

New Legal Protections for Working Women in New York: Know Your Rights

In 2015, the New York legislature passed a number of new laws to advance workplace rights for women—and men—in the state. This pamphlet provides information about these new laws.

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A Better Balance is grateful to the NY Women's Foundation for their generous support of this project.

This pamphlet was written to assist workers and employers in understanding new workplace rights in New York State. It does not cover all aspects of these laws, nor constitute legal advice. It is always advisable to consult with an attorney about your individual circumstances if you have questions or think your rights as a worker have been violated.

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Equal Pay

Employers are not legally allowed to pay a worker less because of her sex; unfortunately, some employers still do. That is why New York has strengthened its equal pay law in several ways.

What does this law do?

- The law tightens exceptions in the previous version of the labor law, which allowed employers to cite nearly any factor other than sex—legitimate or otherwise—to justify pay differentials. Under the new law, if your employer pays you differently than someone of the opposite sex, then that differential has to be “job-related” and “consistent with business necessity.”
- The law also now states that an employer cannot prohibit you from inquiring about, discussing, or disclosing your wages or the wages of a co-worker at work. This important new protection promotes transparency to shine a light on unfair pay practices.
- If you can prove your employer paid you differently in a “willful” violation of the law, then you can get up to three times the amount of money from your employer that you lost from being underpaid.

Am I covered?¹

Nearly all employees in New York are covered by this law, with the exception of those who work for a government agency.

What does pay discrimination look like?

If you find out that a male co-worker with similar responsibilities is getting a bigger paycheck than you, it could be illegal discrimination. This can take many forms:

- Missing out on a bonus or pay increase that male employees receive
- Being passed over for a promotion and accompanying raise for which you are qualified, in favor of a male co-worker who is less qualified
- Receiving fewer benefits than your male co-workers

What should I do if I suspect pay discrimination?

Call A Better Balance for free legal counseling at (212) 430-5982 or contact another attorney if you think your rights have been violated. You may also contact the New York State Department of Labor Division of Labor Standards at (888) 4-NYSDOL—the Commissioner of Labor can enforce claims of workers based on violations of this Equal Pay Law.

1. The law will go into effect 90 days from when it becomes law, provided certain administrative agencies take proper action—check babygate.abetterbalance.org for updates.

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Pregnancy Accommodations

If you are working while pregnant, or recovering from childbirth, you don't have to risk your health to stay at your job. New York State law now guarantees you an explicit right to reasonable workplace accommodations so you can keep earning a paycheck when you need it most.

What does this law do?

The law strengthens antidiscrimination protections for pregnant employees and post-partum mothers who work in New York State. Under the new law, employers have to allow employees with pregnancy-related medical conditions to make changes to their work duties or schedule in order to stay healthy, unless it would be an "undue hardship." These changes are called "reasonable accommodations."

Here are some examples of accommodations that you might need at work:

- Light duty, help with lifting, or a temporary transfer to a less physically demanding position
- Breaks to drink water
- Occasional breaks to rest
- Time off for recovery from childbirth
- Modified work schedule

Am I covered?²

If you are pregnant, recovering from childbirth, or have a related medical condition and work for, or are applying to work for, an employer in New York State who has four or more employees, then you are covered.

What are my rights?

Your employer must provide a "reasonable accommodation" to keep you healthy and safe at work. Your employer is allowed to deny your request for an accommodation if it would cause an "undue hardship" or, if you cannot, with accommodation, perform the activities of your job in a reasonable manner. If your employer refuses to accommodate you for either reason, but accommodates other workers with similar limitations, such as those with disabilities or on-the-job injuries, consult an attorney. This may be evidence of pregnancy discrimination.

Your employer may request medical certification to confirm the need for an accommodation. You have the right to have such medical information kept confidential.

What should I do if I am not being accommodated at work?

Call A Better Balance for free legal counseling at (212) 430-5982 or contact another attorney if you think your right to pregnancy accommodations has been violated. You may file a complaint with the New York State Division of Human Rights to vindicate your rights, though you may also have other options under federal and local laws.

2. The law will go into effect 90 days from when it becomes law, check babygate.abetterbalance.org for updates.

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Family Status

Your employer can't fire you or otherwise discriminate against you based on a number of protected categories, including sex, disability, or pregnancy. Now, New York's legislature has added one more to that list: family status. Parents who work in New York State are now protected from discrimination, meaning an employer can't penalize you because you have children under age 18. Under the law, mothers and fathers are entitled to the same treatment as their coworkers without children.

What does this law do?

The new law makes it illegal for an employer to discriminate against workers with children. For example:

- Your boss can't fire you just because you are adopting kids and she thinks you will not be as dedicated to your work.
- A company cannot refuse to hire you just because you are a single mother.

Am I covered?³

If you work for an employer in New York State who has four or more employees, or are applying to work for one, then you are covered.

What does family status discrimination look like?

Family status discrimination can include refusing to hire or promote you, harassment, paying you less or taking some other negative action against you just because you have children.

What should I do if I suspect family status discrimination?

Call A Better Balance for free legal counseling at (212) 430-5982 or contact another attorney if you think your rights have been violated. You may file a complaint with the New York State Division of Human Rights to vindicate your rights, though you may also have other options under federal and local laws.

3. The law will go into effect 90 days from when it becomes law, check babygate.abetterbalance.org for updates.

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Breastfeeding

Nursing moms in New York are entitled to reasonable break time and employers must make “reasonable efforts” to provide a private space in order for moms to express breast milk. To raise awareness about these important rights, New York is adding an explanation of these protections to the Breastfeeding Mothers’ Bill of Rights, a brochure given to new and expecting moms in maternal healthcare facilities, like a hospital.⁴

What are my rights?

- **Time:** Your employer must give you time to express milk for your baby. This means you may use paid breaks to pump, or, if you don't get paid breaks, you are legally entitled to unpaid break time of 20 minutes (or 30 if you need extra time to get to the space where you can express milk) every 3 hours, or as needed.
- **Space:** Your employer must give you a clean, private space, other than a bathroom, where you can pump with no interruption, unless doing so would cause your employer significant difficulty or expense.
- **Support:** Your employer must give you written information about your rights. In addition, your employer may not discriminate against you in any way, or allow a work environment that is hostile to your rights, for choosing to express breast milk at work.

What should I do if I want to express breast milk at work?

Before you go back to work, you should tell your employer you plan to express milk when you return. That will give them time to plan for your return.

What should I do if my employer isn't following the law?

To get help and report a company that you think is not following the law, contact the New York State Department of Labor Division of Labor Standards office nearest to you. You may also call A Better Balance at (212) 430-5982 for free legal counseling.

4. This expansion of the Breastfeeding Mothers’ Bill of Rights is effective on January 1, 2016.



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Sexual Harassment

Formerly, New York law only protected you from sexual harassment if your workplace had four or more employees. Now, it doesn't matter how big or small your employer is: all workers are legally protected from sexual harassment.⁵

What does sexual harassment look like?

Sexual harassment is physical or verbal conduct of a sexual nature that unreasonably interferes with your work performance, affects your employment, or makes your workplace intimidating, hostile, or offensive. This means it is likely illegal for someone at work, including a co-worker or customer, to:

- Make unwanted sexual advances towards you
- Make you feel uncomfortable through sexual words or actions
- Request sexual favors from you
- Engage in sexual conduct that is used as a basis for hiring or other employment decisions

What should I do if I am experiencing sexual harassment?

You should consult an attorney if you think your rights have been violated. You may file a complaint with the New York State Division of Human Rights to vindicate your rights, though you may also have other options under federal and local laws.

5. The law goes into effect immediately upon becoming a law.

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Nail Salon Workers

Recently, the dangerous and illegal working conditions found in some nail salons have drawn a lot of attention. In response, New York has passed a law and new emergency regulations to ensure safe and fair working conditions for nail salon workers.

What do the new law and emergency regulations do?

- They require employers to provide safety equipment and proper ventilation.
- The law creates a registration system for nail salon workers who have not yet been licensed. These “trainees” are eligible for the same protections as other workers.
- The regulations require your employer to ensure they have funds available to pay employees who bring lawsuits against them. This means that your employer should have money available to make you whole if you ever have to sue them.

Am I covered?

If you work in a nail salon located in New York State, this law covers you. However, you should make sure that you are licensed or registered. If you have been working at a nail salon for less than a year, you should register as a trainee. If you have been working at a nail salon for more than a year, you may be eligible to apply for a license. You can become licensed or registered for free by calling the New York State Department of Labor at (888) 469-7365.

What are my rights?

- Your employer must provide, at no cost to you: a respirator mask, protective gloves, eye protection, and proper ventilation to ensure your safety. They can never deny your right to wear these protective items.
- Your employer must also pay you at least minimum wage, grant you meal breaks, and cannot take your tips or wages (for example, you do not need to pay your employer for training or as a punishment).
- Your employer must also post an explanation of these rights at your workplace in a place where you can easily view them. Your employer cannot punish you, in any way, for complaining about your working conditions.

What should I do if my employer isn't following the law?

You should call the New York State Department of Labor at (888) 469-7365 or consult an attorney if you think your rights have been violated.

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