



WORKER RIGHTS · NEW MEXICO

Know Your Rights in New Mexico

What every hospitality worker should know, in plain language.
No legal jargon.

This guide is general information about New Mexico employment law as of October 2026. It is not legal advice, and not a substitute for talking to a licensed attorney about your situation.

General information only — not legal advice.

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Working in New Mexico: The Basics

- New Mexico is an “at-will” state (a court-made rule, not a statute): either side can end the job at any time, for any reason that is not illegal.
- The New Mexico Human Rights Act bars employers from refusing to hire, firing, or discriminating against you because of race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or a related condition, physical or mental disability, serious medical condition, or military status. It covers employers with 4 or more employees — far smaller than the federal 15-employee threshold, so most small restaurants and hotels are covered. (One class, spousal affiliation, is protected only at employers with 50 or more.)
- Retaliation for asserting wage, sick-leave, or discrimination rights is illegal.

Your Paycheck

- Minimum wage: \$12.00 an hour (in effect since January 1, 2023). The statute sets no further increase and no inflation adjustment — \$12.00 stands until the legislature acts.
- Overtime: 1.5× your regular rate after 40 hours in a week. There is no daily overtime.

- **Paydays:** your employer must set regular paydays no more than 16 days apart. Work from the 1st-15th of a month must be paid by the 25th; work from the 16th to month-end by the 10th of the next month. (If payroll is prepared out of state, the deadlines are the last day of the month and the 15th.) Task, piece-rate, and commission workers may agree in writing at hiring to monthly pay; executive, administrative, and professional employees and outside salespeople may be paid monthly.
- **Your pay receipt:** every payday your employer must give you a written receipt identifying the employer and showing your gross pay, hours worked, total wages and benefits earned, and an itemized list of every deduction. Payroll cards are allowed only with safeguards — a free withdrawal of your full wages each pay period, fee disclosures, and a direct-deposit option.
- **Deductions — the honest picture:** New Mexico's Minimum Wage Act contains no general "written authorization" deduction rule of the kind many states have. What the law does give you: the itemized receipt above; a rule that in any wage dispute, the part of your wages your employer concedes is due must be paid unconditionally within the usual deadlines (accepting it does not release the rest of your claim); and "unlawful deductions" are a claimable violation through the state wage-claim process. Deductions also may not pull your pay below the \$12.00 minimum wage or cut into overtime you are owed.

- Final paycheck — if you're fired: if your wages are a fixed, definite amount, they are due on demand and must be paid within 5 days of discharge. In all other discharge cases (task, piece, commission, or other calculated pay), settlement and payment are due within 10 days. If the employer misses the deadline, your wages keep running at your discharge rate for up to 60 days after discharge, recoverable in a civil action.
- Final paycheck — if you quit: if you quit and are not under a written contract for a definite period, your wages are due at the next succeeding payday. There is no 10-day rule for quitting — anyone who tells you otherwise is repeating the most common error about New Mexico law.
- If you sue and win over a minimum-wage or overtime violation, you recover the unpaid wages plus interest, plus an additional amount equal to twice the underpaid wages, with costs and attorney fees — and no filing fee for the employee. Violations are also a misdemeanor.

If You Earn Tips

- Your tips are yours. New Mexico law (via the official DWS poster statement of the Minimum Wage Act) says: tipped employees have the right to keep all of their tips.
- Your employer may pay a cash wage as low as \$3.00 an hour and claim a tip credit of up to \$9.00 — but if \$3.00 plus your tips does not reach \$12.00, the employer must make up the difference.
- Pooling: in DWS's own wording, "tip pooling may only be among wait staff." Federal law adds that employers, managers, and supervisors may never keep any part of employees' tips.

Local tipped rates differ in Santa Fe and Albuquerque — see "Local Wages That Beat the State."

Paid Sick Leave (Healthy Workplaces Act)

- Every private employer in New Mexico is covered, and every employee earns leave — part-time, seasonal, and temporary included.
- You earn 1 hour of sick leave for every 30 hours worked, and you may use it as it accrues — there is no waiting period. (Your employer may instead front-load 64 hours each January 1.)
- You may use up to 64 hours per 12-month period (your employer may allow more). Unused leave carries over year to year — and the carryover itself is capped at 64 hours of unused leave.

- Leave is paid at your regular rate. You may ask orally or in writing. Your employer may not make you find a replacement as a condition of taking leave, and may not retaliate against you for using it.
- You can use leave — for you or a family member — for illness, injury, or a health condition; diagnosis, care, or treatment; preventive care; absences tied to domestic abuse, sexual assault, or stalking (treatment, counseling, relocation, legal proceedings, services); and meetings at your child's school or place of care about the child's health or disability.
- No payout at separation — unused sick leave is not owed when you leave. But if you are rehired within 12 months by the same employer, your accrued unused leave must be reinstated. Transfers inside the same employer, and being kept on by a successor employer, preserve your leave.
- Your employer must keep hours and leave records for 4 years.

Vacation and PTO

- New Mexico does not require employers to offer vacation or PTO, and no statute sets a payout rule for accrued vacation at separation. (The sick-leave no-payout rule is statutory and separate.)
- What you can do: amounts owed to you under your employer's own policy or your agreement — including vacation pay and PTO — are expressly among the claims the state wage-claim process accepts. In New Mexico, your offer letter and handbook language decide the question. Keep copies.

Breaks

- New Mexico does not require meal or rest breaks for adult employees — and has no separate state meal-break rule for minors.
- One nuance: an older New Mexico provision says that when a meal period is granted in industrial, mercantile, and certain service industries, it must be at least 30 minutes and is not counted as time worked. It does not require the employer to grant one.

If You're Under 18

- Work permits are required only for ages 14–15 (issued through school officials, with a copy filed with the state's Child Labor Section). The employer certifies on the permit that the minor is not in a prohibited or hazardous occupation — and serving alcoholic beverages is on the prohibited list.
- Under 16: no work before 7:00 AM or after 7:00 PM — extended to 9:00 PM from June 1 through Labor Day. Federal FLSA hour caps for 14–15-year-olds also apply.

Alcohol service has its own age rules — read the next section before assuming a host or server job is legal at your age.

Alcohol: Who May Serve, and Where

- Everyone who serves or sells alcohol in New Mexico must complete an approved Alcohol Server Education course and hold a server permit — bartenders, servers, clerks, owners, and bouncers included.
- Ages 18–20: you may get a permit to serve alcohol in a full-service restaurant with meals only. You may not bartend, may not serve in a bar or lounge, and may not sell alcohol in convenience, grocery, or package stores — and you may not deliver alcohol.
- Age 21: required to bartend and to sell or serve in bars, lounges, and retail stores.

Ignore any source that says 19. That was the rule before September 2021. The current restaurant-service age is 18.

Non-Compete Agreements

- Health-care practitioners: New Mexico law makes non-competes unenforceable against a defined list of practitioners — dentists, osteopathic physicians, physicians, podiatrists, certified registered nurse anesthetists, certified nurse practitioners, and certified nurse-midwives. A clause choosing another state's law, or forcing the fight into another state's courts, is void. (Repayment clauses — loans, relocation, signing bonuses — survive.)
- Everyone else: New Mexico has no non-compete statute for other workers. Courts decide these agreements case by case. Do not assume yours is enforceable or void — get legal advice on the specific agreement.

Pay Transparency and Equal Pay

New Mexico has no pay-transparency law and no salary-history ban (checked as of October 2026): no state law requires wage ranges in job postings or bars an employer from asking about your pay history. Federal law (the NLRA) still protects your right to discuss wages with coworkers.

- **Fair Pay for Women Act:** an employer may not pay an employee less than an employee of the opposite sex in the same establishment for equal work requiring equal skill, effort, and responsibility under similar working conditions — except under a seniority system, a merit system, or a system based on quantity or quality of production. An employer may not cut anyone's wages to comply.

Local Wages That Beat the State

You are owed whichever rate is highest — state or local:

- **City of Santa Fe** — \$15.40 an hour (living wage, since March 1, 2026), for employers within city limits. If you regularly receive more than \$100 a month in tips or commissions, your employer may pay a base wage of \$3.00 if you keep all your tips — and must top you up so you receive at least \$15.40. Announced: \$17.50 on January 1, 2027, with a new annual formula (half inflation, half housing-cost index, capped at 5%, never decreasing) from March 1, 2028.
- **Santa Fe County (unincorporated areas)** — \$15.40 an hour, with a tipped base wage of \$4.62 (since March 1, 2026). Note the difference from the city: the county sets the tipped base at \$4.62; the city uses the \$3.00-plus-top-up mechanism. Retaliation for asserting county ordinance rights is prohibited.

- Albuquerque — the state \$12.00 controls in October 2026 (the city's own base rate is lower), but the city's tipped cash wage is \$7.20 — higher than the state's \$3.00. Announced: the city minimum rises to \$13.00 on January 1, 2027 (\$12.00 if the employer provides qualifying health or childcare benefits of at least \$2,500 a year per employee); the tipped rate stays \$7.20.
- Bernalillo County: the county posts its own local rate, but it is below the state's — the operative wages are the state \$12.00 and tipped \$3.00.
- Las Cruces — \$13.01 an hour (since January 1, 2026), with a tipped wage of \$5.20. A Las Cruces tipped employee is one who customarily receives more than \$30 a week in tips — the city measures tips weekly. The rate is set by city ordinance (LCMC Ordinance 2726) and is inflation-indexed: each September the city adopts whichever is higher, its own rate or the state rate — so the city figures govern for hours worked inside city limits. Announced: \$13.47 an hour and a tipped wage of \$5.39 on January 1, 2027.

Unions

- New Mexico is not a right-to-work state. Union-security agreements (requiring bargaining-unit employees to pay union dues) remain permissible here.

What New Mexico Does NOT Require

No meal or rest breaks for adults, and no state minor meal-break rule.

- No vacation or PTO mandate, and no statutory vacation-payout rule — your policy or agreement governs, and claims go through the wage-claim process.
- No daily overtime.
- No pay-transparency or salary-history law.
- No general deduction-authorization statute (your paycheck section above states what protections do exist).
- No scheduled minimum-wage increase — \$12.00 stands.
- No non-compete statute outside the health-care ban.

If Your Rights Were Violated

- Wages, tips, final pay, deductions, vacation or PTO owed: file with the Department of Workforce Solutions, Labor Relations Division (LRD). File the Wage Claim Form online at dws.state.nm.us, at an LRD office, at a Workforce Connection center, or by phone — Albuquerque 505-841-4400, Santa Fe 505-827-6838, Las Cruces 575-524-6195. LRD investigates and recovers back wages regardless of the amount, going back at least three years.
- Deadline: 3 years. A civil action must be started within 3 years of the last violation, and the clock pauses while an LRD investigation runs. You do not have to file with LRD before suing — either route, or both in sequence, within the window.

- Sick leave: complaint to LRD or a civil action, within 3 years of the violation. No administrative filing is required first.
- Discrimination: file with the NM Human Rights Bureau within 300 days of the act. The EEOC deadline is also 300 days in New Mexico. (The state Act covers employers with 4 or more employees — smaller than the federal threshold.)
- Safety: NM OSHA (Occupational Health and Safety Bureau, Environment Department). New Mexico's state plan covers private and public workers — one of the states where your safety complaint stays at the state level.
- Retaliation is illegal — for wage claims, for telling coworkers about their rights, and for using sick leave.

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