



Workers'
Compensation
Board

WORKERS' RIGHTS AND PROTECTIONS

A JOINT PRESENTATION BY THE NYS WORKERS'
COMPENSATION BOARD & NYS DEPARTMENT OF LABOR

SEPTEMBER 9, 2024

WELCOME!



- **Clarissa M. Rodriguez, Esq.**
- **Chair of the NYS Workers' Compensation Board**

LABOR MARCH



FRANCES PERKINS & TRIANGLE FIRE



OUR MISSION

Protect the rights of employees and employers by ensuring the proper delivery of benefits and by promoting compliance with the law

- Ensure employers provide required coverage
- Receive reports of injuries and payments
- Monitor payer compliance/performance
- Resolve disputes, handle appeals



AGENDA

- 1 Welcome
- 2 Rights and protections – NYS Workers' Compensation Board
- 3 Rights and protections – NYS Department of Labor
- 4 Questions

A photograph of two people in an office environment. In the foreground, a man with a beard and short hair, wearing a brown sweater over a blue collared shirt, is smiling at the camera while working on a laptop. In the background, a woman with dark hair is focused on her work at another desk. The scene is brightly lit, likely from a large window with a grid pattern. The entire image has a light blue overlay.

NYS WORKERS' COMPENSATION BOARD

CREATING SAFER WORKPLACES



Form a labor/ management safety committee

- Equal number of workers and managers
- Regularly rotate Chair
- Meet regularly, with an agenda



Perform safety inspections

- Visit workplace to identify potential threats to employee safety



Review equipment and procedures

- Establish safe procedures and train for safety

WORKERS' COMPENSATION: YOUR RIGHTS

- Workers' compensation is a no-fault insurance system
- Employers must provide this coverage for workers in the event of an on-the-job injury or illness
- Employees do not contribute to the cost of this insurance



WORKERS' COMPENSATION: YOUR RIGHTS

- If you're injured or made sick at work, you're entitled to workers' compensation – no matter how the injury or illness occurred – it is your legal right
- Immigration status is not a factor
- Language assistance services available



THE WORKERS' COMPENSATION BOARD

- Administers and oversees the workers' compensation system
- Approximately 1,000 employees
- Nearly two dozen offices and hearing points statewide
- Receives reports of injuries and payments
- Holds hearings when appropriate to adjudicate claims

WHO PAYS YOUR WORKERS' COMP CLAIM?

- The insurer pays the claim
- In New York, workers' compensation claims are insured by
 - Insurance carriers regulated by the State of New York, and
 - Self-insured employers (governments and large corporations)



WHO NEEDS INSURANCE?

- Employers with employees need insurance

Who may be considered an employee?

- Anyone providing services to a for-profit business may be considered an employee of that business
- Anyone compensated, other than clergy or teachers, providing services to a nonprofit organization
- Penalties to employers can result for noncompliance

WORKERS' COMPENSATION: IF THERE'S AN INJURY

- Get necessary medical treatment promptly
- Tell your employer in writing, as soon as possible, but no later than 30 days, of the incident
- File an *Employee Claim (Form C-3)* with the Workers' Compensation Board as soon as possible, either online or on paper
- Continue receiving necessary treatment
- Work-related COVID-19 is a payable claim



WORKERS' COMPENSATION: YOUR MEDICAL BENEFITS

- No cost to you for medically necessary treatment of your work-related injury or illness – lifetime benefit
- All medical expenses covered – including tests, hospital visits, medicines, physical therapy, equipment, and home care attendants
- Transportation costs for travel to doctors are reimbursable on *Form C-257*



WORKERS' COMPENSATION: LOST WAGES

■ Lost wages

- Two-thirds the average weekly wage; all compensation counts
- New maximum benefit as of July 1, 2024: \$1,171.46
- Current minimum \$275 per week
- ✓ Jan. 1, 2025: \$325 per week
- ✓ July 1, 2026: 1/5th NYS average weekly wage
- ✓ *In all instances, if the worker earned less, full wages*



WORKERS' COMPENSATION: YOUR CASH BENEFITS

■ Lost wages

- Temporary benefits if you lose wages
- Permanent benefits if you can never work again
- Payments for loss of use of a limb



BEST PRACTICE: INDEMNITY PAYMENTS

- Keep records if paid in cash
- Consider direct deposit!
- Report the address where the incident occurred



WORKERS' COMPENSATION: DEATH BENEFITS

■ Funeral expenses

- Up to \$12,500 reimbursed in NYC, Long Island, Westchester and Rockland counties
- Up to \$10,500 reimbursed in the other NYS counties

■ Weekly payments to surviving family – spouse, children up to age maximums, disabled or blind dependents

■ If no survivors, \$50,000 is paid to parents

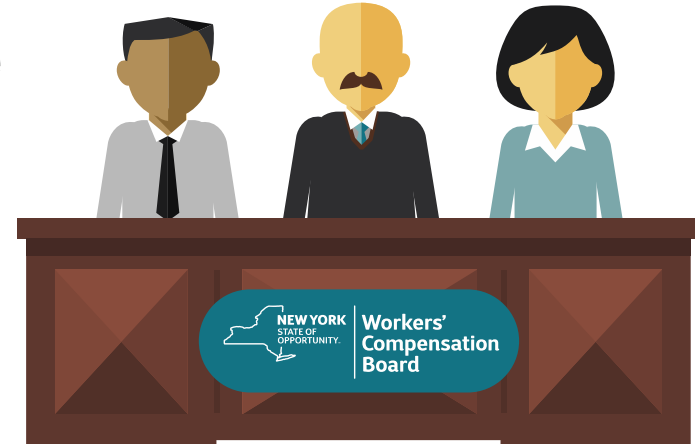
■ If no family, \$50,000 is paid to the estate

■ *Kids Chance* is a nonprofit that provides scholarships - kcnewyork.org



WHAT TO EXPECT IF THERE'S A HEARING

- You and your representative (if you have one) will attend - you may be asked questions
- The insurer or claim administrator will send an attorney
- Witnesses may be called and depositions presented before an administrative law judge
- The Board does not use the formal rules of evidence and procedure that courts use
- Virtual hearings are currently in place



SHORT-TERM DISABILITY BENEFITS

- For injuries and accidents that do not occur at work, including pregnancy/post-childbirth
- Benefit is \$170 per week, maximum 26 weeks
- To be eligible, you need to be employed for 4 weeks
- Medical care is not included
- Employer may have you contribute up to 60 cents per week to help pay for the cost of coverage



NYS PAID FAMILY LEAVE



Paid Family Leave is insurance fully funded by employees
It provides job-protected, paid time off for employees to:



Bond with a new child



Care for a family member
with a serious health condition



Assist loved ones when a family
member is deployed abroad



Your rights and protections

Paid time off and:

- Job protection
- Continued health insurance while on leave, on the same terms as if you had continued to work
- Protection from discrimination and retaliation for requesting or taking Paid Family Leave



NYS PAID FAMILY LEAVE BENEFITS

Eligible employees may take up to 12 weeks of PFL at 67% of their average weekly wage (AWW), up to 67% of the New York State Average Weekly Wage (NYSAWW)

BENEFITS FOR 2024		
12 weeks	67% of employee's AWW, up to 67% of NYSAWW	Maximum weekly benefit \$1,151.16

WHO IS COVERED?



- Most employees who work for private employers
- If you work for a public employer, your employer may opt in
- If you're a public employee represented by a union, you may be covered if Paid Family Leave is collectively bargained



WHO IS ELIGIBLE?



Employees who work for covered employers are eligible if they **are**:

- **Full-time employees** (including domestic workers) regularly working 20 or more hours per week
 - 26 consecutive weeks of employment with the same employer
- **Part-time employees** regularly working less than 20 hours per week
 - 175 days with the same employer

Citizenship and/or immigration status is not a factor in eligibility



MORE INFORMATION AND ASSISTANCE

- Paid Family Leave: [PaidFamilyLeave.ny.gov](https://www.PaidFamilyLeave.ny.gov) or PFL Helpline: 844-337-6303
- Workers' compensation and disability benefits: [wcb.ny.gov](https://www.wcb.ny.gov) or 877-632-4996
- Advocate for Injured Workers: 877-632-4996 or email: advinjwkr@wcb.ny.gov

FOLLOW THE BOARD



@NYSWorkersComp



@NYSWCB



@NYSWorkersCompBoard



youtube.com/@nyswcb



wcb.ny.gov (“Get WCB Notifications”)

A photograph of two people in an office environment. In the foreground, a man with a beard and short hair is smiling at the camera while working on a laptop. He is wearing a light-colored sweater over a collared shirt. In the background, a woman is seated at a desk, focused on her work. The office has large windows with a grid pattern, and there are plants and papers on the desks. The entire image has a light blue overlay.

NYS DEPARTMENT OF LABOR

WE ARE YOUR DOL



Department
of Labor

Division of Labor Standards

New York State Minimum Wage:

All Industries (Hospitality, Miscellaneous, Farm, Building Service, Non-Profit)

- Fast Food
- Home Care Aides
- Wage Parity for Home Care Aides
- Covered Airport Workers

<https://dol.ny.gov/minimum-wage-0>

Fact sheets, Wage Orders, Posters, FAQ's, look up tool, webinars

New York State Unpaid Wages:

Earned wages (Regular wages or Minimum Wage, which includes overtime due for overtime hours worked).

Illegal deductions or separate transactions

Appropriating tips

Fringe benefits/Wage Supplements (Vacation or holiday pay.)

Paid sick leave.

If an employee is owed wages they can file a claim by down loading the claim form at our site:
<https://dol.ny.gov/unpaidwithheld-wages-and-wage-supplements>

File a Claim

Labor Standards Complaint form (LS 223)

English, Arabic, Bengali, Chinese, French, Haitian-Creole, Italian, Korean, Polish, Russian, Spanish, Urdu, Yiddish

New York State Child Labor:

State vs. Federal

Work hours limitations (<https://dol.ny.gov/hours-work-minors>)

Jobs/duties restrictions (<https://dol.ny.gov/state-prohibited-occupations-minors>)

Number of work days limitation

Working papers are needed by all minors (<https://dol.ny.gov/working-papers>)

The Employer must post a schedule of work hours for minors under 18 years old in the establishment.

An Employment Certificate (Working Paper) is required for all employed minors under 18 years old.

Penalties for Child Labor Laws violations:

- First violation: maximum \$1,000*
- Second violation: maximum \$2,000*
- Third or more violations: maximum \$3,000*

*If a minor is seriously injured or dies while illegally employed, the penalty is three times the maximum penalty.

Also, Section 14A of the Workers' Compensation Law provides double compensation and death benefits for minors illegally employed.

New York State Child Labor:

<https://dol.ny.gov/employment-minors>

If Child Labor laws are not being followed a complaint can be filed on our site in English or Spanish.

Child Labor Complaint Form

Language: English

* Indicates required fields

MINOR DETAILS

If this is involving a prohibited occupation or unsafe working environment for a minor, please check here.

IS THE MINOR UNDER 18? * YES NO

APPROXIMATE AGE OF MINOR *

DOB (IF KNOWN)

IS THE MINOR UNDER 18 THE CHILD OF THE BUSINESS OWNER? *

YES NO UNKNOWN

Next 

New York State Anti-Retaliation Protections: Labor Law Section 215

At the NYSDOL:

- We have Expert staff
- We have Special training
- We work with State, Local, and Federal agencies

Examples of Retaliation include:

- Disciplinary action (points system)
- Dismissal from employment
- Cut in work hours or pay
- Reassignment or change in schedule
- More intensive supervision or assignment
- Demotion or transfer
- Withdrawal of previously allowed privileges
- Assignment to more difficult duties
- Physical assault or threats of violence by the employer, or employer representatives
- Threats of lawsuits, contacting police or immigration

New York Paid Sick Leave:

On **April 3, 2020**, legislation was signed establishing the right to paid leave for New Yorkers. New York's paid sick leave law requires employers with five or more employees or net income of more than \$1 million to provide paid sick leave to employees and for employers with fewer than five employees and a net income of \$1 million or less to provide unpaid sick leave to employees. This new law is in addition to the New York State provisions already in effect providing emergency paid sick time due to COVID-19.

On **September 30, 2020**, covered employees in New York State began to accrue leave at a rate of one hour for every 30 hours worked.

Please see our site for further details: <https://www.ny.gov/programs/new-york-paid-sick-leave>

Home Health Care Aides and Wage Parity:

Section 3614-c of the New York State Public Health Law, or the Home Care Worker Wage Parity Law mandates that home care aides who perform Medicaid-reimbursed work within New York City and the counties of Nassau, Suffolk and Westchester may be paid both a base wage and a supplemental benefit to satisfy a minimum rate of total compensation.

The required benefit portion of total compensation for home care aides is currently at a set value of \$3.22 per hour in Nassau, Suffolk and Westchester counties, and \$4.09 in New York City. The base wage is the current State Minimum Wage for the applicable region.

The wage parity requirement can be satisfied entirely through a payment of wages or through a combination of both wages and supplemental benefits. For more information about Total Compensation and Overtime obligations, please visit the NYS Department of Health website (https://www.health.ny.gov/health_care/medicaid/redesign/mrt_61.htm).

New York State Wage and Hour Laws:

Additional areas of coverage:

LABOR LAWS			
Wages and Hours FAQs	Day of Rest and Meal Periods	Salary History / Pay Equity	Frequency of Pay
Notice of Pay Rate	Notices to Employees	Mandatory Overtime for Nurses	Breast Milk Expression in the Workplace
Farm Laborers	Illegal Deductions	Employment Agencies	Industrial Homework
Pay Transparency			

Notices to Employees:

Employers are required to provide the following notices to employees:

Wage Statements (pay stub) with each payment of wages

Pay Notice - notice of pay rates and payday (<https://dol.ny.gov/notice-pay-rate>)

Notification of Fringe Benefits and Hours

Termination Notice - written notice to employee within 5 business days of termination

<https://dol.ny.gov/notices-employees>

Salary History/Pay Equity:

Salary History:

- Took effect on January 6, 2020.
- New York employers cannot ask job applicants to provide their wage or salary history as a condition of employment.
- Current employees do not have to provide their salary history from any outside employers.
- Prevents businesses from seeking similar information from other sources.

Pay Equity:

- Took effect on October 08, 2019
- Expands the definition of "equal pay for equal work."
- Prohibits unequal pay on the basis of a protected class for all substantially similar work.

<https://dol.ny.gov/salary-historypay-equity>

Breast Milk Expression in the Workplace:

Beginning June 19, 2024, Labor Law Section 206-c provides all employees with the right to paid break time to express breast milk in the workplace regardless of the size of their employer or the industry they work in.

Employers must provide thirty (30) minutes of paid break time for their employees to express breast milk when the employee has a reasonable need to express breast milk.

In addition to providing the necessary time during the workday, employers must provide a private room or alternative location for the purpose of breast milk expression. The space provided for breast milk expression cannot be a restroom or toilet stall.

For further details: <https://dol.ny.gov/expressing-breast-milk-workplace>

Breast Milk Expression in the Workplace:

Complaint form:

Expression of Breast Milk in the Workplace Complaint Form

Language: English Spanish

* Indicates required field

Do you need to express breast milk at your place of work? *

Yes No

Has it been more than three years following the child's birth? *

Yes No

CLAIMANT INFORMATION

First Name: *

Last Name: *

Your mailing address

Address Line 1:

Address Line 2:

City/Town:

County:

State:

Pay Transparency:

As of September 17, 2023, New York State businesses with four or more employees are required to list compensation ranges for designated job opportunities, promotions, and transfers.

Ranges consist of the minimum and maximum annual salary or hourly compensation believed to be accurate at the time of posting. Posting must include whether the position is commission based.

Prohibits employers from retaliating against employees who discuss their compensation with coworkers.

File a Complaint:

Any current, prospective, or potential employee or applicant who claims to have experienced a violation of this law can file a complaint with New York State Department of Labor. An organization acting on behalf of a current, prospective, or potential employee, or the recognized collective bargaining agent may also file a complaint.

For further details: <https://dol.ny.gov/pay-transparency>

ADULT USE CANNABIS AND THE WORKPLACE - New York Labor Law 201-D

Effective March 31, 2021

DISCRIMINATION PROHIBITED - The MRTA amended Section 201-D of the New York Labor Law clarifies that cannabis used in accordance with New York State law is a legal consumable product. As such, employers are prohibited from discriminating against employees based on the employee's use of cannabis outside of the workplace, outside of work hours, and without use of the employer's equipment or property.

We have FAQ's addressed via form P420

(<https://dol.ny.gov/system/files/documents/2021/10/p420-cannabisfaq-10-08-21.pdf>)

Contact Us:

Office locations/email: <https://dol.ny.gov/location/contact-division-labor-standards>

Labor Standards Complaint form in English:

<https://dol.ny.gov/system/files/documents/2024/05/ls223.pdf>

Complainant Representative Letter: LS 11:

<https://dol.ny.gov/system/files/documents/2023/03/ls11.pdf>

Contact us by email:

labor.sm.ls.ask@labor.ny.gov

Telephone: 1-888-469-7365

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