

PUBLICATION

Trying to Reason with Blizzard Season: Employers, Employees, and Inclement Weather in the Southeast

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In January, a “once-in-a-generation” winter storm hit the southeastern United States. The temperature dropped to record lows while snow and ice paralyzed our cities and towns. Schools across the region were closed, with closures reaching as far south as Houston, Texas, New Orleans, Louisiana, and Mobile, Alabama. Airlines canceled flights. Louisiana and Alabama declared states of emergency. Roads became treacherous and impassible. In Atlanta, Georgia, a city sometimes known as “Hotlanta,” the roads were frozen and gridlocked, stranding motorists and commuters in cars, trucks, and buses, some of whom remained stranded for more than a day. The shifting storm front caught many people off guard and unprepared. As this post is being written, the weatherman is predicting more ice and snow for a region that has already exhausted its supply of snow days. With every storm that follows, the consequences for employers and employees will be magnified, bringing unwanted emphasis on the rights and responsibilities in the employment relationship.

Salaried Employees

When a business closes due to inclement weather, salaried employees are entitled to receive their full salary. If they have vacation time or other leave time, the employer may require them to use their vacation time during the closure. Salaried employees who do not have vacation time must receive their full salary without any deduction. On the other hand, when a business is open during inclement weather and salaried employees refuse to work or cannot work because of the weather, the employer may consider the salaried employees absent for personal reasons. Under these circumstances, if the employee is absent for a full day or more, the employer may deduct a full day's pay from the absent salaried employee's salary without jeopardizing the employee's exempt status. In other words, the employer may place the absent salaried employee on unpaid leave for the weather-related absence. If the employee's absence is less than a full day, the employer is not permitted to make any deductions from the employee's salary but may require the employee to use leave time. The employer may also enforce the employer's attendance policy against the employee and impose the appropriate corrective measure, including termination.

Hourly Employees

The rights of hourly employees are easier to apply. Generally, if an hourly employee does not work, the employer is not required to pay the hourly employee. The reason for the employee's absence does not matter. If the employer closes the business for the entire day due to inclement weather, the employer is not required to pay hourly employees for that day. If the employer closes the business for part of the day, the employer is required to pay hourly employees for the hours worked or for the hourly minimum required by state law. If an employee refuses to work or cannot work because of the weather, the employer is not required to pay the employee.

Inclement Weather Policy

Employers should consider other factors in the employer-employee relationship when inclement weather causes business closures and employee absences. Many employees feel strongly about the impact of

inclement weather. They may not like being required to report to work when their safety may be placed at risk, and they may feel that it is unfair to lose wages for circumstances beyond their control. Accordingly, the manner in which an employer handles these situations will have a direct impact on employee morale.

The best way for employers to manage their relationship with their employees when inclement weather causes business closures and employee absences is through an inclement weather policy that clearly defines the rights and responsibilities at play. An inclement weather policy may provide information on the following issues:

1. The decision-making process involved in whether the employer's business will be open or closed during inclement weather, including any specific factors that will guide the decision. The factors may include such things as school closings, road conditions, the declaration of a state of emergency, and power outages.
2. The process through which business closures will be communicated to employees.
3. The identification of essential personnel who will be required to report to work during any announced business closures.
4. The availability of telecommuting for employees who are willing and able to work from home during business closures.
5. The procedure for taking time off due to inclement weather.
6. The handling of absences and tardiness related to inclement weather.
7. The handling of pay for non-exempt employees.
8. The requirement that vacation time or paid time off be used during business closures caused by inclement weather.