

FAQs for Domestic Workers and Their Employers

As of March 12, 2022, the New York City Human Rights Law's employment protections will apply to all domestic workers, including nannies, home care workers, housecleaners, and any other worker who is employed in a home providing childcare, eldercare, companionship, or housekeeping services in New York City. Most fulltime and parttime workers are covered.¹

Hiring and References

1. Can an employer run a background check before hiring a domestic worker?

Employers can run a limited background check covering information such as employment references, educational history, and criminal convictions. However, employers are prohibited from checking or asking about salary history or credit history during the hiring process. Employers also cannot ask about or consider an applicant's prior arrests, youthful offender adjudications, or sealed convictions.

2. A parent wants to hire a nanny who shares their national origin so their children can learn their language and culture. Can a job advertisement seek a nanny of a specific national origin?

No. Employers cannot use language in advertisements that limits employment to domestic workers of a particular national origin, race, gender, religion, or other protected class. Instead, employers are encouraged to use language that focuses on the job skills they are seeking, rather than the identity of the worker. For example, employers can include language seeking specific language skills, ability to cook particular cuisines, or ability to teach religious practices.

3. Is it illegal for an employer to give a domestic worker a bad reference?

It depends. An employer is allowed to give an honest reference for a domestic worker, whether good or bad. However, it is illegal retaliation under the NYCHRL for an employer to give a bad reference, or no reference, for a domestic worker because the worker objected to discrimination or harassment, requested a reasonable accommodation,² or filed or otherwise participated in a claim under the NYCHRL.

Treatment in the Workplace and Firing

4. I work as a home health aide, and I just found out that I am pregnant. Do I have to tell my employer? What rights do I have?

You do not have to tell your employer that you are pregnant or provide a medical note confirming your pregnancy. However, you may inform your employer of your pregnancy and, if you do, you will be entitled to certain workplace protections including:

- The right to continue working for as long as you are willing and able, and the right to keep your current pay, hours, and other terms of work notwithstanding your pregnancy.
- The right to engage in a cooperative dialogue with your employer to discuss your needs and how your employer may be able to accommodate you, such as through change in your job duties or schedule, time off work to attend medical appointments, additional rest or food breaks, or help with certain tasks.

¹ The law does not cover those working only occasionally. It also excludes workers who are related to the employer or to the person receiving care, and workers who provide companionship services and are simultaneously employed by an outside agency.

² A reasonable accommodation is a change to an employee's job duties or schedule to enable them to fulfill the essential functions of their position without imposing an undue hardship on their employer.

- The right to a leave of absence if necessary because of your pregnancy or to recover from childbirth, and you may be eligible for disability benefits or paid family leave through New York State during this time.
- The right to express milk when you return to work. Your employer must provide you with break time to express milk and engage with you in a cooperative dialogue to identify a suitable space for you to express milk while at work.
- The right not to be fired or otherwise retaliated against for requesting accommodations, taking a leave of absence to recover from childbirth, or opposing discrimination under the NYCHRL.

5. I work as a house cleaner, and one of my regular customers has been making inappropriate sexual comments to me. I feel uncomfortable. Is this against the law?

Yes. Sexual harassment at work is illegal under the NYCHRL. Sexual harassment includes lewd or sexual comments about your appearance, body, or clothes; pornographic or sexually explicit images, cartoons, or graffiti; unwelcome or inappropriate touching of your body; threatening to fire you or reduce your pay if you refuse a sexual advance; and making sexist or derogatory comments based on gender. Employers who sexually harass domestic workers, or who allow their family members or other people in their household to sexually harass domestic workers, are violating the NYCHRL.

Employers are also required to provide domestic workers with written notice of their rights regarding [sexual harassment](#), post a [notice](#) in their home in both English and Spanish³ regarding sexual harassment protections, and ensure that domestic workers receive annual [training](#) on the NYCHRL's protections against gender-based harassment.

6. I work as a nanny. My employer promised to pay me a particular pay rate when I was hired, but now that I am working, they are paying me less. When I asked about my missing wages, my employer said that I'm not entitled to them because I'm "illegal" and threatened to call ICE if I ask for my pay again. What should I do?

Referring to an employee with terms such as "illegal" as a way to demean or humiliate them, or threatening to call immigration authorities because of the employee's national origin or perceived immigration status are both forms of illegal harassment under the NYCHRL. Similarly, paying an employee less because of their perceived immigration status, or threatening to call immigration authorities as a way to force an employee to work in unsafe, unequal, or otherwise unlawful conditions is illegal discrimination under the NYCHRL.

7. I work as a home health aide, and my regular patient has been calling me racial slurs and mocking my accent. I reported the behavior to my agency, but the agency just told me that some patients are difficult and that they'll switch me to a new patient when one becomes available. What are my rights under the NYCHRL?

Both domestic employers and agencies that employ domestic workers have obligations under the NYCHRL. Employment agencies violate the NYCHRL if they fail to take steps to protect their workers from known illegal harassment. In this example, the agency should take immediate steps to stop the harassment and/or protect its workers from further harassment.

8. I have employed the same house cleaner for 15 years. Lately, I've noticed that he's moving more slowly and his work performance has deteriorated. I'd like to let him go and replace him with someone younger with more energy. Is that legal?

³ While the NYCHRL only requires employers to provide written notices regarding sexual harassment in English and Spanish, it is a best practice for employers to ensure that employees receive notice of these rights, whether written or verbal, in a language they understand.

It is illegal to fire a domestic worker because of stereotypes about their age, such as the assumption that older workers are slower or less dedicated to their jobs. However, it is not illegal to counsel, discipline, or fire an employee for objectively poor performance. In this situation, the employer should speak with their house cleaner to explain the problems with their cleaning work and ask if there are steps the employer can take to help. If the worker's change in performance is due to a medical condition or disability, they may need an accommodation, such as more time to perform their job tasks or new cleaning equipment. If the worker's performance does not improve, however, the employer would be justified in letting the worker go, not because of the worker's age but because of their job performance.

9. I just hired a home health aide for my mother. When she arrived for her first day of work, she was wearing a hijab. I asked her to remove the hijab before coming inside because I knew it would make my mother uncomfortable. Was my request illegal?

Yes. Employees cannot be treated differently because of characteristics or cultural practices associated with their religion, race, or national origin. This can include head coverings, hair styles, clothing or jewelry, as well as accents. Employees are also entitled to reasonable accommodations for their religious practices, including modifications of dress and grooming codes to allow them to wear head coverings consistent with their religious beliefs. Discomfort of a patient or family member generally will not be sufficient to allow an employer to deny a reasonable accommodation for an employee's religious beliefs.

Domestic workers who experience discrimination or harassment should contact the Commission by calling (212) 416-0197 or submitting an inquiry at [NYC.gov/HumanRights](https://nyc.gov/HumanRights). Our agency will never ask questions about immigration status, and workers can make an anonymous tip or file a complaint.

Employers who wish to learn more about their obligations under the NYCHRL should contact the Commission by calling (212) 416-0197 or visit [NYC.gov/HumanRights](https://nyc.gov/HumanRights) to submit a question, learn more about the NYCHRL, or sign up for a free workshop.