



Nebraska

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 NEBRASKA STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday / Pay Rate ¹	YES	Must notify employees in writing at least 30 days in advance of any change in the regular payday.
Reporting ²	YES	<u>New hires</u> and rehires must be reported to the New Hire Reporting Center within 20 days.

WAGES

TOPIC	ANSWER	DETAILS
Payday ³	YES	Must establish regular paydays in advance.
Final Pay ⁴	YES	Employees that are fired, quit, or otherwise separated <u>must be paid by the next regularly scheduled payday</u> or within two weeks, whichever is sooner. Final wages cannot be withheld pending return of employer's property.
Overtime	NO	Overtime not addressed in Nebraska law; federal rules may apply. Employers are encouraged to review the federal fact sheet.
Reporting Time Pay	NO	Nebraska law does not require reporting time pay, i.e. an employee is only required to be paid for actual hours worked.
Minimum Wage ⁵	NO	Nebraska minimum wage law does not apply to agriculture; federal rules may apply. Employers are encouraged to review the federal fact sheet.
Pay Stub ⁶	YES	For each payday, employers must provide employees <u>with a wage statement</u> that shows, at least: the identity of the employer; number of hours the employee is being paid for; wages earned; and, any deductions made. Employers do not need to list the hours worked for employees exempt from overtime.
Hours Worked	NO	Nebraska law does not explicitly define 'hours worked' for calculating compensable time. Employers are encouraged to review the federal fact sheet.

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



WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Taxes and Withholding ⁷	YES	<p>If an employer is required to withhold federal income tax, then they must also <u>withhold Nebraska income tax</u>. Employers must give employees a statement of taxes withheld, like a federal Form W-2, 1099-MISC or 1099-R.</p> <p>Employers must pay <u>Nebraska Unemployment Insurance</u> 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 either the current or preceding calendar year; OR, You employed ten or more farm workers for some part of a day in 20 or more weeks of either the current or preceding calendar year. <p>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 21 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 Nebraska in calculating how much you owe for federal unemployment taxes.</p>
Deductions ⁸	YES	<p>Employers can only make deductions:</p> <ul style="list-style-type: none"> For payroll, wage, or withholding taxes; or, As required by law; or, With a written agreement with the employee. <p>See federal fact sheet for additional guidance.</p>
Bonuses ⁹	YES	<p>Nebraska courts have ruled that a payment is considered wages if it: is compensation for labor or services, it was previously agreed to, all the conditions have been met. Given that interpretation, nondiscretionary bonuses paid under an agreement (oral or written) would be considered wages protected under Nebraska wage payment laws. Discretionary wages would not be considered wages.</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 or a bonus for length of service) 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> <p>Employers should follow any written policy they have about paying bonuses as a best practice.</p>

RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll	YES/NO	Payroll records are not required under Nebraska wage payment law; however, employers must keep payroll records as part of Unemployment Insurance law. See below for details.
Personnel File — Employee Access	NO	Nebraska law does not require private sector employers to grant employees access to their personnel file.
Workers' Compensation	NO	Records are not required under Nebraska Workers' Compensation law. However, OSHA recordkeeping rules still apply.
OSHA	YES	Nebraska falls under federal OSHA jurisdiction. See the federal fact sheet for more details on recordkeeping requirements.
Federal	YES	There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.



RECORD KEEPING

(Continued)

TOPIC	ANSWER	DETAILS
Unemployment Insurance ¹⁰	YES	<p>Employers subject to contributions must submit <u>quarterly wage reports</u>.</p> <p>Whether or not subject to Nebraska Employment Security law, every employer in Nebraska must maintain the following records for at least four calendar years:</p> <p>For each worker:</p> <ul style="list-style-type: none"> • Name; • Social security account number; • Residence (by State); • Nature of services and place or places in which services are performed and, if there is more than one such place, the worker's base of operations or, if none, place of direction or control; • Date on which the worker was hired, rehired, or returned to work after temporary layoff and date separated from work and reasons therefor. • The gross remuneration paid for the worker's services and period for which paid, showing separately: <ul style="list-style-type: none"> - Cash remuneration, including special payments; and - Reasonable cash value of remuneration in any medium other than cash (determined in accordance with Title 220, Chapter 2) including special payments; and • Amounts paid him as allowance or reimbursement for traveling or other business expenses, and period for which paid. <p>General:</p> <ul style="list-style-type: none"> • Beginning and ending dates of each pay period; • Total amount of remuneration and the total amount paid in each calendar quarter; and • Date in each calendar week on which there was largest number of workers employed and number of such workers.

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Paid Sick and Vacation Leave ¹¹	NO	<p>Paid sick or vacation leave is not required under Nebraska law. Employers who choose to provide such benefits must follow their written policy/contract. Nebraska law specifies that unused "paid time off" constitute wages that must be paid out upon separation of employment (when the only criteria for earning that leave is rendering of services and the employee has an absolute right to take the leave for any purpose). Nebraska law, however, does not prohibit an employer from providing a sick leave benefit which may be used only in the event of illness or injury and which has no monetary value upon termination of employment if it is not so used.</p>
Bathrooms ¹²	YES	<p>Nebraska has incorporated the federal Pasteurized Milk Ordinance (PMO). The PMO specifies that dairy farms have one or more toilets that are conveniently located, properly constructed, properly operated, and maintained in a sanitary manner.</p>
Working Hours	NO	<p>No max hour or day requirements for adults. See Child Labor (below) for maximum hours for minors.</p>
Rest and Meal Breaks	NO	<p><u>Not required for adults in agriculture</u>. See Child Labor (below) for rules for minors. Employers that choose to provide rest and meal breaks must follow the applicable federal rules. Refer to federal fact sheet.</p>
Labor Relations ¹³	YES	<p>Nebraska law protects the rights of agricultural employees to organize/collective bargaining.</p>
Breaks for Nursing Mothers ¹⁴	NO	<p>Employers with 15 or more employees must make reasonable accommodations for employees that have given birth, which may include appropriate facilities for expressing milk. There may be also requirements under federal law. Employers should refer to the federal fact sheet.</p>



WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Whistleblower Protection	YES/NO	Nebraska 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.
Pregnancy Accommodations and Leave ¹⁵	YES	Employers with 15 or more employees must provide reasonable accommodations to an individual who is pregnant, has given birth, or has a related medical condition. Reasonable accommodations include: <ul style="list-style-type: none"> • <i>Getting equipment for sitting</i> • <i>More frequent or longer breaks</i> • <i>Periodic rest</i> • <i>Assistance with manual labor</i> • <i>Job restructuring</i> • <i>Light-duty assignments</i> • <i>Modified work schedules</i> • <i>Temporary transfers to less strenuous or hazardous work</i> • <i>Time off to recover from childbirth</i> • <i>Break time</i> • <i>Appropriate facilities for breast-feeding or expressing breast milk</i> There is not requirement for pregnancy leave, but employers must treat employees affected by pregnancy, childbirth, or related medical conditions the same as other individuals with temporary disabilities.
Family and Medical Leave	NO	Nebraska does not have a state-level family or 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 ¹⁶	YES	Members of the Nebraska National Guard called into active duty have the same leave and job reinstatement rights as those under the federal USERRA.
Crime Victim and Witness Leave ¹⁷	YES/NO	Nebraska does not explicitly address leave for employees that are crime victims or witnesses. However, victims and witnesses have the <u>right to intercession services</u> that will intervene on their behalf to work with their employers to minimize the employee's loss of pay and other benefits.
Jury Duty Leave ¹⁸	YES	An employer cannot discharge or in any way penalize an employee for responding to a jury summons or serving on a jury. The employee must give reasonable notice to the employer of the jury summons. Employees cannot be required to use sick leave or vacation time. Employers cannot reduce the pay of employees, except by the amount paid by the court to the employee for jury duty.
Voting Leave ¹⁹	YES	Employees that do not have two consecutive hours outside of work hours during the time polls are open must be given up to two hours leave to vote. The leave must be paid if the employee gives notice before election day. The employer can specify the time for the employee to take voting leave.
School Activity Leave	NO	Nebraska law does not address leave for private sector employees to attend a child's school activity.

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ²⁰	YES	<p>Nebraska law <u>prohibits employment discrimination</u> based on Race, color, religion, sex, disability, marital status, national origin, age 40 and above, pregnancy, childbirth, and related medical conditions. Applies to employers with 15 or more employees. For the purposes of age discrimination, covers employers with 20 or more employees. <u>More information.</u></p> <p>Employment discrimination means bias in hiring (including during interviews), promotion, job assignments, firing, pay, and other terms of employment.</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.</p>
Harassment/ Sexual Harassment ²¹	YES	<p>Nebraska employment discrimination law also prohibits harassment based on the protected classes described above (i.e. race, color, religion, sex, etc.). Sexual harassment is included in that definition.</p> <p>Sexual 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"> • <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> • <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> • <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> <p>It is illegal to retaliate against employees for filing or otherwise aiding with a complaint.</p>
Forced Labor ²²	YES	<p>Human trafficking is illegal in Nebraska. Trafficking for labor means: recruiting, harboring, transporting, provisioning, or obtaining of a person by any means for subjection to forced labor, forced services, debt bondage, or slavery. <u>More details.</u></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 ²³	YES	<p>Parents or legal guardians employing their children do not need to obtain a work permit or comply with minimum age requirements. However, they must still follow restrictions around max hours.</p> <p>Work permits/employment certificates are required for minors.</p> <p>Minimum age:</p> <ul style="list-style-type: none"> • <i>During school hours: 16</i> • <i>Outside school hours: 14, except if working for their parent or legal guardian</i> <p>Max hours:</p> <ul style="list-style-type: none"> • <i>Under 14: No more than 8 hours per day, 48 hours per week. Cannot work before 6am or after 8pm.</i> • <i>14 or 15: No more than 8 hours per day, 48 hours per week. Cannot work before 6am or after 10pm.</i> <p>Employers should consult the federal list of prohibited and restricted occupations for minors.</p>

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²⁴	YES	Nebraska agricultural employers <u>must carry workers' compensation coverage</u> if they employ 10 or more full-time employees that are not related to the employer on each working day for 13 calendar weeks (consecutive or not). Farms are exempt if they only employ people related to the employer. Exempt farms can elect coverage. <u>More information</u> . Employers <u>must report any work-related injury or illness</u> to insurance carrier. Either the insurance carrier or the employer must file a First Report of Injury Form to the Nebraska Workers' Compensation Court within 10 days after the employer or insurer has been given notice of or has knowledge of the injury. Injuries that must be reported are: fatalities (no matter how long it happened after the injury or illness); those that result in time away from work/restrictions/termination; those that result in loss of consciousness; or any that require medical treatment other than first aid.
OSHA	YES	Nebraska falls under federal OSHA jurisdiction. See the federal fact sheet for details on OSHA requirements.
Housing	YES/NO	Nebraska law does not explicitly address standards for 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. Neb. Rev. Stat. §48-1230(1)
2. Neb. Rev. Stat. §48-2303
3. Neb. Rev. Stat. §48-1230(1)
4. Neb. Rev. Stat. §48-1230(4)
5. Neb. Rev. Stat. §48-1202
6. Neb. Rev. Stat. §48-1230(2)
7. 316 Neb. Admin. Code, ch. 21 §001; Neb. Rev. Stat. §48-604(4) and §48-604(6)
8. Neb. Rev. Stat. §48-1230(1)
9. See Annotations for Neb. Rev. Stat. §48-1229
10. 221 Neb. Admin. Code, ch. 1 §002; 221 Neb. Admin. Code, ch. 2 §002
11. See Annotations for Neb. Rev. Stat. §48-1229
12. Neb. Rev. Stat. §2-3965
13. Neb. Rev. Stat. §48-901 to §48-908
14. Neb. Rev. Stat. §48-1101 through 1125
15. Neb. Rev. Stat. §48-1101 through 1125
16. Neb. Rev. Stat. §55-161
17. Neb. Rev. Stat. §81-1848
18. Neb. Rev. Stat. §25-1640
19. Neb. Rev. Stat. §32-922
20. Neb. Rev. Stat. §48-1101 through 1125; §48-1001 through 1009; Neb. Rev. Stat. §48-1221
21. See above; in particular: Neb. Rev. Stat. §48-1104 and §48-1102(14)
22. Neb. Rev. Stat. §28-831
23. Neb. Rev. Stat. §48-302.02; §48-303; §48-310
24. Neb. Rev. Stat. §48-106; §48-144.01

