

HOW TO FILE A COMPLAINT

If you believe that you have been sexually harassed in your employment, or harassed on the basis of your gender, race, religion or national origin, or retaliated against for complaining of such harassment, you can file a complaint with the New York State Division of Human Rights.

A complaint must be filed with the Division of Human Rights within one year of the alleged discriminatory act. Domestic workers are protected with regard to harassment occurring on or after November 29, 2010.

For more information or to file a complaint, you may contact the regional office nearest to your home or place of employment, or see our website at: www.dhr.state.ny.us.

If you don't file with the Division of Human Rights, you may file a complaint directly in court within three years of the harassment.

OTHER PROTECTIONS FOR DOMESTIC WORKERS:

The additional protections below are enforced by the New York State Department of Labor, not by the Division of Human Rights. Please contact the Department of Labor about these provisions.

NEW YORK STATE DEPARTMENT OF LABOR

(518) 457-9000
(888) 4-NYSDOL (888-469-7365)
TTY/TDD (800) 662-1220
www.labor.ny.gov

Minimum Wage. Domestic workers are entitled to be compensated at the statutory minimum wage rate. N.Y. Labor Law § 652.

Overtime Pay. Domestic workers are entitled to overtime pay for hours worked in excess of 40 hours per week (or 44 hours per week for live-in workers). Overtime pay is least one and one-half times your normal wage rate. N.Y. Labor Law § 170.

Day of Rest. Domestic workers are entitled to at least 24 consecutive hours of rest in each calendar week. You may voluntarily agree to work on your day of rest if compensated at the overtime rate for all hours you work on the day of rest. The day of rest should, whenever possible, coincide with your traditional day for religious worship. N.Y. Labor Law § 161.1.

Paid Vacation. After one year of performing domestic work with the same employer, you are entitled to at least three days of rest in each calendar year at the regular rate of compensation. N.Y. Labor Law § 161.1.

Protection of **DOMESTIC WORKERS** From Harassment Under the NYS Human Rights Law

NEW YORK STATE DIVISION OF **HUMAN RIGHTS**

ANDREW M. CUOMO, GOVERNOR
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The Employment Rights of Domestic Workers

The New York State Human Rights Law was amended, effective November 29, 2010, to provide protection from workplace harassment for domestic workers. Unlawful harassment includes sexual harassment, as well as harassment on the basis of gender, race, religion, or national origin. Domestic workers are also protected from retaliation by their employers for complaining of such harassment.

You are a domestic worker if you are employed in a home or residence for the purpose of caring for a child, serving as a companion for a sick, convalescing or elderly person, housekeeping, or for any other domestic service purpose. N.Y. Labor Law § 2.16; Human Rights Law § 296-b.

For other types of employment, the Human Rights Law applies only to employers with four or more employees. However, the protections for domestic workers apply regardless of the number of person employed. Even if you are the only worker employed by the household, you are protected.

PUBLIC POLICY

Domestic workers often labor under harsh conditions, work long hours for low wages with few benefits and little job security, are isolated in their workplaces, and can be endangered by sexual harassment and assault, as well as verbal, emotional and psychological abuse on the basis of gender, race, religion or national origin. The legislature has concluded that because domestic workers care for the most important elements of their employers' lives, their families and homes, it is in the interest of employees, employers, and the people of the State of New York to ensure that the rights of domestic workers are respected, protected, and enforced. Laws of 2010 chapter 481, effective November 29, 2010.

WHAT IS SEXUAL HARASSMENT?

Sexual harassment can consist of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. Sexual harassment occurs when any of the following is true:

- Submission to such conduct is made either explicitly or implicitly a term or condition of your employment, such that you believe you would be fired if you object, or you would have to quit in order to escape from the conduct;
- Submission to or rejection of such conduct by you is used as the basis for employment decisions, such as the setting of your hours or pay rate; or
- Such conduct has the purpose or effect of unreasonably interfering with your work performance by creating an intimidating, hostile, or offensive working environment.

Examples of sexually harassing conduct include:

- Pressure to engage in unwelcome sexual activities;
Unnecessary or inappropriate physical contact;
- Sexual assault;
- Verbal harassment or abuse in the form of a pattern of sexual comments or questions; or
- Displays of lewd photographs or drawings.

For further information, see the Division's brochure on Sexual Harassment.

WHAT OTHER HARASSMENT IS PROHIBITED?

Harassment consists of actions which have the purpose or effect of unreasonably interfering with your work performance by creating an intimidating, hostile, or offensive working environment. Harassment of domestic workers is in violation of the Human Rights Law when it is:

- Directed at you because of your gender, race, religion or national origin; or
- Consists of offensive or humiliating comments or jokes about people of your gender, race, religion or national origin.

WILL I SUFFER RETALIATION IF I COMPLAIN?

New York's Human Rights Law prohibits retaliation for objecting to unlawful harassment in your workplace, or for filing a complaint with the Division. If you feel you are a victim of retaliation, you should contact the Division and file a complaint.

EXCLUSIONS FROM COVERAGE

You are not covered by the Human Rights Law as a domestic worker if you:

- Work on only a casual basis. Examples would be occasional babysitting or other household services that are for a limited amount of time, are performed without regularity, or are performed only during intermittent periods.
- Work for a person related to you by blood, marriage or adoption.