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Exempt Employees Time Off

The following serves as a guideline when determining payment to exempt employees for office closures.

The following is from: **SHRM.com**

Pay obligations differ during inclement weather closures primarily based on the worker's Fair Labor Standards Act (FLSA) classification. Additionally, some state laws may come into play depending on the circumstances involved.

- Exempt employees: Exempt employees almost always must be paid when they work any portion of a workweek, including situations of inclement weather and natural disaster. The DOL provides a list of the instances in which an employer is permitted to dock exempt employee pay, and business closures are not one of the permitted deductions. If an employer sends exempt employees home early because of inclement weather or pending natural disaster, an employer is obligated to pay exempt workers for the entire day. If an employer decides to close for an entire day because of inclement weather, an employer is still required to pay exempt employees for the entire day. The only instance in which an employer is permitted to not pay exempt employees because of inclement weather or a pending natural disaster is when a business closes for an entire week and exempt employees perform no work during that week. There is also no obligation to pay an exempt employee when the business remains open during inclement weather and an exempt employee chooses to take the entire day off for personal reasons.
- Employers may generally require both nonexempt and exempt employees to use paid time off (PTO) in times of inclement weather or natural disasters. An exception might be if the state mandates paid sick leave, which is only to be used for specific circumstances.
- Mandatory use of PTO can be applied to full-day or partial-day absences. As for exempt employees, FLSA allows the substitution of PTO for regular wages, as long as the exempt employees receive their fixed weekly salary.
- If a nonexempt employee has exhausted his or her PTO, absences or early departures due to the employer's business closures are generally not compensable with the exception of any state report-in pay laws as described earlier.
- If an exempt employee has exhausted his or her PTO, an employer must still provide exempt employees guaranteed salaries for closures of less than a full workweek in these situations.
- When requiring employees to use their PTO for business closures, employers should have a written policy in place to inform employees of this requirement. Policies should be applied fairly and consistently to avoid any potential discriminatory claims from employees. Employers will also want to ensure that their policy on mandatory use of PTO is in compliance with their state laws.