

# Labor Department's Wage & Hour

## *Frequently Asked Questions*

Office of Labor Commissioner Mark Costello  
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 must set regular pay dates within eleven (11) days of the end of the pay period. Employers have an additional three (3) days after regularly scheduled pay date to issue payment. 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**

On November 17, 2009, the Oklahoma Attorney General issued a formal opinion, Attorney General Opinion 09-31, regarding payment of wages by electronic means. The payment of wages due an employee by electronic means is governed by the Federal Electronic Fund Transfer Act ("EFTA") (15 U.S.C. §§ 1693-1693r). *See* 15 U.S.C. § 1693q. The regulation implementing the EFTA, 12 C.F.R. §§ 205-205.18, and the Official Staff

Interpretations supplementing Regulation E (12 C.F.R. pt. 205, supp. I) provide additional authority in the application of the EFTA to electronic wage payments. *See Ford Motor Credit Co. v. Milhollin*, 444 U.S. 555, 567-68 (1980); 15 U.S.C. §§ 1693b, 1693m. The EFTA preempts state law governing consumer electronic fund transfers to the extent that those laws are inconsistent with the EFTA and then only to the extent of the inconsistency. *See* 15 U.S.C. § 1693q.

The Attorney General concluded an employer may require an employee to accept the payment of wages by direct deposit. However, the employer cannot require a certain bank be used. If the employer's policy only allows employees to receive the direct deposits at a certain bank, then they cannot require the employee to use direct deposit and must offer the option of cash or check. The employer cannot require the use of payroll debit cards. The employee can choose to use a payroll debit card, but it must be voluntary.

Wage statements (pay stubs) do not have to be written or printed. They can be in electronic form as long as the method of delivery places no burden on the employee in order to receive the statement. The employer cannot post the information on the internet and require the employee to login to view the information. No other examples of what form of delivery would be considered acceptable were listed. The burden on the employee would depend on the factual circumstances involved.

Regardless of the method of delivery, wages must be payable on demand without discount. Employees cannot be charged a fee to receive wages by electronic means.

**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 receive 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.

**20. Are wages required to be paid when an employee is on jury duty?**

If the employee is a "non-exempt" worker wages do not have to be paid.

If the employee is an "exempt" worker the Fair Labor Standards Act (FLSA) at 29 C.F.R. Sec. 541.602 states the employer is to pay wages for the period of time the worker is absent from work due to jury duty. However, the employer can offset any amounts received by the employee as jury fees for a particular week against the salary due for the particular week. Furthermore, an employer having a policy stating that exempt employees who serve on juries for an extended period of time will not be paid for workweeks in which they perform no work is permissible.

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