



the work and family legal center

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**Testimony**  
**Public Hearing on the Rights of Workers in New York City**  
**April 25, 2017**

My name is Molly Weston Williamson. I am a staff attorney with A Better Balance, a legal non-profit that helps working men and women care for themselves and their families without compromising their economic security through policy advocacy, outreach, and direct legal services. As advocates for workers, we are proud to testify today on the status of New York City's workers.

Our organization was at the forefront of drafting and advocating for the New York City Earned Sick Time Act. This landmark piece of legislation, which went into effect just over three years ago, gave most New York City workers the right to time off, usually paid, when they or their families are sick, injured, or seeking medical treatment. While the passage of this law was a crucial step forward for the city's workers, much remains to be done.

Through our legal hotline, we still hear regularly from workers whose rights under the law are being violated—who are not being paid for time they have earned or are being retaliated against, including being fired, for exercising their rights under the law. These problems are especially acute for low-income workers, for whom the loss of income hits the hardest. Abuses are especially endemic in certain industries, such as home care agencies, an area of particular need highlighted by the creation of the Paid Care Division, as well as retail, restaurants, and construction.

Without robust, consistent enforcement, even the strongest labor laws are only paper promises. To that end, we look forward to continuing to work with the Office of Labor Policy and Standards at the Department of Consumer Affairs to build a process that works for workers. Such a process must fulfill the law's clear requirement to attempt to resolve complaints through mediation, which must include complainants as full parties with equal status to their law-breaking employers.

Under the leadership of Commissioner Lorelei Salas and Deputy Commissioner Liz Vladeck, the newly established Office of Labor Policy and Standards (OLPS) has brought a new energy and a committed team of experienced worker advocates to the Department of Consumer Affairs. This team has made major strides forward in creating a worker-responsive agency, including important steps like prioritizing recovery for complainants who take the risky step of coming forward and the dedication of significant resources to witness



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preparation prior to hearings. Building on this momentum, we welcome the opportunity to work with OLPS to formalize and codify fair and consistent procedures throughout the investigation, mediation, and hearing process, such as ensuring the role of complainants’ counsel for represented complainants. We also urge renewed attention to worker education and outreach, to ensure that all workers know about and can use their rights under the law.

Many workers, especially those who may be undocumented or are otherwise vulnerable, are too fearful to file a complaint with their name attached, regardless of the confidentiality protections. For these workers, we strongly urge OLPS to create an effective process for receiving and acting upon tips and anonymous complaints that would allow workers to call the agency’s attention to problems without identifying themselves.

Such a process would naturally support another important and necessary move from OLPS: a greater emphasis on proactive investigations and enforcement. While the agency should of course continue to investigate and respond to each and every worker complaint, it is time for OLPS to begin more robustly using its power to conduct investigations under its own initiative, as explicitly granted in the Earned Sick Time Act. Doing so would enhance and complement complaint-based enforcement and provide a wider window into especially troublesome or opaque industries.

We also call upon Mayor DeBlasio and City Council to pass legislation providing a private right of action under the Earned Sick Time Act. In addition to the administrative process, workers whose rights are violated need and deserve the right to bring actions in court. The need is especially acute for workers whose employers have not only violated the Earned Sick Time Act, but also other laws such as anti-discrimination protections or wage and hour laws—in the status quo, there is no single forum where all such claims can be brought, forcing workers who wish to vindicate all their rights to bring multiple complaints in multiple places.

Moreover, New York City is now out of step with the vast majority of sick time statutes, most of which were passed in the wake of the city law’s groundbreaking 2013 enactment. Of the thirty-seven jurisdictions that now have paid sick days laws on the books, only seven, including New York, do not provide any right to go to court. It is time to catch up.

We also call upon City Council to pass the currently pending bill to allow workers to use their accumulated sick time to address certain non-medical needs related to domestic violence, stalking, or sexual assault, a protection known as “safe time.” A majority of sick time laws, including each of the seven state sick time laws, already provide safe time; New York City should join them in providing this crucial support to victims.



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Finally, workers need protection against abusive scheduling practices. Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors such as fast food and retail. Without a definite work schedule, workers have difficulty making childcare and elder care arrangements, encounter obstacles in pursuing their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. According to a report by the Community Service Society, nearly 30% of all low-income working New Yorkers get less than three days notice of their work schedules; over half of those earning between the minimum wage and \$15 per hour receive less than a week's notice of their schedules. In addition to uncertain schedules, workers fear even asking for schedules that will accommodate their needs to care for their families or pursue education. A survey done by the Comptroller's office found that 71% of New Yorkers who lack a workplace-wide policy would be more likely to request a flexible schedule if everyone in their workplace had the option of doing so without fear of retaliation.

The package of bills currently pending before the New York City Council would address the problem of abusive scheduling for fast food workers by requiring two weeks of advance notice of schedules, requiring a certain amount of time between the end and beginning of shifts, ensuring additional hours of work in a workplace will be offered to current employees, and providing a way to support worker advocacy through payroll deductions. In addition, the package ends on-call scheduling for retail workers and provides a right to request changes in schedule for all workers. We urge passage of this entire package of bills.

In addition to OLPS, other city agencies play key roles in protecting workers. We were instrumental in drafting and passing the Pregnant Workers Fairness Act and the prohibition on discrimination based on caregiver status, crucial parts of the city's distinctively robust Human Rights Law, and are proud to be working with the Commission on Human Rights to enforce these innovative provisions. The PWFA also gives nursing mothers the right to accommodations in the workplace. We look forward to working with the Commission to improve education and enforcement around this critical protection, promoting women's economic equality and opportunity in New York City.

In light of reports of rising discrimination and harassment, there has never been a more important time for the city, through the Commission, to stand up against discrimination of all kinds. Under the leadership of Commissioner Carmelyn Malalis and with support from the council and administration, the Commission has become a powerful force for workers. To continue its many good works and expand to meet the growing need, the Commission must have the necessary resources. We call upon the city to significantly increase funding, particularly to hire much-needed additional staff.



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In these troubling times, we are especially concerned about immigrant workers, particularly those who are undocumented. Through our legal hotline, we hear over and over again from workers scared to speak up for their rights for fear of being reported to immigration authorities. This fear compounds the vulnerability of working people in precarious situations and can create profound barriers to effective labor enforcement. We are especially glad to see the inclusion of the Mayor’s Office of Immigrant Affairs in today’s hearing, reflecting the understanding that immigrant issues are worker issues. Like our elected officials, New York City’s labor enforcement agencies are committed to protecting our immigrant neighbors. We must all work together to embed this commitment in the policies and practices of our agencies and ensure that all workers can safely trust in the city to stand up for them.

Now more than ever, the nation needs New York’s leadership in the fight for workers’ rights. We applaud the agencies that convened this hearing for their pursuit of justice for workers through vigorous enforcement of existing laws and keen attention to the need for new protections. We look forward to continued collaboration in both efforts.