

Hurricane Irene, Wage Issues and Inclement Weather

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By **Michael Arnold**

An earthquake and a hurricane in one week in New York and elsewhere!? With the former, you may have had to evacuate your employees from the building; with the latter, it is becoming increasingly likely that your east coast employees may not even make into the building. Understandably, employers often become frustrated when Mother Nature disrupts their businesses, especially because of adverse weather conditions. In New York, most often, it's due to a blizzard. But next week, for the first time since 1985, it may be because of a hurricane.

If you decide to stay open for business, whether on Sunday when New York and Massachusetts expect Hurricane Irene (or some other significant tropical storm) to hit, and/or on Monday, when most will be surveying the damage, you may lawfully deduct a full-day's absence from the salary of any exempt employee for each day he or she chooses not to show up to work, even if the conditions make it physically impossible to come in. However, if the employee works for some of the day, then you cannot make any deduction to his or her salary for that day. At the same time, if you have the appropriate leave policy in place, you can require your employees to utilize their paid vacation or other leave to account for the absence from work.

If you decide to shut your doors, then you cannot make any deductions from your exempt employees' salaries, even if they would not have been able to make it to work. Once again, however, you can require them to utilize paid leave to account for the absence.

Employers must also be mindful of whether they are obligated to provide "call-in" or "reporting time" pay to non-exempt employees who come to work but who are sent home early because of the weather. Numerous states, including those in Hurricane Irene's path along the east coast: District of Columbia, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and New Hampshire, have laws mandating reporting-in payments.

Regardless of what you choose to do, please stay safe!

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