## Dairy Workers, State Protections, Worker's Compensation, and the FMLA

## **State Occupational Safety and Health Protections**



There are 22 states that provide additional protections beyond the federal Occupational Safety and Health Act. These enhanced protections include: allowing state OSHA agencies to inspect farms with 10 or fewer employees, mandating sick leave laws for agricultural workers, and requiring employers to provide workers' compensation for agricultural workers. States may also have stronger anti-retaliation laws for workers who report health and safety violations at the workplace.

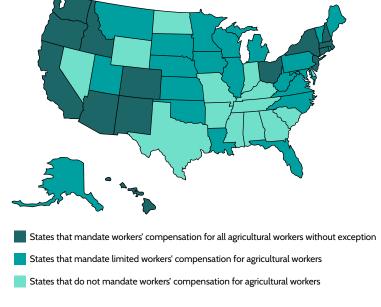
Many states have their own paid and unpaid leave laws, such as sick leave or safe leave for workers to take care of themselves or their family members. Whether a state law covers dairy workers varies. Some states require employers to provide sick leave depending on how many employees they have, or based on other factors. State laws may also mandate paid or unpaid leave depending on the size of the employer or the net income of their business.

## **Workers' Compensation**

Workers' compensation is an employer insurance that gives employees benefits if they suffer a work-related injury or illness. Workers' compensation can cover medical expenses, wages from lost work time, and travel expenses.

Only 14 states mandate that employers provide workers' comp for agricultural workers, and 21 states have limited coverage for agricultural workers. Dairy workers are generally considered agricultural workers under workers' compensation laws, so whether their employers provide workers' compensation will depend on their state's definition. Some employers purchase workers' compensation even if not required by law.

Once a worker experiences an injury or illness at work, it is important that they report it to their employer as soon as possible. The worker should immediately seek medical care and follow their doctor's instructions, and



keep records of their visits and expenses for the insurance company. The insurance company will verify the injury or illness before paying what the worker is owed under workers' compensation.

An employer may be penalized if they refuse to rehire a seasonal worker because they filed a workers' compensation claim.

If a work-related injury or illness leads to a permanent disability, there are other types of benefits a worker might qualify for. If the employer does not have workers' compensation, workers can look into property liability insurance, or file a civil suit. It is best to talk to an attorney to determine the best course of action.

## The Family and Medical Leave Act (FMLA)

The FMLA is a federal law that allows workers to take unpaid time off for serious health issues. Specifically, workers can take up to 12 workweeks off for a "qualifying reason", including (a) a serious health condition that makes the worker unable to do their job, or (b) caring for an immediate family member with a serious health condition. Note that the FMLA only applies to dairy farms with 50 or more employees.

To be approved for FMLA leave, the worker needs to provide a medical letter to their employer, such as a certification in support of leave written by a healthcare provider. An employer may require additional medical opinions, which the employer must pay for, and periodic recertification for a serious health condition.

Employers are not allowed to discriminate, retaliate, or interfere with a worker's ability to use FMLA leave.





