

Accounting for wages lost to the weather

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Did Hurricane Sandy put you out of work for a few days? A week? Longer? You may be entitled to compensation. Then again, you may not.

- If a business closed due to the effects of a hurricane, like flooding or power outages, must an employer pay its employees for the hours they would have worked?

- If a business remained open, but employees were unable to get to work due to flooded roads or downed power lines, are the employees entitled to be paid, or must they use vacation or other paid time off?

- If a business was open, but employees "worked from home," are they entitled to be paid as if they had come to the office?

Connecticut employers must adhere to wage and hour laws at all times, even in the wake of natural disasters. However, these obligations become complicated when the unexpected occurs, such as when flooding forces a manufacturing facility to close its doors for two weeks.

Generally, salaried employees, if they worked any part of the week in question and were available to work for the remainder of the week, are entitled to be paid for the full week. If, on the other hand, the employee did no work during the week, the employer is not obligated to pay the weekly salary.

Employees who are paid hourly, on the other hand, must only be paid for hours they actually work. If the business is closed, paychecks need not be issued.

For those losing paychecks, Connecticut's unemployment compensation system does provide some relief, allowing employees to collect at least partial unemployment benefits in the event of a storm-related closing.

In addition to legal requirements, employers must also pay

attention to their existing policies and procedures. If a company handbook addresses unexpected plant closings, the company must adhere to its own policy, or risk legal claims. Also, the impact on employee morale in extraordinary situations should not be ignored.

What happens to the employee who cannot get to work due to the aftermath of a storm, even though the business is open? As noted, salaried employees who have worked part of a week are going to be in better shape than others. Hourly employees should expect to use vacation time or other paid time off as dictated by company policy in such a situation. Although an employer may be sympathetic to the employee's challenges, absent a company policy imposing a contrary obligation, employees generally will have to use available time off in order to receive compensation in such circumstances. If an employee has exhausted all available paid time off, the employee may be forced to take additional time on an unpaid basis. Indeed, prolonged absences exceeding the employer's allotment for time off could even lead to disciplinary measures — perhaps even termination. Again, employers need to consider the impact on employee morale, but the letter of the law rarely requires such consideration.

The mixed blessings of modern technology make it easier than ever for certain employees to work from home, connecting to company computer networks and seamlessly communicating with co-workers and customers via smart phone. Typically, any time hourly employees spend working — including sending and receiving emails and text messages — is considered compensable time, for which employees must be paid. Recording employee work hours for work performed off-site is com-

plicated, both when it occurs on a regular basis and when it arises unexpectedly. Employers should proactively establish procedures for handling these situations, so that employee expectations can be addressed and the employer can avoid running afoul of Connecticut's applicable wage laws.

The situations described here illustrate only a few of the myriad issues that might arise for employers following a significant weather event or other unexpected business interruption. Although it is not easy to anticipate the unexpected, employers can take steps to plan for such events, by maintaining meaningful and consistent personnel policies, and by remaining familiar with applicable laws.

Of course, it is also in an employer's best interests to remain sensitive to the plight of its employees, particularly those who were impacted by the recent storm — or any catastrophe. It is always in the best interests of a business to retain good staff. Sometimes, a little leeway may be the best way in the wake of calamity.

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