



# California

## Human Resources LEGAL FACT SHEET

*Disclaimer: This fact sheet summarizes state laws and regulations on a variety of human resource issues for dairy farms, including wages, paystubs, deductions, child labor, and more. It is not intended to provide legal advice. The fact sheet is simply an overview of select issues with a high-level explanation of key requirements for each one, with links to more information and resources throughout the document. This fact sheet does not include all legal requirements for dairies. It was created in May 2018, and while it will be periodically updated, it may not reflect the current state of the law on every topic covered. Dairies should also review the federal fact sheet because employers—depending on size—may be required to comply with some or all of the applicable federal laws and regulations as well. Additionally, employers should review the provisions of their collective bargaining agreement(s). By using this fact sheet you understand that there is no attorney-client relationship between you and the attorneys who were involved in developing the fact sheet. This fact sheet should not be used as a substitute for competent legal advice from a licensed attorney.*

## ARE THERE CALIFORNIA STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

### HIRING

TOPIC	ANSWER	DETAILS
Pay Notice <sup>1</sup>	YES	<p>All new non-exempt employees must receive upon hire a written notice on: (A) the rate/ rates of pay and what they're based on (hour, shift, day, week, salary, commission, etc. – plus any overtime rates); (B) allowances, if any, claimed as part of the minimum wage, like meal or lodging allowances; (C) regular payday; (D) the name of the employer, including any “doing business as” names used by the employer; (E) employer physical and mailing addresses; (F) employer phone number; (G) the name, address, and phone number of the employer’s workers’ compensation insurance carrier; and (H) any other information the Labor Commissioner deems material and necessary.</p> <p>A new notice has to be given within 7 days anytime the information changes, unless all charges are reflected on a timely wage statement or other writing.</p> <p>The notice needs to be in the language the employer normally uses to communicate employment-related information. Templates and some translations are <a href="#">available online</a> through the Labor Commissioner.</p>
Reporting <sup>2</sup>	YES	<p>New hires and rehires must be reported to the California New Employee Registry within 20 days.</p>

### WAGES

TOPIC	ANSWER	DETAILS
Paydays <sup>3</sup>	YES	<p>You must have regular paydays established in advance.</p> <ul style="list-style-type: none"> <li>For farm employees NOT in farm-provided housing: Paydays must be at least twice a month. Work done from the 1st to the 15th of the month has to be paid out between the 16th and last day of the month. And work done from the 16th to the end of the month has to be paid out between the 1st and 15th of the next month.</li> <li>For employees in farm-provided housing: Paydays must be at least once a month and cannot be more than 31 days apart.</li> </ul>
Final Pay <sup>4</sup>	YES	<p>If an employee is fired/involuntarily terminated, final wages owed (including payment for accrued, unused vacation/PTO) are due on the last day of employment. If an employee quits, final wages owed (including payment for accrued, unused vacation/PTO) are due within 72 hours of the employee’s notice of resignation; however, if the employee has given 72 hours or more notice, final wages are due on the last day of employment.</p>

This fact sheet contains embedded hyperlinks. If you are viewing a printed copy, please refer to the FARM website at [www.nationaldairyfarm.com](http://www.nationaldairyfarm.com) for the online version to access the links.



# WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Overtime <sup>5</sup>	YES	<p>Note – The overtime rates apply only to non-exempt employees and these rates for agriculture will change January 2019.</p> <ul style="list-style-type: none"> <li>• If an agricultural employee works more than 10 hours in one day: they need to be paid overtime at 1.5 times their regular rate of pay for all hours over 10</li> <li>• If an employee works more than 6 days in a week, the employee must be paid overtime at 1.5 times the regular rate of pay for the first 8 hours of the 7th day, and 2 times their regular pay for anything over 8 hours on that 7th day. However, no overtime pay is required on the 7th consecutive day of work in a workweek when the total hours of employment during such workweek do not exceed 30 and the total hours of employment in any one workday do not exceed six.</li> </ul> <p>Overtime does not apply to parent, spouse, or child of employer.</p> <p>Overtime also does not apply to an employee who (1) does work that is primarily intellectual, managerial, or creative (usually executive, administrative, or professional); (2) does work that requires discretion and independent judgment; AND (3) is paid double the monthly California minimum wage for full-time employees (\$3,640 if 25 or fewer employees; \$3,813.33 if &gt; 25 employees). Salaried employees that don't meet these criteria are subject to overtime pay.</p> <p>Beginning January 1, 2019, agricultural workers will be eligible for overtime after nine and a half hours worked in a work day, or work in excess of 55 hours in a work week. Beginning January 1, 2020, that overtime threshold will be reduced to nine hours in a work day or 50 hours in a work week. The following year, that number will be reduced to eight and a half hours in a work day or 45 hours in a work week. Eventually, effective January 1, 2022, the overtime basis will be in line with state law, i.e., eight hours in a work day or 40 hours in a work week.</p> <p>Guidance on calculating the regular rate of pay is found <a href="#">online</a>.</p>
Minimum Wage <sup>6</sup>	YES	<p><u>\$10.50</u> – Farms with 25 employees or less</p> <p>\$11.00 – Farms with more than 25 employees</p> <p>Minimum wage will increase effective January 1, 2019, and some municipalities have higher minimum wage rates. Does not apply to parent, spouse, or child of employer.</p>
Hours Worked <sup>7</sup>	YES	<p>California's applicable wage order defines hours worked as the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.</p> <p>If an employee is "suffered or permitted" to work, even though not instructed or requested to do so, that time is compensable working time, or hours worked. Therefore, if the employer knows or has reason to believe that an employee is working, such work is compensable.</p>
Reporting Time Pay <sup>8</sup>	YES	<p>Applies to farms with 5 or more employees:</p> <p>If an employee shows up for their workday, but is not put to work OR they are sent home after working less than half of their usual/scheduled day's work, then you have to give them 'reporting time pay'. They must be paid for half of the usual/scheduled workday at their regular rate of pay – but the time paid for can't be less than 2 hours or more than 4 hours. For example, if an employee is scheduled to work 8 hours and shows up for work, but you only need them for 3 hours, you still need to pay them for 1 additional hour (4 hours total). (<a href="#">See Section 5</a>).</p>
Pay Stub <sup>9</sup>	YES	<p>For each payday, employees must receive a pay stub that includes:</p> <ul style="list-style-type: none"> <li>• Gross wages earned</li> <li>• Total hours worked (Employees exempt from minimum wage and overtime do not need to have total hours listed)</li> <li>• All deductions (can combine into one if they are deductions taken by written order of the employee)</li> <li>• Net wages earned</li> <li>• Pay period dates</li> <li>• Employee name and last four digits of SSN (or other employee ID number)</li> <li>• Employer name and address</li> <li>• All applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate by the employee</li> </ul> <p>These records are subject to inspection under the rules regarding payroll records below.</p>

# WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Taxes and Withholding <sup>10</sup>	YES/NO	<p>Agricultural wages are not subject California state income tax withholding, but employers and their employees can elect to. Either way, employers must give employees a statement of taxes withheld, like a federal Form W-2, 1099-MISC or 1099-R.</p> <p>California employers <u>must withhold for State Disability Insurance</u> from employee pay (or cover employees through a <u>Voluntary Plan</u>).</p> <p>Employers must pay California <u>Unemployment Insurance taxes</u>. Certain family employment is excluded from coverage requirements (a parent employed by their son/daughter, a person employed by their spouse, or a child under 18 employed by a parent). Unemployment taxes are paid by the employer; they are not taken out of employee pay. You can credit the amount you pay to California in calculating how much you owe for federal unemployment taxes. <u>More details about unemployment insurance</u>. Employers are also responsible for the <u>Employment Training Tax</u> except under limited circumstances.</p>
Deductions <sup>11</sup>	YES	<p>Deductions required by law or courts (for ex. tax withholdings) do not require written authorization from the employee. Deductions for the employee's benefit, specifically health insurance payments and benefit plan contributions, must be agreed to by the employee in advance (or authorized by wage or collective bargaining agreement). Deductions for breakage or loss of equipment are illegal unless you can prove that it was because of the worker's dishonest or willful act or gross negligence. Other unlawful deductions include the cost of uniforms or required medical/physical examinations (for ex: pre-employment exams required to get the job, or any exams required by law). <u>More details</u>.</p> <p>If you loan an employee money, you can have a written agreement to have the employee pay it back through installments from their paycheck. But if they quit or are terminated before it is paid off, you cannot take the remaining balance from their last paycheck – you can only take the regular installment amount agreed to (absent an agreement otherwise).</p> <p>Meals and lodging may be credited as part of the employee's minimum wage, but there are limits to how much you can charge (<u>See section 3</u>) and this can only be done through a voluntary written agreement with the employee.</p>
Bonuses	YES	<p>Nondiscretionary bonuses are included when calculating the regular rate of pay for overtime purposes. A nondiscretionary bonus is one that is based upon hours worked, production or proficiency – for example, bonuses for meeting somatic cell count goals.</p> <p>Discretionary bonuses or sums paid as gifts at a holiday or other special occasions, such as a reward for good service, which are not measured by or dependent upon hours worked, production or efficiency, are not included for purposes of determining the regular rate of pay.</p> <p>Both bonuses are considered wages under California law and must be paid timely.</p>

# RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll <sup>12</sup>	YES	<p>Payroll records (copies of the paystubs described above) must be kept for at least three years. An employer who receives a written or oral request to inspect or copy records pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. Any employer receiving such a request should contact legal counsel.</p> <p>The records must be kept at the workplace or a central location within the state of California. They must be available for inspection by the current or former employee upon reasonable request. Employers need to comply with the request promptly and within 21 days.</p>
Personnel Files Access <sup>13</sup>	YES	<p>Employers must keep a copy of an employee's personnel file for three years following the date of termination. Current and former employees have a <a href="#">right to inspect certain personnel records</a>. Inspections must be allowed within 30 calendar days from the date the employer receives a written request. If requested by the employee or their representative, the employer will provide a copy of the personnel records, at a charge not to exceed the actual cost of reproduction, also within 30 calendar days from the written request.</p> <p>For current employees, the inspection can happen at the workplace or another mutually agreed upon location. For former employees, the inspection can happen where the files are stored or another mutually agreed upon location.</p> <p>The inspection requirements do not apply to: records on the investigation of a possible criminal offense, letters of reference, certain ratings/reports/records (for example, if they were from prior employment). You can redact the names of any nonsupervisory employees mentioned in the personnel file.</p> <p>The right to inspect personnel files does not apply to an employee covered by a valid collective bargaining agreement if the agreement expressly provides for all of the following: (1) the wages, hours of work, and working conditions of employees, (2) a procedure for the inspection and copying of personnel records, (3) premium wage rates for all overtime hours worked, (4) a regular rate of pay of not less than 30 percent more than the state minimum wage rate.</p>
Unemployment Insurance <sup>14</sup>	YES	<p>Employers must submit <a href="#">quarterly wage reports to the California Employment Development Division</a>.</p> <p>All employers must <a href="#">keep records for each employee and pay period on</a>:</p> <ul style="list-style-type: none"> <li>• <i>The pay period dates</i></li> <li>• <i>Employee name and SSN</i></li> <li>• <i>Date hired, rehired, or returned to work after temporary lay-off, and the last date when he or she performed any services;</i></li> <li>• <i>Work address</i></li> <li>• <i>Money paid</i></li> <li>• <i>Cash value of all other remuneration (like meals or lodgings)</i></li> <li>• <i>Special payments in cash or kind given in a pay period but that do not necessarily relate to the work of only that period, like: annual bonuses, gifts, prizes, etc. Describe the nature of the payments and state the start/end dates of service the payment relates to.</i></li> <li>• <i>All disbursement records which show payments to anyone who performed services.</i></li> <li>• <i>Any other information that would help determine the worker's total remuneration earned in each week.</i></li> </ul> <p>Employers covered under the Unemployment Insurance code must keep records for at least 4 years from the time unemployment payments become due or are paid (whichever is later). For those that are exempt, keep the records for 8 years from the date the records relate to (so a rolling 8 years from each pay period date).</p>
Workers' Compensation <sup>15</sup>	YES	<p>The following claim file records must be kept for self-insured employers:</p> <ul style="list-style-type: none"> <li>• <i>Open Claims: 5 years from date of injury or last date for benefit payment, whichever is later</i></li> <li>• <i>Closed Claims: 2 years after claim is closed</i></li> <li>• <i>All Claims: 5 years after date of injury, whether claim is open or closed</i></li> </ul>
OSHA	YES	See OSHA under 'Health and Safety' near the end of this document.
Federal	YES	There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.

# WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms	YES	See OSHA under 'Health and Safety' near the end of this document.
Working Hours <sup>16</sup>	YES	Employers must give one day of rest for every seven for every employee that works more than 30 hours in a week. Employees may work seven or more consecutive days when the nature of the employment reasonably requires it, and each month they get a total of one day rest per six days worked. This applies to both adults and minors.  See Child Labor (below) for maximum hours for minors.
Rest and Meal Breaks <sup>17</sup>	YES	Employers must give a paid 10-minute rest break for every 4 hours of work. They must also give an unpaid meal break of at least 30 minutes if employees work 5 hours or more per work day. (The employer and employee can have a mutual agreement that the employee will skip meal breaks if the workday is 6 hours or less.) If the employee works more than 10 hours a day, a second meal period of not less than 30 minutes needs to be provided. If the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee if the first meal period was not waived.
Labor Relations <sup>18</sup>	YES	Agricultural workers in California have the right to self-organize, collective bargaining, and to join/form/or participate in labor organizations.
Whistleblower Protection <sup>19</sup>	YES	Cannot retaliate against employees for disclosing information to government or law enforcement if they reasonably believe there has been a violation of state or federal law. Cannot make a rule or policy preventing employees from doing so.
Paid Vacation or Sick Leave <sup>20</sup>	YES	California dairy farms are required to <u>provide sick leave</u> for the diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or the employee's family member, or specified purposes if an employee is the victim of domestic violence, sexual assault, or stalking.  Employees who accrue sick leave may take said leave to care for a child, parent, spouse or domestic partner.
Breaks for Nursing Mothers <sup>21</sup>	YES	<u>Must allow breastfeeding mothers</u> a reasonable amount of break time to express milk. If possible, this break time can be at the same time as their regularly scheduled breaktime. You must also make a reasonable attempt to provide a private location, other than a toilet stall, that is close by for her to express milk.  Employers do not need to pay for the break time if it is outside of regular paid breaks.
Pregnancy Accommodations <sup>22</sup>	YES	Employers must provide benefits for pregnancy as it would other temporary disabilities.  Employers with five or more employees cannot refuse to make reasonable accommodation for a pregnant employee if request is based on the advice of employee's health care provider that reasonable accommodation is medically advisable. Whether an accommodation is reasonable is a factual determination on a case-by-case basis. Reasonable accommodations may include, but are not limited to an employer: <ul style="list-style-type: none"> <li>• <i>modifying work practices or policies;</i></li> <li>• <i>modifying work duties;</i></li> <li>• <i>modifying work schedules to permit earlier or later hours, or to permit more frequent breaks (e.g., to use the restroom);</i></li> <li>• <i>providing furniture (e.g., stools or chairs) or acquiring or modifying equipment or devices; or</i></li> <li>• <i>providing a reasonable amount of break time and use of a room or other location in close proximity to the employee's work area to express breast milk in private as set forth in the Labor Code.</i></li> </ul> See ' <u>restrictions due to pregnancy</u> ' online in the FAQ for pregnancy disability.

# WORKING CONDITIONS

(Continued)

TOPIC	ANSWER	DETAILS
Family, Parental, and Pregnancy Leave <sup>23</sup>	YES	<p>California paid sick leave law (described above) allows employees to use their accrued paid leave for care of family members.</p> <p>The State Disability Insurance program has several types of <a href="#">Paid Family Leave (PFL)</a>. PFL allows up to 6 weeks of partial pay to employees who take time off from work to care for a seriously ill family member (child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner) or to bond with a new child entering the family through birth, adoption, or foster care placement. PFL also covers partial wage replacement for periods before and after childbirth, the exact length of time depends on the nature of the mother's medical condition.</p> <p>There are additional laws relating to parental and pregnancy leave. <a href="#">This table summarizes</a> California laws relating to pregnancy leave.</p> <p>Employees who work for an employer with at least 5 employees are eligible for leave if they are disabled due to pregnancy, childbirth, or a related condition. This is known as Pregnancy Disability Leave (PDL). A pregnant employee is disabled under the statute if she:</p> <ul style="list-style-type: none"> <li>• <i>Is unable, because of pregnancy, to perform any one of the essential functions of her job.</i></li> <li>• <i>Suffers from severe morning sickness.</i></li> <li>• <i>Must take time off from work for reasons, including, but not limited to:</i> <ul style="list-style-type: none"> <li>- prenatal care;</li> <li>- postnatal care;</li> <li>- bed rest;</li> <li>- gestational diabetes;</li> <li>- pregnancy-induced hypertension;</li> <li>- preeclampsia;</li> <li>- post-partum depression;</li> <li>- childbirth;</li> <li>- loss or end of pregnancy; or</li> <li>- recovery from childbirth, loss, or end of pregnancy</li> </ul> </li> </ul> <p>An employee is entitled to up to four months of leave under this law depending on the circumstances of the disability.</p> <p>California's Family Rights Act (CFRA) allows for up to 12 weeks of bonding leave within one year of the child's birth, adoption, or start of foster care. This applies to employees who have worked more than 1,250 hours in the past year for employers with 20+ employees within a 75 mile radius. This law covers both parents.</p> <p>Under Family and Medical Leave law, employees are eligible for up to 12 weeks of leave if they have more than 12 months of service with their employer, have worked at least 1,250 hours in the 12-month period before the date of the requested leave and work at a location for an employer who has 50 or more employees working within a 75-mile radius of that location. Employees may take leave under this law for:</p> <ul style="list-style-type: none"> <li>• <i>The birth of their child.</i></li> <li>• <i>The placement of a child with the employee for adoption or foster care.</i></li> <li>• <i>Caring for the serious health condition of: (a) the employee; (b) the employee's child; (c) the employee's parent; or (d) the employee's spouse, including a same-sex partner in marriage and a registered domestic partner.</i></li> </ul>
Jury Duty and Witness Leave <sup>24</sup>	YES	<p>Employees who are required to serve on a jury or compelled by subpoena or court order to appear in court as a witness in a judicial proceeding are entitled to leave, though California law <u>does not specify that this leave must be paid.</u></p>
Crime Victim and Witness Leave <sup>25</sup>	YES	<p>Employees who are the victim of a crime or who have an immediate family member or registered domestic partner who is a victim of a crime may take leave to attend juridical proceedings related to certain crimes.</p> <p>Employees who are victims of domestic violence, sexual assault or stalking are eligible for leave to obtain services, seek medical attention, participate in safety planning, obtain psychological counseling, and seek any other relief to help ensure their health, safety and welfare, and that of their children.</p>

# WORKING CONDITIONS

(Continued)

TOPIC	ANSWER	DETAILS
Military and other Service Leave <sup>26</sup>	YES	<p>Employees who are officers, warrant officers, or enlisted members of the military or naval forces of California or of the US, or members of the reserve corps of the US or of the National Guard or Naval Militia are eligible for leave.</p> <p>In addition, employees of an employer with 25 or more employees are eligible for military spouse leave, if they:</p> <ul style="list-style-type: none"> <li>• Are the spouses of members of the US Armed Forces, the National Guard or the Reserves deployed in a combat area during a period of military conflict.</li> <li>• Are employed for an average of 20 hours or more per week.</li> <li>• Are not an independent contractor.</li> <li>• Provide their employer with notice of their intention to take leave within two business days of receiving official notice that their spouse will be on leave from deployment.</li> <li>• Submit proper documentation certifying their spouse's leave from deployment.</li> </ul>
Voting Leave <sup>27</sup>	YES	All California employees who do not have sufficient time outside of working hours to vote on Election Day are eligible for <u>up to two hours of paid leave to vote</u> .
School Activity Leave <sup>28</sup>	YES	Employees who are the parent, guardian, or custodial grandparent of a child in grade school or licensed day care are eligible for leave when the child is suspended. In addition, employers with 25 or more employees at the same location must allow eligible employees to take up to 40 hours off per year to attend school activities.
Other Leave <sup>29</sup>	YES	<p><b>Volunteer Firefighter and Reserve Police:</b> Employees who are volunteer firefighters, reserve peace officers, or emergency rescue personnel and who require time off to perform emergency services are eligible for leave. Employees who are volunteer firefighters, reserve peace officers, or emergency rescue personnel, and who require time off for fire, law enforcement, or emergency rescue training, are eligible for this leave if their employer employs 50 or more employees.</p> <p><b>Alcohol and Drug Rehabilitation:</b> Employees who seek time off to voluntarily complete a rehabilitation program are eligible for leave if their employer employs 25 or more employees.</p> <p><b>Organ and Bone Marrow Donor:</b> Employees who work for an employer with at least 15 employees are eligible to take leave to donate bone marrow or an organ to another person if they have been employed for at least 90 days before beginning leave.</p> <p><b>Civil Air Patrol:</b> Employees who work for an employer with at least 15 employees are eligible for leave if they have been employed for at least 90 days before beginning leave, are volunteer members of the California Wing of the Civil Air Patrol; and are responding to an emergency operational mission of the California Wing of the Civil Air Patrol.</p>

# HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination <sup>30</sup>	YES	<p><a href="#">California law prohibits</a> employment discrimination based on: race, religious creed, color, national origin, age 40 and above, ancestry, physical or mental disability, medical condition, genetic information, marital status, sex, pregnancy, childbirth, and related medical conditions, breastfeeding, gender identity or expression, sexual orientation, marital status, military or veteran status. Applies to employers with 5 or more employees.</p> <p>Employment discrimination means bias in hiring (including during interviews), promotion, compensation, job assignments, firing, pay, and other terms of employment.</p> <p>Employers with 5 or more employees need to have a written <a href="#">anti-harassment and anti-discrimination policy</a> that includes information about the law, that creates a complaint process (where employees don't have to go directly through a supervisor), that states that confidentiality will be maintained, and more. The policy should be translated into any language spoken by 10% or more of the employees as their spoken language.</p> <p>Employers cannot pay men and women different wages for comparable work on jobs that have virtually the same requirements in terms of skills, effort, and responsibility. Wage differences based on seniority, merit, quantity or quality of production or other factors other than sex are permitted.</p> <p>It is illegal to retaliate against employees for filing or otherwise aiding with a complaint regarding employment discrimination</p>
Harassment/ Sexual Harassment <sup>31</sup>	YES	<p>California law prohibits workplace harassment based on: race, religious creed, color, national origin, age 40 and above, ancestry, physical or mental disability, medical condition, genetic information, marital status, sex, pregnancy, childbirth, and related medical conditions, breastfeeding, gender identity or expression, sexual orientation, marital status, military or veteran status. Applies to all employers, regardless of the number of employees.</p> <p>Employers have to make reasonable efforts to prevent discrimination and harassment, as outlined here: <a href="#">California Workplace Harassment Guide</a></p> <p>Employers with 50 or more employees need to provide at least two hours of training and education on sexual harassment to all supervisors every two years and to all new supervisory employees within six months of assumption of the supervisory position.</p> <p>Harassment is unwelcome conduct. It becomes illegal when (1) employees have no choice but to tolerate the harassment if they want to keep their job; (2) it is so severe that a regular person would see it as intimidating, hostile, or abusive.</p> <p>Sexual harassment includes unwelcome sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature when:</p> <ul style="list-style-type: none"> <li>• <i>Engaging in such conduct is made an implicit or explicit term or condition of employment. Example: A newly hired milker is told that sexual jokes, touching and nude posters are just part of farm life and she should try to ignore it.</i></li> <li>• <i>Acceptance or rejection of such conduct is used as the basis for an employment decision affecting an employee. Example: A manager tells a worker applying for a promotion that the job would be his if he just "treated her right."</i></li> <li>• <i>The conduct interferes with an employee's work or creates an intimidating, hostile or offensive work environment. Example: One worker experiences repeated advances from another asking her for dates or "just to go out for drinks after work." The worker says she isn't interested, but the co-worker won't take 'no' for an answer.</i></li> </ul> <p>It is illegal to retaliate against employees for filing or otherwise aiding with a complaint about harassment.</p>
Forced Labor <sup>32</sup>	YES	<p>Human trafficking is <a href="#">illegal in California</a>. Trafficking for labor means: labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, or coercion, or equivalent conduct that would reasonably overbear the will of the person.</p> <p>Employers should ensure they are carefully following all visa requirements or work agreements to avoid any inadvertent violations.</p>



## CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor <sup>33</sup>	YES	<p>Work permit required if under 18, except for minors employed by their parents or guardians or if their parent or guardian owns, operates or controls the farm.</p> <p>Meal and rest break requirements are the same as the ones for adults (see above). Additionally, they are entitled to one day off in seven (see Working Hours above).</p> <p>Minimum age:</p> <ul style="list-style-type: none"> <li>• <i>During school hours: 18 (16 if not required to attend school)</i></li> <li>• <i>Outside school hours: 12</i></li> </ul> <p>Max hours:</p> <ul style="list-style-type: none"> <li>• <i>Ages 12 and 13</i> <ul style="list-style-type: none"> <li>- <i>School in session: Can only work during school holidays, vacations, and weekends. Max hours stated on work permit OR cannot exceed 8 hours per day/40 hours per week.</i></li> <li>- <i>School not in session: 8 hours per day, 40 hours per week– no limit if employed by their parents or guardians or if their parent or guardian owns, operates or controls the farm.</i></li> <li>- <i>Limited to work hours between 7am to 7pm. From June 1 through Labor Day, can extend to 9pm.</i></li> </ul> </li> <li>• <i>Ages 14 and 15</i> <ul style="list-style-type: none"> <li>- <i>School in session: 3 hours on schooldays (outside of school hours), 8 hours on non-schooldays. Max 18 hours per week.</i></li> <li>- <i>School not in session: 8 hours per day, 48 hours per week – no limit if employed by their parents or guardians or if their parent or guardian owns, operates or controls the farm.</i></li> <li>- <i>Limited to work hours between 7am to 7pm. From June 1 through Labor Day, can extend to 9pm.</i></li> </ul> </li> <li>• <i>16 and older</i> <ul style="list-style-type: none"> <li>- <i>School in session: 4 hours on schooldays, 8 hours on non-schooldays or any day before a non-school day. Max 48 hours per week.</i></li> <li>- <i>School not in session: 8 hours per day, 48 hours per week.</i></li> <li>- <i>Limited to work between 5am and 10pm, or 12:30am on an evening before a non-school day.</i></li> </ul> </li> </ul> <p>There are rules on restricted and prohibited occupations. <a href="#">More details.</a></p>

## HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation <sup>34</sup>	YES	<p>Employers must provide workers' compensation coverage, even for family members. <a href="#">More details.</a></p> <p>If an employee is injured, you must provide them with a claim form (DWC-1) within one working day. Once the employee fills it out, you send a copy to the insurance company.</p> <p>Within five days, you have to report to the insurance company any injury or illness that results in lost time OR requires medical treatment beyond first aid (Form 5020). If an employee dies after submission, you have to submit a new form.</p>
Housing <sup>35</sup>	YES	<p>Employers may be subject to the California <a href="#">Employee Housing Act</a> if they provide housing where five or more employees live. Dairy farms that only have well-maintained, permanent single-family employee housing that meet the State Housing law standards can apply to be exempt from having an annual permit.</p> <p>Responsibilities under the Housing Law are summarized in <a href="#">this fact sheet</a> as well as the state <a href="#">inspection booklet</a>. The full set of requirements for maintenance are found in the <a href="#">regulation text</a>.</p> <p>Even if not covered under state law, employers should follow best practices when providing housing – which includes, at minimum, a written housing agreement and properly maintaining the facilities. The FARM HR Manual has guidance around best practices for agricultural worker housing.</p>

# HEALTH AND SAFETY

(Continued)

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OSHA <sup>36</sup>	YES	<p>California has an approved state plan. Its health and safety laws are approved as “at least as effective” as federal OSHA standards. Pursuant to its state plan, California has standards specifically related to agricultural operations, as well as its general requirements. See standards for agricultural operations (8 CCR 3436, et seq.)</p> <p>California OSHA regulations apply to all farms with one or more employees. The two sets of safety orders to pay particular attention to are: (1) California’s <u>General Industry Safety Orders</u>, which set the minimum requirements for all employers in any industry; and, (2) the industry-specific set of safety orders for <u>Agricultural Operations</u>. Below are common problem areas for California farms, but this is not a comprehensive list of Cal/OSHA requirements:</p> <ul style="list-style-type: none"> <li>• <u>Injury and Illness Prevention Program</u> – All employers need a written IIPP which addresses assignment of responsibilities; the communication systems set up with employees; systems for checking compliance with safe work practices, recordkeeping; and more.</li> <li>• <u>Heat Illness Prevention Plan</u> – Farms need to make sure employees have proper access to shade and water. Employers need to have set emergency response procedures and training for employees/supervisors about heat illness in a language they can understand. And farms also need to have a written Heat Illness Prevention Plan available in English and the language understood by most employees.</li> <li>• <u>Drinking water</u> - Must have potable water available. All sources of water need to be clean and in sanitary condition. You cannot have a common drinking cup or other similar utensils.</li> <li>• <u>Bathrooms</u> - Must have bathrooms, which must be <u>separate for each sex</u> if there are more than four employees. The number needed is based on the number of employees. Toilets need to have a door and a latch. Bathrooms need to be clean, accessible, and have running water/soap/toilet paper/hand towels or warm-air blowers.</li> <li>• <u>First-aid</u> – If there is no clinic or hospital nearby, then someone on-site has to be trained in first aid (1 person per 20 employees). First aid kits have to be available.</li> <li>• <u>Reporting</u> – Any serious injury, illness, or death of an employee has to be reported to the nearest Cal/OSHA district office immediately (as soon as possible, but no longer than 8 hours after the employer knows about the incident). This is in addition to the reporting discussed under Workers’ Compensation.</li> <li>• <u>Recordkeeping</u> – Employers with more than 10 employees need to keep records of work-related injury or illnesses if they result in death, days away from work, restricted work, transfer to another job, medical treatment beyond first aid, loss of consciousness, significant injury/illness diagnosed by a doctor or other healthcare professional. There are some exceptions for small employers. Consult Cal/OSHA Form 300. You must save the Cal/OSHA Form 300, the privacy case list (if one exists), the Cal/OSHA Form 300A, and the Cal/OSHA Form 301 Incident Reports for five (5) years following the end of the calendar year that these records cover. You must provide the records to an authorized government representative within 4 hours upon request.</li> <li>• <u>Farm Equipment</u> <ul style="list-style-type: none"> <li>- <u>Manure Lagoons</u>: If deeper than 4 feet, and the slope/construction makes exit difficult, then there needs to be a ladder, steps, or other means of climbing out.</li> <li>- <u>Machine-guarding rules</u>: There are several requirements specific to agriculture (<u>sections 3440 to 3447</u>) and also generally applicable <u>to all industries</u>.</li> <li>- <u>Lock-out tag-out (LO/TO)</u>: requirements around training, equipment, etc.</li> <li>- <u>Roll over protection (ROPS)</u>: basically, all tractors need to be equipped with (ROPS) with some specific exceptions.</li> </ul> </li> <li>• <u>Hazard communication</u> – Employers are required to have a safety data sheet for each hazardous chemical they use and ensure that each container of hazardous chemicals in the workplace is properly labeled. Employers are also required to develop, implement, and maintain at the workplace a written hazard communication program and provide training for their employees</li> <li>• <u>PPE</u> – Must provide personal protective equipment required for an employee’s job assignment, and training on how/when to use the PPE. The need for PPE depends on a hazard assessment. Examples include <u>head protection</u>, <u>eye/face protection</u>, <u>body protection</u>, <u>hand protection</u>, <u>foot protection</u>, and <u>respiratory protection</u>.</li> </ul> <p>It is illegal for businesses to retaliate against workers for reporting an injury or health and safety hazard.</p>

## References

1. Cal. Lab Code §2810.5  
 2. Cal. UIC Code §1088.5  
 3. Cal. Lab Code §204; §205; §205.5  
 4. Cal. Lab Code §201; §202  
 5. Cal. Lab Code §510; IWC Order #14-2001; Cal. Lab Code §515  
 6. Cal. Lab Code §1182.12; IWC Order #14-2001 (as amended by IWC MW-2017)  
 7. IWC Order #14-2001  
 8. IWC Order #14-2001  
 9. Cal. Lab Code §226  
 10. Cal. UIC Code §13009; Cal. UIC Code §611; §631; §976.6  
 11. Cal. Lab Code §224; IWC Order #14-2001 (as amended by IWC MW-2017); Barnhill v. Robert Saunders & Co., 125 Cal. App. 3d 1, 177 Cal. Rptr.

803 (Ct. App. 1981).  
 12. Cal. Lab Code §226  
 13. Cal. Lab Code §1198.5  
 14. 22 CCR § 1085-2; § 1088-1  
 15. 8 CCR § 15400.2  
 16. Cal. Lab Code §551 to 556  
 17. Cal. LAB Code §512  
 18. Cal. LAB Code §1152  
 19. Cal. LAB Code §1102.5; §1394  
 20. Cal. Lab Code §245 to §249; Cal. Lab. Code § 233; 2 CCR § 11035; 2 CCR § 11087  
 21. Cal. LAB Code §1030 to 1033  
 22. 2 CCR § 11035; 2 CCR § 11039  
 23. Cal. Gov’t Code § 12945; 2 CCR § 11035; 2 CCR § 11042; 2 CCR § 11087; Cal. Gov’t Code §§ 12945.1 to 12945.2 and 19702.3

24. Cal. Lab. Code § 230(a) and (b)  
 25. Cal. Lab. Code §§ 230.2 and 230.5; §§ 230.1 and 230(c)  
 26. Cal. Mil. & Vet. Code §§ 389 to 399.5  
 27. Cal. Elec. Code §§ 14000 to 14003  
 28. Cal. Lab. Code §§ 230.7 and 230.8  
 29. Cal. Lab. Code §§ 230.3 and 230.4; Cal. Lab. Code §§ 1025 to 1028; Cal. Lab. Code §§ 1508 to 1513; Cal. Lab. Code §§ 1500 to 1507  
 30. Cal. GOV Code §12926; Cal. GOV Code §12940; Cal. LAB Code §1197.5; 2 CCR § 11023  
 31. Cal. GOV Code §12940, and specifically: Cal. GOV Code §12940(j); Cal. GOV Code §12950.1  
 32. Cal. Penal Code §236.1  
 33. Cal. LAB Code §1299; §1391 to §1399  
 34. Cal. LAB Code §3200 et seq

35. Cal. HSC Code §1700 et seq., In particular: Cal. HSC Code §1730  
 36. Cal. LAB Code §6400; Cal. Code Regs. Tit. 8: §3203; §3395; §3363; §3364; §3365; §3366; §3439; §342; §14300-§14400; § 3940 – 4086, §3651; §3440; §3441; §3446; §3314; §5194; §3380 to §3385; §5144; §14300.33; §14300.40

