



## **Paying Employees for Unexpected Office Closures**

By Jodi Schafer, SPHR, SHRM-SCP | HRM Services | [www.WorkWithHRM.com](http://www.WorkWithHRM.com)

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QUESTION: I had to shut down my company for a total of five (5) days due to extreme weather. No one came into work during that time. Since I was unable to generate any revenue during those days, I did not pay anyone for the time I closed. I have had a lot of complaints about not paying them; telling me that it was not their fault that I closed the company and therefore they should be paid. One person told me I had a legal obligation to pay them. Is this true and should I have paid them? I want to make sure I get things in order before the next emergency hits.

ANSWER: Under the Fair Labor Standards Act and Michigan's Wages and Fringe Benefits Act you are only required to pay your non-exempt staff for time worked. It is common to try to have one or two administrative staff go into the office to call customers and cancel/reschedule appointments when the office has to close unexpectedly. You need to pay them for time worked, but are under no obligation to give them extra, such as additional PTO. Since you had to close the company due to weather and stated that none of your staff worked those days, you are not required to pay them for that missed time if they are hourly employees. This is not true for your exempt (salary) staff, however. With very few exceptions, you are required to pay your salaried staff the same amount each week if ANY work was performed in that week, regardless of how much work was performed or on which days it was performed. So, unless the five days you were closed were consecutive and constituted a full work week, you will be required to pay your exempt staff for the days you were closed.

While this may seem cut and dry, it is not always so simple. There are extenuating circumstances where you find that you may also need to pay your non-exempt (hourly) employees.

1. If you have a policy that provides pay for staff during periods of unexpected office closure, then your policy would prevail. A policy can be more generous than the law, as long as it doesn't violate the law.
2. If you have had a practice of paying employees, but nothing in writing, for a day that you had to close for reasons beyond your (or their) control. Then your actual practice of paying employees would set precedent and should be followed in this circumstance too.

While both of these examples are not necessarily legally binding, it does give your employees a solid argument should they opt to take their complaint to the next level. Another thing to think about when deciding whether or not to pay your hourly staff for missed days is retention. Many of your staff may be living paycheck to paycheck. Losing even one day's wages could result in financial hardship. Another option that I see some companies implement is the requirement that staff use their vacation time or PTO for the hours lost due to periods of office closure. While the theory is good, be warned that you may get some push back if you do this. My experience has been that employees protect vacation and or paid time

off banks like a mother grizzly bear protects her cubs. Your staff will want to use their banked time as they choose, not as you dictate, and will resent you for messing with it.

Taking care of your team members is important, but it must be balanced with taking care of your company. As you said, you did not generate any revenue during the days you closed, yet you will have roughly the same monthly expenses. So, make sure that as you consider the options, you take all of this into account. If you do choose to pay non-exempt staff for all or a portion of the missed days, be sure you do so consistently. What you do for one, you do for all. Put together a plan and a policy that will give you the guidance needed to handle any type of emergency situation. This will provide the flexibility to allow you to be able to make the best decisions according to the circumstances and will set employee expectations accordingly.