worked. The caveat to this is that some states have "show-up" or "reporting pay" regulations. In Massachusetts, for example, a nonexempt employee who is scheduled to work for three or more hours, reports for duty at the scheduled time, and is not provided with the expected hours of work, must be paid for at least three hours at no less than minimum wage.

Employers should be mindful that working remotely is considered work; therefore, time spent answering an email or making a phone call is compensable. While telecommuting is often a viable option, it can be problematic and challenging for employers when it comes to monitoring and tracking time worked remotely for nonexempt employees.



What's an employer to do?

We recommend that you create an Inclement Weather policy to prepare for these situations. A well-crafted policy can take away the guesswork on how to handle these situations by not only addressing how employees will be paid, but also by establishing the communication procedure should the business close. Your policy should also highlight that safety is paramount when deciding whether to report to work during periods of severe weather when the workplace is open. If you are an HR Knowledge client and do not currently have such a policy, please [contact us](#) to help you develop one.

About HR Knowledge

Founded in 2001, HR Knowledge provides integrated outsourced HR services tailored to our clients' needs. Our full array of offerings includes managed payroll, employee benefits administration, and HR consulting and support services, such as training, compliance, custom-built software solutions, and Hiring Process Management™, our comprehensive recruitment service that takes you from finding to onboarding new talent. Our major markets are fast-growing small- and medium-sized businesses, many of which are venture-capital-backed; foreign companies expanding into the states; and charter schools. Partnering with HR Knowledge can reduce your administrative costs, minimize your legal risk, help you find and develop talent, and alleviate the HR burden so that you can focus on your core business.

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