



Oklahoma

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 July 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. 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 OKLAHOMA STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday / Pay Rate	NO	Oklahoma law does not require employers to provide a notice of wage rates or date of payday upon hiring.
Reporting	YES	New hires and rehires must be reported to the Oklahoma New Hire Reporting System within 20 days.

WAGES

TOPIC	ANSWER	DETAILS
Payday ¹	YES	Employers must designate regular paydays in advance. Employees must be paid all wages due at least twice per month. An employee must pay all wages due within eleven (11) days of the end of the pay period in which the wages were earned.
Final Pay ²	YES	Employers that are terminated must be paid wages owed on the regularly scheduled payday for the work performed.
Overtime	NO	Oklahoma law does not govern overtime pay, federal rules may apply. Refer to the federal fact sheet.
Minimum Wage ³	YES	Oklahoma minimum wage law does not apply to individuals employed on a farm, federal rules may apply. Refer to the federal fact sheet.
Hours Worked	NO	Oklahoma wage payment law does not explicitly define hours worked for the purpose of calculating compensable time. Employers should refer to the federal fact sheet.
Pay Stub ⁴	YES	With each payment of wages earned, the employer must provide an employee with a brief itemized statement of any and all deductions therefrom.
Reporting Time Pay	NO	Oklahoma law does not require reporting time pay, i.e. an employee is only required to be paid for actual hours worked.

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WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Taxes and Withholding ⁵	YES	<p>Employers are required to withhold Oklahoma income taxes. Wages for services paid to an individual employed in farming activities is exempt if the amount is less than \$900 per month. Employers must give your employees a statement of taxes withheld, like a federal Form W-2, 1099-MISC or 1099-R.</p> <p>Employers must pay Oklahoma Unemployment Insurance taxes if:</p> <ul style="list-style-type: none"> • You paid cash wages to farm workers of \$20,000 or more in a quarter in the current or prior calendar year; OR, • You employed ten or more farm workers for some part of a day in 20 or more weeks of the current or prior calendar year. <p>Certain family employment is excluded from coverage requirements (children under 21 working for a parent, an individual working for spouse, or parent working for a son or daughter). Unemployment taxes are paid by the employer; they are not taken out of employee pay. You can credit the amount you pay to Oklahoma in calculating how much you owe for federal unemployment taxes. More details.</p>
Deductions and Allowances ⁵	YES	<p>Wage deductions required by law or court orders are allowed.</p> <p>Other deductions are allowed if the employer and employee voluntarily enter into an agreement. The agreement must be signed by the employee and employer, and such deductions must be for the following purposes:</p> <ul style="list-style-type: none"> • Repayment of a loan or advance • Recovery of payroll overpayment • Payment for merchandise or uniforms • Payment for fringe benefits, like medical, accident, disability, retirement, or insurance premiums (not including workers' compensation or unemployment insurance tax) • Contributions to a deferred compensation plan or other investment plan • Compensate the employer for breakage or loss where the employee was the sole party responsible <p>Other wage deduction rules apply under federal law. Refer to the federal fact sheet.</p>
Bonuses ⁷	YES/NO	<p>Oklahoma wage law does not explicitly address whether bonuses are considered wages. However, where an employer has declared its intention to pay a bonus and the amount of the bonus has been made definite prior to payment, an employee is entitled to the bonus, even if involuntarily terminated prior to payment, unless there is a written employment contract or policy manual that requires the employee to be employed at the time the bonus is paid.</p> <p>Generally, discretionary bonuses are not considered wages, while nondiscretionary bonuses paid under an agreement are considered wages and protected under wage law.</p> <p>Employers should follow any written policy they have about paying bonuses as a best practice.</p> <p>A nondiscretionary bonus is one where the amount and criteria for getting the bonus are announced in advance. For example, performance goals (like meeting somatic cell count goals) that workers know about in advance. Discretionary bonuses are ones that are not announced in advance, not expected by the employee, and not an incentive for the employee. For example, when the farm reaches a certain financial goal and decides to give all employees a bonus.</p>

RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll ⁸	YES	<p>Employers must keep records of:</p> <ul style="list-style-type: none"> • the persons employed • the wages, hours, and other conditions and practices of employment <p>The employer must preserve such records for the entire length of employment for all persons currently employed and no less than five (5) years from the end of employment for all former employees.</p>

RECORD KEEPING

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TOPIC	ANSWER	DETAILS
Personnel File — Employee Access	NO	Oklahoma law does not explicitly grant private sector employees access to their personnel files.
Unemployment Insurance ⁹	YES	<p>Employers subject to paying unemployment taxes must submit electronic, quarterly wage reports.</p> <p>Whether or not subject to paying Unemployment Insurance taxes, employers must keep employment records. Records shall be maintained by employers for a period of four (4) years. For purposes of audits, investigations, verifications, or certifications, each employer shall be required to maintain and produce to a representative of the Employment Security Commission, the following records:</p> <ul style="list-style-type: none"> • Records that show the proprietary interest, type of organization and identity of the employing unit. • All accounting records, business and personal. • All bank statements and banking records for all checking and savings accounts, business and personal. • All federal and state income tax returns, business and personal, including all schedules. • All payroll records including federal Internal Revenue Service forms W-2, W-3, 940, 941, and 1099. • All general ledgers, cash disbursement ledgers or journals, cash receipts journals, check registers, and check stubs for the employer's business. • For each pay period, records that show: <ul style="list-style-type: none"> - The beginning and ending dates of such period. - The total amount of wages paid with respect to all employment. • For each worker, records that show: <ul style="list-style-type: none"> - Name. - Social Security account number. - Wages for each pay period showing separately: <ul style="list-style-type: none"> - Cash wages. - Reasonable cash value of all remuneration in any medium other than cash - Actual or estimated amount of gratuities received from persons other than his/her employing unit - Special payments for services rendered in prior periods, designating the period in which the service was performed. - The total amount of wages paid for each pay period. • Records showing the date on which the worker was hired, and the date he/she was separated from employment. • Records showing the circumstances under which the worker was separated from employment. The record must state the reason (either: lack of work, voluntary on the part of the worker, discharge due to misconduct/the circumstances of misconduct, or, other reason). • Records showing each day during the pay period that such individual was in employment if the individual was not regularly employed. • Records showing the state or states in which his/her services are performed, and if such services are performed outside of this state, his/her base of operation. • For each quarter in the records retention period, a copy of the Employer's Quarterly Contribution and Wage Report, and any amended reports, as filed with the Commission. • Records that will confirm, verify, or supply data that is required in any field on any Commission report form that is required to be filed by an employer or on behalf of an employer. • Any other books, papers, correspondence, memoranda, and any other records deemed necessary for review by a Commission representative.
Workers' Compensation	YES/NO	Injury and illness records are not explicitly required for employers under Oklahoma's Workers' Compensation law. However, there are recordkeeping requirements under OSHA.
OSHA	YES/NO	Oklahoma falls under federal OSHA jurisdiction. Refer to the federal fact sheet.
Federal	YES	There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹⁰	YES	Oklahoma has incorporated the federal Pasteurized Milk Ordinance (PMO). The PMO requires that dairy farms have one or more toilets that are conveniently located, properly constructed, properly operated, and maintained in a sanitary manner.
Working Hours	NO	Oklahoma law does not specify max hour or day requirements for adults.
Rest and Meal Breaks	NO	Employers are not required to give rest or meal breaks to adult employees under Oklahoma law. Employers that provide breaks must follow applicable federal rules; refer to the federal fact sheet.
Labor Relations	NO	No provision in state law recognizing farm worker rights to organize.
Whistleblower Protection	YES/NO	Oklahoma law does not provide a general protection for private sector employees in whistleblower cases. However, topic-specific laws (like wage discrimination, wage laws, etc.) may protect employees that report unlawful practices. And specific employee disclosures (for example, OSHA-related violations) are protected from retaliation.
Paid Sick and Vacation Leave	NO	Oklahoma law does not require paid sick or vacation leave. Employers who choose to provide such benefits must follow their written policy/contract.
Breaks for Nursing Mothers ¹¹	YES/NO	Oklahoma law does not require workplace accommodations for employees that are nursing, but it does state that an employer 'may' provide unpaid break time for an employee who needs to express milk and provide a private, secure, and sanitary room other than a toilet stall. Federal rules may apply. Refer to the federal fact sheet.
Pregnancy Accommodations and Leave ¹²	YES	Women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes as other persons not so affected but similar in their ability or inability to work. For example, if duties would be altered for an employee with back pain, duties should be similarly altered for a pregnant employee with back pain. If an employer's termination of an employee with a temporary disability is due to an inadequate leave policy, the termination will be unlawful if the policy has a disproportionate impact on employees of one sex and is not justified by business necessity.
Family and Medical Leave	NO	Oklahoma has not enacted a family and medical leave law for private sector employers. Federal law requiring unpaid leave may apply depending on the size of the employer. Refer to federal fact sheet.
Military and other Service Leave ¹³	YES	Employees called to active or inactive duty or service in any component of the armed forces shall be entitled to a leave of absence for the period of such service without loss of status or seniority. Employees also have leave and reinstatement rights under federal USERRA. Employers must provide members of the National Guard with leave to attend national guard training, drills, or ceremonies. Employers may not fire an employee or prevent them from performing military service.
Crime Victim and Witness Leave ¹⁴	YES/NO	Oklahoma law does not require leave for crime victims or witnesses. However, it implies that the district attorney will intercede with employers to cooperate with the criminal justice process in order to minimize the loss of pay and other benefits resulting from court appearances.
Jury Duty Leave ¹⁵	YES	Employers must provide unpaid leave to employees who are summoned for jury duty. Employers may not terminate, remove or otherwise subject employees to any adverse employment actions as a result of jury service. Employers cannot require employees to use vacation or sick leave for time spent participating in jury service.

WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Voting Leave ¹⁶	YES	Oklahoma law requires employers to provide employees with time off to vote (up to two hours, more if distance demands), if the employee does not have three hours before their shift begins/after it ends while the polls are open. Employees must inform the employer of the intent to take voting leave prior to the day of the election. The leave must be paid if the employee presents proof of voting. Employers can dictate when the employee can take the leave or may shift schedules to accommodate the time off to vote.
School Activity Leave	NO	Oklahoma law does not address leave for private sector employees to attend a child's school activity.

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ¹⁷	YES	Oklahoma law prohibits employment discrimination based on race, color, religion, sex, national origin, age, disability, genetic information, pregnancy, childbirth, and related medical conditions. Employment discrimination means bias in hiring (including during interviews), promotion, job assignments, firing, pay, and other terms of employment. It is illegal to retaliate against employees for filing a complaint or reporting an employer's illegal conduct.
Harassment/ Sexual Harassment ¹⁸	YES/NO	Harassment is generally considered a type of employment discrimination. 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. Sexual harassment includes unwelcome sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature when: <ul style="list-style-type: none"> 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. 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." 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. It is illegal to retaliate against employees for filing or otherwise aiding with a complaint.
Forced Labor ¹⁹	YES	Human trafficking is illegal in Oklahoma. Trafficking for labor means: recruiting, enticing, harboring, maintaining, transporting, providing or obtaining another person through deception, force, fraud, threat or coercion or for purposes of engaging the person in labor, or benefiting from participation in a venture that has engaged in an act of trafficking for labor. Employers should ensure they are carefully following all visa requirements or work agreements to avoid any inadvertent violations.

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor ²⁰	NO	Oklahoma child labor laws do not apply to minors employed in agricultural work. Federal rules apply; refer to the federal fact sheet.

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²¹	YES	<p><u>Workers' Compensation</u> required for agricultural employers with gross annual payroll of \$100,000 or more. Coverage is not required for small family businesses, defined as one with 5 or fewer total employees, all of whom are related by blood or marriage.</p> <p><u>The employer is obligated</u> to report a work-related injury via agency forms (Employer's First Notice of Injury Form) to the Workers' Compensation Commission. The form must be filed within ten (10) days of notice or knowledge that an injury resulting Only injuries that resulted in the loss of time beyond the shift or required medical attention away from the work site must be reported. in more than three (3) days of lost time has occurred.</p> <p><u>More details.</u></p>
OSHA	YES/NO	Private sector employers in Oklahoma fall under federal jurisdiction. Refer to the federal fact sheet.
Housing	YES/NO	Oklahoma law does not explicitly address standards for farm-provided permanent agricultural housing, though general landlord/tenant or public health laws may apply. 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.

References

1. Okla. Stat. 40-5:165.2
2. Okla. Stat. 40-5:165.3
3. Okla. Stat. 40-197.4(e)(1)
4. Okla. Stat. 40-5:165.2
5. Okla. Stat. 68-2385.1(e)(1), Okla. Stat. 40-1-210
6. Okla. Admin. Code §380:30-1-7
7. Okla. Admin. Code §380:30-1-6
8. Okla. Admin. Code §380:30-3-3(d)
9. Okla. Admin. Code §240:10-5-90, §240:10-5-91
10. Okla. Admin. Code § 35:37-13-1
11. Okla. Stat. 40-435
12. Okla. Stat. 25-1301, Okla. Admin. Code § 335:15-3-9
13. Okla. Stat. Ann. 44-71, 208, 208.1, Okla. Stat. Ann. 72-47, 48.1
14. Okla. Stat. 21-142A-2
15. Okla. Stat. 38-34
16. Okla. Stat. 26-7-101
17. Okla. Stat. 25-1101 et seq.
18. See above
19. Okla. Stat. 21748
20. Okla. Stat. 40-72.1
21. Okla. Stat. 85A2(18)(b)(2), 85A-63; Okla. Admin. Code 810:10-1-4