

After natural disaster, who gets to take leave?

From wildfires in the west to hurricanes in the Gulf of Mexico, the Caribbean and the Southeast, natural disasters have millions of Americans on the move, trying to get out of harm's way. But some employers need their workers in place even when disaster looms.

What rights do workers have to evacuate, either voluntarily or when state or local authorities mandate it?

FMLA leave: Even in areas not directly affected by natural disasters, employers may find themselves having to approve requests for FMLA leave. *Example:* Employees may take FMLA leave if they need time off to travel to a disaster area to help an elderly or disabled parent evacuate.

Treat this just like any other FMLA request. First, verify eligibility. The parent must have a serious health condition that requires the worker's assistance. Be mindful that procuring a medical certification in the middle of an evacuation may be impossible. Err on the side of approving leave.

Military leave: Expect workers who are members of the National Guard to receive activation orders to help either with evacuations or recovery efforts. The Uniformed Services Employment and Reemployment Rights Act requires employers to grant such leave.

Disaster leave?

No, there's no such thing as "disaster leave" on the national level. Generally, employers are free to fire workers who don't show up for work, even during a mandatory evacuation. That leaves workers in a quandary: Leave and risk termination, or stay to face physical harm—and the possibility of being charged with violating evacuation orders.

But employer beware: Firing someone who evacuates may backfire badly. A Pizza Hut franchise in Florida faced furious backlash after requiring minimum wage workers to return to work within 72 hours of Hurricane Irma's passing.

Advice: If you must have workers in place because of the nature of the job—think hospitals and prisons, not pizzerias—then make plans to shelter employees and help them evacuate their families.