



Mineral



Question of the Week

July 12, 2023

Question

We are considering closing the office the day before an upcoming holiday, giving employees an unpaid day off. How would this work for our exempt employees?

ANSWER

The Fair Labor Standards Act generally requires that **exempt employees** –employees who are exempt from the law’s overtime requirement–be paid their regular salary regardless of the number of hours they work in a workweek. If your exempt employees are otherwise working the week of the holiday, you can’t designate it as an unpaid day for them.

As with nonexempt employees, you *can* require exempt employees to use accrued vacation or paid time off (PTO) to cover the closure. However, exempt employees who don’t have accrued vacation or PTO available to cover the day off still need to be paid during the closure unless they didn’t perform *any* work during the workweek. If you intend to require the use of PTO or vacation to cover closures, you should explain that in your handbook or policies so employees know what to expect.

This Q&A does not constitute legal advice and does not address state or local law.