

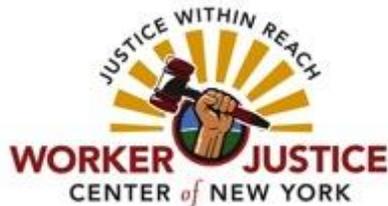
WHAT DOES IT MEAN TO HAVE A LAWYER?

Any conversation that you have with our office is private and protected by the law. Our clients make their own decisions about legal action and their case every step of the way. You have the right to withdraw a lawsuit at any moment if you change your mind. Our services are free.

If you think you have been a victim of wage theft or other abuses in the workplace, call our office at 1-800-724-7020.

Contact the Worker Justice Center to receive a free and confidential consultation about your rights to:

- Protection from job discrimination
- Safety from domestic violence and human trafficking
- A healthy and safe workplace
- Organize your workplace

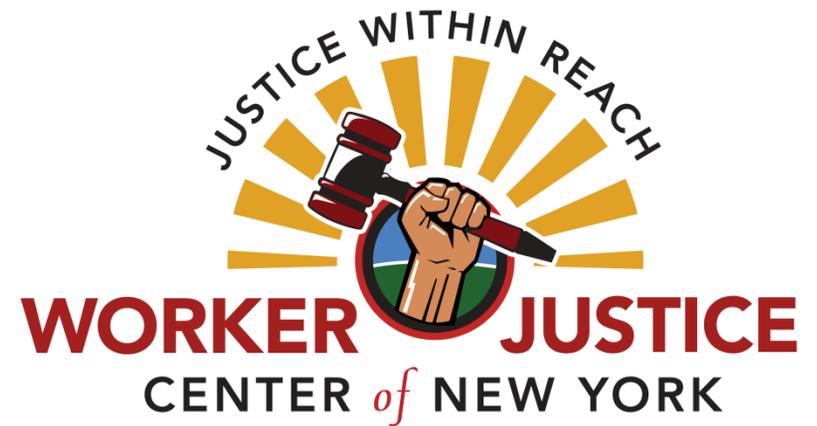


1187 Culver Rd.
Rochester, NY 14609
585-325-3050

245 Saw Mill Rd. Suite 106
Hawthorne, NY 10532

www.wjcny.org
1-800-724-7020

9 Main St.
Kingston, NY 12401
845-331-6615



GUIDE TO WORKERS' RIGHTS IN NEW YORK

CALL US TOLL FREE: 1-800-724-7020

THIS PAMPHLET DOES NOT INCLUDE ALL OF YOUR LEGAL RIGHTS AND IT IS NOT LEGAL ADVICE. EVERY SITUATION IS DIFFERENT. FOR INFORMATION ABOUT YOUR SPECIFIC SITUATION, PLEASE CALL OUR OFFICE.

The Worker Justice Center of NY is a legal service organization that provides free legal assistance and education to farm workers and other low-wage workers in New York.

VERSION: JANUARY 2019 (2)

WHAT ARE YOUR RIGHTS AS A WORKER IN NEW YORK STATE?

This brochure includes information about:

- Minimum Wage
- Overtime Pay
- Organizing your Workplace
- Workers' Compensation
 - Discrimination
 - Workplace Safety
 - Sexual Harassment
 - Sexual Assault
 - Domestic Violence
 - Human Trafficking
- Interactions with Law Enforcement

[You don't need to have papers to have rights!](#)

YOUR PAY IN WESTCHESTER

- ❶ As of January 2019, *most workers* must be paid at least \$12.00 per hour for every hour worked in a week. Beginning in 2017, there are different minimum wages for workers in New York City, Westchester County and Long Island. Go to <https://labor.ny.gov/minimum-wage-lookup/> to determine the minimum wage that applies to you.
- ❷ *In Westchester*, if you work in the service industry and receive tips, you are entitled to a base minimum wage of at least \$8.00/hour, but at the end of the week, your base hourly wage plus your tips must still equal **at least \$12.00 per hour**.



POLICE & IMMIGRATION

In most cases, the police or immigration officials CAN question you. Keep in mind, however:

- ❶ You are only required to tell the police your name, but you do not have to answer additional questions.
- ❷ You have the right to consult with an attorney before answering questions and to have an attorney present when answering questions.
- ❸ If you decide to answer questions, you can change your mind and stop answering them at any time.
- ❹ If you decide to answer questions or make any statements, the information you provide should be accurate and truthful.

The police CAN detain you or stop your car if:

- You violate a traffic law
- You are driving while intoxicated
- They have a specific tip about you
- You run away from them
- You tell them that you do not have your immigration papers.

The police CANNOT detain you or stop your car only because:

- You do not speak English
- You are driving a car with out-of-state license plates
- You are dressed in work clothes
- Of your ethnic appearance
- Of your skin color.

HUMAN TRAFFICKING

You should not be prevented from leaving your job through force, fraud, or coercion.

If you have experienced or are currently experiencing any of the following conditions you may be a victim of Human Trafficking:

- 1 You were offered one job but forced to work a different job upon arrival.
- 2 All/most of your pay goes towards paying off a debt with an employer or labor contractor.
- 3 You are not allowed to leave your workplace or your employer-provided housing.
- 4 You have been threatened with deportation or law enforcement action.
- 5 You have been coached on how to talk to enforcement officials.
- 6 You have been forced to perform sexual acts.
- 7 You are under 18 and engaged in commercial sex.
- 8 You are not free to contact friends and family.



If you believe you are a witness or victim to any of these conditions, contact the Worker Justice Center's Trafficking Team at [1-800-724-7020](tel:1-800-724-7020) or, in case of an emergency, call 911.

YOUR PAY

- 1 As of January 2019, *most workers* must be paid at least \$11.10 per hour for every hour worked in a week. Beginning in 2017, there are different minimum wages for workers in New York City, Westchester County and Long Island. Go to <https://labor.ny.gov/minimum-wage-lookup/> to determine the minimum wage that applies to you.
- 2 If you work in the service industry and receive tips, you are entitled to a base minimum wage of at least \$7.50/hour, but at the end of the week, your base hourly wage plus your tips must still equal **at least \$11.10 per hour**.
- 4 If you were promised more than the minimum wage, you must receive the pay you were promised.
- 5 If are a manual worker, you have to be paid weekly.
- 6 For every day you work 10 hours or more you must receive an extra hour of pay at the minimum wage.
- 7 When you are hired and anytime you receive a change in your pay rate, you must be notified, in writing, in your own language, of the rate of pay and pay period.



You must be given a **wage stub or a pay slip** each week when you receive your pay. It must include:

- Total hours worked
- Rate of pay
- Total pay
- Pay period
- All itemized deductions
- The employer's name, address, and telephone number



KEEP RECORDS

You should keep written records of the hours you work each week and save your wage stubs for at least 6 years. Your record of hours worked might look like this:

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Date							
Start							
Lunch							
Finish							
Totals							

OVERTIME

- If you work more than 40 hours/week you must receive a rate of time-and-one-half for every hour worked over 40.
- For example if your pay rate is \$11.10 per hour, you must be paid \$16.65 per hour for each hour of overtime (ex: $\$11.10 \times 1.5 = \16.65).
- There are some exceptions to the payment of overtime wages in agriculture and a variety of other industries.

If you work more than 40 hours per week for your employer, you must receive an overtime rate of time-and-one-half.

DOMESTIC VIOLENCE

You have the right not to be abused in this country. If your husband, mate, or partner is physically, verbally, mentally, psychologically, and/or sexually abusing you, you have the right to be protected from the abuse and the abuser.

In an emergency, you have the right to call 911 for police assistance. The following organizations also have advocates who can help you connect with local resources in your community:

- The National Domestic Violence 24-Hour Hotline: 1-800-799-7233
- NY 24-Hour Domestic & Sexual Violence Hotline: 1-800-942-6906
- WJCN Domestic Violence Project (non-emergencies):
1-800-724-7020



SEXUAL ASSAULT/RAPE

Sexual assault, rape, and sexual abuse are NOT YOUR FAULT! Sexual assault, rape and sexual abuse can be verbal, visual, or anything that forces a person into unwanted sexual contact or attention.

Sexual assault, rape, and sexual abuse are crimes, no matter if you are documented or not. Your husband, mate, or partner does not have the right to force you to do anything against your will, just because you are married to him.

If you are sexually assaulted, raped, or sexually abused, go to the hospital emergency room or your family physician immediately. Do not shower, bathe, douche, wash your hands, brush your teeth, or use the toilet. Don't change or destroy clothing. These are very important steps to take, in case you choose to contact the police and press charges against your abuser.



SEXUAL HARASSMENT

You have a right to work in an environment free of sexual harassment. Sexual harassment is any unwanted sexual conduct, which includes: sexually suggestive comments; telephone calls or text messages that are sexual in nature; persistent or unwanted sexual attention; leering, whistling, or other sexually suggestive or insulting sounds or gestures; displayed pictures, calendars, cartoons, or other material with sexual content; and/or coerced sexual activity.

If you are a victim of sexual harassment, contact the Worker Justice Center of New York at 1-800-724-7020 for assistance and information about your rights as a victim of sexual harassment.

LIMITED ENGLISH PROFICIENCY (LEP)

Do you have difficulties understanding, writing, reading, or speaking English? Title VI of the Civil Rights Act gives people with LEP special rights. Under this law, agencies receiving federal funding must:

- ❶ Provide a free interpreter
- ❷ Translate all important documents into your language
- ❸ Let you know that they have these services available, with signs or pamphlets that say that they offer “Language Access” in their offices.

If an agency refuses to give you interpretation services:

- ❶ Tell them about Title VI.
- ❷ If the employee does not listen, ask to speak to a supervisor.
- ❸ If the supervisor does not listen, call the **Title VI Hotline** at **1-888-848-5306** and tell them about your situation.

WORKER’S COMPENSATION

If you are injured while working you have a right to receive Worker’s Compensation benefits, regardless of your immigration status. These benefits pay for your medical care and may cover a portion of wages lost due to your injury.



To claim these benefits, you must:

- ❶ Get prompt medical care. If it is an emergency, call 911.
- ❷ As soon as possible, tell your boss or the crew leader that you have been hurt and how and where it happened.
- ❸ Tell the clinic and doctor that you were injured on the job and that you will be filing a Worker’s Compensation claim.
- ❹ File a claim form (C-3) with the Workers’ Compensation Board of New York State as soon as possible, but no later than 2 years after the injury. The doctor can help with this.
- ❺ Ask for a copy of the medical report and maintain detailed written documentation of your injury, including the date, time, and location.
- ❻ If you have problem claiming workers’ compensation contact us or an attorney specializing in workers’ compensation immediately.

Make sure you tell your doctor you were injured on the job. The doctor will help you with the Worker’s Comp forms.

ORGANIZING YOUR WORKPLACE

You have the right to organize with other workers and join a union without the danger of retaliation (there are some exceptions in agricultural industries).

The law says your employer cannot punish or discriminate against any worker because of union activity. The employer cannot fire, lay off, discipline, transfer or reassign employees because of their union support, nor even threaten to do any of those things. The employer cannot favor employees who don't support the union over those who do in promotions, job assignments, wages, and other working conditions.

Your employer cannot retaliate against you for being part of a labor union.

DISCRIMINATION

You have the right to work without being discriminated against.

Your employer cannot treat you differently based on race, color, ethnicity, gender, sexual orientation, disability, pregnancy, creed, marital status, national origin, or age.

Discriminatory behavior can be refusing to hire you, refusing to promote you, firing you, paying you differently, providing lesser or different working conditions or benefits to you, treating you differently in terms of job assignments, harassment, training or layoffs, or treating you differently than other employees in any other way.

Discrimination laws protect all workers, regardless of their citizenship or work eligibility.

WORKPLACE SAFETY

You have the right to a safe and secure workplace.

You have the right to work in an environment free of hazards that can cause injuries.

You shall not get sprayed with, or be exposed, to pesticides or other hazardous chemicals.



- ❶ You should have access to:
 - Cool, clean drinking water with individual cups or from water fountains
 - Hand-washing facilities with water, soap, and hand towels
 - Sanitary toilet facilities located near the work site.
- ❷ If you work with **dangerous equipment**, you have a right to be trained on how to safely use it.
- ❸ You have a right to make an anonymous complaint if you feel your workplace is unsafe. It is illegal for you to be fired for making a complaint. Call the Worker Justice Center for help with a complaint.

Employers must provide safety equipment for dangerous jobs.