

# A Legal Toolkit for Women's Economic Equality / 2019 New York Supplement

This 2019 New York Supplement provides updates to the Legal Toolkit for Women's Economic Equality, identifying new or expanded protections and benefits based on legislative reforms that took place during the 2019 legislative session. Please see the Toolkit for a comprehensive set of existing protections.

## 1 Sex & Gender Discrimination

You have the right not to be discriminated against at work on the basis of your sex or gender. This right is fundamental and encompasses many of the specific protections below. The law also protects you based on your gender identity, sexual orientation, and familial status.

- In New York State and New York City, sex discrimination is prohibited if it is based on your gender (including actual or perceived gender identity), familial status, or sexual orientation if you work for an employer or licensing agency with 4 or more employees. **As of February 8, 2020, this prohibition will apply to all employers regardless of the number of individuals employed.**<sup>1</sup>
- As of October 11, 2019, the law extends protections to **non-employees such as contractors, vendors, and consultants.**<sup>2</sup>
- If you file a lawsuit in federal or state courts, there are various types of remedies you can obtain, including lost wages, future wages, out-of-pocket expenses, and compensatory damages for emotional distress. **As of October 11, 2019, you may also be eligible to obtain punitive damages (damages that exceed compensation and are intended to serve as a penalty) and attorney's fees in state court.**<sup>3</sup>

## 2 Sexual Harassment

You have the right to a workplace free of sexual harassment and abuse. Sexual harassment is a form of sex discrimination.

- **As of October 11, 2019**, the law in New York State protects against harassment not just based on your sex or gender but based on any protected characteristics such as race and national origin.<sup>4</sup> **This also applies to domestic workers.**<sup>5</sup>
- Your employer and other actors (e.g., executives, managers, supervisors, co-workers, or clients) are prohibited from engaging in unwelcome sexual conduct that creates a hostile working environment. **Note that as of October 11, 2019**, conduct does not have to be “severe or pervasive.” While conduct must still be more than “petty slights or trivial inconveniences”, based on the new standard in New York State, your employer cannot subject you to inferior terms, conditions, or privileges of employment.<sup>6</sup>
- All employers in New York State must adopt a sexual harassment prevention policy and must conduct an annual interactive training on sexual harassment. **Your employer must provide you with a copy of its policy and training material in English and in your primary language when you are hired and annually during your training.**<sup>7</sup>
- To file a state complaint with the New York State Division of Human rights, you generally must file your complaint within one year from the date of the harassment. **As of August 12, 2020, you will have three years from the date of harassment** to file any sexual harassment complaint at the state level.<sup>8</sup>

### 3 Equal Pay

The law prohibits employers from paying you less because of your sex or gender. This type of treatment is a form of sex discrimination. Your employer is also prohibited from punishing you for discussing or disclosing rates of pay with your colleagues, and, depending on where you work, an employer may be prohibited from asking about or relying on your prior salary to set your new salary.

- New York State law prohibits employers from engaging in pay discrimination based on gender. **As of October 8, 2019, the law will also prohibit pay discrimination based on any other protected characteristic.**<sup>9</sup>
- Covered employers are prohibited from paying you a different rate of pay than a male colleague if you are doing substantially equal work (under federal law). **As of October 8, 2019**, this standard will be revised in New York State and employers will be prohibited from paying you less for doing equal work or “substantially similar work” taking into account skill, effort, and responsibility on jobs performed under similar working conditions.<sup>10</sup>
- **As of January 6, 2020**, if you are applying for a job in New York State (as a new applicant or current employee), regardless of the size of your employer, it is illegal for an employer to ask you how much you were paid in your prior positions during the hiring process or to rely upon your salary history to determine your salary during the hiring process.<sup>11</sup> Keep in mind that certain exceptions may apply based on your employment status, contract, or collective bargaining agreement.

### 4 Minimum Wage & Fair Wage Practices

You have the right to be paid for your work. It is illegal for your employer to steal your wages, pay you below the state minimum wage, or force you to work for no wages.

- **FARMWORKERS:** **As of January 1, 2020**, farmworkers who work more than 60 hours per week must get paid overtime (1.5 times your regular rate of pay) for each hour worked beyond 60.<sup>12</sup>

### 5 Economic Opportunity

It is unlawful for a lender or financial institution to deny you a loan or financing based on your sex or gender. Resources are available to help you find a job; improve your finances; start a business; and obtain education, language, and skills trainings to get a job, including jobs in higher paying fields.

- No updates.

### 6 A Safe Workplace & Fair Working Conditions

You have the right to a safe workplace free from hazards that could cause you serious harm and free from coercive working conditions. Depending on your circumstances, you may also be entitled to certain fair work practices such as breaks, days of rest, sick time, leave, and fair scheduling.

- **FARMWORKERS:** In New York State, **as of January 1, 2020**, farmworkers are **legally entitled to at least 24 consecutive hours of rest every week.**<sup>13</sup> 24 hours spent at rest because of weather or other circumstances counts as a day of rest. If you voluntarily decide not to take your day of rest, you are entitled to overtime pay (1.5 times your regular rate of pay) for the hours worked that day. **As of January 1, 2020**, all farmworkers are also **eligible for workers’ compensation.**<sup>14</sup> As of January 1, 2020, if you are a migrant worker living in employer housing, your employer is required to maintain your home in compliance with all sanitary, health, and safety requirements.<sup>15</sup>

## 7 Domestic Violence, Sexual Assault, & Stalking

It is unlawful for an employer to discriminate against you in the workplace based on your status as a victim of domestic violence. Depending on where you live, additional protections may exist, including protections for victims of sexual assault or stalking that can help you keep or leave your job while addressing the abuse.

- No updates.

## 8 Reproductive & Maternal Health

You have the right to a safe and confidential abortion until your 24th week of pregnancy or at any point medically necessary to protect your life or health. If you receive Medicaid or have health insurance, your provider must cover critical family planning services, including contraception and abortion services at no additional cost.

- No updates.

## 9 Pregnancy, Childbirth & Breastfeeding

It is unlawful for an employer to treat you less favorably in the workplace on the basis of pregnancy, childbirth, or a related medical condition. This type of treatment is a form of sex discrimination. An employer is also prohibited from discriminating against workers for pumping breast milk at work and you have the right to take breaks to do so. Depending on your situation, you may have the right to additional workplace protections to adjust your working conditions or to take paid or unpaid leave if needed.

- Your employer, regardless of size, is prohibited from discriminating against you or penalizing you for pumping breast milk at work. Additionally, New York State law now makes clear that **lactation is a pregnancy-related condition, which means that covered employers must provide reasonable accommodations for lactation needs.**
- In New York City, additional protections and requirements apply regarding lactation rooms and your employer must have a written lactation accommodation policy in place.<sup>16</sup>
- **FARMWORKERS:** As of January 1, 2020, farmworkers who meet program requirements are **eligible for disability benefits** in New York State.<sup>17</sup>

## 10 Paid Family Leave

If you have worked enough days and hours, you have the right to paid, job-protected leave to care for a newborn, a newly adopted child, or a sick family member, or to address certain family needs that result from military deployment. You may also have the right to other forms of leave to assist you with caring for yourself and your family.

- **FARMWORKERS:** As of January 1, 2020, farmworkers who meet program requirements are **eligible to receive paid family leave and disability benefits** in New York State.<sup>18</sup>

## 11 Child Care Assistance & Protections for Caregivers

It is unlawful for an employer to discriminate against you because you have children. Based on your income, you may be eligible for child care assistance to help you get or keep a job.

- No updates.

## 12 Public Benefits

Based on your income, you may be eligible for critical public benefits, including cash assistance, food assistance, free healthcare, and housing assistance. If your benefits are denied or terminated, you must be informed in advance and have an opportunity to contest the determination. If you do not speak English and need assistance, you can request language assistance (translation and interpretation).

- **FARMWORKERS:** As of January 1, 2020, farmworkers who meet program requirements are **eligible to receive unemployment insurance**.<sup>19</sup>
- In New York City, the Free Summer Meals program provides children and young adults (18 years old and younger) with free breakfast and lunch at select schools, parks, pools, libraries, and food trucks in all 5 boroughs. To find a location visit:  
[http://www.schoolfoodnyc.org/sch\\_search/summerNew.aspx](http://www.schoolfoodnyc.org/sch_search/summerNew.aspx).

## 13 Protecting Our Rights Together

You may have certain rights and opportunities to organize, join a union, and take action with other workers to improve your pay and working conditions without being punished by your employer.

- **FARMWORKERS:** As of January 1, 2020, farmworkers have the right to organize with co-workers or join unions to seek better working conditions. If employers attempt to punish workers for exercising these rights, workers may file complaints with the NYS Public Employment Relations Board.<sup>20</sup> Employers may file complaints against workers however if they strike or engage in work stoppages or slow-downs.<sup>21</sup>

---

<sup>1</sup> N.Y. Exec. Law § 292, as amended by S6577.

<sup>2</sup> N.Y. Exec. Law § 296-d, as amended by S6577.

<sup>3</sup> N.Y. Exec. Law § 297, as amended by S6577.

<sup>4</sup> N.Y. Exec. Law § 296(h), as added by S6577.

<sup>5</sup> N.Y. Exec. Law § 296-b, as amended by S6577.

<sup>6</sup> N.Y. Exec. Law § 296(h), as added by S6577.

<sup>7</sup> N.Y. Labor Law § 201-g, as amended by S6577.

<sup>8</sup> N.Y. Exec. Law § 297(5), as amended by S6577.

<sup>9</sup> N.Y. Labor Law § 194, as amended by S5248-B.

<sup>10</sup> N.Y. Labor Law § 194, as amended by S5248-B.

<sup>11</sup> N.Y. Labor Law 194-a, as added by S6549.

<sup>12</sup> N.Y. Labor Law § 163-a, as amended by S6578.

<sup>13</sup> N.Y. Labor Law § 161, as amended by S6578.

<sup>14</sup> N.Y. Work. Comp. Law, Groups 14-a, 14-b as amended by S6578.

<sup>15</sup> N.Y. Pub. Health Law § 225.

<sup>16</sup> N.Y. Admin. Code §§ 8-101-8-131.

<sup>17</sup> See N.Y. Work. Comp. Law Ch. 9, § 201(6)(A), as amended by S6578.

<sup>18</sup> See N.Y. Work. Comp. Law Ch. 9, § 201(6)(A), as amended by S6578.

<sup>19</sup> See N.Y. Labor Law § 511, as amended by S6578.

<sup>20</sup> See N.Y. Labor Law § 701, as amended by S6578.

<sup>21</sup> See N.Y. Labor Law § 703, as amended by S6578.