

OCCUPATIONAL SAFETY AND HEALTH

Public employees are protected from occupational safety and health hazards. The State Department of Labor is authorized to set standards for public employers and to investigate compliance with the law. New York Public Employee Safety and Health (PESH) Act covers all public sector employees in New York State.

Toxic substances in the workplace

The presence of toxic substances in the workplace is a very serious problem. Under the Right to Know Law, the New York State Department of Health is required to compile lists of toxic substances and make this information available to employers. In turn, employers are obligated to inform their employees of all known and suspected toxic substances and the effects they may have on the employee. Employers must also institute a training program to educate employees about protective measures necessary for their safety. If you feel that you are being exposed to toxic substances and your employer has not taken measures to inform you, contact the federal Occupational Safety and Health Administration (OSHA) at **800-321-OSHA** (800-321-6742). A “whistleblower” provision is written into the law which prohibits an employer from discharging or disciplining an employee for asserting rights guaranteed under this measure.

NONPAYMENT OR UNDERPAYMENT OF WAGES

Employees are entitled to be paid for all of their hours of work. The state Department of Labor’s Division of Labor Standards investigates all complaints of minimum wage, unpaid wage and unpaid wage supplement cases. Employees who think they have not been fully paid for their work should contact the Division of Labor Standards by visiting dol.ny.gov/labor-standards-0 or call **888-52-LABOR** (888-525-2267) to file a complaint. Employers who continually violate this law could face felony charges.

UNEMPLOYMENT INSURANCE

New York offers 26 weeks of regular unemployment insurance benefits for eligible workers who become unemployed through no fault of their own and who are ready, willing and able to work. In addition, unemployed workers may be able to qualify for additional benefits under certain conditions. The law also ensures that workers who must leave work for certain family reasons, including domestic abuse and the sickness or disability of a family member, may be eligible to collect unemployment insurance benefits. Visit dol.ny.gov for more complete information.

PAID FAMILY LEAVE LAW

Nearly all private employees in New York State are eligible for paid family leave. The program is funded by employees through a small weekly payroll deduction. Paid Family Leave provides eligible employees job-protected, paid time off to bond with a newly born, adopted or fostered child, care for a family member with a serious health condition or assist loved ones when a spouse, domestic partner, child or parent is deployed abroad on active military service. Paid Family Leave also provides job protection, continued health insurance and protection from discrimination or retaliation. Eligible employees may take up to 12 weeks of paid family leave. Upon changing employers, eligibility must be re-established. Visit paidfamilyleave.ny.gov for more information.

WAREHOUSE WORKER PROTECTION ACT

New York passed the Warehouse Worker Protection Act (WWPA) to safeguard certain workers in the warehousing and storage, merchant wholesaler, electronic stores, mail-order house, courier and express delivery service industries from undisclosed, unlawful or unsafe work quotas. As of June 19, 2023, employees covered under the WWPA must receive a written description of any quota system their employer uses to evaluate job performance, such as standards for speed of production, number of tasks performed or the amount of material handled or produced. Any quotas the employer uses must not interfere with legally protected rest, meal or bathroom breaks. For more information about these new requirements, to download a complaint form or submit a complaint online, visit dol.ny.gov/WWPA.

IMPORTANT CONTACTS

NYS Department of Labor, Unemployment Assistance

dol.ny.gov
888-209-8124
For language assistance: 888-469-7365

NYS Division of Human Rights

dhr.ny.gov
Find a local Human Rights Commission near you:
dhr.ny.gov/human-rights-commissions

NYS Workers' Compensation Board

wcb.ny.gov
877-632-4996
Find a Workers' Compensation Board
location near you:
wcb.ny.gov/content/main/DistrictOffices/MainPage.jsp

NYS Paid Family Leave Helpline

844-337-6303
paidfamilyleave.ny.gov

U.S. Dept. of Occupational Safety and Health Administration

osha.gov
800-321-OSHA (800-321-6742)
Find a local office near you:
osha.gov/contactus/bystate/NY/areaoffice

Dear Friend,

One of my highest priorities is to guarantee the rights of working people.

The New York State Assembly continues to be at the forefront of workers' rights initiatives, and has focused on removing dangers to workers' health and safety that exist in the workplace and passing new protections for working families. New York's paid family leave law is one of the strongest paid family leave policies in the nation, and helps ensure that workers don't have to choose between keeping their jobs or taking care of their families.

I hope this brochure is helpful. If you need assistance or further information on this or any other matter, please do not hesitate to let me know.

Sincerely,



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YOUR RIGHTS AS A WORKER



INFORMATION ON:

- Unemployment Insurance
- Occupational Safety and Health
- Paid Family Leave
- Discrimination
- Workers' Compensation
- Unpaid/Underpaid Wages

Compliments of Speaker of the Assembly

CARL E. HEASTIE

DISCRIMINATION IN THE WORKPLACE

If an employee has been discriminated against because of race, creed, color, national origin, sexual orientation, military status, family status, sex, age, marital status, domestic violence victim status, disability, pregnancy-related condition, genetic predisposition or carrier status, prior arrest or conviction record, gender identity or expression or as retaliation for opposing unlawful discriminatory practices, they should file a complaint with the New York State Division of Human Rights. Visit dhr.ny.gov/complaint for more information.

Equal pay

New York State's Labor Law protects employees from retaliation for sharing wage information, removes loopholes used by employers to discriminate by way of differential pay and ensures that all individuals with status within a protected class have access to appropriate legal remedies for such wage discrimination.

Sexual harassment

Sexual harassment in the workplace is a prohibited form of sex-based discrimination. It may include acts such as sexually offensive jokes, requests for sexual favors, displaying pornography, coerced sex acts, comments about a person's gender or sexual preferences, sexual gestures, unnecessary touching or constant brushing against a person's body. Sexual harassment may also include quid pro quo trading benefits for requests, as well as acts that create a hostile work environment.

Discrimination due to claim for compensation

Employees should be able to access workers' compensation when injured on the job without fear that doing so would affect their employment status. Employers cannot take action against employees who have claimed or attempted to claim workers' compensation or who have testified or plan to testify in a workers' compensation hearing. Complaints of such discrimination should be filed with the Workers' Compensation Board within two years of the violation. If the board finds that the employee was discharged or demoted because of discrimination, the employer will be subject to a fine of up to \$500.

Discrimination due to participation in legal activities

Employers in New York State are restricted from discriminating against their employees and job applicants based on certain off-work activities. An employee is free to take part in lawful political or recreational activities, use legal consumable

products or participate in labor union proceedings during off-work hours. If an employee feels they have been discriminated against because of off-the-job activities, they are entitled to seek relief and damages.

Whistleblowers

Workers are protected against retaliation or discrimination by their employer for taking action against an employer's unsafe and unlawful activity. If an employer does something in violation of the law, rules or regulations and creates a danger to public health and safety, the employee can disclose this to a supervisor or public body after giving the employer notice and a reasonable time to cure the problem, provide information in a public investigation, hearing or inquiry or refuse to take part in the activity. If an employer retaliates for these actions, the worker may bring a lawsuit against the employer for relief.

Discrimination due to display of the American flag

Employees are protected from discharge or discrimination for displaying the American flag on their person or at their workstation, as long as it doesn't interfere with the employee's job duties. If the human rights commissioner finds discrimination, the employer may face a fine of up to \$2,000 and a court can order reinstatement with full benefits.



Protections for interns and non-employees

Interns, contractors, subcontractors, vendors, consultants and other persons providing services under a contract are protected from harassment and other forms of unlawful discrimination in the workplace. They are also protected from retaliation if they oppose discrimination or file a complaint. It is unlawful to subject them to conduct which creates an intimidating, hostile or offensive working environment.

Pregnancy

Pregnancy discrimination is a prohibited form of gender-based discrimination. It can also be a form of familial status discrimination. Employers are required to provide reasonable accommodation of pregnancy-related conditions for employees.

WORKERS' COMPENSATION AND DISABILITY BENEFITS

Workers' compensation benefits

A worker who becomes disabled as the result of a job-related injury or illness is entitled to workers' compensation benefits. Workers' compensation maximum benefits equal two-thirds of the injured worker's average weekly wage for the previous year, up to \$1,171.46 for those injured on or after July 1, 2024, indexed annually. This maximum benefit increases on July 1 of each succeeding year. Injured workers who have questions and concerns about their rights and benefits under the workers' compensation law can receive assistance directly from the Workers' Compensation Board by contacting the Office of the Advocate for Injured Workers at **877-632-4996**.

Survivors' benefits

Survivors who are dependents of workers killed on the job or who die as a result of an occupational injury or disease are also eligible for workers' compensation benefits. A surviving spouse and other dependents may receive benefits of two-thirds of the deceased worker's wages up to the maximum in effect at the time of death. In some cases, surviving parents or the estate may be entitled to a sum of \$50,000. Funeral expenses may also be paid up to \$12,500 in metropolitan New York counties or up to \$10,500 in all others.

Occupational diseases

Workers who contract slow-starting occupational diseases may still collect workers' compensation benefits. If the disease develops long after the worker has been exposed to the condition that caused the disease, a claim for benefits may be filed as long as it is done within two years of the time the worker became disabled and discovered the disease arose out of his or her employment.

Occupational health clinics

New York's regional occupational health clinics are located throughout the state. They can provide a diagnosis of occupation-related illnesses and will investigate the problem's source to help prevent future illnesses. For more information, you can visit health.ny.gov/environmental/workplace/clinic_network.htm or call the New York State Department of Health Occupational Health helpline at **866-807-2130**.

Notice of rights

Employers and their insurance carriers are required to give employees who may be eligible for workers' compensation benefits or disability benefits written notice of their rights under these two programs. Workers who may be eligible for compensation payments must receive the notice as soon as possible following a work-related accident or injury. Workers who are off the job for seven consecutive days due to disability must receive their notice within five days. For more information, visit wcb.ny.gov or call **877-632-4996**.

Pregnancy disability

Employees who seek disability leave benefits for a disability due to pregnancy are entitled to a maximum of 26 weeks. To file a claim for pregnancy disability benefits, the employee should notify the Workers' Compensation Board within 30 days of becoming disabled in order to receive full benefits. Workers on unemployment insurance are entitled to receive pregnancy disability benefits when they are disabled due to a pregnancy-related condition and unable to seek work. Employees with questions concerning eligibility for pregnancy disability benefits should contact the Workers' Compensation Board. You cannot collect disability benefits and paid family leave benefits at the same time. The total combined disability leave and paid family leave in any 52-week period may not exceed 26 weeks. Visit wcb.ny.gov/content/main/DisabilityBenefits/employee-disability-benefits.jsp for more information.

