

7 I am considering quitting my job. Can I collect unemployment benefits?

If you feel that you need to quit your job because of the violence, you should apply for unemployment insurance benefits. When you leave your job by choice, you must show that you quit for “good cause” to get benefits. In New York, domestic violence is considered “good cause.” You should explain in your interview with the benefits agency why you had to quit your job and how your decision was related to the violence.

8 I’ve been fired because of domestic violence, sexual assault or stalking. What can I do?

If your boss fires you because you are a survivor or because you are being harassed at work, this may be illegal discrimination. You should follow the steps in Question 4 to address it. Sometimes just showing your boss information about the law can be enough to get your job back. If you don’t want your job back, you could try to negotiate a severance agreement. You might ask for severance pay, to continue health insurance or other benefits for some time, or for a good reference.

You can also apply for unemployment insurance benefits. Even if you were fired because you were not doing well at work (for example, missing work or coming in late), you may still be able to receive unemployment benefits if you can show that this “misconduct” was because of the violence.

9 I’m an undocumented immigrant — how does this affect what I can do?

Although you are still protected by many of these laws, you will want to be careful about how you approach your boss. Making your boss angry might endanger your job or your ability to stay in this country. You should talk to an advocate to decide what to do.

A Quick Summary for Survivors Working in New York City

- It is against the law for your boss to fire you or penalize you because you are a victim of domestic violence, sexual assault, or stalking.
- It is against the law for your boss to fire you or penalize you because you are being harassed at work by an abuser.
- Your boss must give you “reasonable accommodations” that can help you do your job and stay safe.
- You can ask your boss to change your phone extension, vary your hours, have security screen for your harasser, or for time off to deal with the situation.
- If you have lost your job because of domestic violence, you may be able to get unemployment insurance benefits.
- If you have lost your job or been discriminated against because of the violence, you may be able to file a law suit.
- You should keep records of any interactions between you and your boss that relate to the violence. The notes should include the date of any incident; who says what (exact words if possible); and who else, if anyone, saw what happened.

If you have questions or would like help enforcing your rights, please contact Legal Momentum at (212) 925-6635 or peo@legalmomentum.org.

Legal Momentum has developed this pamphlet to provide general information for individuals seeking to enforce their legal rights. You are advised to consult an attorney or appropriate agency about legal rights in your particular situation.

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Employment Rights for Victims of Domestic Violence, Sexual Assault or Stalking Working in New York City

How to Stay Safe & Keep Working

LEGAL
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1 I'm being harassed at work by my abuser, what can I do?

If you are a survivor of domestic violence, sexual assault or stalking who works in New York City, the law says that your boss must make changes at work so that you can do your job and still be safe. This is called a "reasonable accommodation."

You could ask your boss to:

- Give you time off so that you can go to court, move, or take other steps to deal with the abuse.
- Change your telephone number or extension.
- Keep your address or phone number private.
- Put you at a different desk, shift, or work site.
- Have a security guard take you to your car, bus or subway stop.
- Have security or the front desk help make sure your abuser cannot come inside.

If you want a reasonable accommodation, you need to tell your boss about your situation and ask your boss for the changes you need. Your boss does not have to grant your request if it would be an "undue hardship" for the employer. If your boss refuses to make the change you request, see if you can find an accommodation that will work for both of you.

2 Should I tell my boss that I'm a survivor?

Maybe. *You may want to consider:*

- How will your boss react?
- Have you been having performance problems related to the violence or stalking that you need to explain?
- Can your boss make any changes that would help you feel safer or do better at work?

If you decide that you do want to tell your boss about your situation, you may want to practice this conversation with an advocate or a friend first. *You do not need to tell your boss that you are a survivor unless you are asking for a reasonable accommodation.*

3 What if, after I request an accommodation, my boss asks me to prove that I am a survivor?

If you are asking for an accommodation, your boss may ask you to provide "certification" of the violence.

The law says you can bring in:

- A police or court record.
- A letter from a caseworker, lawyer, clergy member, medical provider or any other professional who is working with you.
- Any other papers that show that you are a survivor.

It is your boss's responsibility to keep the fact that you are a survivor, your request for accommodations, and any papers you give to him or her confidential. You should tell your boss that it's very important that this information remain private.

4 My boss is threatening to fire me because of the violence. What can I do?

In New York City, the law says that your boss can't fire you, pay you differently, or treat you worse than before because you are a survivor. It is also against the law for your boss to fire you because you are being harassed at work by your abuser.

If your boss is doing any of these things, this may be discrimination that is against the law. You may want to talk with an advocate about the best way to assert your rights. *You could:*

- Talk to your boss yourself and inform him or her that what they are doing is against the law.
- Bring in a letter explaining the law—contact Legal Momentum for a form letter that you can fill in with the specifics of your situation.
- Talk to your union rep about what you can do.
- File a complaint with the New York City Human Rights Commission, by calling (212) 306-7450.
- File a lawsuit in state court within three years of the time you experienced discrimination.

5 I need to take time off work to deal with the violence. Can I do this and still keep my job?

Yes. You should figure out if you can use vacation time, sick days, flex time, or are allowed time off for disability or family and medical needs. To find this out, you can talk to your union representative, check your employee manual, or talk to human resources. There are also laws that can help you.

- *To go to court:* You have a right to take time off to go to court to get a protective order or be a witness in a criminal case. You need to tell your boss at least one day in advance of the absence.
- *To deal with medical, emotional or psychological conditions:* If you have a medical condition that keeps you out of work for more than three days, you might be able to take up to 12 weeks off under the federal Family and Medical Leave Act (FMLA). This time off is unpaid. However, you might be able to get short-term disability benefits during this time. Talk to an advocate to see if you are eligible.
- *For any other reason related to domestic violence, sexual assault or stalking:* You can ask your boss for a time off as a "reasonable accommodation" (see Question 1).

6 I'm not doing as well at work as I used to because of the violence against me.

Even though it is illegal to fire you because you are a survivor, you can be fired for poor performance. If you have been written up for being tardy, missing work, or being distracted because of the violence, you might want to talk to your boss about your situation. If you are taking steps to address the violence (such as getting a protective order or having the abuser move out), explain that your performance will improve. This is a good time to ask for a reasonable accommodation, if you need one.