

# 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](mailto: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 12/31/2022</i> |                                 |
|---|--------------------------------------|---------------------------------|
| New York City, Long Island and Westchester County | \$15.00/hour                         | \$17.00/hour<br>Home Care Aides |
| Remainder of New York State                       | \$14.20/hour                         | \$16.20/hour<br>Home Care Aides |
| Fast Food - Statewide                             | \$15.00/hour                         |                                 |

#### 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                 | FOOD SERVICE WORKERS              |
|---|-----------------------------------|-----------------------------------|
| New York City, Long Island and Westchester County | \$12.50 Wage<br>\$2.50 Tip Credit | \$10.00 Wage<br>\$5.00 Tip Credit |
| Remainder of New York State                       | \$11.85 Wage<br>\$2.35 Tip Credit | \$9.45 Wage<br>\$4.75 Tip Credit  |

### OVERTIME

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 60 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](https://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](https://dol.ny.gov/report-fraud) or call the 24-hour fraud hotline: **866-435-1499**.

## KNOW YOUR RIGHTS AS A WOMAN WORKER IN NYS

### SALARY HISTORY BAN LAW

As of January 6, 2020, an employer can ask a job applicant for their salary expectations, but can no longer ask for or use an applicant's salary and benefit history in determining whether or not to interview or offer employment.

### 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

State 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 12 languages.

### SEXUAL HARASSMENT IN THE WORKPLACE

All employers in NYS are required to provide a workplace free from sexual harassment. Employers must have a sexual harassment prevention policy in place, provide annual training to workers, and provide a written sexual harassment prevention policy to all employees.

### 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. New legislation takes effect in June 2023 which expands accommodations for nursing mothers in NYS workplaces and requires all employers to provide convenient, private pumping spaces in the workplace that include seating, running water, and electricity. The new law also requires employers to develop and implement a written policy regarding employee rights on expressing breast milk in the workplace.

### 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/](https://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](mailto:LSAsk@labor.ny.gov).

For more information, please visit [dol.ny.gov/fostering-access-rights-and-equity-fare-grant](https://dol.ny.gov/fostering-access-rights-and-equity-fare-grant)