



DOMESTIC WORKERS UNDER LABOR LAW

It's time to end the legacy of exclusion.

Today's labor laws give domestic workers less protection than other workers, or no protection at all.

Historically, domestic workers were completely excluded from the protection of federal and state labor laws. Today, many of these exclusions continue. The Domestic Workers Bill of Rights would grant domestic workers equal protections under New York law and reverse a legacy of exclusion from the legal rights other workers rely on.

The following federal laws exclude domestic workers from their protections:

- ⇒ National Labor Relations Act (NLRA): Guarantees employees the right to organize. Domestic workers are excluded from the definition of “employee” and therefore unable to organize for better working conditions or form labor unions.
- ⇒ Fair Labor Standards Act (FLSA): Sets a federal minimum wage rate, maximum hours, and overtime for employees of certain occupations. “Casual” employees such as babysitters and “companions” for the sick or elderly are excluded. Live-in domestic workers cannot get overtime.
- ⇒ Occupational Safety and Health Act (OSHA): Aims to assure “every working man and woman in the Nation safe and healthful working conditions.” Yet, domestic workers are excluded “[a]s a matter of policy” by OSHA regulations.
- ⇒ Civil Rights Laws: Domestic workers are *not* protected against discrimination based on race, color, religion, sex, national origin, disability, or age.
 - Title VII: Bars employment discrimination on the basis of “race, color, religion, sex, or national origin,” but applies only to employers with 15 or more employees. Thus, virtually every domestic worker in the U.S. is de facto excluded from Title VII’s protections.
 - Americans with Disabilities Act (ADA): Protects individuals with disabilities from employment discrimination, but applies only to employers with 15 or more employees.
 - Age Discrimination in Employment Act (ADEA): Protects individuals 40 years of age or older from age-based employment discrimination, but applies only to employers with 20 or more employees.

New York State Labor Law excludes domestic workers in the following way:

- ⇒ The overtime provisions of the New York State Labor Law do not apply equally to domestic workers. While domestic workers who do not live in their employer’s home are entitled to overtime at a rate of one and a half times their regular rate after 40 hours of work in a week, live-in domestic workers are only entitled to overtime at a rate of one and a half times the *minimum* wage and then only after 44 hours of work in a week.