



Ohio

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. 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 OHIO STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday/ Pay Rate ¹	YES/NO	No requirement for adults. Minors must have an agreement with the employer specifying the wage rate. Employers must notify minors of a reduction in wages 24 hours prior to when it takes effect.
Reporting ²	YES	<u>New hires</u> and rehires must be reported to the Ohio New Hire Reporting Center within 20 days.

WAGES

TOPIC	ANSWER	DETAILS
Payday ³	YES	Employers must pay employees all wages earned in the first half of the month no later than the first day of the following month; they must pay employees wages earned during the last half of the month no later than the 15th day of the following month. Exceptions can be made if the employer/employee have a written contract for less frequent payment.
Final Pay ⁴	NO	Ohio does not have laws that explicitly address final paychecks; employers should follow standard payday laws. It is recommended that employers pay former employees on the next regular payday following the employee's employment separation.
Overtime ⁵	NO	Agriculture is exempt from state overtime.
Minimum Wage ⁶	YES	<u>\$8.30 per hour</u> for employers who grossed \$305,000 or over in the preceding year \$7.25 for employers grossing less than \$305,000 and for employees under 16 Family members who are employees of a solely family-owned and operated business are exempt. "Family member" means a parent, spouse, child, stepchild, sibling, grandparent, grandchild, or other member of an owner's immediate family. Employees exempt from federal minimum wage laws are exempt from Ohio minimum wage laws.
Hours Worked	NO	Ohio law does not explicitly address the definition of 'hours worked' for the purpose of calculating compensable time. Employers should follow federal laws summarized in the federal fact sheet.
Pay Stub ⁷	YES/NO	No requirement for adults. Minors must be given a paystub showing earnings due and the amount paid.

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

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TOPIC	ANSWER	DETAILS
Reporting Time Pay ⁸	NO	Ohio law does not require reporting time pay, i.e. an employee is only required to be paid for actual hours worked. In general, Ohio law looks to guidance from federal law for what constitutes hours worked.
Taxes and Withholding ⁹	YES	<p>Employers are not required to <u>withhold Ohio income tax</u> for agricultural labor. Other employees may be subject to state income tax withholding. You 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 <u>Ohio Unemployment Compensation</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 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>Family employment for a sole proprietorship is excluded from coverage requirements (such as children under 18 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 Ohio in calculating how much you owe for federal unemployment taxes.</p>
Deductions ¹⁰	YES	<p>Deductions required by law or courts (for ex. tax withholdings) do not require written authorization from the employee. Deductions for fringe benefits (like health insurance premiums, other insurance, or retirement accounts) or other employee-authorized deductions (purchase of bonds, charitable contributions, repayment of a loan) are allowed and must be agreed to in writing between the employer and employee.</p> <p>Deductions for destroyed/damaged equipment are only allowed with written authorization from the employee. Employees cannot be required to pay the cost of a pre-employment medical examination required as a condition of employment.</p> <p>Meals and Lodging The reasonable cost of meals and lodgings can be considered a form of wages (considered payment in kind) and count toward the minimum wage. Reasonable cost generally means the cost to the employer to provide it.</p>
Bonuses	YES/NO	<p>Bonuses are not explicitly addressed in Ohio law. Generally, discretionary bonuses are not considered wages, while nondiscretionary bonuses paid under an agreement can be 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>

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ¹¹	YES	<p>Employers with one or more employee must have workers' compensation coverage. Coverage is optional for the owners of <u>certain organizations</u>.</p> <p>Employers must report <u>work-related injuries/illness</u> (including fatalities) to the Bureau of Workers' Compensation within one week of finding out about them.</p>
OSHA	YES	Ohio falls under federal OSHA jurisdiction. See the federal fact sheet for more information.
Housing	YES/NO	Ohio 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.

RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll ¹²	YES	<p>Keep employee records for a minimum of three years following the last date they worked. For each employee:</p> <ul style="list-style-type: none"> • Name • Address • Occupation • Pay Rate (If exempt from FLSA overtime, then salary or other basis of compensation) • Hours worked each day (Do not need to track if exempt from FLSA or state overtime rules) • Total gross wages for each pay period <p>The information must be made available at no charge to an employee or employee representative within 30 days after the request.</p> <p>The Department of Commerce can enter and inspect a business's books, registers, payrolls, or other records of the employer that in any way relate to the question of wages, hours, and other conditions of employment of any employees, and may question the employees for the purpose of determining compliance with wage laws.</p>
Personnel Files – Employee Access ¹³	YES/NO	<p>Ohio law does not explicitly grant employees access to their personnel files. However, employees have a right to access payroll records (described above). Employees have a right, upon written request, to see their medical records from any physical exams required for employment or stemming from a job-related injury/disease.</p>
Unemployment Insurance ¹⁴	YES	<p>Employers subject to paying unemployment taxes must submit electronic, quarterly wage reports.</p> <p>Whether or not subject to paying Unemployment Compensation taxes, employers must keep employment records. The records must include for each employee:</p> <ul style="list-style-type: none"> • Name and address; • Social security account number; • The amount of gross earnings for each pay period (wages before deductions for any purpose); • The date of payment and the amount of wages paid with respect to each separate pay period; • The date or dates on which services were performed for such employer; also, the dates hired or rehired or returned to work after temporary layoff, as well as the date on which services were terminated and the cause of such termination; • The time lost due to being unavailable for work, if applicable; • The character of the services performed by the individual; • A division between covered and excluded employment, when both such services appear in the same pay period; and • The cash value of any compensation in lieu of or in addition to cash wages. <p>The records must be made available for audit at the employer's workplace during regular daytime business hours. Employers must retain the records for five years after the calendar year in which wages are paid.</p>
Workers' Compensation ¹⁵	YES	<p>Employers must keep a record of work-related injuries or diseases that result in 7 or more days of disability.</p> <p>Employers must keep payroll records for at least five years. All books, records, and payroll records that reflect wages are open to inspection by the Bureau of Workers' Compensation in order to administer Workers' Compensation law.</p>
OSHA	YES	<p>Employers must comply with the federal OSHA recordkeeping standard. See the federal fact sheet for details.</p>
Federal	YES	<p>There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.</p>

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹⁶	YES	Ohio has incorporated the majority of 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. [Note: There is no specific OSHA standard applicable to dairy farms about bathrooms; it would fall under the general duty clause]
Working Hours	NO	No max hour or day requirements for adults. See Child Labor (below) for maximum hours for minors.
Rest and Meal Breaks	NO	Ohio law does not require rest or meal breaks for adults. Employers that choose to provide rest and meal breaks must follow the applicable federal rules. Refer to federal fact sheet. See Child Labor (below) for rules for minors.
Labor Relations	NO	No provision in state law recognizing farm worker rights to organize.
Whistleblower Protection ¹⁷	YES/NO	If, in good faith, an employee reports a violation or suspected violation of state/federal law to their supervisor or other designated person, employers should make a reasonable effort to correct or address the violation within 24 hours. Otherwise, the employee can report it to the government. You cannot retaliate against an employee if, in good faith, they report a violation as described above. Retaliation can mean firing, disciplining, threatening, or discriminating against an employee in terms of compensation, terms of employment, conditions, location, or privileges.
Paid Sick and Vacation Leave	NO	Not required under Ohio law for private employers. Employers who choose to provide such benefits should follow their written policy.
Breaks for Nursing Mothers	NO	Ohio law does not address workplace accommodations for employees that are nursing, but there may be requirements under federal law. Employers should refer to the federal fact sheet.
Pregnancy Accommodations and Leave ¹⁸	YES	Employers must treat women affected by pregnancy, childbirth, or related medical conditions the same as other employees not so affected but similar in their ability or inability to work for all employment-related purposes, including receipt of benefits under fringe benefit programs. 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. Applies to employers with 4 or more employees. Women must not be penalized in their conditions of employment because they require time away from work relating to childbearing. When, under the employer's leave policy the female employee would qualify for leave, then childbearing must be considered by the employer to be a justification for leave of absence for female employees for a reasonable period of time. The employee must be reinstated to her original position or a one of similar status and pay when signifying her intent to return within a reasonable time. Termination of an employee who is temporarily disabled due to pregnancy or a related medical condition because the employment policy does not have sufficient or any maternity leave is unlawful. Applies to employers with 4 or more employees.
Family and Medical Leave	NO	Ohio has not enacted a family or medical leave law that applies to employees in the private sector. Federal law requiring unpaid leave may apply depending on the size of the employer. Employers should refer to the federal fact sheet.
Voting Leave ¹⁹	YES	An employee must be given a reasonable amount of time to vote on election day. Employees paid by the hour or by the piece does not need to be compensated for voting leave.
Jury Duty Leave ²⁰	YES	An employee must be provided leave, paid or unpaid, to serve as a juror. Jury duty leave may run concurrently with other paid leave, but an employer may not require employees to use vacation time, sick leave, or paid time off while on leave for jury duty.
School Activity Leave	NO	Ohio law does not address leave for private sector employees to attend a child's school activity.

WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Military Leave ²¹	YES	<p>Employers with 50 or more employees (no geographic restriction) must provide military family leave, paid or unpaid, to an employee who has been employed for 12 consecutive months before leave and worked 1,250 or more hours in that time. Once each calendar year, an eligible employee can take (the lesser of) up to 10 work days or 80 work hours.</p> <p>The employee must:</p> <ul style="list-style-type: none"> • Be the parent, spouse, or current or former legal guardian of the person in uniformed services who: <ul style="list-style-type: none"> - has been called to active duty for the uniformed services for more than 30 days; or - has been injured, wounded, or hospitalized while serving on active duty in the uniformed services. <p>An employee is only eligible for military family leave if all other leave (other than sick leave or disability) is exhausted.</p> <p>An employee should give 14 days' notice regarding leave related to an active duty deployment. If a service member is injured, wounded, or hospitalized, an employee should give two days' notice except where the injury is critical or life threatening. In that case, the notice requirement is eliminated.</p>
Crime Victim and Witness Leave ²²	YES	<p>Employees who are crime victims or subpoenaed as witnesses in criminal proceedings are eligible for unpaid leave. Victims include:</p> <ul style="list-style-type: none"> • The aggrieved party. • The aggrieved party's family member, if the victim died because of the crime. • The victim's representative. <p>Employees who are crime victims or are subpoenaed as witnesses are eligible for leave to attend criminal or delinquency proceedings if attendance is reasonably necessary to protect the victim's interests.</p> <p>Employers must provide leave, paid or unpaid, to employees who are subpoenaed to attend grand jury, juvenile, or criminal proceedings. If the grand jury, juvenile, or criminal proceeding is about an offense related to the employer or involving the employee during the course of employment, the employee must receive paid leave.</p>

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ²³	YES	<p>Ohio law prohibits employment discrimination based on race, color, religion, sex, national origin, disability, age, ancestry, pregnancy, childbirth, and related medical conditions. Applies to employers with 4 or more employees.</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 discriminate in wages on the basis of race, color, religion, sex, age, national origin, or ancestry by paying 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 race, color, religion, sex, age, national origin and ancestry are permitted.</p> <p>More details and guidance.</p> <p>It is illegal to retaliate against employees for filing or otherwise aiding with a complaint.</p>
Forced Labor ²⁴	YES	<p>Human trafficking is illegal in Ohio. Trafficking for labor means: recruiting, luring, enticing, harboring, transporting, provisioning, obtaining, or maintaining, or any attempt to do any of the aforementioned, a person for involuntary servitude by any means, such as forced labor, forced services, debt bondage, or slavery. More details.</p> <p>Employers should ensure they are carefully following all visa requirements or work agreements to avoid any inadvertent violations.</p>

HUMAN RIGHTS

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TOPIC	ANSWER	DETAILS
Harassment/ Sexual Harassment ²⁵	YES	<p>Sexual harassment is considered a form of employment discrimination based on gender (though not explicitly stated in Ohio law). 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>

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor ²⁶	YES	<p>Ohio child labor laws do not apply to minors working on farms operated by their parents, grandparents, guardians. The <u>prohibited and restricted occupations list</u>, however, applies to ALL employers, even family.</p> <p>No age certificate/work permit required for agricultural employment.</p> <p>Minimum age:</p> <ul style="list-style-type: none"> • <i>During school hours: 16</i> • <i>Outside school hours: Ohio law does not actually specify an age outside of school hours because agriculture is exempt from obtaining work permits. So follow federal law.</i> <p><u>Max hours:</u></p> <ul style="list-style-type: none"> • <i>Under 16: Max 3 hours on a school day, 8 hours on a non-school day. Max 18 hours per week when school is in session, 40 hours per week when school is not in session. Cannot work before 7am or after 7pm, except for June 1 to September 1 and school holidays of 5+ days, when they can work until 9pm.</i> • <i>16 or over: If the minor is required to attend school, they cannot work after 11pm on any night before a school day. They also cannot work before 7am on a day that school is in session or 6am if they did not have to work after 8pm the night before.</i> <p>Minors must be given a rest period of at least 30 minutes when working five consecutive hours. The break can be unpaid.</p>

References

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| 1. Ohio Rev. Code §4109.10 | 11. Ohio Rev. Code 4123.28; | 16. Ohio Admin Code | 22. Ohio Rev. Code Ann. § |
| 2. Ohio Rev. Code §3121.891 | Ohio Admin. Code 4123-3-03 | §901:11-1 | 2930.18, Ohio Rev. Code Ann. |
| 3. Ohio Rev. Code §4113.15 | 12. Ohio. Const. Art. II. §34a; | 17. Ohio Rev. Code §4113.52 | §§ 2939.121, 2151.211, and |
| 4. Ohio Rev. Code §4113.15 | Ohio. Rev. Code 4111.14; | 18. Ohio Rev. Code §4112.01; | 2945.451 |
| 5. Ohio Rev. Code §4111.03 | 4111.04 | Ohio Admin Code 4112-5-05 | 23. Ohio Rev. Code §4112.01; |
| 6. Ohio. Const. Art. II. §34a; | 13. Ohio Rev. Code §4113.23 | 19. Ohio Rev. Code Ann. § | 4111.17 |
| Ohio. Rev. Code §4111.14 | 14. Ohio Rev. Code §4141.18; | 3599.06 | 24. Ohio Rev. Code §2905.32 |
| 7. Ohio Rev. Code §4109.10 | 4141.20; Ohio Admin Code | 20. Ohio Rev. Code Ann. § | 25. See above |
| 8. Ohio Rev. Code §4111.14 | 4141-23-01; 4141-9-07 | 2313.19 | 26. Ohio Rev. Code §4109.06; |
| 9. Ohio Rev. Code §5747.06 | 15. Ohio Rev. Code §4123.28; | 21. Ohio Rev. Code Ann. §§ | §4109.02; §4109.07; Ohio |
| 10. Ohio Rev. Code §4109.10; | Ohio Admin. Code 4123-3-03; | 5906.01 et seq. | Admin. Code §4101:9-2 |
| Ohio Rev. Code 4111.01; | Ohio Admin. Code 4123-17-17 | | |
| 4113.19; 4113.21; 4113.75; | | | |
| 4113.15; 4141.01 | | | |

