

## Is It Compensable? Missing Work Due to Inclement Weather

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It is the heart of winter and, for some parts of the country, dangerous snow and ice storms are prevalent. In other areas of the country, hurricanes, wildfires, and other inclement weather events have been occurring with more frequency throughout other times of the year. While it may be rare that an inclement weather event prevents employees from reporting to work or causes businesses to close, what if that does happen? Is the time during which employees were scheduled to be at work but could not be due to poor weather conditions compensable? That depends.

Under the Fair Labor Standards Act (FLSA), employers are required to pay hourly nonexempt employees only for hours actually worked. A company therefore is not required to pay hourly, nonexempt employees for any hours not worked as a result of (i) the business's opening late due to inclement weather, (ii) the business's closing early due to inclement weather, or (iii) the business's remaining open for normal business hours, though the employee is unable to report to work due to the weather. This is the case even if the nonexempt employee was scheduled to work that day.

In contrast, under the FLSA, salaried exempt employees almost always must be paid their full weekly salaries when they work any portion of a workweek, with certain limited exceptions. When it comes to determining whether an employer must pay salaried exempt employees who do not report to work due to inclement weather, the answer depends on whether the business remains open or closed. If the business closes due to inclement weather for a full or partial day (or any amount of time less than a full workweek), the company is still required to pay exempt workers their full weekly salaries, without any deductions. On the other hand, if the business remains open in spite of inclement weather, and an exempt worker chooses to be out for the full day of work, the employer is not required to pay the worker for that day.

Of course, if an exempt or nonexempt employee performs remote work during periods of inclement weather, the FLSA requires that all such work be compensated accordingly. Because state laws may differ from the FLSA's requirements, employers may want to consult the laws of any state where they have business operations in the event that inclement weather results in employees voluntarily or involuntarily not reporting to or performing work.

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