

WE ARE YOUR DOL



Department
of Labor

FOSTERING ACCESS, RIGHTS, AND EQUITY (FARE) GRANT

WHAT IS THE FARE GRANT?

The New York State Department of Labor (NYS DOL) received a grant from the U.S. Department of Labor's Women's Bureau to conduct outreach and presentations to women focused on employment rights and benefits. We aim to reach marginalized and underrepresented women outside of New York City, especially in rural areas, through in-person and virtual presentations and events. Our goal is to spread education and knowledge to empower women across the state, in turn, helping women to become a focal point for rights and benefits in their own communities.

HOW DO I REQUEST A PRESENTATION?

Contact the NYSDOL by email at info.nysdol@labor.ny.gov or call **888-4-NYS DOL (888-469-7365)**.

TOPICS OF FOCUS

MINIMUM WAGE

All New York State (NYS) workers are entitled to receive at least an hourly minimum wage rate.

LOCATION	MINIMUM WAGE <i>as of 1/1/2024</i>	
New York City, Long Island and Westchester County	\$16.00/hour	\$18.55/hour Home Care Aides
Remainder of New York State	\$15.00/hour	\$17.55/hour Home Care Aides

MINIMUM WAGE FOR TIPPED WORKERS

NYS law allows employers in most industries to satisfy the minimum wage by combining a wage paid by the employer with tips the employee receives from customers. Only hospitality industry employers are allowed to take tip credits from minimum wage. Tips-only jobs are prohibited.

LOCATION	SERVICE EMPLOYEES <i>as of 1/1/2024</i>	FOOD SERVICE WORKERS <i>as of 1/1/2024</i>
New York City, Long Island and Westchester County	\$13.35 Wage \$2.65 Tip Credit	\$10.65 Wage \$5.35 Tip Credit
Remainder of New York State	\$12.50 Wage \$2.50 Tip Credit	\$10.00 Wage \$5.00 Tip Credit

Most workers must receive overtime pay after working 40 hours in a work week. Overtime pay is 1½ times your regular pay. For tipped workers, employers must pay overtime hours worked at 1½ the minimum wage rate, less the applicable tip credit. Agricultural workers currently earn overtime after working 56 hours in a work week and for any hours worked on their designated day of rest.

MISCLASSIFICATION: EMPLOYEE OR INDEPENDENT CONTRACTOR?

To determine whether a worker should be classified as an employee or an independent contractor, the nature of the employer-employee relationship must be considered. Independent contractors are in business for themselves and offer their services to the general public.

An independent contractor performs their work free from:

- Supervision
- Direction
- Control

Conversely, an employer-employee relationship may exist if the employer:

- Chooses when, where, and how the worker performs services
- Provides facilities, equipment, tools, and supplies
- Directly supervises the work
- Sets the work hours and rate of pay, etc.

Learn more here: dol.ny.gov/independent-contractors

When an employer purposefully misclassifies an employee as an independent contractor, it is fraud. Some employers use this tactic to avoid compliance with Unemployment Insurance, Workers' Compensation, Social Security, tax withholding, and minimum wage. Report fraud to NYS DOL online at dol.ny.gov/report-fraud or call the 24-hour fraud hotline: **866-435-1499**.

KNOW YOUR RIGHTS AS A WOMAN WORKER IN NYS

PAY TRANSPARENCY LAW

Effective September 17, 2023, NYS employers with four (4) or more employees must include a pay rate or pay range in their job postings for all jobs to be performed, at least in part, in the state of New York. The job posting must advertise the pay rate or pay range the employer believes, in good faith, to be true at the time of posting and should give the prospective applicant a legitimate idea of the expected pay.

SALARY HISTORY BAN LAW

As of January 6, 2020, NYS employers can no longer ask job applicants for their salary and benefit history, and this information cannot be used as a factor in determining whether to interview or offer employment to an applicant. Pay expectations can be discussed, and individuals may choose to reveal their salary history for purposes of negotiation.

PAY NOTICES

When you are hired, your employer must give you a pay notice which contains certain important information, such as:

- How much and how often you will be paid
- The regular payday, and
- Any deductions from your pay

PAY EQUITY

It is illegal for an employer to pay a woman less than a man for doing the same job solely on the basis of gender. Pay differences can be based on seniority, merit, or a bona fide factor other than gender, such as education or experience.

PAYSTUBS AND DEDUCTIONS

You must be paid for all hours worked. You can be paid by cash or check, but you must be given a detailed paystub each time you are paid.

An employer cannot charge you for breakage, spoilage, damage, uniform costs and maintenance, employer business costs, or cash shortages.

LANGUAGE ACCESS

NYS agencies that provide direct public services are required to offer free interpretation and translation services to members of the public for vital forms and instructions. Interpretation services are provided in more than 200 languages, including sign language. At the NYS DOL, written vital documents are translated in the state's top 16 languages.

EXPRESSING BREAST MILK IN THE WORKPLACE

For up to three (3) years following childbirth, nursing mothers have the right to take reasonable unpaid break time or to use paid break time or mealtime each day, to express breast milk at work. All NYS employers are required to provide a private pumping space close to the employee's work area which includes a seat, table or other flat surface, lighting, an electrical outlet (if the workplace is supplied with electricity), and nearby access to clean, running water. The space provided cannot be a bathroom.

SEXUAL HARASSMENT IN THE WORKPLACE

All employers in NYS are responsible for providing a workplace free from sexual harassment. By law, employers must have a sexual harassment prevention policy in place and provide a copy to all employees as well as annual training.

NYS PAID SICK AND SAFE LEAVE

Private sector workers in NYS are covered under the Paid Sick and Safe Leave law. At a minimum, employees accrue one (1) hour of sick and safe leave for every 30 hours worked. Whether the leave is paid or unpaid depends on the size of the employer.

UNEMPLOYMENT INSURANCE

If you worked in NYS and lose your job through no fault of your own, you may be eligible for Unemployment Insurance. You must have enough earnings to establish a claim; be ready, willing, and able to work; actively searching for work; and documenting your work search efforts. Apply online at dol.ny.gov or call **888-209-8124**.

HOW DO I FILE A COMPLAINT?

The Division of Labor Standards helps to resolve violations of NYS labor law. It is illegal for an employer to discharge, penalize, or in any manner discriminate or retaliate against an employee for making a complaint about a possible labor law violation or exercising any rights protected under NYS labor law.

Submit form **LS223** to file a complaint. Contact Labor Standards for more information: **888-52-LABOR (888-525-2267)** or LSAsk@labor.ny.gov.

For more information, please visit dol.ny.gov/fostering-access-rights-and-equity-fare-grant