a better balance

Pregnant in New York?

A Guide to Your Workplace Rights During and After Pregnancy

If you work in New York, this guide will walk you through your rights and options:

During Pregnancy | After Birth | Returning to Work

If you have questions, call A Better Balance's free, confidential legal helpline at **1-833-NEED-ABB (1-833-633-3222)** or fill out our **online help form**.

First, get started with this quick checklist:

Learned you're pregnant? Think about:

- ☐ Do I know **my rights at work** while pregnant?
- ☐ If there is another parent, do they know **their rights at work?**

Do you need a change to your job duties, schedule, or work environment to stay healthy on the job while pregnant? Think about:

- ☐ Have I asked my boss for a **pregnancy accommodation?**
- ☐ Have I mentioned my pregnancy-related workplace concerns to my **health provider?**

Do you need a few hours or days of time-off for prenatal appointments or morning sickness during pregnancy? Think about:

- ☐ Have I told my boss I need **time-off?**
- ☐ Do I need a **loved one to take time-off** from work to care for me or attend appointments with me?

Will you need a longer leave of absence during pregnancy for pregnancy complications? Think about:

- ☐ Have I given my boss a heads-up that **I'll need leave** and when?
- ☐ Have I prepared my application for **NY Temporary Disability Insurance** cash benefits?
- ☐ Have I given my **health provider** any paperwork they will need to fill out?
- ☐ Will I need a loved one to take time-off to **care for me?**

Have you taken steps to prepare for maternity leave to recover from birth and bond? Think about:

- ☐ Have I given my boss a heads-up that **I'll need leave** and when?
- ☐ Have I prepared my application for **NY Temporary Disability Insurance** cash benefits?
- ☐ Have I given my **health provider** any paperwork they will need to fill out?
- ☐ Will I need a **loved one to take time-off** to care for me while I recover?
- ☐ If there is another parent, have they made a plan for **time-off to bond?**
- ☐ Have I talked to my employer about getting a clean, private **space and break time** to express milk for my baby when I return to work?

Have you given birth, or experienced a loss of pregnancy? Think about:

- ☐ Have I submitted my application for **NY Temporary Disability Insurance** cash benefits to recover?
- ☐ Have I submitted my application for **NY Paid Family Leave** to bond?
- ☐ If the baby has another parent, have they submitted **their application** for NY Paid Family Leave to bond?

Returning to work? Think about:

- ☐ Do I need **time-off** to attend postnatal appointments or my baby's check-ups?
- ☐ Do I need a clean, private **space and break time** to pump milk?
- ☐ Do I need time-off or other accommodations for **postpartum depression** or other pregnancy-related conditions?
- ☐ Did my boss refuse to return me to **my same or similar job?**

Your Rights During Pregnancy

While You're Pregnant

While you're pregnant, you might need a change to your job duties or work environment to stay healthy.

NY workers have the right to reasonable accommodations for medical needs related to pregnancy or childbirth.

Purpose: Use this law to get extra rest or bathroom breaks, permission to eat or drink at your workstation, a larger uniform, changed work schedule, light duty, or other reasonable accommodations. In NY, employers generally must provide reasonable accommodations for a medical need related to pregnancy or childbirth, unless doing so would be very difficult or expensive for your employer (an "undue hardship").

Job-protected? Yes, retaliation is against the law.

Eligible? Learn **here.**

How to use: Learn how to request a pregnancy accommodation **here.**

TIP:

Under NY law, workers do not need to have a disability to get an accommodation. Any pregnancy-related condition (such as morning sickness) or pregnancy-related medical need (such as the need for extra bathroom breaks or increased water intake) is enough.

While you're pregnant, you might need occasional time-off or a longer leave of absence.

For instance, you might need a few hours off to attend a prenatal appointment, a few days off due to nausea, or a longer period of leave due to a serious pregnancy complication.

There are **three laws** that can provide time-off in circumstances like these, as well as a **fourth law** that can provide cash benefits while you are on leave.

- **NY & NYC Sick Time**
- **Family and Medical Leave Act (FMLA)**
- **Time-off as a reasonable accommodation for a pregnancy-related medical need**

Plus: Temporary Disability Insurance (TDI)

NY & NYC Sick Time

Many NY workers have the right to earn paid, job-protected sick time.

Purpose? Use this time for prenatal or postnatal appointments, a child's routine check-ups, morning sickness, or many other reasons.

Paid? Yes, for most workers.

Job-protected? Yes.

Amount of time? Up to either 40 or 56 hours a year, depending on the size of your employer.

Eligible? Learn if you're covered under NY's law **here** or NYC's law **here.**

How to use: Tell your boss you need to use your sick time. Your employer must pay you like normal.

TIP:

Your employer can require you to give advance notice of a planned use of sick time (like a prenatal appointment) but not an unexpected use of sick time (like a sudden illness or medical emergency). Your boss cannot require a doctor's note unless you use more than 3 sick days in a row. You do not have to give your employer details about why you used sick time.

FMLA

Many workers have the right to unpaid, job-protected leave under the federal Family and Medical Leave Act (FMLA).

Purpose? Use this time to address your own serious health needs, including for prenatal care or if unable to work due to pregnancy or childbirth. FMLA can also be used to care for a seriously ill family member or to bond with a new baby.

Paid? No. But check if you can receive pay under your employer's policy or union contract (if you have one), or if you are eligible for **NY Temporary Disability Insurance** (TDI).

Job-protected? Yes.

Amount of time? Up to 12 weeks a year. Generally, FMLA can be taken all at once or in shorter chunks of time, like a few hours or days.

Eligible? Learn **here.**

How to use:

- Tell your employer you will need to take FMLA leave, at least 30 days before your leave will begin. If you need leave for an emergency, tell your boss as soon as you can.
- If your employer requests medical certification, get a certification form from your boss. Give the form to your health care provider promptly. You generally must return the completed certification to your employer within 15 calendar days.
- Ask your employer if there are any other steps you must take. Sometimes employers have their own leave policy and process that you must also follow.

Time-off as a reasonable accommodation for a pregnancy-related medical need

Even if you are not eligible for sick time or FMLA, or if you have used up your sick time or FMLA, you may have the right to unpaid, job-protected time-off as a reasonable accommodation for a pregnancy-related medical need.

Purpose? Use this time for prenatal or postnatal appointments, morning sickness, or many other reasons. It can also be used over a period of weeks or months for longer-lasting pregnancy-related needs. In NY, employers must provide time-off as a reasonable accommodation for pregnancy-related medical needs, unless it would be very difficult or expensive for them to do so (an "undue hardship").

Paid? No. But check if you can receive pay under your employer's policy or union contract, or if you are eligible for **NY Temporary Disability Insurance.**

Job-protected? Yes.

Amount of time? It depends.

Eligible? Learn **here.**

How to use:

- Tell your boss you need time-off as a reasonable accommodation due to pregnancy. Give a specific date when you'll be able to return to work—it's okay if it needs to change later. Keep in mind that your employer can deny the leave if it would be an undue hardship to provide it.
- If your boss asks for a note from a health care provider, try to get one in a timely manner. Your provider can learn how to write you a strong note **here.**

NY Temporary Disability Insurance (TDI)

You may have the right to cash benefits while on leave.

Purpose? Use if you have an off-the-job injury or illness, including if you are unable to work due to pregnancy or childbirth.

Paid? Yes. 50% of wages, up to $170 a week.

Job-protected? No. TDI is not a source of job-protection—just pay—so it does not protect you from being fired. However, if you are taking unpaid time-off under the **FMLA** or **pregnancy accommodation laws**, those laws may protect your job while you're receiving TDI.

Amount of time? Up to 26 weeks a year.

Eligible? Learn **here.**

How to use:

- Download Form DB-450 **here** as soon as you become disabled. Typically, the first 7 days of TDI are unpaid. Even after that, it may take several weeks for your benefits to arrive. You must apply within 30 days of becoming disabled.
- Fill out the employee section of the claim form and give the form to your health care provider to complete their portion.
- If you are currently or very recently employed, mail the completed form to your employer or to your employer's TDI insurance carrier. If you have been unemployed for more than 4 weeks, mail the form to the Workers' Compensation Board.

TIP:

The first week of TDI is generally unpaid. For example, if your health care provider certifies you as disabled for 6 weeks, generally you will receive only 5 weeks of TDI benefits.

Your Rights After Birth

After Giving Birth

After you give birth, you may need leave to recover, as well as time to bond with your baby.

Although you will recover from childbirth and bond with your baby at the same time, the law treats time to recover from childbirth and time to bond with your baby differently.

Often, covered workers will use the **recovery laws** first, typically in the 6 weeks after a vaginal delivery or the 8 weeks after a c-section. Then, they will use a **bonding law** to bond with their baby.

But, for financial reasons, some workers will structure their leave differently, such as taking paid bonding leave immediately after childbirth, without taking leave to recover.

Leave to Recover from Birth

FMLA

Many workers have the right to unpaid, job-protected leave under the federal Family and Medical Leave Act (FMLA).

Purpose? Use this time for your own serious health condition, including recovering from childbirth (typically 6 weeks after a vaginal delivery and 8 weeks after a c-section) or attending postnatal appointments. FMLA can also be used to care for a seriously ill family member or to bond with a baby.

Paid? No. But check if you can receive pay under your employer's policy or union contract, or if you are eligible for **NY Temporary Disability Insurance.**

Job-protected? Yes.

Amount of time? Up to 12 weeks a year.

Eligible? Learn **here.**

How to use: Review the **FMLA section** of this guide.

TIP:

Many of these laws also apply to workers who experience miscarriage or stillbirth. Learn more **here.**

Time-off as a reasonable accommodation to recover from childbirth or for a related condition

Even if you are not eligible for time-off under the FMLA, or have used up your FMLA, you may have the right to unpaid, job-protected time-off as a reasonable accommodation for childbirth or a related condition.

Purpose? Use this time for many reasons, including to recover from childbirth, to attend postnatal appointments, or for your own pregnancy-related medical need or condition, such as postpartum depression or mastitis. In NY, employers generally must provide time-off as a reasonable accommodation for childbirth or related medical needs, unless it would be very difficult or expensive for them to do so (an "undue hardship").

Paid? No. But check if you can receive pay under your employer's policy or union contract, or if you are eligible for **NY Temporary Disability Insurance.**

Job-protected? Yes.

Amount of time? It depends.

Eligible? Learn **here.**

How to use: Review the **time-off as a reasonable accommodation section** of this guide.

NY Temporary Disability Insurance (TDI)

You may have the right to cash benefits while on leave.

Purpose? Use if you have an off-the-job injury or illness, including if you are recovering from childbirth (typically 6 weeks after a vaginal delivery and 8 weeks after a c-section).

Paid? Yes. 50% of wages, up to $170 a week.

Job-protected? No. TDI is not a source of job-protection—just pay—so it does not protect you from being fired. However, if you are taking unpaid time-off under the **FMLA** or **pregnancy accommodation laws**, those laws may protect your job while you're receiving TDI.

Amount of time? Up to 26 weeks a year.

Eligible? Learn **here.**

How to use: Review the **TDI section** of this guide.

Leave to Bond with Your Baby

Option A: NY Paid Family Leave (PFL)

Many NY workers have the right to paid, job-protected leave to bond with a new baby.

Purpose? Use this time to bond with a new baby anytime within 12 months of the baby's birth. PFL can also be used to care for a seriously ill family member.

Paid? Yes. 67% of wages, up to a cap.

Job-protected? Yes.

Amount of time? Up to 12 weeks a year.

Eligible? Learn **here.**

How to use: Learn **here.** You can use PFL all at once or in chunks of time as short as one day. In some circumstances, your employer can require you to use up FMLA leave at the same time as PFL leave. If so, follow the steps for taking FMLA leave, in addition to the steps for taking PFL.

TIP:

Workers cannot receive TDI and PFL at the same time, but they could receive one and then the other. For instance, a worker could receive 6 weeks of TDI after a vaginal delivery (though the first week will be unpaid), followed by 12 weeks of PFL.

Option B: FMLA

Even if you are not eligible for paid bonding leave under PFL, you may be eligible for unpaid, job-protected bonding leave under the FMLA, if you have not used up your FMLA.

Purpose? Use this time to bond, if you are not eligible for PFL.

Paid? No.

Job-protected? Yes.

Amount of time? Up to 12 weeks a year.

Eligible? Learn **here.**

How to use: Review the **FMLA section** of this guide. Employers cannot require medical certification for FMLA leave used for bonding, though they can require documentation of family relationship.

TIP:

Many dads and other non-birth parents have the right to PFL or FMLA leave to bond with their baby. If both parents meet PFL's coverage requirements, they generally **each** have the right to their own 12 weeks paid bonding leave. Learn more **here.**

Your Rights When Returning to Work

Returning to Work

When you return to work, you might need a private, clean space and break time to pump milk for your baby. You might also need other accommodations related to pregnancy or childbirth.

NY workers have the right to pump milk at work and receive accommodations for other postpartum needs.

Purpose? Use these laws to get reasonable break time to express milk for up to three years after your baby's birth and a private space, other than a bathroom, to pump. You can also receive **reasonable accommodations** for childbirth- or pregnancy-related medical needs or conditions, like mastitis or postpartum depression, unless it would be very difficult or expensive for your employer to provide (an "undue hardship").

Paid? No, generally break time does not have to be paid.

Job-protected? Yes, retaliation is against the law.

Amount of time? Breaks to pump generally at least once every three hours, for at least 20 minutes, or more if needed.

Eligible? Learn **here.**

How to use? Learn how to request a lactation accommodation **here**, or another accommodation for a pregnancy- or childbirth-related medical need **here.**

TIP:

Covered workers can also use **sick time** to attend postnatal appointments or to attend their baby's check-ups.

TIP:

Some workers experience health conditions related to their pregnancy, such as postpartum depression, many weeks after giving birth. These workers may have the right to reasonable accommodations (such as flexible start time or telework) or additional time-off, to address these conditions. Learn more **here.**

Retaliation is illegal.

Your employer cannot fire or punish you for requesting or receiving accommodations or time-off under the law.

For More Information:

- Visit A Better Balance's **Workplace Rights Hub.**
- Employers can always provide more than the bare minimum the law requires, so be sure to check your employer's policies for any additional benefits they may offer. If you are in a union, check if your union contract guarantees any additional benefits.
- The information in this guide does not constitute legal advice. It is always advisable to consult an attorney about your individual circumstances.
- **If you have questions, call A Better Balance's free, confidential legal helpline at 1-833-NEED-ABB (1-833-633-3222) or fill out our online help form.**