NYC’S FAIR WORK WEEK LAW PROTECTS FAST FOOD WORKERS
The Department of Consumer and Worker Protection (DCWP) enforces NYC’s Fair Workweek Law, which protects fast food workers. DCWP created this overview for employers and employees. It includes important new rights. Visit nyc.gov/workers for more information, including Frequently Asked Questions.

NOTE:
- Employers cannot punish, penalize, retaliate, or take any action against employees that might stop or deter them from exercising their rights under NYC law. Workers should immediately contact DCWP about retaliation. See back of booklet.
- NYC law covers workers regardless of immigration status.

About NYC’s Fair Workweek Law

In effect since November 26, 2017
Fast food employers must give workers predictable work schedules and the chance to work more hours before hiring new workers.

*NEW* Effective July 4, 2021
Fast food employers cannot fire or lay off workers or reduce their hours by more than 15% without just cause or a legitimate economic reason.

Covered Employers
Employers—including subcontractors and temporary help firms—whose workers perform certain tasks at a fast food establishment in NYC. See Covered Employees section.

A fast food establishment:
- Primarily serves food and beverages.
- Is where customers pay before eating on or off premises.
- Offers limited service.
- Is part of a chain. AND
- Is one of 30 or more establishments nationally, including as part of an integrated enterprise or as separately owned franchises.

Fast food establishments located inside other types of establishments, such as malls, are covered by NYC law.

Covered Employees
Employees who perform at least one of the following tasks at a fast food establishment in NYC:
- cleaning
- cooking
- customer service
- food or drink preparation
- off-site delivery
- routine maintenance duties
- security
- stocking supplies or equipment

Notice of Rights
Employers must post the notice described below where employees can easily see it at each NYC workplace.
- NYC FAST FOOD WORKERS’ RIGHTS

Employers must post this notice in English and in any language that is the primary language of at least 5 percent of the workers at a workplace if available on the DCWP website at nyc.gov/workers.
Overview of Employee Rights

In effect since November 26, 2017

- Regular and first work schedules in writing on or before first day of work
- 14 days’ (2 weeks’) advance notice of work schedule
- Written worker consent for any additions to a written schedule within 14 days of the start of the shift
- Premium pay for all schedule changes with less than 14 days’ notice – SEE TABLE BELOW
- Written worker consent plus $100 premium to work clopening* shifts
- Priority to laid-off or existing workers to work newly available shifts before employer hires new employees

* A clopening involves working 2 shifts over 2 days when the first shift ends a day and there are less than 11 hours between shifts.

*NEW* Effective July 4, 2021

- No firing after 30-day probation period without just cause
  - Employers must give workers retraining and an opportunity to improve.
  - If no improvement, employers can only fire workers after giving them multiple disciplinary warnings in a year.
  - Multiple warnings are not necessary for egregious (blatant) failure to perform job duties or misconduct.
- No layoffs unless the employer is closing or reorganizing due to a downturn in business
  - Layoffs must be in reverse order of seniority, with longest-serving workers laid off last.
  - Laid-off employees have first priority to work new shifts.
- Written explanation from employer for firing, reduction of hours, or layoff for just cause or economic reasons

Premium Pay Rates for Last-Minute Schedule Changes by Employer:

<table>
<thead>
<tr>
<th>Amount of notice</th>
<th>Rate for additional hours</th>
<th>Rate if no impact on hours</th>
<th>Rate for reduced hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 14 days’ notice</td>
<td>$10 per change</td>
<td>$10 per change</td>
<td>$20 per change</td>
</tr>
<tr>
<td>Less than 7 days’ notice</td>
<td>$15 per change</td>
<td>$15 per change</td>
<td>$45 per change</td>
</tr>
<tr>
<td>Less than 24 hours’ notice</td>
<td>$15 per change</td>
<td>$15 per change</td>
<td>$75 per change</td>
</tr>
</tbody>
</table>

You do not give up your right to premium pay when you agree to a schedule change.

Premium pay is not required when:

1. Employer closes due to: threats to worker safety or employer property; public utility failure; shutdown of public transportation; fire, flood, or other natural disaster; government-declared state of emergency.
2. Worker requests a change to a shift in writing.
3. Worker trades shifts with another employee.
4. Employer must pay overtime for changed shift.

Recordkeeping

Employers must retain the electronic compliance records described below for three (3) years. If an employer fails to retain or produce records, employees receive a “rebuttable presumption” in their favor when they bring their complaint in court. This means that the burden will be on employers to show they did not violate NYC law.

In effect since November 26, 2017

Employer must retain records of:

- Worker **hours each week**
- Each worker’s **shifts worked**, including date, time, and location
- Each regular **schedule** provided to workers
- Workers’ **written consent** to work clopenings and to schedule changes when required
- Each **written schedule** provided to workers
- All premium **payments** to workers, including dates and amounts

*NEW* Effective July 4, 2021

Employer must maintain records to show:

- **Just cause** for employee firing
- **Legitimate economic justification** for employee layoffs
- **Notices of Termination, Layoff, or Reduction of Hours** provided to workers
- Attempts to **rehire or offer more hours to laid-off workers**
Complaints

ísimo. DCWP will conduct an investigation and try to resolve a complaint. DCWP will keep a complainant’s identity confidential unless disclosure is required by law.

Beginning September 2, 2021, DCWP can accept complaints about wrongful discharge.

File an action in court

Note: Employees cannot have a complaint with DCWP and a claim in court at the same time.

Beginning July 4, 2021, workers who believe they were fired without just cause or laid off without a legitimate economic reason can file a complaint in state court and seek reinstatement, back pay, and other relief.

Bring an arbitration proceeding (new provisions only)

Beginning January 1, 2022, workers who believe they were fired without just cause or laid off without a legitimate economic reason can request arbitration through a program administered by DCWP.

Contact DCWP

Visit nyc.gov/workers, email OLPS@dca.nyc.gov, or contact 311 and ask for “Fair Workweek Law.”