

Employers' Responsibilities for Snow Days and Working Vacations

Article By:

Cynthia L. Effinger

With the holidays approaching and winter closing in, businesses prepare for a reduction in the work force due to employee vacations and inclement weather. A smaller work force does not equate with less work to be done, and therefore, some employees may be facing working while on vacation. Similarly, work does not stop simply because the business is closed due to inclement weather or because employees cannot make it into work because of the weather. While one situation asks what is owed to employees who work from a vacation, the other asks what is owed to employees who do not work but because of reasons outside of their control.

Working Vacation - Will the Employer Be Obligated to Return Vacation Day Spent Working?

There are very few businesses that shut down operations during the holidays. Instead, for many businesses the holidays represents the busiest time of year creating tension between the employer and the employees about whether employees should be available to check email, answer calls or otherwise perform their jobs while on vacation, albeit remotely.

Salaried employees often protest the idea of a "working vacation" because of the traditional notion that a vacation is a break from work. However, in today's age of technology a working vacation - to some degree - is part of the job. For example, many employees have remote access to email through smartphones or laptops. Customers, clients and bosses will have questions or issues that may need to be addressed while employees are on vacation. While these questions or issues are oftentimes ones that *can* wait until the end of a vacation, technology has created an expectation in others that they *do not have to wait*. Companies fear losing business because they are not attentive to their customers' immediate needs, and competitors are all-the-more willing to jump on such an opportunity.

As a result, more and more employers are requiring their salaried employees to be accessible while on vacation. The question employers will face is whether they are required to return any paid vacation day a salaried employee spends actually working. The answer is no.

Paid vacation time for salaried employees is not regulated by state or federal laws. Instead, it is granted to the employee at the discretion of the employer and under conditions set by the employer.

Employers should be cautioned against taking advantage of this rule for fear that it will engender feelings of resentment and unhappiness in the workplace. To avoid confusion, employers should clearly communicate their expectations for what access is required when employees take vacation and how such work will or won't be compensated.

Business Closings- Will the Employer Be Obligated to Pay Employees for Closings Due to Weather?

The possibility of bad weather brings potential attendance issues to the forefront of employers' minds. Icy roads and snow storms in Kentucky often cause delays and closings of not only schools but also businesses. Of course safety is the primary concern for everyone in extreme weather conditions, but employers must think beyond the logistics of employees getting to work or staying home. Absences due to bad weather impact the productivity of a business, and raise questions regarding the calculation of pay and how an employee's time should be tracked. These issues are further complicated when dealing with a mix of exempt and non-exempt employees, however the **U.S. Department of Labor (DOL)** does offer some guidelines to assist an employer in determining their rights and responsibilities when bad weather impacts employee attendance. Consider the following:

The business decides to close due to bad weather and sends non-exempt employees home: Employers are required to pay hourly employees only for the hours worked. Under the **Fair Labor Standards Act (FLSA)**, an employer is not obligated to pay for hours not worked. Therefore, non-exempt employees when unable to attend work, or sent home due to weather do not have to be compensated for the time off. This is a fairly straightforward and uncomplicated practice, unlike dealing with the complex nature of exempt employees.

The business is open, but an exempt employee chooses not to come in: An exempt employee almost always has to be paid, in any circumstance. Under the FLSA an employer is prohibited from docking the pay of an exempt employee who chooses not to come into work for inclement weather. An employer can, however, deduct the inclement weather days off from the employees' paid time off or vacation to cover the missed work. If a business decides to close due to weather, it will be required to pay exempt employees their regular salaries. The only instance in which an employer can deduct pay from a salaried exempt employee is if the facility is closed for more than a week.

Whatever the forecast this winter, with proper planning, understanding the legal obligations and a clear and concise policy an employer can reduce the likelihood of confusion created by weather-related absences. So plan now for Jack Frost, and you'll be able to enjoy the winter wonderland without the stress of the question "to pay or not to pay."

© 2025 by McBrayer, McGinnis, Leslie & Kirkland, PLLC. All rights reserved.

National Law Review, Volume II, Number 321

Source URL: <https://natlawreview.com/article/employers-responsibilities-snow-days-and-working-vacations>