

Staying compliant during natural disasters: Pay, leave questions answered

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The arrival of Hurricane Florence — and the dreaded aftermath — has a lot of employers wondering about HR challenges that come along with natural disasters.

FLSA and FMLA compliance is a big concern at times like this, and employment lawyer Kara Maciel answered some common questions HR pros have when disaster strikes.

Wage and hour concerns

If our company closes due to the storm or damage afterwards, do we have to pay employees for that time?

According to the FLSA, nonexempt employees only have to be paid for time actually worked. So, while the worksite is closed due to a natural disaster, these employees don't have to be paid.

Exempt employees are a different story. These workers have a fixed weekly salary, and must be paid this full salary if any work was performed during the week. So, if the company closes Wednesday due to the storm, exempt employees would still receive their normal paychecks, even though they only worked Monday and Tuesday.

Note: Employers can require workers to use available leave during this time.

If the worksite is open, but employees can't come in due to the weather, is it legal to dock exempt employees' salaries?

The DOL says when employees have transportation issues in severe weather, the absence can be counted as personal time. Employers can place these employees on temporary leave without pay until they return. However, if a salaried employee only misses a few hours of work, their pay cannot be docked.

Note: Before docking anyone's pay, it's best to seek legal counsel. There are also other options, such as allowing the employees to "make up" the time they missed.

FMLA issues

Can employees affected by the hurricane take FMLA leave?

Workers may use FMLA leave if they suffer a serious health condition as a result of the natural disaster. An employee can also use this time to care for an affected family member.

One example of an FMLA-qualifying condition resulting from the hurricane is medical equipment not operating due to power outages.