

# Labor Department's Wage & Hour *Frequently Asked Questions*

*Office of Labor Commissioner Lloyd L. Fields*  
Oklahoma Department of Labor  
Employment Standards Division, Wage & Hour Unit  
[www.labor.ok.gov](http://www.labor.ok.gov)

## **1. How do I file a wage claim for wages and benefits?**

Employers have three (3) days from the last designated pay date to pay employees their wages. To file a wage claim for earned, due wages (including benefits), contact a labor compliance officer at the Oklahoma Department of Labor's wage and hour unit in our Oklahoma City office, 405-521-6100, or 888-269-5353, or at the Tulsa office, 918-581-2400. Or, you can download a wage claim form from [www.labor.ok.gov](http://www.labor.ok.gov).

## **2. Are breaks and lunch periods mandatory?**

Neither federal nor state law require employers to provide breaks to employees age 16 or older. Mandatory break laws only apply to children under the age of 16. Breaks and lunch periods are considered benefits and remain at the discretion of the employer.

## **3. What is the current minimum wage?**

The federal and state minimum wage of \$7.25 per hour has been in effect since July 24, 2009.

## **4. Are all employers required to pay minimum wage?**

No. Unless otherwise covered by federal wage and hour laws, an Oklahoma employer must comply with state minimum wage laws if the company has at least 10 full-time employees or equivalent and/or grosses more than \$100,000 annually.

## **5. How often does an employer have to pay employees?**

Every employee (except exempt employees) shall be paid all wages due at least twice each calendar month. State, county, municipal and exempt employees shall be paid a minimum of once each calendar month.

## **6. Is my employer required to offer benefits?**

Oklahoma has no mandatory benefits law. However, if the employer has an established policy providing for benefits, the employee may or may not be eligible depending upon the employer's eligibility criteria. Read your employee handbook for specific policies at your workplace.

## **7. Is my employer required to pay overtime?**

If the company is required to comply with Federal wage and hour laws, time and one half should be paid to non-exempt employees for all hours worked over 40 in the work week. Contact the U. S. Department of Labor at 1-866-487-9243 for more information.

## **8. Is my employer allowed to require me to work past my scheduled hours?**

Employers have the right to schedule the minimum and maximum number of hours that employees may or may not work. Employers can change employees' hours without notice and may require employees to work overtime.

## **9. Electronic Payment of wages**

Under Title 40, Section 165.2 of the Oklahoma Statutes, an employer "shall pay all wages due the employees, other than exempt employees, at least twice each calendar month on regular paydays designated in advance by the employer. State, county and municipal employees and exempt employees shall be paid a minimum of once each calendar month. . . .With each payment of wages earned by such employee, the employer shall issue to such

employee a brief itemized statement of any and all deductions therefrom" It is the policy that this "paystub" must be in paper form. It is not enough that the employee be given a web site wherein he/she can print off a paper paystub. The employee must be given a paper paystub.

As for mandated direct deposit, when Title 40, Section 165.2, was amended in 2006 it did not address direct deposit of wages due and owing but just added electronic means as a lawful means of payment of wages. A 1966 opinion from the Oklahoma Attorney General (which carries the full effect of law until such time as it is explicitly overturned by statute or a court of competent jurisdiction) reasoned every employer must pay wages in lawful money and that employees may accept payment of wages by check, deposit in bank, or in another medium. It could be argued that this would appear that employers can require direct deposit.

However, just the opposite can be argued and the change merely allows employers to give the employees the option of accepting payment in the form of direct deposit. Furthermore, Oklahoma has other laws that govern the payment of wages and direct deposit. As such it is reasonable to conclude that the legislature did not intend to allow employer to require employees to accept direct deposit of wages. As the law was only changed by adding five words the Department of Labor concludes that the Oklahoma legislature did not intend to allow employers to require employees to accept direct deposit of wages.

Under the Oklahoma State Employee's Direct Deposit Act, Title 74, Section 292.20 et seq. no service charge will be paid by the employee who receives his wages via direct deposit which would decrease the net amount of the employee's salary and the money will be deposited to the financial institution of the employee's choice.

In the past, the position of the Department of Labor has been that employers cannot *require* employees to accept electronic payment of wages. However, after receiving several questions regarding this issue the agency has requested an official opinion from the Oklahoma Attorney General to resolve this issue. No opinion has been issued at this time.

**10. If I give notice but don't work the time, does my employer have to pay me anyway?**

Oklahoma has no mandatory severance pay law. However, as with any other benefit, severance may be payable in accordance with the employer's established policy. Read your employee handbook for specific policies at your workplace.

**11. If I quit or get fired, does my employer have to pay me immediately?**

An employer may wait until the next regularly designated pay day regardless of whether you quit or were fired.

**12. Can my employer deduct money from my paycheck?**

Deductions can be legal, depending upon the circumstances. If you are concerned that your employer may be taking illegal deductions, you should contact the state Wage & Hour Unit for more information. Employers must sign a written agreement with employees in order to make legal deductions from employees' wages unless deductions are made pursuant to express statutory authority, such as state and federal tax withholdings and FICA, or pursuant to a prior valid final judgment by an employer against an employee.

**13. I was scheduled to received a pay raise but never received it. Can I file a wage claim for these back wages?**

Perhaps, you should contact the state Wage and Hour Unit for more information.

**14. My employer sent me home early. Is my employer required to pay me for the time I was scheduled to work?**

Probably not as employers are only required to pay non-exempt employees for actual times worked. However, exempt employees must typically be paid their full salary irrespective of the time actually worked. For more information about exempt employees contact your nearest U.S. Department of Labor office.

**15. I believe I am being discriminated against and/or harassed at work. What do I do?**

Harassment and/or discrimination based upon constitutional protections (religion, race, disability, status as a veteran, etc.), may be addressed to the federal Equal Employment Opportunity Commission, 405 231-4911 or 1-800-669-4000, [www.eeoc.gov](http://www.eeoc.gov) or the Oklahoma Human Rights Commission, 405 521-2360.

**16. An employee has been activated to military service. Will that employee have a job when he/she returns to work?**

You will need to contact the Oklahoma Military Department at 405-228-5000, [www.ond.state.ok.us](http://www.ond.state.ok.us) for further assistance.

**17. What is the prevailing wage rate in Oklahoma?**

The Oklahoma Supreme Court ruled the state prevailing wage unconstitutional. For information about federal prevailing wage, contact the U.S. Department of Labor, [www.dol.gov](http://www.dol.gov), 866-487-9243.

**18. Is my employer required to show me my personnel file if I ask to see it?**

No.

**19. If my employer posts a schedule, is he required to give me notice ahead of time that the schedule has changed?**

No.

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