

HOW TO FILE A COMPLAINT

If you believe that you have been discriminated against by your employer because you are a victim of domestic violence, you can file a complaint with the New York State Division of Human Rights.

The New York State Human Rights Law covers employers with four or more employees. A complaint must be filed with the Division within one year of the alleged discriminatory act. Domestic violence victims are protected with regard to employment actions taken on or after July 7, 2009.

For more information or to file a complaint, you may contact the regional office nearest to your home or place of employment, or at our website at:

WWW.DHR.STATE.NY.US

SOME EXAMPLES:

You obtain an order of protection because you are a victim of domestic violence. You provide the order to your employer, and explain that you are afraid the perpetrator may try to harass you at the workplace. Can your employment be terminated?

You may not be terminated because your employer learns that you are a domestic violence victim. This includes having an order of protection, or the perpetrator coming to the workplace. If the perpetrator violates the order of protection, or becomes abusive at the workplace, the police should be called as with any other person who engages in misconduct in the workplace.

You request time off to go to court, to move, or to seek assistance because of domestic violence. Your employer typically allows employees to take time off for personal needs and family emergencies. When your employer learns that you need the time off because of domestic violence, the time off is denied. Do you have any remedies?

It is unlawful to treat an employee differently with regard to any term, condition or privilege of employment because the employee is a victim of domestic violence.

You need time off to receive medical or mental health services as a result of the domestic violence. What are your rights?

Your need for time off for medical or mental health services is covered by the disability and reasonable accommodation provisions of the Human Rights Law. Unless it causes an undue hardship to the employer, you must be granted reasonable time off, and you may not be terminated. Your employer may request a note from the service provider, as long as the employer requires ALL employees to provide a note in circumstances that are similar but unrelated to domestic violence.

EMPLOYMENT RIGHTS FOR VICTIMS OF DOMESTIC VIOLENCE

NEW YORK STATE DIVISION OF HUMAN RIGHTS

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The Employment Rights of Domestic Violence Victims

The New York State Human Rights Law was amended, effective July 7, 2009, to provide protection from employment discrimination for victims of domestic violence.

The Human Rights Law defines a domestic violence victim as an individual who is a victim of an act which would constitute a family offense under N.Y. Family Court Act § 812.

It is unlawful to discriminate against a domestic violence victim in hiring for a job, job advancement, requests for use of leave time, or other terms, conditions or privileges of employment.

It is also unlawful for an employer to take an action in retaliation for filing a complaint of discrimination.

PUBLIC POLICY

These employment rights further the public policy of New York State by protecting victims of domestic violence from discrimination in employment so they may have the ability to deal with the unique circumstances of their lives and achieve financial independence from their abuser.

FOR FURTHER INFORMATION

Both domestic violence victims and employers may obtain further information from the following:

New York State Office for the Prevention of Domestic Violence

(518) 457-5800
www.opdv.state.ny.us

New York State Coalition Against Domestic Violence

(800) 942-6906
www.nyscadv.org

NYS Spanish Domestic Violence Hotline

(800) 942-6908
www.vipmujeres.org

Employment Rights for Survivors of Abuse (ERSA)

A national project providing free employment-related legal services.
(212) 925-6635
www.legalmomentum.org

To find domestic violence victim services in your area, go to:
nyscadv.org/directory.htm
or call one of the 800 hotline numbers listed above.

OTHER PROTECTIONS FOR VICTIMS

Time Off for Medical Care.

Domestic violence victims who need time off from work for medical or mental health care are protected by the disability and reasonable accommodation provisions of the Human Rights Law. These rights can be enforced by the Division. Victims may also have rights under the federal Family Medical Leave Act (FMLA) and other disability laws; these laws are not enforced by the Division.

Other Time Off.

It is illegal for an employer to take any adverse action against an employee who is a victim of a crime for taking time off to appear in court as a witness, to consult with a district attorney, or to obtain an order of protection, pursuant to N.Y. Penal Law § 215.14. This specific right is not enforced by the Division. However, it would be discriminatory under the Human Rights Law to treat a victim of domestic violence any differently than employees who need time off for other reasons.

Unemployment Insurance.

If you need to leave a job because of domestic violence you are not necessarily barred from receiving unemployment insurance benefits. Pursuant to N.Y. Labor Law § 593, circumstances related to domestic violence may be “good cause” for voluntarily quitting a job. Also, job performance problems related to domestic violence (such as absenteeism or tardiness) will not necessarily bar benefits.