

Do employees have to sign their time cards?

No. There is no law requiring an employee to sign time cards.

Is an employee required to give two weeks' notice before they quit?

No. There is no law that requires an employee to give any notice.

What happens if an employer violates the New Mexico wage and hour laws?

The Labor Relations Division investigates all alleged violations of the wage and hour laws. Employees may also have the right to file private lawsuits for unpaid wages. Employers found to violate the minimum wage or overtime provisions of the law must pay damages to the employee in the amount of the unpaid wages owed and an additional amount equal to twice the unpaid or underpaid wages, plus interest.

Are immigrant workers covered if they do not have work authorization?

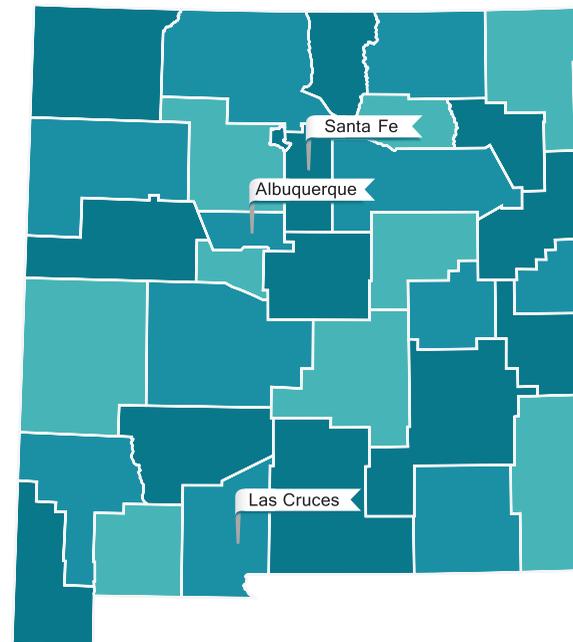
Yes. By law, all employees working in New Mexico are covered by the wage and hour laws. The Labor Relations Division does not need, and will not collect or accept, information about the immigration status of employees.

Can an employer fire a worker who files a wage claim or complains about violations?

No. It is a violation of the Minimum Wage Act for an employer or any other person to fire, demote, or take any other employment action against an employee for asserting the right to minimum wage or overtime, helping someone else to do so, or informing other employees about their rights.

For more information, or to file a claim, call or visit one of the Labor Relations Division offices or New Mexico Workforce Connection Centers listed on the back of this brochure or visit us online at www.dws.state.nm.us

Labor Relations Division Wage & Hour Offices



CONTACT INFORMATION

Labor Relations Division – Wage & Hour Offices
Offices are open Monday-Friday, 8am-5pm

Albuquerque Office

401 Broadway Blvd NE
Albuquerque, NM 87102

Phone: (505) 841-4400 • Fax: (505) 841-4424

Las Cruces Office

226 S. Alameda Blvd
Las Cruces, NM 88005

Phone: (575) 524-6195 • Fax: (575) 524-6194

Santa Fe Office

1596 Pacheco Street, Suite 103
Santa Fe, NM 87505

Phone: (505) 827-6817 • Fax: (505) 827-9676

There are New Mexico Workforce Connection Centers (NMWCC) in Albuquerque, Alamogordo, Artesia, Bernalillo, Carlsbad, Clovis, Deming, Española, Farmington, Gallup, Hobbs, Las Cruces, Las Vegas, Los Lunas, Moriarty, Roswell, Ruidoso, Santa Fe, Silver City, Socorro, and Taos. Their addresses and phone numbers can be found online at www.dws.state.nm.us/Office-Locations. Note that wage claims are not investigated in New Mexico Workforce Connection Centers. However, NMWCC staff can provide the wage claim form, accept the completed wage claim form, offer language assistance services at no cost, and facilitate communications with the Labor Relations Division.

www.dws.state.nm.us/Wage-and-Hour

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Frequently Asked Questions about Wage and Hour Rights



OVERVIEW OF WAGE & HOUR LAWS

New Mexico's wage and hour laws cover a wide variety of subjects, including minimum wage and overtime requirements, how often employees must be paid, and the records employers must keep. This brochure answers some of the most frequently asked questions from employers and employees relating to payment of wages, hours of employment, and other subjects.

Information in this brochure is not an official interpretation of the law. This is a general explanation of what the laws require. For answers to specific questions, please review the Labor Relations Division Investigations Manual, which appears on the New Mexico Department of Workforce Solutions (NMDWS) website (www.dws.state.nm.us), or contact the local Labor Relations Division office in your area.

WAGES

What is the minimum wage?

 The New Mexico minimum wage is \$7.50 per hour. There are higher minimum wages in Albuquerque, Bernalillo County, Las Cruces, the City of Santa Fe, and Santa Fe County. The current minimum wage rates in these areas appear on the Wage and Hour page of the NMDWS website.

Can an employer pay young people, under the age of 18, less than a minimum wage?

Yes, the New Mexico Minimum Wage Act excludes employees age 18 or under. However, these employees should generally be paid the applicable minimum wage in Albuquerque, Bernalillo County, Santa Fe City, and Santa Fe County, unless they are exempt under those local laws.

Can an employer reduce an employee's wage or salary?

 Yes. However, the employer must tell the employee of the new lower rate before the employee works hours at that rate.

Does an employer have to pay for all hours worked or services rendered?

Yes.

What can an employer deduct from wages?

Except appropriate state, federal, and social security taxes, no deduction can be made to an employee's wages without a written authorization from the employee or a court order. Only deductions for state taxes, federal taxes, social security taxes, deductions based upon court orders, or deductions based upon employee-authorized benefits that only benefit the employee may reduce the net pay below minimum wage. Any other deductions may not reduce the net pay below minimum wage.

When does an employer have to pay final wages to an employee who is terminated?

 If the wages owed are a fixed and definite amount, such as hourly wages, salary, day rates, and accrued, unused vacation pay, the employer shall pay such wages to the employee within five days of discharge. Task, piece, and commission wages must be paid within ten days of discharge. An employer may owe additional damages for failing to pay a terminated employee on time.

When does an employer have to pay final wages to an employee who quits?

If an employee quits their job, unless they have a written contract for a definite period, the wages are due on the next payday.

HOURS & OVERTIME

Can an employer require an employee to work more than 8 hours a day and/or more than 40 hours a week?

 Yes. Working for more than 40 hours a week is called overtime. If an employee is paid by the hour, an employer can require the employee to work overtime, but must pay a higher rate for those hours.

The overtime rate is time and a half the employee's regular hourly rate for any time over 40 hours in a seven-day work week. For example, if an employee is paid \$8.00 an hour, the overtime rate is \$12.00 an hour (\$8 plus \$4). Employees who work in restaurants and hotels cannot work more than ten hours per day, except in emergency situations.

Can an employer give extra time off, or "comp time," rather than pay overtime?

No.

Does an employer have to give lunch breaks, coffee breaks, or rest periods?

No. There is no law that requires an employer to provide such breaks; however, deductions cannot be made from wages if less than 30 minutes is allowed for the breaks.

If an employee wants to work overtime and will accept regular hourly pay, can they waive their right to time and a half?

No.

Which employees are exempt from overtime?

Very few employees are exempt from the overtime requirements. Employees engaged in the ginning of cotton, agriculture, and certain airline employees

are exempt from overtime under the Minimum Wage Act. Employees exempt from the definition of "employee" in the Minimum Wage Act are also exempt from overtime. For a complete discussion of the employee exemptions, please see the Labor Relations Division Investigations Manual.

Does an employer have to pay overtime compensation to salaried employees?

 An employee who is paid a set amount per week, year, or pay period (instead of by the hour) is considered a salaried employee. A salaried employee must generally be paid time-and-a-half overtime wages for hours over 40, in addition to the regular salary, unless the employee is exempt from the minimum wage or overtime provisions of the Minimum Wage Act.

OTHER QUESTIONS

How long are employers required to maintain their records?

Every employer must keep true and accurate records of hours worked and wages paid for each employee for four years in addition to the current calendar year.

Is an employer required by law to have a time clock?

 No. There is no law that requires an employer to have a time clock. However, an employer must keep true and accurate records of hours worked.