



GOAL 5

NY FOOD 2025

*Ensuring All NYC Food Workers
Have Safe Working Conditions, the Right to
Organize, and Sufficient Pay and Benefits*



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NEW YORK CITY
FOOD POLICY CENTER**



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NEW YORK FOOD 2025 GOAL 5

Ensuring All NYC Food Workers Have Safe Working Conditions, the Right to Organize, and Sufficient Pay and Benefits

[New York Food 2025](#) is a collaborative effort by the Hunter College NYC Food Policy Center, The Laurie M. Tisch Center for Food, Education & Policy, and The CUNY Urban Food Policy Institute to examine the effects of the pandemic on New York City's food policies and programs and propose specific policy measures the NYC Mayor and City Council can consider and implement to build a stronger, healthier, more just, and sustainable food system in New York City. This policy brief is one part of a 7-part series of policy briefs and recommendations and builds on our group's earlier report, [New York Food 20/20: Vision, Research, and Recommendations During COVID-19 and Beyond](#), on the impact of the pandemic on New York City's food system and food workforce.

Background

As of March 2021, New York City (NYC) has more than 40,000 food businesses employing 500,000 workers.¹ Pre-pandemic the hospitality sector provided 10% of all NYC payroll jobs and 15% of entry level positions, especially for 18-24-year-olds (23% in restaurants), Latinx workers (42% in restaurants), those with limited education (31% of restaurant workers lacked more than a high school diploma), and foreign-born workers.² The city's food services workforce, people who prepare and serve food in restaurants and fast food outlets, is the largest component, followed by food retail workers in supermarkets and groceries. Smaller yet still significant employment sectors include

food manufacturing, delivery, emergency food programs, and institutional food service in schools and hospitals, and a small number of people who grow food.

Food jobs are particularly important for BIPOC and immigrant communities: 79% of food workers who live in NYC are people of color, including 43% Latino and 21% Asian.³ In some low-income, predominantly BIPOC communities, such as the South Bronx and Elmhurst/Corona, approximately 12-15% of the workforce is employed by restaurants.⁴ Representing high proportions of women, people of color, and immigrants, food workers have historically received low wages, few benefits, few workplace protections, little job security, and limited opportunities for career advancement. Food and beverage jobs are among the lowest paid, with an average annual income of \$31,500. Nationally, only 55% of workers in the food service industry, many classified as essential during the pandemic, have access to paid sick leave.⁵ In New York City, nearly half (48%) of restaurant workers live below 200% of the Federal poverty level.²

Since February 2020, the COVID-19 pandemic has profoundly affected the City's food workforce, leading to job losses, exposure risks to those who remained employed, disruptions of work schedules, and high levels of financial and psychological insecurity. According to the New York State Department of Labor as shown in Table 1, employment in the two largest categories in the NYC food sector, food services and drinking places, and food and beverage stores, fell by 35% between 2019, before the pandemic, and the end of 2020. In the first 11 months of 2021, food sector employment in these two categories increased by 3%, a positive trend after the steep decline. However, only about 131,000 of the 182,000 food jobs added between 2000 and 2019 remained by the end of 2021, a net loss of 51,000 jobs.⁶ By one estimate, full-service restaurant employment remains more than 1/3 lower now than pre-pandemic.⁷

GOAL

In the next four years, the Mayor and City Council should take several steps to ensure that all food workers, including city-contracted food workers, have safe working conditions, the right and ability to organize, and livable wages.

Sector	Employment in 000s Average for Year				Abs. change	% change
	2000	2019	2020	2021*		
Food services and drinking places	160.2	319.6	187.1	198	-121.6	-38.0%
Food and beverage stores	59.7	82.1	75.3	72.8	-9.3	-11.3%
Total	219.9	401.7	262.4	270.8	-130.9	-32.6%

The pandemic, and the desire of consumers to avoid direct contact with restaurants and grocers, also led to the dramatic growth of food delivery workers, most of whom deliver for third party companies. An estimated 80,000 people deliver food in NYC, about 65,000 of whom work for app-based companies like Instacart, Postmates, GrubHub, and others.⁸ Such “gig work” or “electronically mediated-work” is performed by a largely immigrant population. Gig workers face physical risks, injuries, and financial insecurity.^{9,10} The companies operating the digital platforms that structure this work misclassify their workers as independent contractors, preventing gig workers from getting benefits such as health insurance, the right to organize, protection from dismissal, and other rights afforded to company employees.^{11,12,13} As a result of these practices, the growth of app-based food delivery contributes to high levels of income and health inequities within NYC’s food labor force. Since the start of the pandemic, app-

based gig workers were 2 to 3 times more likely to face food, housing, and healthcare insecurity than other workers.¹⁰ These delivery services also take large commissions from restaurants, disadvantaging their owners as well as the delivery workers.¹⁴

The pandemic has encouraged public officials and the media to focus on the food system landscape and the poor quality of food jobs that hurt food workers. This has created opportunities for workers to organize, win higher wages and benefits, and expand health and safety protections, leading to NYC laws enacted in 2020 and 2021 that both increase food worker rights and protections. But despite this new legislation, the limited enforcement of existing laws and regulations, and the power of commercial food businesses to make their profits a higher priority than worker well-being, has left New York City’s food workers at risk.

We define these terms below for clarity:

- Safe working conditions are those that protect worker’s physical and mental health and meet all occupational safety and health regulations, as well as protects workers against COVID-19 infection in the workplace;
- The right and ability to organize includes protection from employers or other organizations that disrupt or interfere with organizing campaigns. This also includes extending the right to organize to contract and gig workers who comprise an increasing portion of the food labor force;
- [Livable wages](#) and benefits are those that offer health care and sick pay sufficient for food workers to support themselves and their families.

Existing Programs and Policies

Several city, state, and federal initiatives and policies adopted by other countries provide a strong foundation and evidence base for improving the conditions and rights of food workers in NYC in the next several years.

The New York State Department of Labor is mandated to protect the basic rights of all workers in the state, including earning at least the minimum wage, being fairly compensated for overtime work, sick and safe leave, rest days and scheduled work breaks, and a workplace free of harassment, discrimination, and hazards.¹⁵ Other worker protections are federal, such as protection from sexual harassment and OSHA standards for safety. New York City allows the use of paid sick time for business closures due to public health emergencies or child care responsibilities due to such emergencies.¹⁶ New York City’s minimum wage is \$15/hour due to the efforts of a fast food worker-led Fight for \$15 movement,¹⁷ but workers who earn tips have

lower minimum wages (\$10/hour in NYC).^{15, 18} To protect the approximately two-thirds of fast food workers fired from jobs in NYC who were not given a reason for dismissal, in January 2021, the city enacted two bills to protect fast food workers from being fired without “just cause,” building on previous Fair Workweek laws for fast food workers that require regular and predictable scheduling.^{19, 20, 21} Increased attention to the importance of food delivery workers during the COVID-19 pandemic and activism by [Los Deliveristas Unidos](#), a group of delivery workers, prompted the city to enact six bills to improve pay and working conditions for third party food delivery workers.²² These bills, which took effect in January 2022, require delivery worker access to restaurant bathrooms, minimum per-trip payments for deliveries, information for customers using third-party apps about how tips and payments are distributed to delivery workers, regulated payments and pay schedules for delivery workers and the prohibition against charging workers fees to receive their wages, mandated provision of insulated delivery bags by companies after at least six deliveries, and workers’ ability to define their delivery areas and set a maximum travel distance.²³

Enforcement is crucial for these protections to have an impact. Labor violations have been rampant across the food industry, in part due to the burden of reporting violations falling on the workers who may fear retaliation. Inadequate staffing of agencies tasked with enforcement and unevenness in applying violations also complicates this issue, fostering a sector rife with frequent reports of below minimum wage salaries, wage and tip theft, inadequate meal and bathroom access, and sexual harassment.^{24, 25} We note that additional protections and policies will only be as protective for food workers as the enforcements that ensure they are adhered to.

Particular attention is needed to protect those misclassified as independent contractors, despite functioning as employees who provide financial benefit to businesses, such as deliv-

ery workers for food delivery companies. New York City laws entitle such “freelance” workers and independent contractors to a written contract, timely and full payment, and protection from retaliation (the Freelance Isn’t Free Act), as well as protection from employment discrimination and harassment (the City Human Rights Law), but not to the wage and occupational safety and health standards to which conventional employees are entitled.¹¹ Approaches implemented by other countries can be a model for future policy directions in New York. For example, the European Union is considering policies to extend worker protections such as minimum wage, collective bargaining, paid leave, sick benefits and pensions to gig workers.²⁶ If enacted, these protections would encourage other governments to adopt similar food worker protections.²⁷

Other recent policies, though not specific to food workers, also have the potential to affect many food workers given the large proportion of immigrants who work in the sector and the high COVID-19 risks faced by food workers. One is the \$2.1 billion New York State Excluded Workers Fund, the first effort in the U.S. to provide a one-time payment to workers excluded from state Unemployment Insurance and federal COVID-related assistance who lost income between March 27, 2020 and April 1, 2021.²⁸ Another is the NY HERO Act, which creates a permanent safety standard for airborne infectious diseases.²⁹

Policy recommendations

To ensure all food workers, including city-contracted food workers, have safe working conditions, and the right to organize as well as sufficient pay and benefits to support themselves and their families, and to build on recently enacted food delivery worker legislation, the Mayor and City Council should consider the following recommendations.



By the end of 2022, the Mayor and City Council should:

Consult labor unions, worker centers, and other worker organizations to elicit their proposals for modifications to City labor laws, policies, and enforcement practices that would better protect food and other low-wage workers. NYC should solicit and be advised by labor stakeholders to expand policies that give all food workers in both traditional and non-traditional employment (including gig and contracted food workers) the right to organize without employer interference and to receive full protection against common workplace hazards. A recent study of NYC food workers who worked during the COVID-19 pandemic revealed that food workers who reported union membership were more likely than their non-unionized peers to have access to health insurance, paid sick time, and other critical benefits and protections.³⁰ Explicitly granting third party / app-based food delivery workers the right to organize (by means that don’t require federal level changes³¹), and expanding protections to this right among the rest of the food workforce is a fundamental step toward advancing fair labor standards within NYC’s food system. As noted above, this is an approach that the EU is likely to adopt.



Between 2022 and 2025, the Mayor and the City Council should also:

Monitor and improve enforcement of City labor laws (including wage, benefits and health and safety) and prepare annual public reports on compliance. Growing evidence documents fundamental labor violations in NYC's food sector. The burden of reporting these violations now falls on the food workforce, leaving many hazards unreported in part due to fear of retaliation.³² Improved monitoring and enforcement by City and State labor departments, perhaps through a compliance task force to bolster monitoring or technical assistance to support employees in reporting violations could substantially improve working conditions for tens of thousands of food workers. Previous grassroots campaigns have been effective in tackling workplace violations, and annual reports detailing employer compliance is critical for supporting such efforts. Moreover, increased financial support of the Department of Consumer and Worker Protection to enforce the Paid Safe and Sick Leave and Fair Workweek laws, and to the Office of Labor and Policy Standards (which has had decreased staffing since 2018 despite being considered a successful model of municipal labor governance) to strengthen enforcement of existing protections from employer retaliation is warranted. Finally, monitoring of employer compliance in posting food workers' rights²¹ should be increased as many food workers are unaware of their right to paid sick time or don't know how to access it.

Develop a long-term comprehensive food workforce development strategy for NYC to set long term goals for improved pay, benefits, health and safety protections, and other working conditions, and to provide education and training for food workers to advance their skills and job prospects. Building on the momentum of a recent commitment to progressive food planning in NYC in Food Forward NYC: A 10-Year Food Policy Plan³, the City should develop an accompany-

ing food workforce development strategy that elevates initiatives outlined in Food Forward NYC and also explicitly addresses the need for development of NYC's food workforce.

Additionally, at the State level, NY Governor Kathy Hochul could improve working conditions for hundreds of thousands of restaurant workers by acting to:

Extend Fair Workweek and Just Cause protections to other food workers, including restaurant workers, and re-examine wage and tipping policies in a way that promotes economic stability and equity/tween front-and back-of-house workers. Saru Jayaraman, president of One Fair Wage, argues this could be done alongside grants to restaurants to ease the transition of financial responsibility.³³ Some proponents of the elimination of the subminimum wage for tipped restaurant workers include an increasing number of restaurants that are struggling to hire back employees reluctant to return to low wage and low benefit positions after early pandemic lay-offs and closures.^{34,35}

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