

Legal Considerations for Working Interviews

What is a working interview?

A working interview is when a prospective employee comes to the farm or ranch to work for a trial period: be it 30 minutes, couple of hours, a full day, or more. This arrangement can be beneficial for both parties: the employer gets a sense of the prospective employee's working style, and the prospective employee gets a hands-on sense of what the job will be like and who they will be working with.

A word on risk management

While working interviews can benefit all involved there is legal risk involved that farm and ranch business owners should consider. When considering the risks below, a helpful framework for prioritizing taking action is asking yourself: what risks are likely to happen *and* carry steep consequences?

What legal risks are associated with working interviews?

The number one thing to remember about farm employment law is that **anyone who does the work of a for-profit business is likely an employee**. This means that a prospective employee who comes to your farm or ranch for any amount of time to help harvest, clean, package, etc., would likely be considered an employee in the eyes of the law— meaning employment laws apply.

Employment laws entail obligations like payroll tax, minimum wage and workers' compensation. If a worker gets injured or files a complaint, your compliance with employment laws may be reviewed by state or federal agencies. Many farmers who prioritize addressing risks that are both likely and carry steep consequences choose to focus first on minimum wage and workers' compensation laws.

Best practices for risk management with working interviews

There are many employment laws to consider. Two key laws that build significant resilience when managed are **minimum wage** and **workers' compensation**. In New Hampshire, farms and ranches are obligated to pay \$7.25/hour and carry workers' compensation. Not meeting either of these obligations could result in back wages, back taxes, fines (for violating minimum wage laws) and medical bills or a lawsuit (for not carrying workers' compensation in event of an injury).

Fortunately, complying with these two obligations takes relatively low effort. Farmers and ranchers in New Hampshire are already required to carry workers' compensation, so you can give your agent a call and see if your workers' compensation plan covers working interviews. After a quick calculation it is likely possible for you to meet minimum wage requirements for working interviews— a two-hour interview at \$7.25 would cost just \$14.50. These are two initial steps you can take to build legal resilience in your employment program right away.