

Labor Rights and Protections for Domestic Workers in New York

Information for Domestic Workers

Domestic workers and their employers have rights and responsibilities under the Labor Law, including the Domestic Workers' Bill of Rights, which took effect on November 29, 2010. For more details, go to www.labor.ny.gov.

Who is a Domestic Worker?

A "domestic worker" is someone who works in another person's home. Their jobs include:

- Caring for children or a sick or elderly person
- Housekeeping chores
- Other domestic duties performed in the employers' home

This law does **not** cover domestic workers:

- Who work on a casual basis, such as part-time baby-sitters in the home of their employers
- Who are relatives of their employers or of the person(s) for whom they offer care

Domestic Workers Should Know

Under New York State labor law, including the Domestic Workers' Bill of Rights, you:

- Must be paid **at least** the minimum wage (currently \$8.75 per hour)
- Must receive overtime pay at 1 1/2 times your basic rate of pay after 40 hours of work in a calendar week (If you live in your employer's home, you must be paid overtime after 44 hours of work in a week.)
- Must be given one day (24 hours) of rest per week – or, if you agree to work on that day, you must be paid at an overtime rate
- Are entitled to **at least** three paid days off after one year of work for the same employer

If you work at least 40 hours per week, you are also covered by:

- Workers' Compensation Insurance if you are hurt on the job and
- Disability Benefits Insurance if you are injured or become ill outside of work and miss more than seven days of work as a result

If you are employed by an agency to provide "companionship services," such as caring for an elderly person, the rules about overtime and a required day of rest do not apply to you.

If you complain to your employer or the Labor Department about a violation of these labor laws, your employer cannot retaliate against you. To file a complaint with the Labor Department, call 1-888-52-LABOR or go to www.labor.ny.gov/workerprotection/labor-standards/workprot/lsdists.shtm for a list of Labor Department district offices.

The Domestic Workers' Bill of Rights protects you from certain forms of harassment by your employer. Your employer cannot subject you to unwelcome sexual advances or other verbal or physical actions of a sexual nature. They cannot harass you based on gender, race, religion or national origin and they cannot retaliate if you file a complaint. You can file an official complaint in court or with the New York State Division of Human Rights. You can get information at www.dhr.state.ny.us or by phone at 1-888-392-3644 (toll-free).

To learn about low-cost health insurance for you and your family, visit the New York State Department of Health web site at www.nyhealth.gov. Look for the "Health Insurance Programs" button on the "Site Contents" area at the right of the home page.

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Information for Employers of Domestic Workers

If you employ a domestic worker or workers, you must:

- Provide the minimum benefits listed on the reverse
- Pay your worker(s) weekly
- Not deduct money from your worker's pay without written permission
(Deductions must be authorized by law and for the worker's benefit. You may not make deductions from your worker's wages for breakage or other such reasons. You must give your worker a written notice that lists all deductions.)
- Keep detailed payroll and time records of the hours your employee(s) work, wages paid and any deductions made from wages
- Give your employee a written notice about your policies on sick leave, vacation, personal leave, holidays and hours of work
- Give your employee a written notice that includes their regular and overtime rates of pay and their regular payday
(You can find this form at: www.labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm.)
- Not retaliate against a worker(s) for complaining to you or to the Labor Department about alleged labor law violations

- File for and pay Unemployment Insurance contributions on behalf of your worker(s)
(For more information, see the NYS Department of Labor Publication IA 318.D, Householder's Guide for Unemployment Insurance. This publication is available at www.labor.ny.gov/ui/PDFs/ia318d.pdf.)
- Provide Workers' Compensation Insurance coverage and Disability Benefit Insurance coverage for any employee(s) who work(s) at least 40 hours per week
(You may obtain this insurance through the New York State Insurance Fund (NYSIF) or another company that sells these types of insurance in New York. NYSIF is a full-service insurance carrier that sells low-cost Workers' Compensation and Disability Benefit Insurance to any employer doing business in New York State. To find out more, visit www.nysif.com.)

There are federal and state tax obligations for both employers and workers. For information about your tax responsibilities, see the New York State Department of Taxation and Finance Publication 27, What You Need to Know if You Hire Household Help at www.tax.state.ny.us.

Note to immigrant domestic workers and their employers:

Labor and tax laws, including the Domestic Workers' Bill of Rights, apply to all workers, regardless of their immigration status.

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