



# Child Care Assistance & Protections for Caregivers

It is unlawful for an employer to discriminate against you because you have children. Based on your income, you may be eligible for child care assistance to help you get or keep a job.



The closing of child care centers throughout the country certainly is bringing to light the fact that these centers were a real need . . . a need which was constantly with us, but one that we had neglected to face in the past. Now mothers have had the opportunity of going to work and leaving their children in a center where they felt secure . . . . They were able to work better and they were less exhausted physically . . . . These children are future citizens, and if they are neglected in these early years it will hurt not only the children themselves, but the community as a whole.”

— Eleanor Roosevelt,  
First Lady and U.S. Delegate to the  
United Nations on the closing of child  
care centers following World War II

# Overcoming Childcare Obstacles

If you are a woman who has recently had a child and you are seeking to return to work, you may face obstacles trying to find high quality affordable child care options. You may also have difficulty receiving assistance from your employer to get

workplace changes that would help you return to work while still giving you the opportunity to care for your child. If you are facing these obstacles, you have certain rights and may be able to access certain benefits to assist with child care.

## What are My Legal Rights if I Care for a Young Child?

In New York State, if you work for an employer with **4 or more employees**, your employer is prohibited from discriminating against you based on your familial status.<sup>192</sup> This means that it is unlawful for an employer to discriminate against you because you have children under the age of 18.

Examples of discrimination include:

- An employer decides not to hire you after expressing concerns about your child care responsibilities.
- Your boss promotes another employee over you even though you have more experience because he was concerned about your child care responsibilities.

Since it can sometimes be difficult to prove your employer's motivation, it is important that you pay close attention to cues and statements they make regarding your child care responsibilities and keep track of your job performance.

**NYC:** If you work in New York City, it is unlawful for an employer to discriminate against you because you are a caregiver.<sup>193</sup> This means, you cannot be discriminated against because you care for **1** a child under 18 (including adopted or foster children), **2** other individuals such as parents, siblings, spouses, domestic partners, grandparents, or grandchildren who are sick or have a disability, or **3** anyone with a disability who lives with you and depends on you for medical or daily care.

## Can I Request a Reasonable Accommodation to Help Address Child Care Responsibilities?

While the law does not specifically grant you a right to a reasonable accommodation when child care issues arise, keep in mind that it is unlawful for your employer to treat you less favorably than others who need workplace flexibility. So, your employer may be discriminating against you if they refuse to grant you more flexibility in your schedule to attend to child care responsibilities whereas they grant others flexibility on grounds that are also not guaranteed under the law.

## Are There Programs or Benefits Available to Assist with Child Care?

In New York, if your family meets the state's low-income guidelines, you may be able to receive financial assistance from the Office of Children and Family Services to help you pay for child care while you **1** work, **2** look for work, or **3** attend employee trainings. Individuals on Temporary Assistance are generally guaranteed childcare if they need it to meet work participation requirements and for up to one year after leaving temporary assistance if they left for a job and need child care to work. Families receiving assistance can typically choose any legal child care provider.

Your county Department of Social Services (Human Resources Administration (HRA), in New York City) determines eligibility based on income, need, and your child's age. You must contact your county Social Services office to find out if you are eligible or to apply.

For a listing, visit: <https://ocfs.ny.gov/main/localdss.asp>.

For more information, visit: <https://ocfs.ny.gov/main/childcare/paying.asp>.

Additional child care subsidy programs may exist in your locality. For example, the Workforce Development Institute offers a child care subsidy program that covers Albany, Erie, Monroe, Oneida, Onondaga, Rensselaer, Saratoga, and Schenectady Counties. For more information, visit: <https://wdiny.org/Services/Workforce-Support/Child-Care-Subsidy-Program>.

## Are There Programs or Benefits Available to Help Send My Child to Preschool?

Free preschool is not available throughout the state. Free Pre-Kindergarten is available to all NYC kids, and based on the year your child was born, your 3- or 4-year-old is guaranteed a seat in a public school, although the school may not necessarily be close to where you live.

Free Pre-kindergarten in New York City runs 5 days a week from September to June with full-day (6 hours and 20 minutes) and

some half-day options. Applications for the next school year typically open in the winter. For more information, visit: <https://www.schools.nyc.gov/enrollment/enroll-grade-by-grade/pre-k>.

Your child may also qualify for free 3-K for three year olds. Currently free 3-K is only available at schools in certain districts. Although anyone can apply, families in those districts are given priority. Current districts include East Harlem, Harlem, the South Bronx, Bedford-Stuyvesant, Brownsville, East New York, Ocean Hill, Broad Channel, Howard Beach, Ozone Park, and the Rockaways. These programs are likely to expand to other

parts of NYC, so be sure to check the Department of Education website for availability. For more information, visit: <https://www.schools.nyc.gov/enrollment/enroll-grade-by-grade/3k>.

## Are There Programs or Benefits Available to Help with Afterschool Coverage?

New York City offers a variety of afterschool programs for school-age children. To find out more information about available programs, visit: <https://www1.nyc.gov/nyc-resources/service/1012/after-school-programs>.



## What Can I Do to Assert My Rights?

If you have concerns or believe that your rights have been violated, there are various actions you can take to advocate for yourself. In addition to the general guidance in Section 1, consider the following:

**IDENTIFY LOCAL RESOURCES:** In addition to consulting your local Department of Social Services, it is important to speak with and reach out to local community members and organizations when researching and identifying affordable child care options. Local communities often maintain list-serves or other useful resources that can provide useful information.

**NOTIFY YOUR EMPLOYER ABOUT THE LAW:** Since the adoption of protections based on familial or caregiver status are relatively new, many employers are not well-informed about their legal obligations. If you think that your employer is discriminating against you based on your familial or caregiver status and it is adversely impacting your employment, consider speaking with your employer and notifying them about applicable legal requirements and/or reporting the discrimination. Generally, you must report the discrimination internally if you seek to hold your employer

accountable in an administrative forum or in court. Speak with a legal services organization or advocate for further guidance.

**FILE AN ADMINISTRATIVE COMPLAINT:** If your employer did not appropriately address your discrimination complaint, you can contact or file a formal administrative complaint with the New York State Division of Human Rights (<https://dhr.ny.gov/contact-us>). If you work in a locality like New York City that prohibits discrimination based on you familial or caregiver status, you can file a complaint with your local fair employment agency. In New York City, you can file with the New York City Commission on Human Rights (<https://www1.nyc.gov/site/cchr/enforcement/complaint-process.page>).

**FILE A LAWSUIT:** If you feel like your employer did not appropriately address your discrimination complaint, you can file a lawsuit against your employer under the New York State Human Rights Law and/or any applicable local laws, such as the New York City Human Rights Law. Consult an attorney or legal advocate for guidance.