

Employee Considerations During Natural Disasters



When employers are in the midst of a natural disaster, being mindful of obligations towards employees may be difficult. Being prepared for natural disasters with a well thought out Emergency Action Plan (EAP) that has been shared with all employees can provide a roadmap in such trying times. California employers must also have a Fire Prevention Plan (FPP) that explains the fire hazards employees may face and how to handle a fire.

Key Points for Emergency Planning

- Train new hires and staff members who are assigned to a new position on the EAP and FPP.
- Retrain employees when the EAP or FPP is modified.
- Periodically retrain staff and conduct emergency drills.
- Plan how to communicate with staff in emergency situations.
- Plan who will determine business closures, and how to handle and communicate closures.
- Determine if alternative workplaces can be established.
- Discuss what positions are necessary given emergency conditions.

Paying Employees Properly

During an emergency, employers must be aware of the laws regarding proper wages for exempt and nonexempt exempt employees in the case of business shut downs and other unusual situations.

If a business closes due to a natural disaster, employers are obligated to pay exempt employees a full weekly salary for any week in which any work is performed. However, if a business is closed for the entire week, the employer is not required to pay exempt employees.

Special pay rules apply for nonexempt employees in emergencies.

If a business closes for any of the following reasons, the employer is only required to pay nonexempt employees for any hours they worked before being sent home:

- Business operations can't start or continue because of threats to people or property or when recommended by civil authority

- Loss of public utilities such as water, gas, electricity or sewer
- Business operations are interrupted by an “Act of God” or other causes beyond the employer’s control

Keep in mind that if you decide to shut down your business on your own authority and not for one of the reasons listed above, your employees may be owed reporting time pay. If a nonexempt employee comes to work for a scheduled shift and is not allowed to work or is given less than half of their scheduled hours, the employee is eligible for reporting time pay which equals one half of the pay for the scheduled shift, and cannot be less than two hours and no more than four hours.

Depending on the extent of the disaster federal Disaster Unemployment Assistance (DUA) benefits may be made available quickly. DUA provides temporary unemployment benefits to those whose employment is directly affected by an emergency. Employers and affected workers can check on the status of DUA benefits at www.edd.ca.gov.

Employers may choose to pay employees or allow them to use their vacation or other personal time. However you decide to handle this issue, be consistent in your implementation.

Emergency Personnel Leaves of Absence

Some employees may serve as volunteers for local fire departments or other emergency response teams. Employers must give leaves of absence to employees who are required to perform emergency duty. But employers are not obligated to pay these employees during their leave of absence.

Health Issues Resulting from Natural Disasters

Employees may be eligible to time off for health issues that have occurred as a result of a disaster.

Employees may use their California mandatory paid sick leave for the care or treatment of a health condition for themselves or a family member, as defined by the law.

Also, the federal Family Medical Leave Act (FMLA) or the California Family Rights Act (CFRA) may apply in some situations. The FMLA and the CFRA applies to employers with 50 plus employees. An employee may be eligible for a maximum of 12 weeks of unpaid leave in a 12-month period.

If an employee experiences a physical or mental injury in a natural disaster, they may be eligible for protections under the laws under the federal Americans with Disabilities Act (ADA) and the state Fair Employment and Housing Act (FEHA). Employers may be required to reasonably accommodate an employee for these reasons.

School or Childcare Leave

Employers with 25 plus employees who work at the same location may need to give unpaid time off to employees if their children's school or child care is closed as a result of a natural disaster, such as a flood, fire, or earthquake. No more than 40 hours per year is allowed for emergency situations.

Worker Safety in Natural Disasters

Natural disasters such as floods and wildfires may create health hazards for employees during the crisis and in the aftermath. Floods may cause mold, spores and other unsafe conditions. Smoke can contain chemicals and particles that are harmful. There may be other hazards, including electrical dangers, insecure structures, flammable materials, ash, soot and dust.

Employers are obligated to provide a safe workplace for employees. Learn more about worker safety in fires and fire cleanup at [Cal/OSHA](#).

CLIA members can call the FREE CLIA Helpline at 916.925.2915 with questions about employer obligations towards employees in natural disasters and other legal and HR questions.