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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.



We still are not paid equally. And if you believe that it's a myth, do the math. Unequal pay hurts women. It hurts their families. And it hurts us all. You and I have to continue fighting for equal pay for equal work. I get up each day with that on my mind, because I need to make a difference."

– Lilly Ledbetter,
Plaintiff in *Ledbetter v. Goodyear Tire & Rubber Co.*,
which resulted in Congress passing the Lilly
Ledbetter Fair Pay Act of 2009

What Qualifies as Unequal Pay?

You should never be paid less because you are a woman. Receiving lower pay based on your sex or gender is a form of sex discrimination. All too often, however, women are paid less than their male colleagues doing similar work, and they are often unaware of this fact because workers are discouraged from sharing or discussing salaries. Moreover, since women have historically made less money, women often start new positions at a lower salary and with less bargaining power than their male peers when negotiating their new salary. This trend further depresses salaries for women.

There are various ways in which an employer may engage in discriminatory pay practices.

Below are a few of many examples:

- Your employer pays you less than your male colleague
- because you (like many women) were paid less in your past job and your employer asked about your prior salary and used that salary as a basis to set your new salary when hiring you.
- Although you have the same title and job responsibilities as your male colleague, your employer pays him more, claiming he has more experience, even though you know that he previously worked in a different field and had less relevant experience than you do. Or, your employer pays him more telling you, "He has a family to support."
- Your employer gives your male coworker, who has the same title, a raise but decides not to give you a raise, despite your similar years of experience, because you took parental leave or worked part-time to care for a child. Your employer may even say, "Let's wait to talk about raises until you have come back full-time."

Who is Protected by the Law?

Federal law prohibits all employers from engaging in pay discrimination based on gender.¹⁷ State law similarly prohibits all employers, except for government agencies, from engaging in pay discrimination.¹⁸

NYC: In New York City, pay discrimination is illegal as a form of gender discrimination under the New York City Human Rights Law, which covers both private and government employees who work for employers with **4 or more employees**.¹⁹

What are My Legal Rights?

Equal Pay

Under federal and state laws, you can bring an equal pay complaint as well as a sex discrimination complaint. Under the equal pay laws (unlike the anti-discrimination laws) you do not need to prove that your employer intentionally discriminated against you on the basis of your sex or gender.

Under federal and state equal pay laws, covered employers are prohibited from paying you a different rate of pay than a male colleague if you are doing equal work on a job requiring equal skill, effort, and responsibility and performed under similar working conditions.²⁰ Protections cover all forms of compensation including salary, overtime pay, bonuses, stock options, profit sharing, life insurance, and other benefits.

Your employer can still pay you a different rate based on factors such as seniority, merit, quantity or quality of production, or a "bona fide factor other than sex, such as education, training, or experience," which are job-related.²¹ If your employer raises one of these factors as a defense, be sure to do your own assessment of your education, training, or experience. You may be able to raise factors that your employer was not considering.

Additionally, if your employer claims that your lower pay is based on a "bona fide factor other than sex," they must demonstrate that the factor is not based on a sex-based differential, is job-related, and is consistent with business necessity.

Even if they prove this, you can still win, if you can show that the practice has a disproportionate impact on the basis of your sex, that your employer could have served the same purpose without causing that impact, and that your employer refused to adopt such an alternative practice.²² Your employer may be responsible for correcting the pay differential and may be responsible for additional damages if it violates the law.

DISCUSSING SALARIES: In New York State, employers are also prohibited from stopping or preventing you from asking about, discussing, or disclosing pay with your co-workers and cannot punish you for doing so.

Requesting or Relying Upon Prior Salary

NYC, WESTCHESTER, SUFFOLK, ALBANY: Because women have been paid less, on average, than men over time, various localities have passed laws that limit an employer's

ability to ask and/or use an applicant's salary history during the hiring process. The purpose of these laws is to stop the cycle of inequality from continuing by preventing employers from relying on prior salary disparities to set applicants' future salaries.

If you are applying for a job in New York City, regardless of the size of your employer, or in Westchester or Suffolk Counties, with an employer with **4 or more employees**, 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.²³ Note that the law in Suffolk County will be effective as of June 30, 2019. If you work in Albany County for an employer with **4 or more employees**, it is illegal for your employer to inquire about your salary history until an offer of employment is extended, at which point an employer can confirm your salary history with your written consent.²⁴ Keep in mind, these laws may not apply to you if you are a public sector employee subject to a collective bargaining agreement.

In all of the above localities, an employer can still ask you about your expectations regarding salary and benefits. While you should not be prompted, you are permitted to voluntarily disclose your prior salary, which can then be taken into account by an employer.

If asked about your salary history, you can report the violation to your local fair employment agency. During the hiring process, if you are asked an impermissible question about your salary history, you can try to reframe the conversation by discussing

your salary expectations based on the requirements and responsibilities of the job, noting that they differ from your prior work, and ask questions about the salary range set for the position.

NYC: For more information, visit: <https://www1.nyc.gov/site/cchr/media/salary-history-frequently-asked-questions.page>.

RETALIATION: It is illegal for an employer to engage in "retaliation" (to punish you) for reporting pay discrimination, sharing salary information, filing a complaint or lawsuit, or participating in an investigation. In other words, your employer is prohibited from firing you, demoting you, suspending you, cutting your pay or work hours, assigning you more difficult work duties, or starting to issue poor performance evaluations to punish you for reporting discrimination. Retaliation can also include more intensive or critical supervision, surveillance, or bad-mouthing you to other employees.

Note that even though retaliation is illegal, your employer may still do it. Retaliation is a separate offense from pay discrimination. Therefore, even if a court determines that there was no pay discrimination, if an employer retaliated against you, they have violated the law and may be required to pay you damages and attorneys' fees.

Keep in mind that you can still be subject to discipline or penalized for poor performance or breaking legitimate workplace rules insofar as your employer's actions are not based on your sex or gender.



What Can I Do to Assert My Rights?

If you have concerns or believe that your rights have been violated, there are various actions you can take to advocate for yourself. In addition to the general guidance in Section 1, consider the following:

SPEAK TO YOUR CO-WORKERS: Because many employers have historically relied on job applicants' salary history to set the salary for a new position and because men have historically been paid more, on average, than women, you may be making less than your male colleagues. If you have concerns that you are being paid less than a male colleague who is doing the same or similar type of work, one option is to ask your co-worker about his salary. Note that your co-worker is not obligated to disclose this information and may choose not to do so. Also be aware that while employers are legally prohibited from retaliating against you for speaking to your coworkers about salary, this does not mean that your employer will follow the law. Your employer may still engage in retaliation.

ADVOCATE FOR YOURSELF: Many women often assume they will be rewarded based on merit and hard work and are well into their careers before they realize that their colleagues (often men) received raises because they actively requested them. If you believe that you deserve a raise, speak with your supervisor and request one. Be prepared to discuss the work that you do, your responsibilities, accomplishments, skills, performance, the ways in which you have excelled, and the value you bring to the workplace.

NOTIFY YOUR EMPLOYER AND REQUEST THAT THE PAY DIFFERENTIAL BE CORRECTED: If you learn that you are being paid less than a male co-worker and you don't think there is a valid rationale for the pay differential, then you should speak to your supervisor and request that it be corrected. Before doing so, try to get as much information as you can about your male co-worker's past experience, your titles, classifications, and the responsibilities and skills required in your job description.

Speaking to your employer about pay discrimination can be difficult, but it can be easier if you are prepared. During this conversation, you will want to highlight that you do equal work, have equal responsibilities, work under substantially similar conditions, and that you have equivalent or complementary skills and experience compared to your male colleague(s). Be prepared to provide some of the following information:

- Explain that you discovered you were being paid less than your male colleague even though you both perform equal work.
- Explain how your job duties and responsibilities are the same when compared to your male colleague's job duties and responsibilities.
- Highlight your skills and experience and ways in which they are superior, equivalent, or complementary to your male colleague's experience.
- If it is helpful, raise your job performance and highlight ways in which you have excelled in the position.

Depending on the nature of the pay discrimination, you may want to do the following:

- Ask your employer to raise your pay so it is equal to your male colleague's pay by the next pay period.
- Ask your employer to correct the pay disparity retroactively, meaning that they pay you the difference of what you should have been earning going back to when the pay disparity began.
- If your employer refuses to correct the situation, ask them to provide their rationale for why they think the pay differential is fair (preferably in writing).
- If your employer refuses to correct the situation, find out if there is an appeal process or equal opportunity office with which you can file a complaint.

DOCUMENT ANY COMPLAINTS: Keep a record of your request by putting it in writing as an email or a formal complaint. You should also try and get a response from your employer that is in writing. This record can serve as written evidence if you decide to file a discrimination complaint or lawsuit. Take notes about your verbal conversations so that you have a record of what was said during these conversations.

NOTE: When you tell your employer the above, remember, you are **automatically** protected under the law. This means that it is illegal for your employer to fire you, discipline you, cut your hours, cut your pay, or do anything negative to your employment because you requested equal pay or inquired about it. If your employer does take any of the above actions, it has violated the law. While retaliation is illegal, your employer may still do it. You may have to take administrative or legal action to protect your rights. If your employer fails to correct the problem, you may be entitled to additional damages if you decide to challenge the pay discrimination in court.

FILE A LAWSUIT OR AN ADMINISTRATIVE COMPLAINT ABOUT UNEQUAL PAY:

If you feel like you were subjected to pay discrimination, you can file a state or federal lawsuit under the state and federal equal pay laws. If you also want to file an employment discrimination claim under Title VII, you will first need to file a discrimination complaint with the federal Equal Employment Opportunity Commission (EEOC).

You can also file a formal administrative complaint with: the New York State Department of Labor (<https://labor.ny.gov/workerprotection/publicwork/PWContactUs.shtm>), the New York State Division of Human Rights (<https://dhr.ny.gov/contact-us>), the EEOC (<https://www.eeoc.gov/employees/charge.cfm>), or your local fair employment agency.

NOTE: You should consult a lawyer or legal services organization to get guidance on how and where to file your complaint because there are often complex considerations involved and you often must file quickly in order to comply with applicable reporting deadlines. For example, if you file your complaint with one of the agencies above, you may not be able to file with others **and** you may not be able to file a lawsuit later on.

FILING A NYC COMPLAINT TO CHALLENGE A SALARY HISTORY REQUEST:

If you work for an employer in New York City who improperly inquired about or relied upon your prior salary in setting your salary, you can file a complaint with the NYC Commission on Human Rights, which has the authority to impose fines on employers or award compensatory damages. Visit: <https://www1.nyc.gov/site/cchr/about/contact-us.page>.

Endnotes

- 1 Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*
- 2 New York State Human Rights Law, N.Y. Exec. Law §§ 292 (for definition of “employer”), 296; New York City Human Rights Law, N.Y. Admin. Code § 8-101 *et seq.* See 9 NYCRR § 466.13 (for regulations specifying who is covered).
- 3 N.Y. Exec. Law § 296-b.
- 4 N.Y. Admin. Code § 8-107(1).
- 5 Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a.
- 6 42 U.S.C. § 2000e-3(a).
- 7 Immigration and Nationality Act, 8 U.S.C. § 1324b.
- 8 N.Y. Exec. Order No. 170 (Sep. 15, 2017), <https://www.governor.ny.gov/news/no-1701-amendment-executive-order-170-state-policy-concerning-immigrant-access-state-services>.
- 9 N.Y.C. Exec. Order No. 41 (Sep. 17, 2003), <https://www1.nyc.gov/site/immigrants/about/local-laws-executive-orders.page>.
- 10 See *Hoffman Plastic Compounds, Inc. v. National Labor Relations Board*, 535 U.S. 137 (2002).
- 11 N.Y. Exec. Law § 296-b.
- 12 N.Y. Exec. Law § 292(5); N.Y. Admin. Code § 8-102(2018).
- 13 N.Y. Exec. Law § 296-b; N.Y. Exec. Law § 292(5); N.Y. Admin. Code § 8-102(2018).
- 14 N.Y. Exec. Law § 292(5); N.Y. Admin. Code § 8-102(2018).
- 15 42 U.S.C. § 2000e-2; *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986) (confirming that sexual harassment is a form of sex discrimination prohibited under Title VII); N.Y. Exec. Law § 296; N.Y. Admin. Code § 8-107.
- 16 N.Y. Lab. Law § 201-g.
- 17 The Equal Pay Act of 1963, 29 U.S.C. § 206(d); Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*
- 18 N.Y. Lab. Law § 194 (prohibiting difference in rate of pay because of sex); 9 NYCRR § 466.13; N.Y. Exec. Law § 296. See also N.Y. Lab. Law § 190(3) (definition of “employer”).
- 19 N.Y. Admin. Code §§ 8-102-107.
- 20 29 U.S.C. § 206(d); N.Y. Labor Law § 194.
- 21 N.Y. Labor Law § 194(a)-(d).
- 22 N.Y. Labor Law § 194(d).
- 23 See N.Y. Admin. Code § 8-107(25); Westchester Co. Human Rights Law § 700.3; Suffolk Co. Code § 528-7.
- 24 Albany Co. Human Rights Law § 48-26.
- 25 N.Y. Lab. Law §§ 652, 673.
- 26 N.Y. Lab. Law § 191.
- 27 N.Y. Lab. Law § 191.
- 28 N.Y. Lab. Law § 191.
- 29 N.Y. Lab. Law § 191.
- 30 N.Y. Lab. Law § 191; New York State Domestic Workers Bill of Rights: <https://www.labor.ny.gov/legal/laws/pdf/domestic-workers/facts-for-domestic-workers.pdf>.
- 31 N.Y. Lab. Law § 195.
- 32 N.Y. Lab. Law § 195.
- 33 N.Y. Lab. Law § 195.
- 34 N.Y. Lab. Law § 195.
- 35 N.Y. Lab. Law § 195.
- 36 N.Y. Lab. Law § 195.
- 37 N.Y. Lab. Law § 195.
- 38 12 N.Y.C.R.R. § 146-2.2.
- 39 12 N.Y.C.R.R. § 146-2.2.
- 40 N.Y. Lab. Law § 861-g.
- 41 N.Y. Lab. Law § 652.
- 42 See N.Y. Dept. of Labor, N.Y. Labor Standards Fact Sheet, *Know Your Right as a Worker: How to Prevent labor Violations in the Workplace* (Dec. 2015), <https://www.labor.ny.gov/formsdocs/factsheets/pdfs/p711.pdf>.
- 43 N.Y. Lab. Law § 193.
- 44 Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*; 12 NYCRR § 142-2.2.
- 45 N.Y. Lab. Law § 167.
- 46 See Trafficking Victims Protection Act, 22 U.S.C. § 7101 *et seq.*; N.Y. Penal Law §§ 135.35, 230.34.
- 47 N.Y. Lab. Law § 215.
- 48 N.Y. Lab. Law §§ 652, 673; 12 NYCRR § 190-1.3(b).
- 49 N.Y. Lab. Law § 673-a; 12 NYCRR § 190-6.1.
- 50 N.Y. Correction Law Art. 23-A.
- 51 N.Y. Correction Law Art. 23-A.
- 52 N.Y. Exec. Law § 296(16).
- 53 N.Y. Admin. Code §§ 8-102(5), 8-107(10)-(11-a).
- 54 N.Y. Admin. Code §§ 8-102(5), 8-107(10)-(11-a).
- 55 The Immigration and Nationality Act, 8 U.S.C. § 1324b.
- 56 N.Y. Exec. Law § 296(1-a).
- 57 Studies have found that women entrepreneurs in New York City have a more difficult time accessing credit to start their businesses—in fact, men are twice as likely to launch their

- businesses with as much as double the capital. Women entrepreneurs find it harder to identify and assess potential mentors and business advisors. These challenges are more pronounced for women of color, many of whom must overcome language barriers when starting a business. Women with low-to-moderate income often highlighted lack of confidence and experience as a challenge. See Women Entrepreneurs NYC, *Unlocking the Power of Women Entrepreneurs in New York City*, (November 2015), https://we.nyc/media/filer_public/97/a1/97a19bc2-261c-4168-b70d-4873f7bec894/wenyc_report_2015-11_2.pdf.
- 58 Equal Credit Opportunity Act, 15 U.S.C. § 1691; N.Y. Exec. Law § 296-a.
 - 59 N.Y. Exec. Law § 312. See also N.Y. Order 177 (covered state entities prohibited from entering into contracts with entities that have institutional policies or practices that fail to address harassment or discrimination based on sex and other protected classifications).
 - 60 Stop Credit Discrimination in Employment Act, N.Y. Admin. Code §§ 8-102(29), 8-107(9)(d)(24).
 - 61 See NYC Business Solutions, *NYC Sector Guide on Worker Cooperatives*, http://www.nyc.gov/html/sbs/nycbiz/downloads/pdf/educational/sector_guides/worker_cooperative.pdf.
 - 62 See NYC Department of Small Business Services, *Building Your Business in New York City: A Guide for Immigrant Entrepreneurs*, https://www1.nyc.gov/assets/sbs/downloads/pdf/about/reports/ibi_toolkit.pdf.
 - 63 See National Institute for Occupational Safety and Health, *Women's Safety and Health Issues at Work*, Publication No. 2001-123, <https://www.cdc.gov/niosh/docs/2001-123/default.html>.
 - 64 See U.S. Dep't of Labor, Bureau of Labor Statistics, *Women at Work* (March 2017), <https://www.bls.gov/spotlight/2017/women-at-work/pdf/women-at-work.pdf>.
 - 65 Occupational Safety and Health Act, 29 U.S.C. § 652.
 - 66 29 U.S.C. § 654; 29 C.F.R. § 1926 *et seq.*
 - 67 29 U.S.C. § 654; 29 C.F.R. § 1926 *et seq.*; N.Y. Lab. Law § 200.
 - 68 N.Y. Lab. Law § 200(1).
 - 69 N.Y. Lab. Law §§ 200(1), 880.
 - 70 29 U.S.C. § 657(c)(3); 29 C.F.R. § 1926 *et seq.*
 - 71 29 U.S.C. § 657(c)(3); 29 C.F.R. § 1926 *et seq.*
 - 72 N.Y. Lab. Law § 162.
 - 73 N.Y. Lab. Law § 162(4).
 - 74 N.Y. Lab. Law § 161.
 - 75 N.Y. Lab. Law § 161.
 - 76 N.Y. Lab. Law § 161.
 - 77 N.Y. Lab. Law § 724.
 - 78 N.Y. Admin. Code Ch. 8.
 - 79 N.Y. Admin. Code Ch. 8.
 - 80 N.Y. Admin. Code Ch. 8.
 - 81 N.Y. Admin. Code Ch. 8.
 - 82 Westchester Co. Laws, Ch. 700.
 - 83 Westchester Co. Laws, Ch. 700.
 - 84 The Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.*
 - 85 29 U.S.C. § 2601 *et seq.*
 - 86 New York Paid Family Leave Benefits Law, N.Y. Workers Comp. Law, Art. 9.
 - 87 New York Paid Family Leave Benefits Law, N.Y. Workers Comp. Law, Art. 9.
 - 88 See 29 U.S.C. § 654; 29 C.F.R. § 1926 *et seq.*; N.Y. Lab. Law § 740.
 - 89 See N.Y. Admin. Code Ch. 8.
 - 90 See Trafficking Victims Protection Act, 22 U.S.C. § 7101 *et seq.*; N.Y. Penal Law §§ 135.35, 230.34.
 - 91 29 C.F.R. §§ 1904.35-36.
 - 92 N.Y. Admin. Code § 20-1251.
 - 93 N.Y. Admin. Code § 20-1252.
 - 94 N.Y. Admin. Code § 20-1221.
 - 95 N.Y. Admin. Code § 20-1222.
 - 96 N.Y. Admin. Code § 20-1231.
 - 97 N.Y. Workers Comp. Law § 3, Group 14-b.
 - 98 N.Y. Labor Law §191.
 - 99 See U.S. Dep't of Labor, Agricultural Operations, <https://www.osha.gov/dsg/topics/agriculturaloperations/>.
 - 100 Occupational Health and Safety Administration, OSHA Instruction CPL 02-00-051, *Enforcement Exceptions and Limitations under the Appropriations Act* (May 28, 1998), <https://www.osha.gov/enforcement/directives/cpl-02-00-051>.
 - 101 See U.S. Dep't of Labor, Agricultural Operations: Hazards and Controls, https://www.osha.gov/dsg/topics/agriculturaloperations/hazards_controls.html.
 - 102 See Violence Against Women Reauthorization Act of 2013, 18 U.S.C. § 2261; N.Y. Exec. Law § 292(34); N.Y. Admin. Code § 8-107.1(a); New York State Dep't of Labor, Domestic Violence and UI Benefits, <https://www.labor.ny.gov/ui/claimantinfo/domesticviolenceanduibenefits.shtm#1>.
 - 103 See Violence Against Women Reauthorization Act of 2013, 18 U.S.C. § 2261; N.Y. Admin. Code § 8-107.1(a). See also Office on Violence Against Women, U.S. Dep't of Justice, Sexual Assault, <https://www.justice.gov/ovw/sexual-assault>.
 - 104 See Violence Against Women Reauthorization Act of 2013, 18 U.S.C. § 2261; N.Y. Admin. Code § 8-107.1(a).

- 105 N.Y. Exec. Law §§ 292, 296.
- 106 N.Y. Admin. Code § 8-107.1(b).
- 107 Westchester Co. Laws §§ 700.02, 700.03(a)(8).
- 108 N.Y. Exec. Law § 296(1)(a).
- 109 The Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*; N.Y. Exec. Law §§ 292(21), 292(21-e), 295(5), 296(3); 9 NYCRR § 466.11.
- 110 42 U.S.C. § 12102.
- 111 N.Y. Exec. Law § 292(21).
- 112 N.Y. Admin. Code §§ 8-102(5); 8-107.1.
- 113 Westchester Co. Laws, §§ 700.02 (for definitions), 700.03.
- 114 N.Y. Admin. Code § 8-102; *see also* New York City Commission on Human Rights, *Legal Enforcement Guidance on Discrimination on the Basis of Disability* (June 2018), https://www1.nyc.gov/assets/cchr/downloads/pdf/NYCCHR_LegalGuide-DisabilityFinal.pdf.
- 115 N.Y. Penal Law § 215.14.
- 116 N.Y. Admin. Code §§ 20-912 (for definitions), 20-913, 20-914.
- 117 N.Y. Admin. Code § 20-913.
- 118 N.Y. Admin. Code § 20-913.
- 119 N.Y. Real Prop. Law § 227-d.
- 120 N.Y. Real Prop. Law § 227-c. *See also* N.Y. Crim. Proc. § 530.12-13 (establishing that a court may issue orders of protection for victims of family offenses); N.Y. Dom. Rel. § 240 (describing, among other things, the court's power to issue orders of protection); N.Y. Family Ct. Act §§ 446 (orders of protection), 656, 842, 1056.
- 121 Immigration and Nationality Act, 8 U.S.C. § 1324b.
- 122 *See* Center for Reproductive Rights, *Standing up for Reproductive Rights: A Look Back at the 114th Congress* (Mar. 20, 2017), <https://www.reproductiverights.org/114th-Congress-Wrap-Up>; Heather D. Boonstra, *Abortion in the Lives of Women Struggling Financially: Why Insurance Coverage Matters*, 19 Guttmacher Policy Rev., 2016, at 46, 50.
- 123 Heather D. Boonstra, *Abortion in the Lives of Women Struggling Financially: Why Insurance Coverage Matters*, 19 Guttmacher Policy Rev., 2016, at 46.
- 124 11 NYCRR § 52.1(r)(i); N.Y. Ins. Law § 3221(16).
- 125 11 NYCRR § 52.1(r)(ii).
- 126 11 NYCRR § 52.1(r)(v).
- 127 11 NYCRR § 52.1(r)(vi).
- 128 11 NYCRR § 52.1(r)(vi).
- 129 N.Y. Ins. Law §§ 3221(l)(16)(A); 3221 (5)(A)(1).
- 130 N.Y. Pub. Health Law § 2599-AA (2019).
- 131 11 NYCRR § 52.1(p)(1-2).
- 132 11 NYCRR § 52.71.
- 133 42 U.S.C. § 2000e(k); *see also* Equal Employment Opportunity Center, *EEOC Enforcement guidance on Pregnancy Discrimination and Related Issues*, EEOC Notice No. 915.003 (June 25, 2015) (citing 42 U.S.C. § 2000e(k); Questions and Answers on the Pregnancy Discrimination Act, 29 C.F.R. pt. 1604 app., Question 34 (1979) (“An employer cannot discriminate in its employment practices against a woman who has had or is contemplating having an abortion.”); H.R. Conf. Rep. No. 95-1786, at 4 (1978), as reprinted in 95th Cong., 2d Sess. 4, 1978 U.S.C.C.A.N. 4749, 4766 (“Thus, no employer may, for example, fire or refuse to hire a woman simply because she has exercised her right to have an abortion.”); *see also Doe v. C.A.R.S. Protection Plus, Inc.*, 527 F.3d 358, 364 (3d Cir. 2008), *cert. denied*, 129 S. Ct. 576 (2008) (PDA prohibits employer from discriminating against female employee because she has exercised her right to have an abortion); *Turic v. Holland Hospitality, Inc.*, 85 F.3d 1211, 1214 (6th Cir. 1996) (discharge of pregnant employee because she contemplated having abortion violated PDA)), https://www.eeoc.gov/laws/guidance/pregnancy_guidance.cfm#_ftn58.
- 134 11 NYCRR § 52.16(o).
- 135 N.Y. Penal Law §§ 240.70-240.71.
- 136 N.Y. Admin. Code § 8-107(22), New York City Commission on Human Rights, *Legal Enforcement Guidance on Discrimination on the Basis of Pregnancy: Local Law No. 78* (2013); https://www1.nyc.gov/assets/cchr/downloads/pdf/publications/Pregnancy_InterpretiveGuide_2016.pdf.
- 137 N.Y. Ins. Law § 3217-c.
- 138 N.Y. Ins. Law § 3216(i)(8)(E) (10)(A)(i).
- 139 42 U.S.C. § 300gg-13; 29 C.F.R. §§ 2590.75-2713.
- 140 *See* New York Dep't of Health, *Medicaid Family Planning Services*, https://www.health.ny.gov/health_care/managed_care/famplan10ques.htm.
- 141 *See* New York Dep't of Health, *Comprehensive Family Planning and Reproductive Health Care Services Program*, https://www.health.ny.gov/community/pregnancy/family_planning/.
- 142 *See* New York Dep't of Health, *Family Planning Benefit Program*, https://www.health.ny.gov/health_care/medicaid/program/longterm/familyplanbenprog.htm.
- 143 Pregnancy Discrimination Act, 42 U.S.C. § 2000e(k); N.Y. Exec. Law §§ 292 (for definition of “employer”), 296.1; *see also* New York State Division of Human Rights, *Guidance on Pregnancy Discrimination and Reasonable Accommodation of Pregnancy-Related Conditions for Employers in New York State*, <https://dhr.ny.gov/sites/default/files/pdf/guidance-pregnancy-discrimination-employers.pdf>.
- 144 The Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*; N.Y. Exec. Law §§ 292(21), 292(21-e), 295(5), 296(3); 9 NYCRR 466.11.

- 145 N.Y. Exec. Law § 292.
- 146 N.Y. Exec. Law § 296(3); see also New York State Division of Human Rights, *Guidance on Pregnancy Discrimination and Reasonable Accommodation of Pregnancy-Related Conditions for Employers in New York State*, <https://dhr.ny.gov/sites/default/files/pdf/guidance-pregnancy-discrimination-employers.pdf>.
- 147 N.Y. Admin. Code § 8-107(22); New York City Commission on Human Rights, *Legal Enforcement Guidance on Discrimination on the Basis of Pregnancy: Local Law No. 78* (2013); <https://www1.nyc.gov/site/cchr/law/legal-guidances.page>.
- 148 N.Y. Work. Comp. Law Ch. 9, § 201(9)(B).
- 149 N.Y. Lab. Law § 206-c.
- 150 N.Y. Lab. Law § 206-c; N.Y. Dep't of Labor, *Guidelines Regarding the Rights of Nursing Mothers to Express Breast Milk in the Work Place*, <https://www.labor.ny.gov/workerprotection/laborstandards/PDFs/guidelinesexpressionofbreastmilkFINAL.pdf>. See also Fair Labor Standards Act, 29 U.S.C. § 207(r) (requires employers to provide reasonable unpaid break time for an employee to express breast milk for her nursing child for 1 year after the child's birth in a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public).
- 151 29 U.S.C. § 207(r); N.Y. Lab. Law § 206-c. See also N.Y. Dep't of Labor, *Guidelines Regarding the Rights of Nursing Mothers to Express Breast Milk in the Work Place*, <https://www.labor.ny.gov/workerprotection/laborstandards/PDFs/guidelinesexpressionofbreastmilkFINAL.pdf>.
- 152 New York Paid Family Leave Benefits Law, N.Y. Workers Comp. Law Art. 9; 12 NYCRR § 355, Part 380.
- 153 The Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.*
- 154 N.Y. Work. Comp. Law Ch. 9, § 201(9)(B).
- 155 N.Y. Admin. Code §§ 20-912 (for definitions), 20-913, 20-914.
- 156 Westchester Co. Laws, Ch. 700.
- 157 N.Y. Exec. Law § 296. See also New York State Division of Human Rights, *Guidance on Familial Status Discrimination for Employers in New York State*, <https://dhr.ny.gov/sites/default/files/pdf/guidance-familial-status-employers.pdf>.
- 158 N.Y. Admin. Code § 8-107.
- 159 Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), the federal government provides block grant funding to states to provide Temporary Assistance to Needy Families (TANF), under which states must operate temporary assistance programs for needy families. See 42 U.S.C. Ch. 7, Subchapter IV; 45 C.F.R. Part 260.
- 160 See 8 U.S.C. § 1621 (for non-eligible categories).
- 161 Immigration and Nationality Act, 8 U.S.C. § 1182.
- 162 See Center on Budget and Policy Priorities, *A Quick Guide to SNAP Eligibility and Benefits* (Oct. 16, 2018), <https://www.cbpp.org/research/food-assistance/a-quick-guide-to-snap-eligibility-and-benefits>.
- 163 42 U.S.C. § 300gg-13; 29 C.F.R. §§ 2590.75-2713.
- 164 24 C.F.R. § 100.600.
- 165 See Consent Decree in *Callahan v. Carey* (1981), <http://www.coalitionforthehomeless.org/our-programs/advocacy/legal-victories/the-callahan-legacy-callahan-v-carey-and-the-legal-right-to-shelter/>.
- 166 42 U.S.C. § 1436a.
- 167 24 C.F.R. §§ 5.512, 5.520.
- 168 See N.Y. Labor Law § 591; see also New York Dep't of Labor, *Before you Apply for Unemployment: Frequently Asked Questions*, <https://www.labor.ny.gov/ui/claimantinfo/beforeyouapplyfaq.shtm#22>.
- 169 N.Y. Exec. Order No. 26 (Oct. 6, 2011), <https://www.governor.ny.gov/news/no-26-statewide-language-access-policy>.
- 170 National Labor Relations Act, 29 U.S.C. §§ 151-169.
- 171 N.Y. Civ. Serv. Law § 200 *et seq.* (also called the Public Employees Fair Employment Act, or the "Taylor Law").
- 172 29 U.S.C. § 152(3).
- 173 29 U.S.C. § 158.
- 174 See *Intermodal Bridge Transp.*, No. 21-CA-157647 (Nov. 28, 2017).
- 175 29 U.S.C. § 157.
- 176 29 U.S.C. § 157.
- 177 29 U.S.C. § 157.
- 178 29 U.S.C. § 158.
- 179 N.Y. Civ. Serv. Law §§ 202-03, 210.
- 180 N.Y. Lab. Law § 194.
- 181 29 U.S.C. § 158; N.Y. Civ. Serv. Law § 209-a.
- 182 See National Labor Relations Board, *Immigrant Employee Rights under the National Labor Relations Act*, https://www.nlrb.gov/sites/default/files/attachments/basic-page/node-3024/immigrant_employee_rights_one_pager_english_pdf_21860.pdf.
- 183 See National Labor Relations Board, *Immigrant Employee Rights under the National Labor Relations Act*, https://www.nlrb.gov/sites/default/files/attachments/basic-page/node-3024/immigrant_employee_rights_one_pager_english_pdf_21860.pdf.
- 184 See National Labor Relations Board, *Immigrant Employee Rights under the National Labor Relations Act*, https://www.nlrb.gov/sites/default/files/attachments/basic-page/node-3024/immigrant_employee_rights_one_pager_english_pdf_21860.pdf.