
DOMESTIC WORKERS AND COLLECTIVE BARGAINING



A Proposal for the Immediate Inclusion of Domestic Workers in the New York State Labor Relations Act

EXECUTIVE SUMMARY

October 2010

Domestic workers are privately employed nannies, housekeepers, and elder caregivers. They make up a vulnerable workforce that has labored in the shadows, beyond the realm of government enforcement and advocacy. In August 2010, domestic workers finally gained increased recognition under New York State laws with the passage of the nation's first Domestic Workers Bill of Rights. The new law guarantees basic rights, such as paid days of rest and protection against harassment and discrimination.

While the Bill of Rights is a historic first step toward setting minimum standards in the domestic-work industry, it did not include the following important benefits: paid sick, personal, and vacation days, and advance notice of termination and severance pay. Instead, the New York State Legislature commissioned the Department of Labor to complete a study by November 1, 2010 on the feasibility of collective bargaining for these gains in the domestic worker industry.

As collective bargaining is unprecedented for privately-employed domestic workers, Domestic Workers United and the National Domestic Workers Alliance, with support from the Urban Justice Center's Community Development Project, have studied relevant models of collective bargaining and collected data about domestic workers' access to and ability to negotiate for benefits. Based on research findings from over 500 surveys and 10 interviews of domestic workers and employers, secondary data, and conversations with experts in the field of collective bargaining, we have concluded that collective bargaining is indeed feasible, and that the State Labor Relations Act should be amended to eliminate the exclusion of domestic workers.

RESEARCH FINDINGS

1. In the absence of industry standards and the right to collectively bargain, domestic workers lack access to basic rights and face harsher working conditions than employees in similar industries.

Domestic Workers Work More Hours for Lower Wages than Other Workers.

- 73% of respondents worked between 40 and 70 hours per week, yet 93% earn below the low-wage level.

Domestic Workers Lack Paid Sick and Personal Days and are Unable to Choose Their Vacation Days.

- 57% of workers surveyed do *not* receive any paid sick days, as compared to 48% of all working New Yorkers.
- 71% of workers surveyed do *not* receive any paid vacation days.
- 68% of those with vacation days must take vacation based on their employer's schedule.

Domestic Workers Lack Notice of Termination and Severance Pay.

- 49% of respondents were *not* given any advance notice if they were fired or let go.
- 70% of respondents were *not* given any severance pay if they were fired or let go.

2. Domestic workers have difficulty negotiating for benefits with employers due to the isolation, informality, and uncertainty of employment.

Domestic Workers Lack Agreements for Notice of Termination and Severance Pay.

- 73% of workers surveyed *do not* have an agreement with their employers about notice of termination.
- 84% of workers surveyed *do not* have an agreement with their employers about severance pay.

Domestic Workers Are Uncertain about Sick, Vacation, and Personal Day Agreements.

- 79% of respondents were *not sure* what would happen if they did not take a personal day that their employer gave them; 68% were *not sure* about sick days, and 56% were *not sure* about vacation days.

Domestic Workers Experience Discomfort in Negotiating for Benefits and are Isolated in the Workplace.

- 55% of workers reported being uncomfortable talking to their employer about severance pay, and 52% reported being uncomfortable talking about notice of termination.
- The average domestic worker works alone, while the average New York City workplace has 15.51 workers.

RECOMMENDATIONS

These findings suggest that collective bargaining is a necessary path to secure more robust, consistent standards for domestic workers, and that the industry's complexities demand creative structures for collective bargaining. DWU proposes a multi-pronged approach for securing fair labor standards in the domestic work industry.

Four Building Blocks for Collective Bargaining

Collective bargaining should be pursued in the context of a four-part “collective standards” approach:

Include Domestic Workers in the SLRA to Enable Collective Bargaining in this Industry.

The NYS legislature should amend the State Labor Relations Act (SLRA) before 2011 to end the exclusion of domestic workers. The SLRA's governing body, the Public Employment Relations Board (PERB), should oversee the process by which domestic workers conclude agreements and designate appropriate entities and bargaining units.

Continue Pursuing Legislative and Regulatory Reforms as Needed.

Even in sectors that have long benefited from collective bargaining, the need to improve conditions for all workers and to fortify enforcement mechanisms through legislation and regulations persists. The NYS Legislature and Department of Labor should continue to enact legislation and regulations, respectively, that give domestic workers additional rights and benefits.

Conduct Community Education and Enforce Existing Rights through Community Partnerships.

The NYS Department of Labor should work with domestic workers and employers to enforce and monitor existing rights. Possible models include an enforcement partnership, similar to the New York Wage Watch program, or the establishment of localized initiatives to ensure employer and worker education, with the support of elected officials.

Continue to Organize Domestic Workers.

DWU, with support from community organizations, labor unions, and government institutions, will continue to organize domestic workers to build the power to ensure fair, not minimum, labor standards.