

Domestic or Household Employees: Statement of Employee Rights and Employer Responsibilities

This handout describes some of the basic rights of nannies, house cleaners, and other household employees employed directly by an individual household only and some responsibilities that their employers must fulfill under New York City, New York State, and federal law. Please note that this document does not list every employee right or employer responsibility.

No Retaliation

All employees have rights, regardless of immigration status. Employers can't punish, penalize, retaliate, or take any action against employees that might stop or deter them from exercising their rights under City, state, and federal law.

Wages and Benefits

Employers must notify employees at the time of hiring of the employee's rate of pay and regular payday. Employers must also notify employees in writing of the employer's policy on:

- safe and sick leave;
- vacation;
- personal leave;
- holidays; and
- hours of work.

All employees are entitled to be paid at least the minimum wage. Information about the minimum wage is available at dol.ny.gov.

Overtime

Employees who work overtime are entitled to be paid at one and one-half times the employee's regular rate of pay.

- An employee who *does not live in the employer's home* is entitled to this overtime rate after working 40 hours per week.
- An employee who *lives in the employer's home* is entitled to this overtime rate after working 44 hours per week.

Split Shift and Spread of Hours

For a split shift, or when a workday exceeds 10 hours, an employee is entitled to an additional hour of pay at the minimum hourly wage rate.

24-Hour Shifts

Employees who work a 24-hour shift are entitled to be paid for 13 hours, so long as they are provided with an eight-hour sleep break (of which five hours must be uninterrupted) and three hours of meal breaks. If employees don't receive these breaks, they are entitled to pay for all 24 hours of the shift.

Timely Payment

Employees must be paid all wages on a weekly basis, and within seven calendar days of the concluding workweek. Employers must also provide a statement that shows:

- employee's gross wages;
- deductions;
- net wages; and
- safe and sick leave accrued and used.

Time Off

Employees are entitled to at least one day of rest (24 consecutive hours) every week and at least three days of paid rest after one year of work for the same employer. Employees who choose to work on their weekly day of rest must be paid at the overtime rate of one and one-half times the employee's regular rate of pay. Employees who work a six-hour shift are entitled to an unpaid meal break of at least 30 minutes.

Paid Safe and Sick Leave

Employers of domestic workers must give employees paid safe and sick leave. Depending on employer size, employees can earn up to 40 hours of leave each year (1-99 employees) or up to 56 hours of leave each year (100 or more employees). For more information, visit nyc.gov/workers.

Termination Notice

No more than five working days after the date of termination from employment, an employer must notify an employee in writing of the date of termination and the date of cancellation of employee benefits.

Record Keeping

Employers must maintain accurate records for three years that show, among other requirements:

- hours worked;
- rate of pay;
- deductions taken from wages;
- name, address, and date of birth of every employee; and
- date and time of each instance of safe and sick leave used by an employee and the amount paid for each instance.

Tax Obligations

An employer must withhold and pay Social Security and Medicare taxes for any employee earning more than a specific dollar amount set by the Internal Revenue Service (IRS). For more information, visit irs.gov and search "Topic No. 756, *Employment Taxes for Household Employees*."

Workers' Compensation

Employers must buy workers' compensation coverage for employees who work more than 40 hours per week. Employers can't deduct the cost of workers' compensation premiums from the employee's salary. For more information, visit wcb.ny.gov.

Disability and Paid Family Leave

Disability and Paid Family Leave benefits coverage is required if the domestic worker is employed 20 or more hours per week by the same employer and the domestic worker works 30 or more days in a calendar year for that employer. For more information, visit wcb.ny.gov.

Unemployment Insurance

Employees who earn more than \$500 in a quarter of a calendar year are covered by unemployment insurance if they lose their jobs. Employers must make quarterly unemployment insurance payments following a formula set by the New York State Department of Taxation and Finance. Employers can't deduct the cost of these payments from the employee's salary. For more information, visit dol.ny.gov.