

DISCRIMINATION

YOUR RIGHTS AS A WORKING WOMAN :

You have the right to not be treated differently at work based on your gender, race, national origin, color, religion, or marital status.

- Unlawful gender discrimination includes: being treated differently than other employees because you are a woman, pregnancy discrimination, and sexual harassment.

YOU HAVE THE RIGHT TO BE TREATED EQUALLY:

- When an employer is *hiring*.
 - An employer who refuses to hire women who are equally qualified for a job discriminates based on gender.
 - An employer who does not accept applications from or hire Latinos/as engages in unlawful racial discrimination.
- When the employer *assigns you to a particular job*.
 - A garment factory manager who automatically assigns women to sewing jobs and men to pressing jobs engages in gender discrimination.
- In the *conditions of your employment*.
 - Women who are paid less than their male co-workers for doing the same work are subjected to unlawful gender discrimination.
- In an employer's *firing decisions*.
 - A company that fires only women workers when it downsizes discriminates against its women employees.

PREGNANT WOMEN HAVE EQUAL RIGHTS.

Employers must treat pregnant women the same as non-pregnant employees with similar abilities:

- When an employer is *hiring*.
 - Employers who refuse to hire women if they are pregnant discriminate on the basis of gender.
- In the *conditions of employment*.
 - A restaurant owner who makes a pregnant waitress take a position as a cashier, but who does not make other employees with similar abilities work as cashiers, discriminates based on gender.
 - In granting *medical leave*.
 - A cleaning agency that does not permit pregnant women to take time off for medical rea-

sons, but does permit other employees to take medical leave, discriminates against pregnant women.

- When an employer is *firing*.
 - If an employer fires a woman because she is pregnant, the employer unlawfully discriminates.

YOU HAVE THE RIGHT TO NOT BE SEXUALLY HARASSED.

Sexual harassment is unwanted sexual attention that affects working conditions, including:

- Sexual *demands*.
 - A manager who threatens to demote a woman unless she complies with his sexual requests sexually harasses his employee.
 - Physical *touching*.
 - An employer who grabs at a woman in a sexual manner engages in sexual harassment, if the touching affects the woman's conditions of work.
 - A sexually *hostile environment*.
 - A manager who permits his workers to call women offensive, sexual names on a regular basis may be held responsible for sexual harassment.
- YOU ALSO HAVE THE RIGHT:
- To *speak languages other than English* at work.
 - Employers may not have an "English only" rule unless it is necessary for conducting business.
 - To *enforce your employment rights*.
 - An employer who retaliates or discriminates against you for enforcing your employment rights faces additional penalties.

DOMESTIC WORKERS:

- Discrimination laws only apply to domestic workers if at least 15 people are working for your employer.
 - If you are a domestic worker who is sexually harassed, you may be able to hold your employer liable for unwanted touching and other forms of physical harassment.
- UNDOCUMENTED WORKERS:
- Discrimination laws are available to all workers, regardless of your immigration status.
 - If you choose to file a lawsuit, your immigration status may affect what remedies are available to you.

VICTIMS OF DOMESTIC VIOLENCE:

(in New York City)

- Your employer cannot fire you or otherwise treat you differently because you are a victim of domestic violence.
- Your employer must accommodate you if you need to take time from work to visit a doctor, an attorney, a domestic violence counselor, or to attend court appointments.

ENFORCING YOUR EQUAL RIGHTS:

The first step to enforcing your right to not be discriminated against is to **keep a detailed record**.

- If your employer has a discriminatory *written policy*, make a copy for yourself. Also make a copy of any other discriminatory materials from your employer.
- *Write down* every inappropriate comment your employer makes and every inappropriate action that your employer takes. Write down as much information as possible, especially dates, places, and the names of other people who may have witnessed the occurrence.

If you are discriminated against in any of the above ways, you may **initiate a legal claim** at:

- **The United States Equal Employment Opportunity Commission (EEOC)**.
 - The EEOC enforces federal discrimination laws.
 - Charges may be brought against employers with 15 or more employees.
 - If your employer is based in New York State, charges must be filed *within 240 days* of the discriminatory action.
 - You may file charges in person or by mail. For the office closest to you, call 1-800-669-4000.
- **The New York State Division of Human Rights**.
 - The Division of Human Rights enforces state discrimination laws.
 - Charges must be filed *within one year* after the discriminatory action.
 - You must file charges with a regional office of the Division. For the office closest to you, call 718-741-8400.

- **The New York City Commission on Human Rights**.
 - The Commission on Human Rights enforces NYC discrimination laws.
 - Charges must be filed *within one year* after the discriminatory action.
 - Claims are initiated at the Commission by attending an intake interview with an investigator. To schedule an interview, call 212-306-7450.

- **The New York State Supreme Court**.

- The supreme court hears cases involving state and NYC discrimination laws.
- You may bypass state and city administrative procedures and file a lawsuit directly.
- You may not file a lawsuit if a complaint is pending in an administrative agency, unless you request that the complaint be dismissed and it is dismissed.
- If you are a New York City resident, you must file a lawsuit *within three years* of the discriminatory action. If you are not a New York City resident, you must file a lawsuit *within one year* of the discriminatory action.
- For the court in your county, call 1-800-COURT-NY (1-800-268-7869).

WAGES AND HOURS

WAGES:

- You have the right to earn at least the legal minimum wage – \$5.15 per hour.
- If you work more than 40 hours in one week, you have the right to earn one and a half times the amount of your regular wage for those extra hours – at least \$7.73 per extra hour.
- If you are a manual worker, you have the right to be paid on a weekly basis.
- **Domestic workers:** You have the same right to the minimum wage as all other workers.

HOURS:

- If you work 6 hours or more at one time, you have the right to an unpaid meal break. Depending on the type of job and time of day you work, this break must be either 30 minutes or 60 minutes in duration.

- Most employers must let you take one day of (unpaid) rest every week.

UNDOCUMENTED WORKERS:

You have all of these wage and hour rights. If you decide to enforce your wage and hour rights, your immigration status should not be an issue.

ENFORCING YOUR WAGE AND

OUR RIGHTS:

The first step to enforcing your right to the minimum wage and overtime is to **keep a detailed record** of the time you work.

- Write down the day, the time you began working, any breaks that you took, and the time you finished working for the day.
- Include the wage you were paid.

If your right to the minimum wage and overtime is violated, you may file a legal action.

- You must file a federal claim within *two years* of the violation, or *three years* if the violation was willful. State claims must be filed within *six years*.
- You may bring claims before:
 - **The United States Department of Labor:** Wage and Hour Division

For the office closest to you, call
1-866-4-USWAGE (1-866-487-9243).

- Federal District Court.

The filing address depends on where you live. Contact an attorney or visit www.us.courts.gov for more information.

- The New York State Department of

Labor:

P.O. Box 675

345 Hudson Street

New York, NY 10014-0675

212-352-6700

- New York State Supreme Court.

For the court in your county, call
1-800-COURT-NY (1-800-268-7869).

FAMILY MEDICAL LEAVE

MEDICAL LEAVE FROM WORK:

Eligible workers have the right to take (unpaid) time off from work when:

- you need to care for a new child,
- you have a serious health condition and cannot work, or

- you need to care for a sick family member. If you qualify, you can take up to 12 weeks of unpaid family medical leave each year.

ELIGIBLE WORKERS:

- You are eligible to take family medical leave if you have worked for the same employer for at least *one year*; have worked at least *1,250 hours* over the last year for the employer (an average of 24 hours per week), and your employer has at least *50 employees*.

- If you are an eligible worker, you may not be fired for taking family medical leave. An employer must give you either the same job upon returning to work or an equivalent position. Your employer cannot penalize or harass you for taking family medical leave.

ENFORCING YOUR FAMILY MEDICAL

LEAVE RIGHTS:

The first step to enforcing your right to family medical leave is to **keep a detailed record**.

- Write down the reason you took medical leave, the date you informed your employer, your last day of work before you took medical leave, your first day back at work (if any), and any actions by your employer.
- Keep any documentation related to the reason for your family medical leave, such as doctors' notes and birth certificates.

If your employer violates your right to take family medical leave, you may **file a legal action**.

- Claims must be filed within *two years*, or *three years* for a willful violation.
- You may file a claim with:
 - **The United States Department of Labor:** Wage and Hour Division

For the office closest to you, call
1-866-4-USWAGE (1-866-487-9243).

- Federal District Court.

The filing address depends on where you live. Contact an attorney or visit www.us.courts.gov for more information.

- New York State Supreme Court.

For the court in your county, call
1-800-COURT-NY (1-800-268-7869).

AMERICAN CIVIL LIBERTIES UNION
National Headquarters
125 Broad Street, 18th Floor
New York, NY 10004-2400
(212) 549-2500
www.aclu.org

FOR MORE INFORMATION:

Jennifer Arnett Lee, Esq.

ACLU Women's Rights Project
125 Broad Street, 18th Floor
New York, NY 10004
Tel. 212-519-7816
Fax 212-549-2580
E-mail: jarnettee@aclu.org

This pamphlet does not address all employment-related rights available to women workers. For example, the right to organize, workers' compensation, and unemployment insurance are not covered.

The American Civil Liberties Union is the nation's premier guardian of liberty, working daily in courts, legislatures and communities to defend and preserve the individual rights and freedoms guaranteed by the Constitution and the laws of the United States.

OFFICERS AND DIRECTORS

NADINE STROSSEN, President
ANTHONY ROMERO, Executive Director
KENNETH B. CLARK, Chair,
Executive Advisory Council
RICHARD ZACKS, Treasurer

Rights of Women Workers

IN NEW YORK



Women's Rights
Project