



Policy Advisory – Absence due to Emergency Closure

This advisory is intended to assist you in administering employee absences during temporary emergency closure due to existing or imminent emergency circumstances, such as unsafe weather conditions. Employees who meet certain guidelines may not only be excused from duty, but also be compensated in accordance with state statute and the State Personnel Board Rules. Under State Personnel Board Rule 478-1-16(10), affected employees may be excused from duty during an emergency closure for as long as necessary without the loss of pay. However, employees who are not directly affected by the closure or who are not scheduled to work will not accrue any right to additional absence, and will not be compensated in any manner for any absence that may be authorized for the employees directly affected. Click [here](#) for State Personnel Board Rule 478-1-.16 and refer to section (10), Absence Due to Emergencies.

Decision to Temporarily Close

The Governor may sign an Executive Order to close state operations based on an emergency situation such as inclement weather; or the Governor may delegate the authority to the Agency Heads who will make the decision if and/or when their offices will close. You should ensure when communicating the message of a closure to your employees that it is clear whether the closure is intended to be for your entire agency or just affected locations or facilities.

Employees with Scheduled Leave during an Emergency Closure

An employee who is on approved leave or compensatory time during an emergency closure will be required to use the paid leave or compensatory time, as scheduled, because the employee will be considered unaffected by the emergency closure.

Employees Using FMLA during a Week with an Emergency Closure

An employee scheduled to be on Family and Medical Leave (FMLA leave) for the entire week during which there is an emergency closure must count the period of closure towards the employee's FMLA entitlement. A limited exception applies in the unlikely event that the emergency closure continues for one or more weeks. In such case, the days that state operations have ceased will not be charged against the employee's FMLA entitlement.

If an emergency closure occurs during a week in which the employee was scheduled to use FMLA for only part of the week, then the period of closure does not count towards the employee's FMLA entitlement. Note that all approved paid leave or compensatory time for FMLA reasons should still be charged against the employee's leave accruals for the scheduled time off, even if the time is not charged against the employee's FMLA entitlement.

Alternative Work Schedules

An employee who is normally scheduled to work an alternative work schedule (e.g., 10 hrs.) and is excused from duty due to an emergency closure should be compensated for the number of hours scheduled for that day in accordance with the plain language of SPB Rule 16(10), which states that employees should be excused from duty for as long as necessary



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without loss of pay. This is in contrast to a state paid holiday, during which such an employee is only compensated for a maximum of 8 hours.

Compensation for Temporary Employees Not Eligible for Leave Benefits

In accordance with state statute, temporary employees, that are not eligible for leave benefits and do not work due to an emergency closure, will not be compensated. The only situation in which a temporary employee not eligible for leave benefits will be compensated during an emergency closure will be for time worked from home or teleworking.

Compensation for Telework Performed During Emergency Closure

Several situations may arise during an emergency closure where an employee teleworks. If the Governor declares that state operations are shut down because of a temporary emergency, then an employee deemed non-essential (See Compensation for Essential Staff, below) that is scheduled to telework during that time is excused from work. (See possible exception for employees working out-of-state in areas unaffected by a temporary emergency.) Alternatively, if an Agency Head declares the emergency closure, then the agency may determine whether an employee scheduled to telework during that time is 1) considered “unaffected” by the closure or 2) excused from work. An employee considered “unaffected” by the closure will receive the normal compensation for hours worked, but no additional or double compensation.

An employee who was not previously scheduled to telework during an emergency closure, but who received prior supervisory approval to telework and did so, will be compensated per SPB Rule 16(10), which requires no loss of pay for an emergency closure. However, the employee will receive no additional compensation or “double” compensation because the employee worked during time in which he or she was excused from duty due to an emergency. Note: FLSA non-exempt employees who **work** more than 40 hours in their designated FLSA workweek will be compensated in accordance with overtime provisions. Non-exempt employees who work overtime without prior supervisory approval may be subject to disciplinary action.

Employees Out-of-State During Emergency Conditions

Situations regarding employees working out-of-state can occur under various scenarios – each of which must be analyzed on a case-by-case basis. Some basic guidelines surrounding three conceivable scenarios are as follows:

- *Emergency closure of state of Georgia operations (by Governor or Agency Head) and employee is in travel status out-of-state:* Such an employee may be out-of-state for an appointment, a training, to attend a conference, etc. Such an employee is considered unaffected by the state of Georgia emergency closure and should continue to work as scheduled. This employee will receive no additional or double compensation, but should receive the normal compensation for hours worked.



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- *Emergency closure of state of Georgia operations (by Governor or Agency Head) and employee's primary work station is out-of-state:* If no emergency conditions exist at the employee's primary work station, the employee is considered unaffected by the closure, unless the agency determines that the emergency closure prevents the continuation of the employee's assigned work.
- *Employee is working out-of-state either in travel-status or at a primary out-of-state work station and emergency conditions arise in that location:* Employee must telework, use paid leave or compensatory time, or make up for lost time. This analysis is similar to when in-state operations are not shut down, but emergency conditions prevent an employee from traveling to work.

Compensation for Essential Staff

Some of your employees may be required to work as essential staff during an emergency closure. You should refer to internal agency policy to determine what staff is considered essential. These employees should be compensated as usual. For example, if an essential employee with an 8-hour workday schedule works 12 hours the first day of a two-day emergency closure and works no hours the second day due to the closure, then the employee in this situation would be compensated normally for the 8 hours worked the first day and the 8 hours during which the employee was excused from work on the second day. If the employee is FLSA non-exempt, or if the employee is FLSA exempt and your agency provides state compensatory time to exempt employees, the employee would receive 4 hours of compensatory time for the additional 4 hours worked on the first day of the closure (provided the employee worked the scheduled 8-hour days on the remaining three workdays that week).

Essential employees who work during an emergency closure will not accrue any right to additional absence, and will not be compensated in any manner for any absence that may be authorized for the employees directly affected by the closure.

Reimbursement for Expenses Incurred

Once an employee leaves work due to an emergency closure, the employee is no longer in work status. No reimbursement should be made for expenses incurred during the employee's commute from work.

Calculation of FLSA Overtime

Paid time during which an employee is excused from duty during an emergency closure should not be considered "work time" for purposes of calculating FLSA overtime for non-exempt employees.

Special Circumstances

We acknowledge that special circumstances may arise that are not contemplated by this advisory. Such unique circumstances need to be analyzed on a case-by-case basis. The



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Policy and Compliance team at HRA is happy to work with you one-on-one to determine how to manage such situations during emergency closures.

If you have questions about the information in this advisory, please contact the HRA helpdesk at 404.656-2705 or 1-877-318-2772, or your agency's dedicated HRA Consultant.