



community
involved in sustaining
agriculture

Guidelines for Massachusetts Farms on Writing an Employee Manual

**Community Involved in Sustaining Agriculture (CISA), March 2021
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Note: Labor law and regulations change frequently. This employee manual template is maintained and kept up-to-date on CISA's website at [this link](#). Users should refer to that version for the most accurate information. Farm business owners can also use the online version to select sections of the employee manual appropriate for their farm, which can be downloaded and used to create a personalized, farm-specific manual.



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Why have an employee manual?

An employee manual that is legally sound and consistently followed can provide a solid foundation for good employee-employer communication, in addition to clarifying managers' and workers' responsibilities to one another. Communicating clear expectations to your employees can lead to better work performance. Providing your employees with clear methods for raising and resolving workplace issues can also lead to more effective communication, with greater trust and mutual respect.

An employee manual can be legally protective as well – Massachusetts and federal law require that some policies be provided to employees in writing, and it is often easiest to put legally required notifications in one spot. In addition, employee manuals can help ensure consistent employee treatment, avoiding real or perceived discrimination.

It is important to note, however, that having an employee manual that lays out policies that are not actually followed can be worse than having no employee manual at all. It is often counterproductive, as well as legally risky, to develop an employee manual that doesn't reflect actual farm practices, or that has policies that are not consistently modeled and/or enforced by the managers on the farm.

A good employee manual which avoids these pitfalls and takes into account the best practices and legal considerations outlined in this document can be an excellent starting point in ensuring a legal, ethical, and productive work environment at your farm.

A good employee manual should:

- Reflect actual practices! An employee manual should only contain policies and procedures that the farm is committed to following – it is well worth taking your time to think through each section of your employee manual to ensure that this is true.
- Lay out clear expectations and a code of conduct for all employees, while also allowing for sufficient management discretion.
- Provide a road map for legal and ethical employee treatment, helping you evenly apply policies while avoiding favoritism and inconsistent or unpredictable decision-making.
- Communicate your farm's workplace culture and history to employees.
- Make it easier for you to orient new employees, ensuring that all employees are aware of benefits, compensation, expectations, and workplace policies.
- Help you satisfy legal requirements for notifying your employees about policies by including policies in one place, in plain language.
- Be carefully reviewed to ensure that it is in accordance with all Massachusetts and federal laws. The information in the guide below discusses key laws to keep in mind for each section. We also encourage you to have your manual reviewed by an attorney if possible; please contact CISA for referrals and to inquire about available financial support.
- Be provided to employees in writing in a language they can read, and be explained to workers orally in a language they understand (especially in the case of workers with low literacy). If you are not fluent in the language(s) of your employees, you may want to work with a

trained interpreter to orient your employees (in person and/or with a training video). If you need help connecting with translators/interpreters, please contact CISA for referrals and to inquire about available financial support.

- Be evaluated on a yearly basis, since employment laws change frequently. CISA staff are available to help you stay abreast of employment law updates that might apply to your farm. If an attorney has reviewed your manual, we suggest you return to the same attorney for annual reviews: this can save money, allowing them to focus on changes to applicable laws.
- Be provided to employees by their supervisor/manager, who should make themselves available to answer employees' questions **and should document** that the manual was provided and explained to each employee in a way that they understood.

Table of Contents

Your employee manual should have a table of contents to make it easier for employees to refer to the manual. It should include section numbers and/or page numbers so employees can quickly find different sections. Below is the table of contents for our employee manual template. Each of the following sections is discussed in more depth below the table of contents, with guidelines on what the section might contain, information on key legal considerations, and, where appropriate, sample language. Two asterisks mark ‘must-have’ sections, and one asterisk marks ‘good-to-have’ sections.

1. Welcome!
 - Intro to the farm**
 - About this manual**
 - At-will employment**
 - Equal opportunity statement**
 - Feedback*
 - Questions and concerns*
2. General employment information
 - Employment categories
 - Overtime
 - Work schedule*
 - Attendance policy*
 - Payroll*
 - Personnel records*
 - Weather expectations
 - Transportation
3. Time off/leave
 - Sick time**
 - Family and medical leave**
 - Bereavement leave
 - Other leave**
 - Vacation and holidays**
4. Employee benefits and rights
 - Farm produce
 - Housing*
 - Expense and mileage reimbursements
 - Workers’ compensation**
 - Unemployment insurance
 - Other insurance
 - Pregnancy-related rights and accommodations**
 - Disability and religious accommodations**
5. Employee responsibilities
 - Other benefits
 - Workplace culture/code of conduct*
 - Conflict resolution
 - Safety information*
 - Pesticide safety information**
 - Food safety*
 - Product quality
 - Cleanliness
 - Public conduct
 - Social media policy*
 - Visitors to the farm*
 - Phone policy
 - Farm property and equipment
 - Personal belongings
 - Drug and alcohol policy*
 - Tobacco, cannabis, and vaping policy*
 - Zero tolerance violence policy*
 - Dress code
 - Work pace
 - Animal care and treatment
 - Sexual harassment and discrimination prevention policy**
6. Communication & performance evaluation
 - Farm organizational structure
 - Check-ins and performance reviews
 - Disciplinary/termination procedures
 - Promotions
7. Closing
 - Closing thoughts*
 - Acknowledgment

1. Welcome!

Intro to the farm (*a must-have section*)

Give a basic introduction to your farm in this section, choosing language that will convey the way you want your employees to view the farm and its products. You may want to describe who the farm owners/managers are, where fields and work areas are located, what crops/products are produced at the farm, where the farm sells its products, and any other key details you want your employees to know about your farm, its mission, its values and standards, and/or the overall tone you want to set for your employees.

Sample language:

Welcome to the farm! We are glad to have you join our team and look forward to working with you. We highly value all our employees and take pride in striving to maintain a positive work environment that consistently meets both the needs of the farm business as a whole and the needs of each of our employees. We all depend on one another to achieve this – each of our contributions to the farm team is key to creating a sustainable and profitable farm business, as well as maintaining a respectful, fun, productive, and fulfilling workplace.

The farm was founded in 1995 by Rosemary Farmer, and in 2005, Basil Farmer joined the farm as co-manager. We currently produce vegetables, tree fruit, herbs, and hay on 60 acres of land in Hadley and Hatfield (see our field map in the appendix). We sell our vegetables, fruit, and herbs both at our farm store and via wholesale to grocery stores throughout New England. Our main wholesale crops include winter squash, sweet corn, apples, tomatoes, bok choy, rosemary, and basil, plus we grow smaller quantities of around 30 crops for our farm store and farmers' markets. We are proud of our farm's reputation for high quality produce, and we strive to provide the New England region with the freshest and healthiest produce, grown in a manner that sustains our land, all of us who work on the farm, and our local community.

About this manual (*a must-have section*)

The purpose of this section is to lay out key guidelines for how to understand the information in the manual. Most employment attorneys strongly advise employers to include a prominent statement on the first page of an employee manual that alerts employees to two things: 1) that the manual is not an employment contract, and 2) that the manual can be freely modified at any time, and without notice, by the employer. These are key statements to include, provided you do not want your manual to create new legally binding obligations for the farm.

Note that a manual with these statements also should not be used to create any legally binding obligations for your employees. Some employers, for example, request that employees sign non-compete, confidentiality, or non-disclosure agreements as a condition of employment. In our experience, such contractual agreements are very rarely used on local farms, but if you are considering entering into any agreements such as these with your employees, you should not include these as sections in your employee manual. Instead, you should make these separate agreements, and it is essential that you consult with an attorney to ensure you understand the legal requirements pertaining to such agreements.

Sample language: This employee manual will help you learn more about our farm as well as the policies, expectations, and benefits of working here. Please keep in mind that this manual contains only general information and guidelines. It is not an employment contract, nor is it intended to be comprehensive or to address all the possible applications of, or exceptions to, the general policies and procedures described. Since our farm business is subject to change, we reserve the right to change the policies and other information described in this handbook at any time, with or without notice. For these reasons, if you have any questions or would like more information regarding the applicability of any policy or practice, or your eligibility for a particular benefit, please ask your supervisor or the farm manager. The farm’s management is responsible for the final interpretation of all provisions in this manual. We always welcome your questions – now, or at any time during your employment at the farm!

At-will employment (*a must-have section if you have at-will employees*)

This statement is designed to reinforce employees’ understanding that the employee manual is not an employment contract – and in particular that the manual does not create a guarantee of employment nor does it require any particular steps be taken before firing employees. Some attorneys advise that a statement reinforcing the “at-will” status of employees be included both on the cover of the manual and on the first page in bold typeface – as well as on the acknowledgement page if you have one – to add extra insurance that employees will see the statement. At-will employment status not only protects employers’ right to fire employees at any time, but it also protects the employees’ right to quit their job at any time – so farms cannot, for example, legally require their at-will employees to commit to a full season of work or to give two weeks’ notice before leaving their job.

In some cases, employers may intentionally choose to give up the flexibility of at-will status because they want to attract certain employees by promising greater job security or they want to require their employees to commit to specific term of employment in return (such as with H-2A visa employees). This is in some ways similar to a landlord’s decision to enter into a year-long lease agreement with tenants, as opposed to a month-to-month rental agreement. Some employers also willingly give up the at-will status of their employees in order to find employees who are willing to sign non-compete provisions¹ or other agreements as conditions of their employment. Any decisions to limit at-will employment at your farm should be made intentionally and with a full understanding of the legal implications.

Sample language: Unless it is expressed in a separate written contract signed by the farm owner,² your employment at this farm is “at will.” This means that you enter into employment at the farm voluntarily, and you are free to resign at any time, for any reason or no reason. Similarly, the farm is free to conclude its relationship with any employee at any time for any reason or no reason, with or without advance notice. Though you may leave your job “at will,” we ask that you give us at least

¹ Note that there are significant legal restrictions on non-compete agreements in Massachusetts, so before implementing such an agreement it is essential that you talk to a lawyer about the legalities.

² This phrase is important to include if you have any employees working for you under a contract, such as employees with H-2A or J-1 visas.

two weeks' notice before leaving if possible, and we will likewise attempt to give you at least two weeks' notice if appropriate before ending employment.³

Equal opportunity statement (*a must-have section*)

This section is important to convey to employees that the farm will not discriminate against employees based on any legally protected characteristics. This is also an opportunity to concisely and prominently state that the farm (and the law) prohibits any harassment of employees based on these characteristics.

Sample language: The farm is an equal opportunity employer and is committed to providing a work environment free of discrimination and harassment. All employment decisions at the farm are based on business needs, job requirements, and individual qualifications, without regard to race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity or expression, pregnancy, age, disability, genetics, and active military or veteran status,⁴ or any other basis protected by applicable federal, state, or local laws. The farm also prohibits harassment of applicants or employees based on any of these protected categories.

Feedback (*a good-to-have section*)

Use this section to encourage your employees to feel comfortable sharing their ideas and input to you. Because many things can get in the way of clear communication at a farm – be it a full workload, the fast pace that is required, language barriers, and/or cultural differences – it is important to actively encourage employees to give you their feedback if you want to foster effective two-way communication at your farm. There are many benefits to having your employees communicate openly with you about their experiences and observations in their day-to-day work, including their ideas for streamlining work tasks or fostering a positive work environment at the farm. If employees do not feel they have an outlet for expressing their feedback, they are likely to feel less respected and motivated to do their job well. Moreover, you will miss out on the opportunity to learn from your employees' ideas and improve their investment in their work at the farm.

Sample language: We always welcome your feedback and your ideas! Things can get very busy at the farm, especially during peak season in July and August, and we may not always remember to check in with you to see how things are going, so we want to emphasize that we value your feedback on how things are going for you at the farm – including ideas for how we can improve work tasks, improve the work environment, or better meet your needs. If you want to share feedback at any time, please let us know. Whenever possible, we will listen to your thoughts right away – or, if we are limited on time or a longer conversation is needed, we will try to find a more convenient time to talk as soon as possible.

³ As described above, you cannot require that your employees give you advance notice before leaving their job. However, if you'd like to ask your employees to give you notice if they are able, you may do so. You may also want to indicate that you will aspire to give them notice in return, when possible.

⁴ These are currently the key legally protected attributes in Massachusetts. You may choose to add attributes to this list if you would like to highlight your commitment to equal treatment with regard to any other specific attributes.

Questions and concerns (*a good-to-have section*)

What is the process for employees to ask questions or to express any general concerns? Who should they speak with? Is there a preferred time (of week or day) or a preferred method? Are there particular concerns you want to specifically highlight to encourage employees to notify you about them – such as housing or equipment repair needs? Do you want to lay out any norms for how you intend to respond to such employee concerns? Some farms offer the option for employees to submit their suggestions or concerns in written form if they prefer that to sharing them verbally. Whatever method(s) you suggest, be sure not to make the process too cumbersome – remember that it is both in your best interest and your employees’ best interest if your employees feel comfortable asking questions and sharing any concerns with you.

2. General Employment Information-

Laws to keep in mind:

Note that the federal Migrant and Seasonal Agricultural Worker Protection Act (MSPA) requires the following information to be disclosed in the language of the worker and posted at the site of employment: rates of pay and other benefits; period and place of employment; crop information; worker’s comp information; transportation arrangements; and housing conditions. “Migrant” workers (i.e. workers who don’t permanently reside near the farm) must also receive written disclosure at their time of recruitment, and “seasonal” workers who reside locally must receive verbal disclosure at their time of hire.

Employment categories (optional)

Do you have different categories of employees that are important to distinguish between in your manual because they have different policies that apply to them, or for other reasons (e.g. part-time vs. full-time, seasonal vs. year-round, exempt vs. non-exempt, hourly vs. salaried, field vs. retail crew, H-2A workers vs. non-visa employees, or apprentices vs. other employees)? If so, you may want to include a separate section to explain the distinctions between these categories, or you may find it easier to describe the specific differences in how policies apply to different categories of workers as part of other sections in your manual.

Overtime (optional)

Indicate which of your workers will be exempt from overtime pay and which will be subject to overtime pay. Is it always the same workers, or will there be weeks when certain tasks could make some workers subject to overtime? You may choose to specify that non-routine overtime (which falls outside of the crew’s normal work schedule) must be pre-approved, but note that you cannot state that failure to pre-approve overtime will result in its forfeiture.

Laws to keep in mind:

Most workers must be paid 1.5 times their regular wage rate for any hours worked in excess of 40 in a given week. Both state and federal law exempt some agricultural laborers from overtime during any week in which they solely perform work that is exempt. The types of farm work that are clearly

exempt from overtime include any tasks performed on the farm premises that are part of the "growing and harvesting of agricultural, floricultural and horticultural commodities." Any post-harvest work like packing, retail work, or work off of the farm premises is subject to overtime according to state law. In addition, any agritourism work, handling of goods from other farms, and most processing (especially when the processing includes any off-farm ingredients or changes produce composition) are subject to overtime according to both state and federal law.

Farms can apply for an exemption from Massachusetts (but not federal) overtime requirements if their business or a specified part of their business is seasonal in nature and is conducted for 120 days or less per year. To apply for such a seasonal business waiver, farms must complete and submit a seasonal business overtime application, available [here](#).

Paying employees on a salary basis does not mean that they are exempt from overtime. That said, a small subset of salaried farm workers may qualify as exempt from both federal and state overtime requirements if they are executive, administrative, or sales employees. In order to qualify for any of these exemptions, a worker must be performing specific duties, must be paid on a salary basis, and must be paid a minimum salary of at least \$684 per week to remain overtime exempt. A worker may qualify for the executive exemption if their primary duty is to manage a farm enterprise or subdivision of the enterprise, they direct the work of at least two employees in that enterprise, and they have significant authority to hire and fire employees. A worker may qualify for the administrative exemption if their primary duty is office or non-manual work directly related to farm management or business operations, and the job requires them to exercise discretion and independent judgment with respect to matters of significance. A worker may qualify for the sales exemption if their primary duty is making sales and they customarily and regularly engage in work away from their employer's place of business.

Work schedule (*a good-to-have section*)

Describe the typical work hours of different employees, as well as paid and/or unpaid meal or rest breaks. Include days of the week, time of typical work hours, notes about when work hours might flex, and what seasonal employees can expect as far as the dates or date ranges on which their employment will start and end.

Laws to keep in mind:

State law requires that employees be given a continuous half-hour break for every six hours they work, during which time they must be permitted to leave the work site and may not be required to do any work. This break may be unpaid, and it is voluntary. However, if employees choose not to take a break they must be paid for all hours worked. Employees must also be paid for any time they are required to be on site or on duty at your request, regardless of whether or not you have assigned them a task, as well as for any travel time that is required during the work day.

Note that employees generally must be paid "reporting pay" for three hours of work at minimum wage if they are scheduled to work at least three hours, show up for work on time, and are not provided with the expected hours of work. The only case in which this legal requirement does not

apply is when employees are exclusively doing growing and harvesting tasks on a small farm that is not covered by the Fair Labor Standards Act (FLSA).⁵

Attendance policy (* a good-to-have section *)

This section should indicate what your requirement is for when and how employees must give you notice of when they will be absent from work, or when they will be late to work. You may also want to explain what happens when employees are absent from or late to work without giving adequate notice, such as in the event of a no-call/no-show and/or job abandonment.⁶

Laws to keep in mind:

Please refer to the “Leave” section below to ensure that your attendance policy does not in any way conflict with laws mandating that employees have the ability to take sick time, emergency family or medical leave, etc.

Sample language:

All employees are expected to show up on time for work and meet their regular work schedules except in cases of illness, emergency, or pre-arranged, approved absences. Poor attendance, tardiness, or leaving a shift early without authorization may result in disciplinary action, up to and including termination. Please call, email, or text your supervisor as soon as possible, no later than 7am on that workday, if you will have to show up late or miss work for any reason. Failure to report for work on three consecutive days without notification to the supervisor will be considered a voluntary resignation. Good attendance is critical to the efficient operation of our farm, as well as to maintaining a strong atmosphere of teamwork, where work is distributed fairly among employees and we all contribute to getting the work done.

Payroll (* a good-to-have section *)

You should let employees know when they will receive paychecks and how they will be expected to record their hours. It is also a good idea to explain payroll deductions in this section (mandatory types and/or any discretionary deductions). If you offer a standard starting pay rate to employees, indicate that here, as well as any standard process for giving employees wage increases. If the farm offers higher wages for working certain shifts (nights, weekends, etc.), you can include that here as well.

⁵ Your farm is covered by the FLSA if it utilized more than 500 "man days" of agricultural labor in any calendar quarter of the preceding calendar year (a "man day" is defined as any day during which an employee performs agricultural work for at least one hour). For example, if you had 7 or more employees doing agricultural labor 6 days a week for any quarter of last year, the FLSA would apply to you. You can also be covered by the FLSA if you had briefer periods with more employees—for example, 25 employees working 5 days a week for over 4 weeks.

⁶ Note that having a policy clarifying what would constitute “job abandonment” (i.e. voluntary resignation) can help clarify whether an employee has resigned or been terminated, and thus whether they would be eligible for unemployment.

Laws to keep in mind:

Note that the law requires workers to be paid within six days of the end of a pay period. Hourly employees must be paid at least biweekly, and piecework employees must be paid at least weekly. Mandatory payroll deductions include: 1) state and federal income tax withholdings, 2) deductions for Social Security and Medicare, and 3) the state payroll tax for paid family and medical leave.

With very limited exceptions, payroll deductions that are not legally mandatory, or that are not employee-authorized for their own benefit (such as health insurance), are not allowed in Massachusetts. For example, deductions for mandatory farm tools or clothing, or for damage done by an employee, are generally not allowed. Limited deductions may sometimes be allowed for providing housing and meals, but the allowable deductions can never exceed \$35 per week for lodging and \$42 per week for meals, and in many cases they must be lower. Moreover, housing must meet certain standards, and an employer can only take deductions if they are disclosed in writing to the employee, they are voluntary, and the employee accepts the deductions in writing.

Personnel records (*a good-to-have section)

Let employees know that they are responsible for notifying the farm of changes in name, address, phone number, emergency contact, marital status, number of dependents, or other information that may affect employment records. Incomplete information could cause inappropriate amounts of tax to be withheld from paychecks, create difficulties in notifications in the case of an emergency, or interrupt family benefits. Consider notifying employees here that they can request access to their personnel record at any time.

Laws to keep in mind:

The law requires employers to keep personnel records for a minimum of three years. Records for each employee should generally include: name, address, social security number, date of birth, job title and description, job application and resume (or other form of employment inquiry), gross and net wages for each pay period, hours worked each day, dates worked, rate of pay and any other compensation paid, deductions made from wages, method of payment, vacation pay, sick time accrual, any fees or amounts charged to the employee, and any documents pertaining to employee performance. Employers must provide the employee with copies of their records within five business days of the employee's request, and employers must notify workers when adding information to the record that could negatively affect a worker's employment. If an employee disagrees with information in their file, the worker has the right to submit a written statement that would need to be included whenever the personnel record is shared.

Weather expectations (optional)

You may want to note in your employee manual that farming often takes place during inclement weather. Are there certain types of weather in which employees won't do certain types of work? Are there certain types of gear that employees will be expected to have to enable them to work in certain types of weather? How much notice will they have regarding weather-related changes to work hours or job tasks? You may want to outline common situations that may be affected by the weather and

indicate whose responsibility it will be for making decisions around whether to change work hours or job tasks.

Transportation (optional)

Are employees responsible for getting themselves to work? Does farm help arrange transportation or coordinate carpooling? During the workday, do employees use their own vehicles, farm vehicles, or both? Do you want to spell out any expectations or requirements you have for employees who drive farm vehicles – such as having a clean driving record, carrying their driver’s license with them whenever operating farm vehicles on public roads, or other considerations?

3. Leave/Time Off-

Sick time (*a must-have section*)

Your employee manual should discuss your sick time policies – which should at minimum comply with the MA Earned Sick Time Law. You should indicate how much sick time your employees accrue and at what rate, whether it is paid or unpaid, and what are permissible uses of sick time. You should also indicate who employees should report illnesses to and how much advance notice you expect employees to give when calling in sick or requesting to use sick time in non-emergency situations.

Laws to keep in mind:

Under the [MA Earned Sick Time Law](#), employers with **11 or more employees** per pay period over the course of the year (including all seasonal, part-time, or temporary workers) must provide paid sick time. Employers with **fewer than 11 employees** must provide earned sick time, but it does not need to be paid. In either case, employees must earn at least one hour of sick time for every 30 hours they work (beginning on their first day of work), they must be allowed to earn and use up to 40 hours per year minimum (provided they perform at least 1,200 hours of work per year), and they must be able to begin using earned sick time within 90 days after starting work. If the employee is provided earned sick time via accrual, the employee must be allowed to carry over at least 40 hours of unused earned sick time into the next year.

An employee must be allowed to use sick time when the employee or their child, spouse, parent, or parent of a spouse is sick, has a medical or mental health appointment, or has to address the effects of domestic violence. It is legally permissible to ask that your workers give notice before using sick time, except in an emergency. Only when an employee misses more than three consecutive workdays is it permissible to ask your employee for a doctor’s note or other documentation of their illness, but in no cases are you allowed to ask for information about the illness or the details of the domestic violence.

You are required to notify workers of their right to earned sick time by displaying [this notice](#) of employee rights under the MA Earned Sick Time Law (also available in other languages) *and* by either giving a copy of the notice to each of your employees or by including a sick time policy in your employee manual (see one detailed sample policy from the MA Attorney General’s office [here](#)).

Sample language:

All employees at the farm earn one hour of paid sick time for every 30 hours they work⁷ (beginning on your first day of work), up to a maximum of 40 hours per year. You can begin using this earned sick time 90 days after starting work. Earned sick time can be used when you or your child, spouse, parent, or a parent of your spouse is sick, has a medical or mental health appointment, or has to address the effects of domestic violence. If you do not use all of your earned sick time by the end of the year, up to 40 hours will be carried over into the next year. If you are sick but don't have earned sick time available, please let us know and we will make every effort to accommodate your needs. Your health and the health of our customers is important to us, so our goal is that you will never need to come to work while sick.

You (or a proxy, if you are unable to call for health reasons) must notify your supervisor before using sick time, except in the event of an emergency. If you are going to be late or absent due to illness, your supervisor should be notified as soon as possible, no later than 7am on that workday. You should communicate directly with your supervisor via phone, email, or text; communicating with another employee is not sufficient. If you miss more than three consecutive workdays we may ask you for a doctor's note or other documentation of your illness.

Family and medical leave (*a must-have section*)

This section should outline employees' rights to family and medical leave, it should explain the permissible uses of family and medical leave, and it should lay out your farm's expectations of employees with regard to when and how they should notify you of upcoming non-emergency leave. In Massachusetts there is a new paid family and medical leave law that significantly increased employees' rights to family and medical leave as of January 2021. This new law and other laws pertaining to family and medical leave are described below.

Laws to keep in mind:

All workers (of all genders) who have been employed for at least three months at a Massachusetts business with **six or more employees** are entitled to eight weeks of unpaid, job-protected [parental leave](#) per child for purposes of giving birth or adopting a child. If two employees of the same employer request leave for the same child, however, the employees are entitled only to eight weeks of leave combined. Covered employers are required to display a poster of employee rights under the Parental Leave Act.

⁷ This is the minimum amount of earned sick time that must be available to employees under MA law, but note that you may choose to offer your employees more hours of earned sick time than this minimum. If you have under 11 employees, you do not have to compensate employees for sick time and may indicate that this time is unpaid.

In addition, under Massachusetts' new paid, job-protected [family and medical leave program](#), eligible employees⁸ may take up to 12 weeks of paid family leave and/or 20 weeks of medical leave, up to a maximum of 26 weeks total, per year. This leave can be used to:

- Receive treatment for a serious medical condition
- Bond with a newborn or newly adopted child
- Care for a family member injured during military service
- Handle matters arising from a family member's active duty military service/deployment
- Care for a family member with a serious medical condition (beginning July 2021)

All employers in Massachusetts are required to provide written notification to their employees, in the employees' primary language, explaining their paid family and medical leave benefits and contributions. This notice must be issued to all existing employees, and to new employees within 30 days of their first day of employment. Be sure to use one of the employer notice forms at [this link](#) to ensure compliance. You may choose to provide the notice to employees as part of your employee manual, or separately; either way, you should have your employees sign and give you a separate acknowledgement of having received the notice.

Note that the federal Family and Medical Leave Act also requires businesses that employ **50 or more employees** (for each working day of 20 or more weeks during the current or preceding year) to offer employees up to 12 weeks of job-protected leave per year for family and medical reasons. Covered employers are required to display a poster of employee rights under the federal Family and Medical Leave Act.

Bereavement Leave (optional)

While it is not required by law, you may want to consider including a bereavement leave policy. This sets reasonable expectations and guidelines so that supervisors are not left handling it on a case by case basis, which can leave room for accusations of special treatment.

Sample language:

Bereavement time is provided in the case of the death of immediate family members. Immediate family members include parents, siblings, grandparents, children, spouse/domestic partners and spouse/domestic partners' immediate family. For immediate family members you will be granted three days bereavement time off with pay. For any other members of your family you will be granted one day bereavement time with pay. For any other bereavement time you must get your supervisor's approval for time off, but this time off will be without pay.

⁸ Your employees are eligible for paid family and medical leave unless:

- They haven't met the earnings threshold, which requires making at least \$4,700 (at any job) in the previous 12 months and having at minimum approximately 15 weeks of earnings, or
- They are in a category of employees that is excluded from unemployment benefits, such as H-2A employees or employees on a very small farm.

Other leave (* a must-have section*)

This section should outline other types of leave that are permitted or required at your farm and that you want to highlight as being available to your employees. It is always important to make sure that the leave policies you include in your manual don't conflict with any of your employees' rights to leave (explained below).

Laws to keep in mind:

All Massachusetts employees have a legal right to jury duty leave, voting leave, witness leave, and military leave. If you employ any veterans, they have the additional right to be permitted to observe Veterans Day and Memorial Day, and businesses with **50 or more employees** also must provide Small Necessities Leave and Domestic Violence Leave. More information on each of these legal requirements is below, including information on any legal requirements for employers to notify their employees of their rights to leave.

Jury duty leave – Under Massachusetts law, all employers must provide employees with leave for jury duty. Leave for employees' first three days of state juror service must be paid; thereafter, it may be unpaid. Employees must not be required to reschedule jury duty or use vacation, sick or personal days to cover the duration of juror service.

Voting leave – Massachusetts law allows almost all employees to time off to vote – which may be unpaid – during the first two hours that polls are open. The employee must request such time off in advance in order to be eligible for voting leave.

Witness Leave – Under Massachusetts law, an employee who must serve as a witness in a criminal action is permitted to obtain leave for purposes of testifying and cannot be punished for doing so, provided they give notice to their employer.

Military Leave – The federal Uniformed Services Employment and Reemployment Rights Act gives employees the right to take job-protected leave from their job to perform uniformed military service, provided that their service has been honorable and that they 1) give you advance written or verbal notice of their service if possible, 2) have five years or less of cumulative service in the uniformed services while working for you, and 3) return to work or apply for reemployment in a timely manner after they finish their service. Following their service, such employees must be restored to the job and benefits they would have attained if they had not been absent due to military service, or, in some cases, a comparable job. Employers are required to provide to covered employees a notice of rights, benefits, and obligations under the act.

Leave for Veterans – Under Massachusetts law, veteran employees working for private employers generally must be granted leave to observe Veterans Day and to participate in a Memorial Day exercise, parade, or service that takes place in the veteran's community of residence.

Small Necessities Leave – Under Massachusetts law, businesses that employ **50 or more employees** (for each working day of 20 or more weeks during the current or preceding year) must grant up to 24 hours of "small necessities" leave per year to any worker who has been employed for at least one year at the business and worked at least 1,250 hours over the past 12-month period. This leave can be used in addition to federal family and medical leave, but an employer can require that an

employee use paid sick or vacation leave for such small necessities. Qualifying activities include a child's school activities, a child's routine doctor or dentist appointment, or an elder relative's doctor or dentist appointment or other appointment related to the elder's care. If the need for leave is foreseeable, the law allows employers to require that their employees request leave at least 7 days in advance.

Domestic Violence Leave – Under Massachusetts law, businesses with **50 or more employees** must provide up to 15 days of job-protected leave per year to an employee who is, or whose family member is, a victim of abusive behavior, including domestic violence. This leave can be used to seek or obtain medical attention, counseling, victim services or legal assistance; secure housing; obtain a protective order from a court; appear in court or before a grand jury; meet with a district attorney or other law enforcement official; or attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or family member of the employee.

Vacation and holidays (*a must-have section*)

Describe your farm's vacation/holiday policy. Does the farm operate on holidays? Are some holidays days off? Do some holidays offer a higher pay rate or other type of compensation? Is there paid or unpaid vacation time? If so, who do you need to request time from, and how much notice is expected? Are there certain times of year that it's preferable to the farm for employees to take vacations? Is there a length of employment⁹ before employees begin earning vacation time? At what rate is vacation time earned for full-time and part-time employees? Does it carry over (up to a certain amount), is there a cap on the amount of time that can be accrued, and/or do you have a "use it or lose it" policy?

Laws to keep in mind:

You can choose whether to offer vacation that is paid or unpaid. Note that if you offer vacation time that is paid, this is considered in Massachusetts to be part of employee wages, so employees must be paid for any vacation time that they accrued but did not use during their period of employment. If an employee quits, they must be paid all accrued wages as part of the next pay cycle; if they are terminated, they must be paid in full on their last day of employment. Thus, the most common practice is for employers to have their employees accrue any paid vacation time on a monthly basis – or with each pay period – as opposed to on an annual basis.

Massachusetts "[blue laws](#)" impose certain restrictions on which businesses can operate on Sundays and holidays. Businesses generally are not permitted to operate on Columbus Day before 12pm, on Veterans Day before 1pm, or on Thanksgiving Day or Christmas Day. For Sundays and for other holidays, blue law restrictions vary by business type.

Retail operations generally are allowed to operate on Sundays and other holidays (i.e. New Year's Day, Memorial Day, Independence Day, Labor Day, Columbus Day after 12pm, and Veteran's Day after 1pm), with the caveat that they cannot require employees to work or penalize an employee for refusing to work these days. Many non-retail businesses are not allowed to operate on Sundays and

⁹ Note that you should avoid using the word "probationary" to describe the time period until employees can use their time, because this can jeopardize their at-will status. You can instead use words like "orientation" or "evaluation period."

holidays - though most non-retail farm tasks can in fact be performed legally on these days. Non-retail tasks that can be performed include the "cultivation of land and the raising and harvesting of agricultural products and fruit," "the making of butter and cheese," and "the transport or processing of fresh meat, fresh poultry, fresh fish, fresh seafoods, fresh dairy products, fresh bakery products, fresh fruits or fresh vegetables, or ice, bees, or Irish moss, when circumstances require that such work be done on Sunday."

Note that if a farm employs **more than seven people** over the course of a week (including the owner) and operates a retail business on Sundays or holidays, Massachusetts premium pay laws apply. Any employees on such a farm who do retail tasks on Sundays or holidays (i.e. New Year's Day, Memorial Day, Independence Day, Labor Day, Columbus Day after 12pm, and Veteran's Day after 1pm) are owed premium pay. In the case of New Year's Day, Columbus Day, and Veteran's Day, premium pay is 1.5 times the worker's regularly hourly rate. In the case of Sundays and Memorial Day, Independence Day, and Labor Day, premium pay is 1.2 times the worker's regular hourly rate in 2021 and will be phased out completely by 2023 (with the rate lowering to 1.1 times regular wages in 2022). Note that if a worker earns overtime, the amount paid in overtime can offset premium pay requirements for that week.

4. Employee Benefits and Rights -

Farm produce (optional)

Does your farm offer free farm produce to employees, special pricing for farm store products, and/or other food-related benefits? If so, indicate details here.

Sample language:

We want you to be able to access and enjoy the fruits of your labor at the farm! All employees are welcome to take fresh farm produce home for personal consumption. In general, employees may take the amount of produce that they will eat themselves in a week. In addition, with permission from the farm manager, employees can take as many "seconds" (i.e. produce that will not be sold) as they would like – for canning, freezing, storage, or other personal/household uses. Employees get a 15% discount on purchases of farm store products and the farm's own value-added products.

Housing (*a good-to-have section, if you provide housing*)

Do you provide housing for employees? Who is the point person on the farm to go to with housing issues? How should employees communicate with them to let them know that housing repairs that are needed? Are there "house rules" that you want to ensure employees are aware of, such as guidelines around cleanliness practices and standards? Does the farm pay for any special services (cable, phone, internet, etc.) and who is responsible for lawn mowing, shoveling, or other upkeep? How is payment for housing and utilities handled?

Expense and mileage reimbursements (optional)

Do you reimburse employees for travel and other work-related expenses? If so, what rate(s) of reimbursement do you offer employees to compensate them for expenses? Note that employers

commonly based their reimbursement off of the [IRS standard mileage rates](#), though employers can also choose to use other reimbursement rates. Do employees need to get approval before incurring an expense, and if so, when and how should they do this? How do you expect employees to document and report mileage and/or other expenses?

Workers' compensation (*a must-have section*)

Use this section to inform employees about your farm's workers' compensation plan, when workers' compensation can be used, and how employees should report injuries that occur while working.

Laws to keep in mind:

Employees who are injured during the course of employment, or who suffer from work-related mental or emotional disabilities, as well as occupational diseases, are eligible for [workers' compensation benefits](#) in Massachusetts. These benefits include medical and hospital services, medically necessary equipment and prescribed drugs, weekly compensation for lost income during the period the employee cannot work, and vocational and rehabilitation services. Employers are required to report all employee injuries in the workplace to their workers' compensation carrier. In addition to any other methods you use to inform your employees about their rights to workers' compensation (such as through your employee manual), note that you must also clearly post a copy of [this poster](#).

Sample language:

Workers' compensation is a no-fault insurance plan that offers benefits to workers injured on the job. The plan is fully paid for by the farm and supervised by the state. The farm's workers' compensation plan covers employees for injuries or illnesses caused by the employee's employment, regardless of the severity, so long as the injuries or illnesses resulted from the performance of that employee's job. It can pay for medical expenses in addition to compensating employees until they can return to work. Coverage begins the first minute you're on the job and continues anytime you're working for the farm. You don't have to work a certain length of time, and there is no need to earn any minimum amount of wages before you are protected.

For consideration under the farm's insurance, please report ALL injuries to your supervisor immediately, no matter how slight. In the event of a work-related injury, notify your supervisor immediately and fill out an injury report. All injured employees requiring treatment beyond first aid should seek initial treatment at the most convenient medical center. Later, you may be required to furnish your supervisor with written statements regarding the on-the-job accident so that we may accurately document the incident and so that you may receive all the benefits which for you are eligible. Failure to do this can result in loss of benefits.

Unemployment insurance (optional)

Use this section if you would like to inform employees in your employee manual about the availability of unemployment insurance, which they may be able to access upon leaving their position at the farm. Informing employees of the availability of unemployment insurance is your legal responsibility as an employer.

Laws to keep in mind:

Most farm employers – and nearly all non-farm employers – are required to make contributions to unemployment insurance. Farm employers must make unemployment insurance contributions if:

- they paid **wages of \$40,000 or more** in any calendar quarter, **or**
- they employed **10 or more individuals** for any part of any 20 weeks in a calendar year

Most workers, including seasonal workers, are eligible for unemployment insurance. However, your workers would be excluded from unemployment insurance if:

- they worked for less than 20 weeks and you have a [state permit](#) as a seasonal employer,
- they earned less than \$4,700 in the preceding 12 months,
- they are agricultural employees with H-2A visas, or
- you are a small farm that is not required to make unemployment insurance contributions.

To inform your employees about their rights to unemployment insurance you are required to clearly post a copy of the poster “[Workplace Poster -- Information on Unemployment Insurance Benefits \(Form 2553A\)](#),” which informs employees of their right to file unemployment insurance claims, and you must also give all employees who are separated from work for seven or more days a copy of the pamphlet “[How to Apply for Unemployment Insurance Benefits \(0590A\)](#).”

Sample language:

Employees of this farm are covered by unemployment insurance. No deductions are made from your salary to cover the cost of your unemployment insurance benefits. If your employment is terminated, you may be entitled to collect unemployment insurance. To apply online, go to www.mass.gov/dua, select “UI Online for Claimants,” and complete the required information to submit your application.

Other insurance (optional)

Indicate any other insurance benefits available to your employees, such as health, dental, vision, life, or disability insurance, and/or COBRA. Be sure not to get too detailed on this, and instead state that current plan documents control benefits. For COBRA/HIPAA, include a short statement in the handbook and then use legally required notices. Many health insurance brokers are now willing to act as a free third-party issuer of COBRA notices, so ask your broker about this if you have one.

Pregnancy-related rights and accommodations (*a must-have section*)

All employee manuals should outline employees’ rights related to pregnancy and the process for seeking reasonable workplace accommodations related to pregnancy. Employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy-related conditions, and they have an obligation to engage in dialogue with employees requesting pregnancy-related accommodations, and to provide reasonable accommodations in the absence of undue hardship.

Laws to keep in mind:

If you have **six or more employees**,¹⁰ the [MA Pregnant Workers Fairness Act](#) requires that written notice be given to all employees on their first day of hire (and again within ten days after an employees' notification of pregnancy) of their rights as pertains to pregnancy and pregnancy-related conditions, including 1) the right to reasonable accommodations for conditions related to pregnancy, and 2) the right to be free from discrimination in relation to pregnancy or a condition related to pregnancy, including, but not limited to, lactation or the need to express breast milk for a nursing child. Note that employers are generally required to offer a lactation expression room that is separate from a bathroom to accommodate lactating employees. Employees also have to be informed of the process for seeking workplace accommodations related to pregnancy.

Sample language:

All employees at our farm have the right to have reasonable accommodations made for conditions related to pregnancy, and the right to be free from discrimination in relation to pregnancy or related conditions. Pregnancy-related conditions include, but are not limited to, lactation or the need to express breast milk for a nursing child. An employee's right to work during pregnancy (with or without reasonable accommodations) shall be considered a personal matter for the employee and their physician. If you would like to seek pregnancy-related accommodations, please let one of the farm managers know. The farm manager will discuss your needs with you in an effort to determine a reasonable accommodation that will allow you to continue to perform your job duties.

Disability and religious accommodations (*a must-have section*)

It is recommended that you outline the process for seeking reasonable accommodations for disabilities and religious observance in your employee manual.

Laws to keep in mind:

Employers generally have an obligation to offer reasonable accommodations, absent an undue hardship, to workers with disabilities or specific needs for religious observance, assuming accommodations can be found that do not pose undue hardship on your farm. Accommodations should ensure equal opportunity for an individual with a disability to perform the essential job responsibilities and receive the same benefits and privileges as other employees. Note that in practice, most "reasonable accommodations" made by employers in Massachusetts require an investment of less than \$100. Accommodations of this cost typically would not qualify as an "undue hardship." Some common examples of accommodations include: changes to job schedules, provision of modified equipment or seating, physical alteration to the existing facilities, provision of qualified readers or interpreters, and modification of training materials.

¹⁰ Note that if your farm is too small to be covered under the MA Pregnant Workers Fairness Act, you can still be held liable for workplace discrimination against pregnant employees under a provision of the Massachusetts [Equal Rights Act](#).

Sample language:

If you would like to request an accommodation related to disability or religious observance, please let your supervisor or the farm manager know. They will discuss your needs with you in an effort to determine a reasonable accommodation that will allow you to continue to perform your job duties.

Other benefits (optional)

Include this section if you would like to indicate information on any other employment benefits you offer at your farm, such as retirement accounts, bonuses, or educational incentives.

5. Expectations for Employee Conduct -

Workplace culture / code of conduct (*good-to-have section*)

Any general notes you'd like to make about the conduct of your employees and/or the culture of the workplace that you would like to cultivate? Consider including a list of behavior that are unacceptable, and/or a list of behavior that are encouraged. If you provide a list of behaviors that are unacceptable, you should be careful to note that the list is not exhaustive, so as not to risk jeopardizing the at-will nature of employment, and you should consider including an at-will disclaimer again here (see more information in the "at-will employment" section above).

Conflict resolution (optional)

Is there an established process for addressing conflicts, other than those mentioned above – whether they are between employees or between employees and management? If so, you can use this section to describe this conflict resolution process. However, do not promise to follow a step-by-step process prior to termination, such as an oral warning, followed by a written warning, followed by termination; this can create obligations and reduce your flexibility in how you address conflict.

Safety information (*a good-to-have section*)

Is there a separate handbook with safety and health information to point employees to, and/or would you like to include that information, in part or in full, in your employee manual? What are your expectations for safety gear that employees should wear (such as ear protection, safety glasses, personal protective equipment, etc.) and where can such gear be found on the farm? It is also a good idea to use this section to encourage employees to be vocal in asking for what they need to protect their health and safety and that of their co-workers – such as if they need to take longer breaks on hot days. You may want to emphasize here that safety is your top priority on the farm, and that having a safe work environment on the farm relies on the input and involvement of everyone on the farm.

Pesticide safety information (*a must-have section*)

You should use this section to indicate where employees can find information on pesticide safety data sheets and application records. You should discuss any general requirements you have for how employees should handle pesticides, how they should treat pesticide-contaminated equipment or clothing, or how employees should act when in or near pesticide-treated areas on the farm. You should also let employees know how they can easily access pesticide decontamination supplies when they are in any location on the farm, and detail any procedures they should use for cleaning their clothing, tools, or equipment. For example, let employees know if you have an on-site washing machine available that employees should use to clean any clothing that they have worn while handling pesticides or working in treated fields.

Laws to keep in mind:

If your farm applies any general-use or restricted-use pesticides, including those approved for use on organic farms, you must comply with the federal Worker Protection Standard (WPS). Farms employing only immediate family members are exempt from some, but not all, of the Worker Protection Standard's provisions.

All covered farms must provide workers and handlers with annual pesticide safety training before they begin handling pesticides or working in areas of the farm that have been treated with pesticides. Only those who are certified pesticide applicators, or who have completed an EPA-approved train-the-trainer course, may provide this training to employees (contact UMass Extension to learn about upcoming train-the-trainer courses).

In addition, all covered farms must tell workers and handlers how they can easily access each of the following: 1) the required pesticide safety poster, 2) pesticide safety data sheets, 3) pesticide application records, and 4) pesticide decontamination supplies. More information on complying with the Worker Protection Standard is [here](#), and many more details on requirements will be provided when you attend a pesticide applicators' training or WPS train-the-trainer course.

Food safety (*a good-to-have section*)

Do you have key expectations related to food safety that you expect employees to uphold and want to describe in your employee manual? Do you have a full food safety plan that you want to include in your employee manual appendix or provide separately to your employees? If so, explain your expectations, and/or where employees can find your farm's food safety plan.

Product quality (optional)

Do you want to make any general statements about the importance of producing a high-quality product? Are there certain specific quality or size standards or other product details that you want to make clear to employees the harvest or pack produce? If so, you may want to indicate them in this section or refer employees to guidelines in the appendix or in a separate document.

Cleanliness (optional)

Use this section to describe any policies you might have around keeping certain areas of the farm (such as the kitchen, bathroom, retail areas, break room, barn, or vehicles) clean and/or neat. You may want to describe the location of dumpsters, trash cans, recycling bins, and/or compost. You may also want to outline your policy related to where employees should go to the bathroom, explain how employees can access appropriate bathroom facilities, and indicate policies around proper hand washing procedures and personal hygiene. If you have policies around washing gear or equipment, describe these as well. Let employees know if there are certain places on the farm that need to stay extra clean, or if there are certain places where employees should not eat food or drink non-water beverages.

Public conduct (optional)

Use this section to indicate any specific expectations you have regarding the conduct of employees who are representing the farm in retail settings, with customers or visitors to the farm, and/or during special events.

Social media policy (*a good-to-have section*)

You may want to use your employee manual to clearly convey to employees your expectations related to how employees should use the farm's social media accounts. You may also want to offer some general suggestions for how employees handle themselves on their personal social media. It is a good idea to alert your employees that they have an obligation not to harass or discriminate against others that extends to their conduct on social media. If employees' social media accounts clearly identify who their employer is, it is generally acceptable to ask that they clarify that their posts represent their own opinions and not those of their employer. Note, however, that employees do have certain legal protections that safeguard their rights to post information about wages, hours, and working conditions online and to be protected from retaliation for complaining about working conditions.

Visitors to the farm (*a good-to-have section*)

Are customers or other visitors typically on the farm? If so, do they need an employee to accompany them, or are there other visitor policies that you want employees to be aware of? Do you permit your employees to have people visit them on the farm? If so, you should outline your expectations related to these visitors.

You should also describe your policy for who should act as a spokesperson for the farm if media or regulatory personnel come to the farm, and who is allowed to give permission to such personnel to enter the farm premises. You may want to request that no employees permit visitors to enter the farm before consulting with the farm owner or other particular individuals on the farm.

Laws to keep in mind:

Note that if employees have housing on the farm, they may have certain rights around bringing visitors onto the farm. It is also important to be aware that regulatory and law enforcement personnel generally do not have the right to enter private farm premises (i.e. fields or buildings not generally accessible to the public) unless they get permission from someone at the farm, whether or not that person owns or manages the farm. An exception to this rule is that law enforcement personnel may enter private farm premises when they have a judicial warrant that has been signed by a judge. Presentation of an administrative warrant signed by an administrative official who is not a judge does not convey the legal right to enter farm premises without permission.

Phone policy (optional)

Is it okay for your employees to use cell phones at work for personal reasons – whether urgent or routine? Do you provide cell phones for work-related calls or texts to facilitate communication during the workday, or do you ask that employees use their personal phones for these work

purposes? Are employees allowed to use their work phones for personal purposes in any circumstances?

Sample language:

During working hours, cell phone, messaging, and smart tech (such as a smart watch) for personal use is prohibited. If you require an exception for an emergency, notify your supervisor and ask for time to address your situation. The company will not pay you to make phone calls and send messages. Use of Bluetooth earpieces is not permitted as it is a distraction and can create a safety hazard. During break time, personal use of phones and other devices is permitted.

Farm property/equipment (optional)

Use this section to indicate any policies the farm has around use of farm tools and/or equipment, such as explaining which employees are authorized to use which equipment, discussing who has access to different areas of the farm (the farm office, etc.), or describing acceptable uses of farm gas cards, credit cards, petty cash, or other property.

Personal belongings (optional)

You may want to use this section to indicate that the farm does not assume risk for the loss or damage to personal property. You can also communicate any guidelines or expectations for where employees should store valuables or other personal belongings. If you offer lockers or cubbies for your employees to use in storing their belongings, you may want to use this section to indicate any specific policies or expectations around how employees use these spaces.

Drug and alcohol policy (*a good-to-have section*)

Indicate your policies around drugs and alcohol use in this section. We recommend against following a step-by-step process prior to termination, such as an oral warning, followed by a written warning, followed by termination; this can create obligations and reduce your flexibility in how you address drug and alcohol use on the farm.

Sample language:

Alcohol and drug use impair performance and safety, and at our farm, both performance and safety are critical. No employee may be under the influence of alcohol or any illicit drug (including but not limited to marijuana) while in the workplace, while on duty, or while operating a farm vehicle; such conduct is strictly prohibited and may result in disciplinary action, up to and including suspension without pay or termination. Employees may use physician-prescribed medications provided that the use of such medications does not adversely affect job performance or the safety of the employee and others at the farm.

Tobacco, cannabis, and vaping policy (*a good-to-have section*)

Indicate your policy on tobacco and cannabis use and vaping in this section. Employees should not be permitted to smoke in or around enclosed workplaces. If your farm has certain designated outdoor spaces where smoking is allowed, explain this. If smoking and/or vaping is prohibited,

explain this. You may also want to indicate that employees are not entitled to extra break time for smoking.

Laws to keep in mind:

The Smoke-Free Workplace Law (see M.G.L. Chapter 270, Section 22) mandates that enclosed workplaces with one or more employees must be smoke-free. The law is intended to protect workers in enclosed workplaces from secondhand smoke exposure.

Zero tolerance violence policy (*a good-to-have section*)

Sample language:

We are committed to providing a violence-free workplace for all employees and have a no-tolerance violence policy. All employees, visitors, volunteers, and others on farm premises are prohibited from causing or threatening physical injury to another person.

Furthermore, possession, use or threat of use of a firearm, explosive, or weapon is prohibited. No carrying of a concealed weapon is permitted on farm property or while performing work as a farm employee. This applies to all employees and visitors whether or not they have a valid permit to carry a concealed weapon.

It is the responsibility of all employees to report any potentially dangerous situation to a supervisor immediately. Employees who violate this policy may be subject to termination. All reports of workplace violence will be investigated by the farm manager, and retaliation against anyone who reports acts or threats of violence will not be tolerated.

Dress code (optional)

Indicate any specific requirements you have around what clothes employees wear in the workplace. If you have different expectations for employees performing different job duties (such as when working in the field versus working at the farm stand) it is appropriate to spell this out in your manual. You may also want to mention any specific safety considerations related to jewelry, piercings, long hair, loose clothing, or other dress.

Laws to keep in mind:

Be careful not to include dress code requirements that may impact some employees more than others based on a protected characteristic (such as bans on certain jewelry or hair styles), except in cases where they are addressing an essential work-related need. For example, it is generally appropriate to request that employees tape jewelry or cover facial hair to meet GAP food safety requirements, even though these requirements may impact employees differently based on their gender. If you require employees to wear uniforms (or particular items of clothing), note that there are legal restraints on requiring your employees to pay for or launder them.

Work pace (optional)

Employees' work efficiency is clearly key to farm profitability. Thus, many employers use their employee manual to emphasize and convey clear expectations about the pace of work that is expected from employees. Do you have policies around specific distractions during work that you want to mention in this section, such as wearing headphones or talking on phones (if not already described above)? You may also want to indicate your expectations for how employees should maintain pace when engaging in conversations with their co-workers. Being able to have positive social interactions with co-workers is crucial to many employees' feelings of satisfaction in their jobs, but it is important that employees understand the need to work efficiently even when talking with co-workers.

Animal care and treatment (optional)

If you have livestock on the farm, do you want to specify who at the farm is trained and authorized to interact with farm animals in different ways? Do you want to explain your general expectations for animal care and treatment?

For employees who don't usually interact with farm livestock, are there situations that you still want them to be aware of, like damaged fencing, escaped animals, animals acting erratically, or animals that appear sick? If so, indicate how you would like employees to respond to such situations and/or to whom they should report such observations.

Sexual harassment and discrimination prevention policy (*a must-have section*)

All employee manuals should include policies against workplace sexual harassment and discrimination, which can be separate policies or can be combined into one. Policies to help prevent and address sexual harassment and discrimination are key to fostering a positive and respectful workplace environment, in addition to increasing employee productivity and helping prevent litigation based on complaints of employment discrimination. If employees on your farm are perceiving that they are being discriminated against or sexually harassed, it is important that they know how to report these concerns to you to help you address any issues as soon as they arise.

Laws to keep in mind:

All employers with **6 or more employees**¹¹ are specifically required under [MA law](#) to develop a sexual harassment policy and provide an individual written copy to all employees annually and at the time of hire. One way to do this is to give employees your policy as part of your employee manual. The law requires that the policy include, at a minimum:

- a statement that sexual harassment in the workplace is unlawful
- a statement that it is unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a complaint of sexual harassment

¹¹ Note that even if your farm has fewer than six employees, you can still be held liable for workplace discrimination, so it is still advisable to have a policy to help prevent sexual harassment and discrimination on your farm.

- a description and examples of sexual harassment
- a statement of the range of consequences for employees who are found to have committed sexual harassment
- a description of the process for filing internal complaints about sexual harassment – which must ensure that complaints can be responded to in a prompt and effective manner – and the work addresses and telephone numbers of the person or persons to whom complaints should be made
- the identity of appropriate state and federal employment discrimination enforcement agencies, and directions as to how to contact such agencies (see guidelines in the sample policy below).

The MA Commission Against Discrimination, the commission responsible for enforcing state employment discrimination laws, also strongly encourages Massachusetts employers to supplement their sexual harassment policies with equivalent broader harassment/discrimination policies. It specifies that the overall structure of the broader policy should parallel the structure of the sexual harassment policy (or they can be combined as one policy), and that the broader discrimination policy should:

- specify that employees are protected from harassment on the basis of their race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity or expression, pregnancy, age, disability, genetics, or active military or veteran status.
- name a contact person to whom employees can report discrimination (the same or a different person than the sexual harassment officer).
- provide examples of prohibited verbal and nonverbal behavior.

State law also encourages employers to provide sexual harassment and discrimination training for all employees within one year of their hire, and to provide additional training for supervisory employees that outlines their specific responsibilities as supervisors and the methods they should take to ensure immediate and appropriate corrective action in addressing reports. Legally, an employer is liable for workplace discrimination if any managerial or supervisory staff knew or reasonably should have known about the discrimination and failed to stop it. Training supervisory staff and/or workers can help prevent workplace discrimination and can also offer some legal protection if discrimination does occur. Please contact CISA if you would like help providing such training to your employees.

Sample Policy:

The MA Commission Against Discrimination has provided a model sexual harassment policy for employers to use as a minimum standard, which is available [here](#). Sample language for a combined discrimination and sexual harassment policy (based on the model policy) is as follows:

Discrimination and Sexual Harassment Policy

I. Introduction

It is the goal of our farm to promote a workplace in which all employees are treated with respect. Sexual harassment of employees occurring in the workplace or in work-related settings is unlawful, as is discrimination or harassment on the basis of an employee's race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity or expression, pregnancy, age, disability, genetics, or active military or veteran status. We will not tolerate any such discrimination and harassment, nor will we tolerate any retaliation against an individual who has complained about, or cooperated with an investigation of, discrimination or harassment. This policy outlines types of conduct that will not be tolerated and explains the procedure by which inappropriate conduct will be dealt with, if encountered by employees.

We will respond promptly to all reports of discrimination or harassment, and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of discrimination or sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of discrimination or sexual harassment.

II. Definition of Discrimination

In Massachusetts, the legal definition of workplace discrimination is as follows:

"Discrimination" includes any conduct that is demeaning or derogatory, or that involves unfair treatment of employees, based on race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity or expression, pregnancy, age, disability, genetics, and active military or veteran status.

While it is not possible to list all conduct that may constitute discrimination, discriminatory conduct can include –

- slurs or other derogatory comments relating to a protected characteristic
- treating employees differently based on a protected characteristic
- objects, pictures, cartoons, or demeaning gestures connected to a protected characteristic
- verbal or physical conduct that creates an intimidating, hostile, or offensive work environment for members of a protected group, or those associated with members of a protected group

III. Definition of Sexual Harassment

In Massachusetts, the legal definition of workplace sexual harassment is as follows:

"Sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or
- such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon circumstances such as the severity and frequency of the conduct:

- Unwelcome sexual advances -- whether they involve physical touching or not
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess
- Displaying sexually suggestive objects, pictures, cartoons
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments
- Inquiries into one's sexual experiences, and
- Discussion of one's sexual activities

IV. Reports of Discrimination or Sexual Harassment

If any of our employees believes that they have been subjected to discrimination or sexual harassment, the employee has the right to file a report in writing and/or orally. If you would like to make a report you may do so by contacting:

[Insert name, address, and phone number of the appropriate individual(s) to report to.]¹²

We are also available to discuss any concerns you may have and to provide information to you about our policy on discrimination and sexual harassment and our reporting process.

All employees should take special note that, as stated above, retaliation against an individual who has complained about discrimination or sexual harassment, and retaliation against individuals for

¹² Note that such individuals may include human resources directors, managers, legal counsel, or another appropriate supervisory person. If possible, you should include both male and female individuals here, and a person other than a direct supervisor.

cooperating with an investigation of a discrimination or sexual harassment report, is unlawful and will not be tolerated at our farm.

V. Investigation of Discrimination or Sexual Harassment Reports

When we receive a report, we will promptly investigate the allegation in a fair manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent that is feasible under the circumstances. Our investigation will include a private interview with the person filing the report and with witnesses. We will also interview the person alleged to have committed discrimination or sexual harassment. When we have completed our investigation, we will, to the extent appropriate, inform the person filing the report, as well as the person alleged to have committed the conduct, of the results of that investigation.

If it is determined that inappropriate conduct occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action.

VI. Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

VII. State and Federal Remedies¹³

In addition to the above, if you believe you have been subjected to discrimination or sexual harassment, you may file a formal complaint with the government agency or agencies below at any time within 300 days of the incident. Using our farm's reporting process does not prohibit you from filing a complaint with these agencies.

[The United States Equal Employment Opportunity Commission \(EEOC\)¹⁴](#) –

Address: John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203
Phone: 1-800-669-4000; TTY: 1-800-669-6820; ASL Video Phone: 844-234-5122

[The Massachusetts Commission Against Discrimination \(MCAD\)¹⁵](#) –

Address: 1 Ashburton Place, Suite 601, Boston, MA 02108
Phone: 617-994-6000; Spanish and other languages: 617-994-6071; TTY 617-994-6196

¹³ If you have fewer than six employees at all times during the year, you should omit this section completely from your policy.

¹⁴ This federal agency only handles claims at businesses who utilized at least 500 "man days" of agricultural labor in any calendar quarter of the preceding calendar year. A "man day" is defined as any day during which an employee performs agricultural work for at least one hour. If you are under this threshold you should not identify EEOC in your policy, but all other farms should identify EEOC.

¹⁵ This state agency only handles claims at businesses with 6 or more employees (including all employees except for spouses, parents, and children of the owner). Thus, if your farm never has more than 5 employees, you should not identify MCAD in your policy, but all other farms should identify MCAD.

6. Performance Evaluation and Communication -

Farm organizational structure (optional)

To clarify key supervisory relationships and lines of communication at the farm, you may want to include a section that indicates who the farm owners and managers/supervisors are at the farm and how people in different positions at the farm are connection to one another. For example, who do employees report to and who should they communicate with about different work areas? How are key responsibilities divided between individuals? If it is helpful, you can also refer to an organizational chart that you include in the appendix of your employee manual.

Check-ins and performance reviews (optional)

Having a consistent system in place for checking in with employees – which you hold supervisors accountable to even when schedules are busy – can go a long way to ensuring good two-way communication between employees and their supervisors. You may or may not choose to explicitly describe this system in your employee manual, but if you do choose to outline your system this can help you maintain accountability (provided you do in fact follow through with the system you describe!).

You may want to use this section to discuss the farm’s norms and routines for completing employee evaluations, doing formal performance reviews, and/or having regular check-ins with employees. Consider including such details as: who will review employee performance, and when; what might be discussed in check-ins or performance evaluations; whether employees will be given an outline of performance expectations and evaluation criteria; how you will set performance goals; and whether you will ask your employees to share with you their own personal employment-related goals. Never state that you will complete annual evaluations, as this can imply a promise and creates an expectation of a yearly increase if performance is satisfactory. You may consider a 3-month evaluation/trial period for new employees – just be sure not to call it “probationary.”

Disciplinary/termination procedures (optional)

To support consistent disciplinary procedures and provide clear expectations for your employees, you may want to provide more detail about your farm’s disciplinary procedures, discussing kinds of unacceptable behavior and consequences, outlining your farm’s termination policy, and/or describing progressive disciplinary procedures. However, it is also important to note that providing specific information about disciplinary and termination procedures may risk jeopardizing the at-will nature of employment (see more information below). Do not promise to follow a step-by-step process prior to termination – such as an oral warning, followed by a written warning, followed by termination – and if you discuss disciplinary procedures you should repeat the at-will disclaimer. You may consider stating that an employee can be fired for excessive absenteeism or tardiness, even if unavoidable. Do not state that you have a disciplinary probation period, though you may choose to have an evaluation period.

Laws to keep in mind:

A section that outlines disciplinary and/or termination procedures can put the ‘at-will’ employment status of your business at risk by creating a legal obligation for an employer to follow the procedures laid out in this section (for more information on “at-will employment,” refer to that section above). However, outlining these procedures can also benefit you and your employees as discussed above. Many employment attorneys discourage including specific information about these procedures in your employee manual altogether, or at least discourage including such information unless you are 100% sure that you will be able to commit to following the procedures you outline. Other attorneys suggest that you can mitigate the risk of including such information if you also include prominent language at the beginning of this section that reaffirms the at-will nature of employment and the “sole and absolute discretion of the farm” in determining the appropriate disciplinary procedures, which may include immediate dismissal.

Promotions (optional)

Do you have clear criteria regarding how you promote workers on the farm that you would like to communicate to employees? Do you have certain goals that employees should strive for or skills they should acquire if they are interested in taking on more responsibility or new roles? If so, you may want to outline these in this section – just make sure that you consistently follow any criteria and promotional procedures that you lay out in this section.

Closing -

Closing thoughts (*a good-to-have section*)

You may want to consider ending your manual with a brief summary of what you hope your employees will take away from reading the manual, and, especially, emphasizing that you encourage them to ask questions of their supervisor if they would like clarification on any aspect of the farm’s policies.

Sample language:

A final word – we hope you have found this handbook helpful. If you are ever in doubt about a policy or procedure, or would like more information about how this information applies to your circumstances, please ask your supervisor for guidance. We hope that this handbook will clarify your role as an employee and our role as an employer. Again, we welcome you to our farm team!

Acknowledgment (optional)

You may want to consider having employees sign to acknowledge their receipt of the manual. This can be legally protective, such as in the event of a claim of harassment. However, it can also create legal risk, since a signed acknowledgement – especially without a legal disclaimer reserving your right to change policies at any time – may increase the possibility that a court will interpret your manual as an employment contract. If you do ask your employees to sign off on an acknowledgment that they understand the information in the manual, you should consider also including a statement in the acknowledgement that indicates they understand their at-will status and their employer’s freedom to change the policies in the manual.

Many attorneys advise that, instead of having employees sign such an acknowledgment, the employers themselves keep careful records of their provision of the employee manual to each of their employees, documenting the date on which they give it to the employee, the identity of manager or supervisor who gave it to the employee, the verbal explanations or other training given to employees on the contents of the manual, and the fact that employees were given the opportunity to ask questions to ensure their understanding of the information in the manual.

Sample language:

Option #1 (short and with limited legalese): I acknowledge that I have received the employee manual, that its contents have been explained to me in a manner I could understand, and that I have been given the opportunity to ask questions about the information in the manual. I am aware that my employment at the farm is “at will” and that the policies and other information described in this manual may change at any time, with or without notice to employees and at the sole and absolute discretion of the farm.

Option #2 (if you want to prioritize covering all legal bases): In order to create a rewarding place to work, the farm has designed this handbook for employee and manager guidance only and does not intend for it to set forth any binding rights or to be a contract.

This handbook supersedes all previously issued handbooks, policies, and procedures. The farm reserves the right to unilaterally interpret, change, alter, suspend, cancel, or decline to apply any particular policy contained in the handbook at any time, based on a given situation if, in our discretion, to do so would best serve the farm’s interests. These changes may be made at the farm’s discretion with or without advance notice and without having to give cause or justification.

You are employed by the farm at will, and this handbook does not create any independent contractual rights, duties, or obligations. You are free to resign your employment with the farm at any time. Similarly, the farm may terminate your employment for any lawful reason, with or without notice, at any time. The farm may not terminate an employee for any unlawful reason. If a misunderstanding, situation, or problem arises which you believe was not handled properly, please refer to this handbook for guidance and consult your supervisor or the farm manager for resolution.

We hope you will find this handbook helpful and interesting. We ask that once you have read your handbook, you sign below indicating that you have read and understood the contents and how it applies to you. If you do have any questions or concerns, please contact your supervisor or the farm manger. We wish you success and hope you enjoy your work here!