AFFORDABLE NYC NOW: HOLDING CORPORATIONS ACCOUNTABLE

PROTECT BORROWERS
THE CENTURY FOUNDATION

2026

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Holding Corporations Accountable

Introduction

The Mamdani Administration's commitment to economic justice must include a strategy for protecting New Yorkers from abusive, big-business interests and for leveling the playing field for honest brokers. When corporations engage in wage theft, fraud, or anti-competitive practices, working New Yorkers pay the price. A city serious about affordability must be equally serious about accountability.

This section identifies steps the Mayor can take to hold corporations responsible for practices that drive up costs and undermine economic justice for all New Yorkers. Using existing regulatory authority, enforcement powers, and the city's considerable leverage as a purchaser, these proposals put the interests of consumers, workers, and small businesses ahead of corporate profit margins. These proposals identify issues with debt collection, access to justice, predatory education providers, and more. The Administration's economic development and price-lowering policies cannot have their intended impacts if bad actors are simultaneously pulling money out of New Yorkers' pockets.

Making New York City affordable means creating a marketplace where competition is fair, wages are honored, and no corporation can treat residents as a captive source of revenue.

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HOLDING CORPORATIONS ACCOUNTABLE FOR WORKER ABUSES

WORKPLACE JUSTICE FOR ALL: EMPOWERING COMMUNITIES UNDER ATTACK BY ENFORCING THE NATION'S STRONGEST WORKER PROTECTION LAWS

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2026

NYC workers need the City to have their back when their workplace rights are under attack.

New York City has among the strongest human rights laws in the country, protecting more people against workplace and housing discrimination than any other municipality or state.[1] It also has extraordinary protections for low-wage workers, including in the fast food, retail, construction, and delivery sectors.[2] These laws help workers address the systemic discrimination and abusive working conditions that keep them poor and marginalized. But the promise of these protections remains unfulfilled. Worker protection agencies like the New York City Department of Consumer and Worker Protection and the City Commission on Human Rights, charged with enforcing the law, rarely have the means to do so, and thousands of cases remain tied up in backlogs that last months or years.[3] They are restricted both by their budgets to hire enforcement staff, monthslong delays and red tape in obtaining Office of Management and Budget approval to onboard new staff, and enforcement hurdles at the Office of Administrative Trials and Hearings, the City's administrative tribunal, that favor lawbreaking employers and make it difficult to address the problems that plague low-income communities. And as the federal government abandons workplace protections for immigrants, LGBTQ+ people, and people of color, working New Yorkers have nowhere else to turn for support when abusive employers put their livelihoods at risk. Workers in New York City are caught in a trap: even if they know to seek recourse in their City's strong protections, they may never see their claims resolved and stability restored. Instead, workers are left to fight abusive employers on their own, all while trying to make ends meet for their families.

Ensure better jobs in New York City by empowering workers through executive interventions in the City's economic justice agencies.

Two city agencies lead the charge on empowering New York City's workers and enforcing its expansive protections: the Commission for Human Rights (CHR) and the Department of Consumer and Worker Protection (DCWP). Both have committed staff who often deliver exceptional outcomes for the New Yorkers who go to them for help. But both suffer from long backlogs, narrow workscopes, and limited resources to address an increasing volume of cases. Two proposals—both requiring executive mayoral support—together would significantly improve these agencies' ability to respond and act proactively in empowering the City's working class.

Mayoral intervention I: Dedicate staff to analyze newly accessible EEO-1 data to better address systemic discrimination.

City economic justice agencies like CHR and DCWP dedicate the majority of their staff to addressing complaints by individual employees or violations by individual worksites. Agencies spend limited time on tracking broader trends to inform proactive investigations.[4] In 2025, however, the New York City Council passed two laws that require city agencies to track pay equity across employers with more than 200 employees.[5] In part, these responded to the evisceration of large-scale pay equity tracking projects across several federal agencies by the Trump administration.[6] They also responded to widespread inequities across New York City workplaces, and were designed to give "policymakers the tools to close wage gaps at their root."[7] The laws give the mayor authority to designate relevant agencies to publish a report based on data reported, across categories previously tracked by the federal government.[8]

The mayor should designate specific teams within DCWP and CCHR to target the root of the wage gap problem. After publishing these reports, both agencies can collaborate to intervene quickly with major pay equity violations, setting enforcement priorities that may raise standards across workplaces in New York City.[9] Collaboration between the two agencies may also eliminate the need to hire data specialists at CHR, as DCWP already has a robust research team.

Mayoral intervention II: Promote protections for workers abandoned by the federal government.

Federal workplace protection agencies have abandoned immigrant workers, workers of color, and LGBTQ+ workers. The Equal Employment Opportunity Commission has issued interpretations of Title VII that neglect non-American, non-white, and non-male employees.[10] The New York City Human Rights Law, however, explicitly covers even more categories than Title VII, and remains the most powerful refuge for members of communities that have been increasingly re-marginalized by the federal government.[11]

Both DCWP and CCHR already have broad authority to lead public education campaigns.[12] Both agencies can use that authority to counter the federal narrative that LGBTQ+ workers, immigrant workers, and workers of color are not worthy to participate equally in the workplace. Citywide campaigns in multiple languages, targeting particular neighborhoods where data shows disparities are largest, that inform the public about who is covered under the Human Rights Law may lead to greater engagement from those communities and a strong sense of belonging in their city.

Conclusion

New York City's working class is being systematically excluded from long-standing federal worker protections. The City cannot capitulate to this new status-quo. Instead, it can take proactive action to improve outcomes for workers suffering from workplace retaliation, address systemic discrimination, and remind vulnerable communities that their City is on their side.

Endnotes

1 *See* New York City Human Rights Law, N.Y.C. Admin. Code § 8-101 *et seq*.

2 N.Y.C. Admin. Code § 20-927 *et seq*; § 20-1201 *et seq*; § 20-1501 *et seq*.

3 Press Release, *Housing Discrimination Complaints Languish at NYC Commission on Human Rights*, State Comptroller Tom DiNapoli (Dec. 5, 2025), https://www.osc.ny.gov/press/releases/2025/12/dinapoli-housing-discrimination-complaints-languish-nyc-commission-human-rights; Amir Khafagy, *Mamdani's Proposed Budget Threatens Cuts to Labor and Human Rights Agencies*, *Documented* (Mar. 12, 2026), https://documentedny.com/2026/03/12/nyc-budget-guts-worker-protections/.

4 CCHR has not published a report on systemic discrimination in the workplace since 2019; DCWP does publish reports on compliance trends at least annually, with focuses on specific industries.

5 N.Y.C. Local Law 173 (2025), N.Y.C. Local Law 174 (2025).

6 Joseph G. Schmitt, *Trump Administration Attacks Pay Equity Practices*, Nilan Johnson Lewis (Mar. 12, 2025), https://nilanjohnson.com/trump-administration-attacks-pay-equity-practices/.

7 Council Member Tiffany Caban, Stated Meeting, New York City Council Hearing Transcript at 28 (Oct. 9, 2025).

8 N.Y.C. Admin. Code § 12-208.2(a).

9 Specifically, the Commission on Human Rights can bring pay equity enforcement claims under § 8-107(1)(a)(3) of the New York City Administrative Code.

10 *See, e.g.*, *Discrimination Against American Workers Is Against The Law*" U.S. Equal Employment Opportunity Commission, https://www.eeoc.gov/discrimination-against-american-workers-against-law;Adam Rocco, Janay Stevens, Michael Griffaton, *EEOC Chair Encourages White Men to File Workplace Discrimination Charges*, Vorys (Feb. 2, 2026), https://www.vorys.com/publication-eeoc-chair-encourages-white-men-to-file-workplace-discrimination-charges.

11 *See* N.Y.C. Admin. Code § 8-107.

12 For CCHR: *see, e.g.,* N.Y.C. Charter § 905(a). For DCWP: *see, e.g.,* N.Y.C. Charter § 2203(e)(v).

HOLDING CORPORATIONS ACCOUNTABLE THROUGH ADMINISTRATIVE OVERSIGHT

USING THE CITY'S LICENSING AND PERMITTING AUTHORITY TO IMPROVE LABOR COMPLIANCE AND WORKER PROTECTION

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Wage theft is widespread in New York City, including in industries that need City licenses to operate, and consequences are generally too uncertain and too modest to deter and address violations.

Too many New York City workers experience wage theft: they're paid subminimum wages, not paid overtime, not paid for all hours worked, their tips are stolen, or they're otherwise denied the full wages owed to them. While City-specific statistics are not readily available, ProPublica reported more than 13,000 cases of reported wage theft in New York State from 2017 to 2021, involving over $203 million stolen from around 127,000 workers[1]—statistics that are most likely a significant undercount, given obstacles workers face in reporting wage theft, including fear of retaliation. Additional reporting found that the New York State Department of Labor (NYS DOL) had not recovered 63 percent of the wages it found were owed to workers, a total of $79 million.[2] NYS DOL is not unique in this respect; labor enforcers nationwide face challenges in collecting wages owed.[3]

Economists have observed that unethical employers "will not comply with the law if the expected penalties are small either because it is easy to escape detection or because assessed penalties are small."[4] Currently, both situations are true: it is easy for New York City employers to escape detection because of inadequate federal and state staffing for wage theft enforcement. And the "assessed penalties"—better understood as the consequences for violations if detected—are often modest indeed, considering that nearly two-thirds of employers do not pay what the New York State Labor Department has found they owe.

Wage theft deprives hardworking New Yorkers of funds needed to pay for everyday expenses: rent, food, health care, clothing, and the like. When workers are systematically, week after week, denied wages they have rightfully earned, the cumulative violations make a high-cost city even more unaffordable. More importantly, it is unfair and unacceptable, a violation of law and of the social contract, for low-road employers not to pay workers all of the wages they earned and that they deserve.

NYC can fight wage theft among City-issued license and permit holders by creating compliance pre-requisites for license/permit issuance and renewal, and by creating consequences for license or permit holders that have unresolved final determinations of violations.

New York City should create wage compliance pre-requisites and consequences for obtaining or renewing a license or permit.

The City can start with a pilot program focusing on restaurants.

The restaurant industry is an ideal place to begin a pilot program. ProPublica reporting found that restaurants had the highest violation rate among industries, "accounting for more than 25 percent of all reported wage theft."[5] Restaurants in New York City are required to have a Food Service Establishment Permit from the Department of Health and Mental Hygiene (DOHMH).[6] Perhaps most convincing, there is precedent for this proposal: two California Counties, San Diego and Santa Clara, both successfully operate programs similar to this proposal.

The City can learn from existing models elsewhere.

San Diego County's Office of Labor Standards and Enforcement operates a "Good Faith Restaurant Program."[7] From the website: the program "helps workers in the retail food industry collect outstanding unpaid wage theft judgments stemming from an Order, Decision, or Award…issued by the California Labor Commissioner….[The Program] was developed to encourage businesses to satisfy their outstanding judgments for owed workers' wages in order to comply with the requirements of their San Diego County food permit." When the San Diego County Office of Labor Standards and Enforcement learns of an unpaid state wage theft judgment, the office reaches out to the permit holder via a series of letters and direct contact, informing the business that failure to comply with the judgment may result in suspension of the employer's food facility permit. After four attempts to contact the permit holder and seventy-five days, the permit will be indefinitely suspended and ultimately potentially revoked.

Santa Clara County's Office of Labor Standards Enforcement operates a similar Food Permit Enforcement Program.[8] While San Diego County initially rolled out the program with letters to every permit-holder with

outstanding wage violations in the county, Santa Clara County began with a narrower pilot focused on one specific zip code, with the potential consequence of a temporary (five day) permit suspension. Santa Clara County has since expanded the program county-wide,[9] and has a shorter time frame than San Diego County from the initial contact to potential suspension (forty-five days).[10]

Both programs have common elements instructive for New York City. First, they do not require health inspectors to assess wage violations, a task that would be both burdensome and outside of such inspectors' expertise. Rather, the programs are entirely administered by the county labor agencies, until the final point at which the permit is to be suspended. Second, these programs do not create permitting consequences based on wage theft allegations, which might raise due process concerns. Rather, these programs focus specifically on unsatisfied *final orders* by the state labor commissioner's office.

Current law provides a sufficient legal basis.

The programs in San Diego and Santa Clara Counties are based not specifically on state or local labor laws, but rather, on a provision of the California health and safety code requiring that any "operation of a food facility shall be approved by the enforcement agency and shall be in accordance with all applicable local, state, and federal statutes, regulations, and ordinances."[11] New York City's Health Code has similar language: "An operator of a food service establishment or non-retail food processing establishment shall construct, equip, furnish, maintain and operate such establishment in compliance with this Article and all other applicable federal, state and city laws, rules and regulations."[12] In addition, Article 5 of New York City's Health Code states that a permit may be ordered suspended or revoked not only for willful or continued code violations, but also "for such other reason as the Commissioner or Board determines is sufficient grounds for suspension or revocation,"[13] language which could support suspension on the grounds of continued nonpayment of wages determined to be owing in a final order by NYS DOL.

Notably, neither San Diego nor Santa Clara Counties have faced lawsuits challenging their programs or significant employer opposition. Both county agencies conducted outreach to the restaurant employer community before implementation. Further, the restaurants targeted—those with final wage theft orders that they had ignored, and not even tried to negotiate a payment plan—is a particularly unsympathetic subset of the industry.

Implementation in New York City

For applicants to obtain or renew restaurant permits, the City should (1) require sworn disclosure of any past final violation orders by courts, the state labor department, or the Department of Consumer and Worker

Protection (DCWP); and (2) conduct its own rapid research using readily available public sources, primary among them, the New York City Comptroller's Employer Violations Dashboard[14] and the NYS DOL Wage Theft Investigation Dashboard.[15] If applicants have such outstanding unsatisfied final orders, the City should require payment of wages owed as a condition of granting or renewing the license or permit. The City could determine guidelines to allow for short-term payment plans where appropriate.

Importantly, the City should include an additional element: DCWP should develop and require measures to ensure future compliance by any restaurant with past unsatisfied violations. These could include requiring training for all managers and workers on workplace laws, submission of sworn payroll record samplings by the employer, visible postings with QR codes for workers to report violations, or other measures.

For existing restaurants, the Mayor should require DCWP and DOHMH to collaborate in developing a program similar to those in San Diego and Santa Clara Counties. DCWP would develop and regularly update a list of all permit holders with unsatisfied final orders from its own investigations and from those of the state labor department. DCWP would do the work of reaching out to restaurants and seeking payment, alerting restaurants of potential suspension by its sister agency DOHMH if wages are not paid. DOHMH would have little to no involvement in the vast majority of cases. To date, no restaurant permits have been suspended in San Diego or Santa Clara Counties pursuant to these programs; the threat alone has been enough to motivate payment of monies owed. NYC Department of Small Business Services could also assist in spreading the word to restaurants throughout the City.

The budgetary impact would largely involve DCWP staff time, most likely less than one full-time employee. Much of the work would involve initial start-up efforts: developing the program, building cooperative relationships between the relevant agencies (DCWP, DOHMH, NYS DOL), developing the original list of all permit-holders with outstanding unsatisfied final orders, and developing new questions and protocols for permit applications, among other things. After this initial investment, ongoing case handling would be more limited, and if restaurants learn that unaddressed wage theft can lead to permit suspension, ideally, the case flow will be lessened further because violations will be deterred.

Limitations and Potential

One significant limitation of this proposal is the time lag between workers experiencing wage theft and the potential suspension of the license. Limited enforcement resources mean that it can take considerable time for the state labor department to reach a final order, which is the necessary precondition for triggering potential NYC permitting consequences. To address this, DCWP could seek to coordinate with the NYS DOL so that

cases are transmitted to DCWP immediately when orders are final. In addition, if DCWP started with a pilot program focused on a smaller sample (such as the ten New York City zip codes with the highest rates of past violations among restaurants),[16] perhaps NYSDOL could fast-track investigations in those locations, augmenting the program's impact.

However, the proposal also has additional potential. It could be expanded, so that all businesses that need City-issued licenses and permits understand that they have to comply with basic wage payment laws in order to do business in New York City. In other industries, of course, the relevant permit or license issuer might be another agency, not DOHMH.

Related Models Leveraging Licensing and Permitting

In addition to this model, several other existing programs demonstrate the potential of incorporating workplace concerns in local licensing and permitting programs, and could be considered for, or inform program design in, New York City.

- A Boston, Massachusetts, ordinance takes a preventive approach: it creates various workplace safety preconditions for construction contractors seeking building permits for demolition projects and for construction projects above a certain size. Among other things, it requires a site-specific safety plan affidavit, site-specific worker safety trainings, and a designated site safety coordinator. The Inspectional Services Department, which already routinely visits building sites, has enforcement authority, and the assigned building inspector can issue violations, stop work orders, and revoke permits. This approach uses existing inspectors, who are already going to building sites, to help prevent safety and health violations in one of the most dangerous industries.[17]
- King County, Washington, home to Seattle, enacted an ordinance requiring increased food inspections for food establishments that have been found to have violated labor laws and have failed to pay or remedy the labor violation. In addition, when state or local labor agencies have found violations, public health inspectors will post a placard next to the public food rating sign noting that the establishment is undergoing increased health inspection because of a labor violation. (The placard will be removed if labor violations are remedied.) This approach also engages consumers, alerting them to labor violations in the restaurants they patronize.[18]
- Austin, Texas, uses a carrot, not a stick, in its Better Builder program, which creates incentives for higher labor standards. Specifically, construction contractors willing to commit to certain protections

for workers on commercial projects may receive expedited handling of their permit applications and processing. The program is a collaboration with the nonprofit Workers Defense Project.[19]

Measuring Impact

The most important impact would, ideally, be a decrease in wage theft in the restaurant industry in New York City. Returning to our economists' equation: unethical employers underpay workers because they believe they're unlikely to be caught and because the penalties are too small. This proposal will significantly increase the consequences of unremedied violations. Suspension of a restaurant permit, even for only five days, has a significant financial and reputational impact, far beyond what typically happens for wage theft violations. However, measuring the decrease in wage theft may be difficult, since many obstacles prevent workers from reporting wage theft, particularly in the current moment of heightened immigration enforcement. Reduced reports of wage theft in the restaurant industry may—but do not necessarily—indicate reduced violations. This is why this program should incorporate specific measures focused on future compliance by prior violators.

A more readily measurable impact of this program would include wages recovered for workers who have been underpaid and a reduction in the number of New York City restaurants that, when caught committing wage theft, thumb their nose at their workers and at rule of law.

Conclusion

Businesses that receive licenses and permits to operate in New York City should be expected to comply with the most basic workplace laws related to payment of wages and other core protections. At a bare minimum, businesses should be required, as a condition for receiving or keeping a license or permit, to pay wages determined to be owed in a final wage theft or similar order by New York City or State. Successful programs in other localities provide proof of concept and potential models for this proposal. Participation in the economic life of the City should require legal compliance in relation to paying workers' wages, as well as financial responsibility and respect for rule of law in relation to complying with final legal orders. A program incorporating labor compliance considerations into the City's licensing and permitting processes would help fight wage theft and create fairer conditions for workers and for law-abiding businesses, and would create an overall environment of greater legal compliance. Not least of all, it would help return money to the pockets of hard-working New Yorkers.

Good Faith Restaurant Owners Program Infographic

COUNTY OF SAN DIEGO
OLSE Office of Labor Standards and Enforcement

STEP 01 DAY 1

NOTICE OF EXISTING JUDGMENT & NOTICE TO COMPLY

When OLSE learns of an unpaid wage theft judgment stemming from the Labor Commissioner's Office* against a permitted food facility, OLSE will send a thirty-day Notice of Existing Judgment and Notice to Comply via certified mail to the permit holder.

This notice will identify the unpaid Wage Theft Judgment, explain the failure to comply with the judgment may result in suspension of the employer's food facility permit and demand that the permit holder respond within 30 days to (1) prove that the permit holder is in full compliance with the judgment, (2) prove that the judgment is not final or does not apply to the permit holder, or (3) request assistance or information on a payment plan time to come into compliance with the judgment.

STEP 02 DAY 30

SECOND NOTICE OF EXISTING JUDGMENT & NOTICE TO COMPLY

If the permit holder does not substantively respond to the initial notice within 30 days, OLSE will send the permit holder a second Notice of Existing Judgment and Notice to Comply requiring a response within 15 days.

STEP 03 DAY 45

DIRECT CONTACT WITH PERMIT HOLDER

If OLSE has not received a response from the permit holder after the first two notices are sent, OLSE will follow up by directly contacting the permit holder to establish a contact and answer any questions the permit holder may have.

STEP 04 DAY 60

NOTICE OF VIOLATION

If the permit holder still has not addressed the unpaid wage judgment, then OLSE will send the permit holder a Notice of Violation. The Notice of Violation will inform the permit holder that an informal Administrative Hearing will be scheduled, within 15 days of the Notice of Violation issuance, to discuss the continued non-compliance with the outstanding wage theft judgment and establish a timeline for the facility to comply. If the facility fails to comply with the direction and timeline established at the informal Administrative Hearing, then a permit suspension hearing will be scheduled.

STEP 05 DAY 75

SUSPENSION OF FOOD PERMIT

If the permit holder has not addressed the unpaid wage judgment, a suspension hearing will be held within 15 days after the informal administrative hearing. Pending determination of the hearing officer, DEHQ will suspend the permit holder's Food Facility Permit on the date specified in the Hearing Decision Letter. A permit holder can halt enforcement at any time by paying the existing judgment in full or entering into a payment plan that ensures full payment of the judgment by a specific date agreed upon by all parties. If the facility fails to comply with the direction and timeline established in the Suspension Hearing, then a permit revocation hearing will be scheduled.

***Cal. Lab. Code § 98.2 & Cal. Health & Saf. Code § 113715**

Endnotes

1 Max Siegelbaum, *127,000 New York Workers Have Been Victims of Wage Theft*, ProPublica and Documented (Aug. 22, 2023), https://www.propublica.org/article/thousands-of-new-york-workers-have-been-victims-of-wage-theft.

2 Marcus Baram, *New York Workers Are Waiting on $79 Million in Back Wages*, ProPublica and Documented (Aug. 21, 2023), https://www.propublica.org/article/new-york-workers-are-waiting-on-79-million-in-back-wages.

3 *See, e.g.*, Jeanne Kuang and Alejandro Lazo, *Wage theft whack-a-mole: California workers win judgments against bosses but still don't get paid*, CalMatters (Sept. 15, 2022, updated May 2, 2023), https://calmatters.org/california-divide/2022/09/california-wage-theft-cases/; Elizabeth Castillo, *Oregon fails to collect unpaid wages*, OPB (Dec. 12, 2023), https://www.opb.org/article/2023/12/12/unpaid-wages-collect-oregon/; Juliana Feliciano Reyes, *Some Workers Wait Years to Resolve Wage Theft Cases*, Governing (Feb. 8, 2023), https://www.governing.com/work/some-workers-wait-years-to-resolve-wage-theft-cases.

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5 Siegelbaum, *supra* n. 1.

6 *Food Service Establishment Permit,* Official Website of the City of New York, https://nyc-business.nyc.gov/nycbusiness/description/food-service-establishment-permit (last visited May 8, 2026).

7 *Good Faith Restaurant Program*, Office of Labor Standards and Enforcement, San Diego County, https://www.sandiegocounty.gov/content/sdc/OLSE/good-faith-restaurant-owners-program.html (last visited May 7, 2026).

8 *Food Permit Enforcement Program*, Division of Equity and Social Justice, County of Santa Clara, https://desj.santaclaracounty.gov/olse/initiatives/food-permit-enforcement-program (last visited May 7, 2026).

9 Jhabvala Romero Farida, *In California, one county is forcing restaurants to pay wage theft claims or risk losing their permits*, Marketplace (Sept. 7, 2023), https://www.marketplace.org/story/2023/09/07/wage-theft-santa-clara-california.

10 *Food Permit Enforcement Brochure*, Office of Labor Standards Enforcement, Santa Clara County, https://files.santaclaracounty.gov/migrated/Enforcement%20ENG%20%281%29.pdf.

11 Cal. Health and Safety Code § 113715.

12 New York City Health Code § 81.05 (b).

13 New York City Health Code § 5.17.

14 *Employer Violations Dashboard*, New York City Comptroller, https://comptroller.nyc.gov/services/for-the-public/employer-violations-dashboard/violations/wage-theft/ (last visited May 7, 2026).

15 *Wage Theft Investigation Dashboard*, NYS Department of Labor, https://dol.ny.gov/wage-theft-dashboard (last visited May 7, 2026).

16 If DCWP were to start a pilot with a subset of zip codes, instead of City-wide, it would be advisable to have an objective basis for choosing the zip codes selected, to avoid allegations of proceeding in an arbitrary or unfair manner.

17 Boston, Massachusetts, Municipal Code § 16-65.

18 Press Release, King County, Washington, *Board of Health Chair Mosqueda leads passage of food safety through new rule to better enforce labor standards* (Sept. 18, 2025), https://kingcounty.gov/en/dept/council/governance-leadership/county-council/newsroom/2025/09-18-mosqueda-board-of-health-food-safety-rule.

19 Syeda Carillo, *Austin's Faster Permitting Program Will Include Construction Worker Protections*, KUT News (Feb. 8, 2017), https://www.kut.org/austin/2017-02-08/austins-faster-permitting-program-will-include-construction-worker-protections; *About*, Better Builder Program, https://www.betterbuildertx.org/en/ (last visited May 8, 2026).

HOLDING CORPORATIONS ACCOUNTABLE BY PREVENTING MEDICAL DEBT

LEVERAGING COMMUNITY BASED ORGANIZATIONS TO PREVENT AND ADDRESS MEDICAL DEBT

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Affordable NYC Now

2026

Medical Debt in New York City

Over 13 percent of New York City residents are estimated to have medical debt of $500 or more. Medical debt in New York City is inequitably distributed: New Yorkers who are low-income and people of color have a higher prevalence of medical debt compared to their White and higher-income counterparts. Medical debt is over twice as common among uninsured New Yorkers (31 percent).[1]

Currently, 6 percent of New York City residents are uninsured. However, federal cuts to health insurance under H.R. 1 are expected to increase the number of uninsured New York City residents by nearly 1 million. The increase in uninsurance under H.R. 1 will occur in many ways. Some people will lose coverage or have a gap in coverage due to new bureaucratic hurdles to maintaining insurance eligibility. Others, such as many groups of legal immigrants, will simply be rendered ineligible for public coverage. As a result, even more New Yorkers will be exposed to the misery of medical debt.

Fortunately, New York State has enacted a series of medical debt reforms to mitigate the worst impacts of medical debt and expand access to hospital financial assistance to prevent it in the first place.[2] But patients are unaware of these new rights. In addition, many New Yorkers, especially low-income and otherwise marginalized populations, will need support to stay covered, or for those who are now becoming ineligible, finding low-cost or free care.

Investing in Community Based Organizations to Prevent and Address Medical Debt

Consumer Assistance programs have a clear history of helping New Yorkers navigate changes in the health insurance landscape and providing a return on investment. The City should increase funding for community-based organizations to provide consumer assistance to: (1) prevent coverage losses, (2) resolve managed care and enrollment problems, (3) support affordability and informed choice, and (4) reach communities at the highest risk of losing coverage.

New York City's Managed Care Consumer Assistance Program (MCCAP)

The Managed Care Consumer Assistance Program (MCCAP) helps New Yorkers navigate the complex health care system by providing individual assistance to New York City residents through a free live-answered helpline. Since 2020, MCCAP has served 23,000 clients, achieved a 90 percent success rate in cases handled, and saved NYC consumers $1.1 million in health care-related costs. MCCAP has a network of 20 Community-Based Organizations to provide culturally and linguistically competent health advocacy services to residents in more than 15 languages and at 15 different locations across all five boroughs.[3]

MCCAP's role will be even more critical as New York City residents face major coverage disruptions due to changes under H.R.1, ensuring New Yorkers can understand these changes, protect their coverage, and maintain access to needed health care during this transition by:

1. Preventing Coverage Loss. MCCAP can assist New Yorkers with new eligibility and renewal requirements; completing and submitting required documentation on time; resolving wrongful terminations or enrollment errors; and smoothly transitioning between Medicaid, the Essential Plan, and ACA coverage. For those who will no longer be eligible for coverage, they can help find low-cost or free care options (e.g., NYC Cares and community health centers).

2. Resolving Managed Care and Enrollment Problems. MCCAP advocates can help New Yorkers avoid medical debt by assisting them with managed care plan denials, delays, and service disruptions; helping them access providers during plan transitions; and submitting appeals and grievances related to coverage or care. They can also help negotiate discounts and medical bill forgiveness when a plan does not pay the bill.

3. Supporting Affordability and Informed Choice. MCCAP advocates can assist New Yorkers in comparing plan options and costs under new ACA rules; understanding premiums, deductibles, and cost-sharing; identifying financial assistance and subsidies when available; making informed decisions that fit their health and financial needs; and resolving past due medical debt.

4. Reaching communities at the highest risk of losing coverage. MCCAP advocates and trusted community-based organizations can assist New Yorkers who are low-wage and hourly workers, people of color, immigrant New Yorkers, individuals with limited English proficiency, people with disabilities and chronic health conditions, and other hard-to-reach communities.[4]

Access Health NYC

Access Health NYC (AHNYC) is a City Council initiative supporting 37 community-based organizations across all five boroughs. These organizations provide culturally responsive, language-accessible health education, outreach, and navigation services to underserved New Yorkers, including immigrant, limited-English proficient, uninsured, LGBTQ+, and disabled communities.

As more families experience coverage disruptions due to H.R.1 policies and uncertainty surrounding other federal health care and immigration policies, AHNYC plays a critical role in reaching hard-to-reach communities with trusted information and assistance. Through outreach and education, AHNYC helps residents stay informed about available programs and services that can help them maintain health coverage, access care early, and navigate increasingly complex health care systems.

How New York City Can Leverage State Matching Funds to Invest in MCCAP and Access Health NYC

Following H.R. 1, New York City should expand its limited investment in MCCAP and AHNYC. By leveraging state Article 6 matching funds, the City can increase its impact by 25 percent. Article 6 of the NYS Public Health Law provides reimbursement for expenses incurred by local health departments for core public health areas as defined in law. In the City, Article 6 funding provides support for the New York City Department of Health and Mental Hygiene (NYCDOHMH) to contract with local community-based organizations with the expertise and capacity to provide preventive, culturally competent, and linguistically competent services. Community-based organizations in the MCCAP and AHNYC initiatives, both funded by the City Council through discretionary funding and administered by NYCDOHMH, are eligible for the Article 6 matching funds.

Enhancing MCCAP and AHNYC requires City budgetary action. The City already receives Article 6 matching funds for these programs and would not need to do anything differently to continue to access matching funds. The more the Council invests in these initiatives, the larger the state match will be. This investment will ensure that those community-based organizations are supported to reach the hardest-to-reach and marginalized patients in the communities where they live and work. This ensures that funding is directly targeted to communities, not outside interests or well-heeled providers.

The effectiveness of funding outreach and consumer assistance programs on reducing coverage losses through a changing public policy landscape was demonstrated two years ago when Medicaid eligibility rules radically changed at the end of the COVID-19 emergency. A study of privately funded investment in community-based organization outreach found that $2.5 million enabled the enrollment of over 85,000 New Yorkers in health insurance during the unwinding of the public health emergency, yielding a 3,850 percent return on investment.[5] This successful experience of funding grassroots community-based organizations provides the City an effective blueprint for mitigating the worst impacts of H.R. 1 to ensure more people will not be exposed to the ravages of medical debt.

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Conclusion

The Managed Care Consumer Assistance Program, Access Health NYC, and their partner community-based organizations have a strong infrastructure that can be leveraged to mitigate H.R. 1 and prevent medical debt by: (1) preventing coverage losses, (2) resolving managed care and insurance enrollment problems, (3) supporting affordability and informed choice, and (4) reaching communities at the highest risk of losing coverage.

Endnotes

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2 Mia Wagner and Elisabeth Benjamin, *The Campaign to End Medical Debt: How New York Dramatically Reduced Patients' Medical Debt Burden*, Community Service Society of New York (Oct. 2025), https://smhttp-ssl-58547.nexcesscdn.net/nycss/images/uploads/pubs/100825_EMD_Campaign_Report_V81.pdf.

3 Report, *Managed Care Consumer Assistance Program (MCCAP) FY 2025*, Community Service Society of New York (Jan. 2026), https://smhttp-ssl-58547.nexcesscdn.net/nycss/images/uploads/pubs/011526_MCCAP_Annual_Report_V3.pdf.

4 *Id.*

5 Matt Flynn, Sara Kunkel, Mia Wagner, and Elisabeth Benjamin, *We'll Keep You Covered: How Funding Community-Based Outreach Reduces Coverage Losses in the Face of Federal Policy Changes*, Community Service Society of New York (July 2025), https://smhttp-ssl-58547.nexcesscdn.net/nycss/images/uploads/pubs/072325_KNYC_Brief_V7.pdf.

HOLDING CORPORATIONS ACCOUNTABLE FOR FRAUDULENT LAWSUIT NOTICE

THE CITY AT YOUR SERVICE: EMPOWERING TENANTS AND CONSUMERS TO CHALLENGE IMPROPER SERVICE

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Affordable NYC Now

2026

Landlords and debt collectors sue New Yorkers without providing lawful notice.

New York law, and constitutional principles of due process, require that when an individual is sued—for example, to try to evict them from their homes, or to collect a debt they purportedly owe—they must be provided meaningful notice of the lawsuit, so they can respond to defend themselves.[1] Process servers are the individuals tasked with providing legally sufficient notice, or "service," and must sign affidavits of service attesting to, *inter alia*, the date, time, and description of service.[2] Unfortunately, many process servers do not fulfill their responsibilities to provide legally sufficient service of process. The practice of failing to properly serve defendants, despite swearing otherwise in an affidavit, is called "sewer service," derived from the idea that process servers are instead tossing the legal papers into the sewer.[3]

Without notice of the lawsuits filed against them, defendants cannot appear in court to defend themselves, often resulting in a default in the case and a judgment entered against them. Sewer service has devastating consequences for defendants, who are disproportionately of low income and from communities of color.[4] Sewer service, which is "[o]ften associated with consumer debt collection and landlord-tenant litigation" has its greatest impact on those who are low income or experiencing poverty, and thus "least capable of obtaining relief from the consequences of an improperly imposed default judgment."[5] In housing court, those default judgments can result in evictions; in debt collection cases, default judgments can lead to individuals' wages being garnished or their bank accounts being frozen.[6]

Sewer service has long been rampant in New York. High rates of sewer service caused advocates to push for stronger process server laws in the 2000s and 2010s. In 2010, the New York City Bar Association released a report highlighting the issue.[7] The report noted recent progress and made several additional proposed changes to process server laws, several of which still have not yet been adopted, more than fifteen years later. Although local advocacy efforts successfully made New York City a pioneer in process server reform at the time, sewer service still runs rampant in New York Civil Courts today: there were over 79,000 default judgments across NYC Civil Courts in 2019,[8] and tenants in housing landlord-tenant court non-payment cases failed to file an answer in their cases around 50 percent of the time in 2022.[9] Given the severe consequences of default, these rates of failure to answer cannot be attributed to mere inaction by defendants, and more likely suggests that New Yorkers are still not being properly served, and so are missing out on their day in court.

NYC can facilitate tenant and consumer challenges to improper service.

The persistence of sewer service reflects, in part, a breakdown in information access and information-sharing. Tenants and consumers seeking to challenge improper service often lack timely access to critical information about the process servers who purportedly served them. At the same time, courts evaluating motions to vacate default judgments or dismiss cases for improper service frequently lack visibility into broader patterns of sewer service and misconduct by individual process servers.

New York City can address these gaps by improving access to existing information and by facilitating more effective information-sharing between City agencies, defendants, advocates, and the courts. Specifically, the City should: (1) make information about process servers more accessible to the public, including disciplinary history and affidavits of service; and (2) issue a policy statement to New York Courts recognizing systemic sewer service in Civil Court.

NYC can equip tenants and consumers with the information required to successfully challenge improper service.

When tenants and consumers eventually learn of a lawsuit, through means other than lawful service, they may seek to challenge service as improper in order to vacate a judgment against them, dismiss the case, or, at least, secure their right to appear in court and defend themselves. Although a sworn statement by defendants should be sufficient to rebut the presumption of service created by a filed—though false—affidavit of service, in practice, courts frequently choose not to believe defendants' sworn statements denying receipt of service.[10] Accordingly, defendants may need to present additional corroborating evidence, such as records demonstrating that the process server has a history of misconduct or has filed affidavits of service that are demonstrably false in similar cases. However, because this information is not easily accessible, defendants must attempt to obtain it through burdensome and slow avenues, such as through Freedom of Information Law (FOIL) requests or through the New York State Courts Electronic Filing system (NYSCEF). A defendant making a FOIL request may need to wait weeks or more to receive the requested information, often too late to include in a brief challenging service. Moreover, due to NYSCEF search limitations, defendants or their advocates must perform dozens or hundreds of individual case reviews to find relevant information. As a result, meritorious challenges are weakened or never brought at all.

The City—principally through the Department of Consumer and Worker Protection—should take immediate steps to make existing information about process server misconduct more readily accessible to tenants, consumers, and their advocates.

The Department of Consumer and Worker Protection can publicize information about process servers online.

In New York City, process servers are licensed and regulated by the Department of Consumer and Worker Protection (DCWP).[11] The DCWP's current practice of publicizing process server information is insufficient to support timely and effective service challenges. To better combat the pervasive issue of sewer service, DCWP should expand the disciplinary information it readily publishes online by: (1) expanding the scope and detail of the existing Actions Taken Against Process Servers spreadsheet; and (2) creating a digital reading room of disciplinary actions.

1. **DCWP should expand the information contained in its "Actions Taken Against Process Servers" spreadsheet.**

DCWP is required to post notification of its discipline of process servers.[12] DCWP fulfills this requirement by maintaining the webpage "Actions Taken Against Process Servers ("Actions Taken Spreadsheet").[13] The Actions Taken Spreadsheet, while frequently relied upon by advocates, suffers from several severe limitations. First, the Actions Taken Spreadsheet contains only very minimal descriptions of violations. Virtually all recent entries do not specify the reason for the discipline, with most stating only that the action was due to a "Failure to Comply with Process Server Law/Regs." In practice, advocates must guess whether a listed violation reflects a non-substantive recordkeeping mistake or a demonstrated history of signing false affidavits of service—the latter of which carries significantly more weight in a jurisdictional challenge. Second, DCWP removes entries from the Actions Taken Spreadsheet without explanation, causing a loss of vital historical data. Third, the Actions Taken Spreadsheet does not provide access to underlying documents. Thus, the public can only learn more about the disciplinary actions through FOIL requests, which can take weeks or months. These limitations undermine the Actions Taken Spreadsheet's core purpose: providing notice of discipline to the public.

DCWP should immediately revise the Actions Taken Spreadsheet by:

- providing more detailed descriptions of the reason for each action;
- preserving all entries, regardless of type of violation or resolution, and including a date stamp whenever updated; and
- including hyperlinks to the underlying disciplinary documentation.

DCWP would not be the first agency to make such changes: in 2026, the Texas Judicial Branch updated its process server Disciplinary Action Log, which already provided a detailed description of each violation, to include a link to the underlying documentation.[14]

These suggested changes could be implemented immediately and at minimal cost, as DCWP already must reference the relevant documents when adding new entries to the Actions Taken Spreadsheet. Moreover, these changes would be cost-effective in the long-term because it would reduce the need of advocates to rely on regular FOIL requests.

2. **DCWP should create an online reading room with all documentation showing process server misconduct.**

While the Actions Taken Spreadsheet is helpful, it does not include all documentation of process server misconduct. For example, many notorious process servers have a long history of misconduct that pre-date the Actions Taken Spreadsheet; the public could only rely on FOIL to know about older violations. As noted above, DCWP has removed certain entries from the spreadsheet altogether. Additionally, the Actions Taken Spreadsheet does not include notification of all types of misconduct. Among other things, it does not include whether the licensed process server has been the subject or recipient of investigatory subpoenas, notices of intent to deny or revoke licenses, or judicial findings of improper service. This information could significantly affect how a court considers a service challenge. Currently, the only way for the public to access this information is through a FOIL request,[15] which may create delays of a month or more.[16] Reliance on FOIL is particularly ill-suited to the realities of civil court practice, where motions challenging service are often subject to short briefing schedules and delayed access to records can functionally foreclose meaningful relief.

DCWP already has the authority to maintain these records for public inspection,[17] and now has the opportunity to be pro-active instead of reactive by uploading documentation showing process server misconduct to an online reading room. An online reading room would effectively implement DCWP's duty, reduce duplicative FOIL requests, and improve transparency and utility to the public. Other states have adopted similar models: Montana, for example, maintains an online Licensee Lookup system allowing users to download disciplinary records for process servers.[18]

DCWP already possesses the relevant materials to make this change; it would only need to update how those materials are organized and displayed. This transition could begin immediately. The success of this proposal would be readily apparent by the reduced number of FOIL requests and usage metrics for the online reading room.

3. **DCWP should require process servers to submit affidavits of service to the agency.**

In most housing and consumer debt cases, affidavits of service are the primary—and often sole—evidence that courts rely upon to establish personal jurisdiction over a defendant. Courts routinely accept affidavits of service at face value when determining whether a defendant was properly served, whether a default judgment may be entered, whether a default should later be vacated, and whether to dismiss a case for improper service.

When affidavits of service are examined collectively, however, patterns of suspicious or impossible service practices often emerge. Investigations have repeatedly revealed scenarios in which process servers claimed to effectuate service in multiple locations at the same exact time,[19] alleged service with physically impossible travel times,[20] or routinely swore to serve fictitious household members across numerous cases.[21] While such evidence is highly probative of sewer service, the current functionality of the NYSCEF requires extraordinary effort to uncover these patterns (often involving manual retrieval of hundreds of filings),[22] making this information effectively inaccessible in routine litigation.

DCWP should use its rulemaking power to require that process servers submit all completed affidavits of service to the DCWP.[23] The DCWP should then post all affidavits of service online in a format searchable by the public. If tenants, consumers, and advocates had access to all affidavits of service, they could easily show when process servers swear to impossible or contradictory service, and assess when an individual or agency is engaging in widespread sewer service practices. This access would enable New Yorkers to dispute improper service in their individual cases and to bring affirmative challenges to widespread sewer service practices. Moreover, this would discourage sewer service at the outset, routing out bad actors from the industry.

This proposal would ultimately reduce the cost borne by tenants and consumers due to widespread sewer service, offsetting any additional costs incurred by the City through investment in new technology or staff.

Alternatively, DCWP could work with the Office of Court Administration (OCA), the agency responsible for e-filing,[24] to encourage two straightforward changes to NYSCEF:

- require that parties filing an affidavit of service enter the name of the process server into a discrete, standardized data field; and
- enable case searches by process server name.[25]

The success of this proposal could be demonstrated by tenants and consumers having meaningful access to affidavits of service in other cases that undermine or contradict the affidavit filed in their own case, advocates bringing more affirmative challenges to service, and reduced improper service overall.

The City can issue a policy statement to state courts about sewer service.

Even where defendants present evidence undermining service, courts may be reluctant to credit the sworn denials or may fail to recognize sewer service as a systemic problem, especially when defendants are proceeding *pro se*.[26] DCWP should use its respective authority to issue recommendations on sewer service to support the courts' informed consideration of service issues.[27]

The DCWP should issue a policy statement affirming the prevalence of sewer service and encouraging courts to:

- treat defendants' sworn statements regarding non-service seriously, in both *pro se* and represented cases;[28]
- exercise leniency and afford due consideration to *pro se* tenants and consumers who do not have "sewer-service arguments [ ] couched in legal language,"such as by explaining the applicable procedures and burdens of proof in plain language and dismissing cases *sua sponte* for lack of personal jurisdiction when plaintiffs fail to meet their burden to show service was proper;[29] and
- engage in fact-finding and conduct hearings to determine if service was lawful.[30]

In addition, DCWP should conduct a training program for New York City courts and OCA on sewer service, which could include topics such as: data on consumer complaints, traverse reporting, and process server misconduct. DCWP could begin developing content for these trainings immediately. The success of these proposals can be measured through more frequent hearings on the lawfulness of service, service-based dismissals, denials of default judgments on the basis of improper service, and judicial recognition of improper service patterns in decisions.

Conclusion

Sewer service continues to undermine due process for tenants and consumers across New York City. While broader reforms are necessary to fully eliminate the practice, the City can take immediate, low-cost action to improve transparency and access to information that already exists. By equipping defendants with the tools needed to challenge improper service and by ensuring courts have a clearer picture of systemic misconduct, New York City can meaningfully empower low-income tenants and consumers to successfully fight back against sewer service.

Endnotes

1 There are very specific legal requirements in New York for what kind of notification constitutes sufficient service of process; for example, legal papers must either be actually handed to the person getting sued ("personal" service), or given to another adult in their household ("substitute" service), or, if that is not possible after numerous visits to the person's home, they can be attached to a person's door and also mailed ("conspicuous" or "nail-and-mail" service). C.P.L.R. § 308; R.P.A.P.L. § 735.

2 6 R.C.N.Y. § 2-235.

3 Report, *Out of Service: A Call to Fix the Broken Process Service Industry*, New York City Bar Association Committees on Civil Court and Consumer Affairs at 2 (Apr. 2010), https://www.nycbar.org/pdf/report/uploads/ProcessServiceReport4-10.pdf.

4 In *Burks et al. v. Gotham Process, Inc., et al.*, a class litigation about sewer service, the highest number of class members lived in South Bronx, which is comprised of 80 percent people of color, with an average income of ~$25,000. 20 Civ. 1001 (E.D.N.Y. 2020); *see also* Report, *Debt Deception: How Debt Buyers Abuse the Legal System to Prey on Lower-Income New Yorkers*, The Legal Aid Society et al., at 1 (May 2010), https://mobilizationforjustice.org/wp-content/uploads/reports/DEBT-DECEPTION.pdf ("Virtually all (95 percent) of people with default judgments entered against them by debt buyers resided in low-or moderate-income neighborhoods, and more than half (56 percent) lived in predominantly black or Latino neighborhoods.").

5 *Matter of Barr v. Dept. of Consumer Affs. of City of New York*, 70 N.Y.2d 821, 823 (1987).

6 *Out of Service* at 7.

7 *Id.* at 1.

8 *Court Statistics: New York City Civil Court*, New York State Unified Court System, https://perma.cc/CU3A-ZUMH (last accessed May 5, 2026).

9 Ryan Brenner, et al., *Half the Battle is Just Showing Up: Non-Answers and Default Judgments in Non-Payment Eviction Cases Across New York State, 2016-2022*, N.Y.U. Furman Center at 2 (Jan. 2023) https://www.furmancenter.org/wp-content/uploads/2023/01/Half_the_Battle_is_Just_Showing_Up_V3_1.pdf.

10 Nina Lea Oishi, *Judging Debt: How Judges' Practices in Consumer-Credit Court Undermine Procedural Justice*, 133 Yale LJ Forum 271, 291 (Nov. 22, 2023),https://yalelawjournal.org/essay/judging-debt-how-judges-practices-in-consumer-credit-court-undermine-procedural-justice ("[M]ultiple judges disparage a defendant's sworn affidavit that they were not served as a 'self-serving statement,' despite the fact that a self-serving statement is often the only way that a defendant can swear something never happened.")

11 N.Y.C. Admin. Code § 20-104(a).

12 N.Y.C. Admin. Code § 20-409.

13 *Information for Process Server Liability*, NYC Department of Consumer and Worker Protection, https://www.nyc.gov/site/dca/businesses/info-process-servers.page.

14 *Compare Process Servers - Disciplinary Action Log (effective Feb. 27, 2025)*, Texas Judicial Branch, https://www.txcourts.gov/media/1460124/02272025_process-server-disciplinary-actions-log-002.pdf, *with Process Servers - Disciplinary Action Log (effective Feb. 20, 2026)*, Texas Judicial Branch, https://www.txcourts.gov/media/1460782/process-server-disciplinary-action-log.pdf.

15 *See* N.Y.S. Public Officers Law § 87(2).

16 While DCWP's FOIL responses are already public and searchable on the OpenRecords website, this is not sufficient to provide ready and accessible documentation. First, uploaded records may be impossible to find because the wording of the underlying FOIL requests determines which records appear in searches. Second, many FOIL requests contain documents for several process servers at once; an individual must scour the records to find potentially relevant records for the process server of interest. And third, because the language of the underlying request is not published, the public has no way of knowing if certain documents do not exist or were not specifically requested. The only way to ensure comprehensive responses is by making a separate FOIL request, which can take over a month to receive a response. *Explanation of Time Limits*

for Response, Open Government, New York State, https://opengovernment.ny.gov/explanation-time-limits-response (last accessed May 5, 2026).

17 N.Y.C. Admin. Code § 20-104(c).

18 *License Search*, Montana Department of Labor and Industry, https://ebizws.mt.gov/PUBLICPORTAL/searchform?mylist=licenses, (last accessed May 5, 2026).

19 *See Cuomo v. Serves You Right, Inc., et al.*, Index No. 401867/2010 at 6 (Sup. Ct. 2010) (attorney general investigation finding over 800 occasions in two years of affidavits of service alleging simultaneous service times).

20 *Id.* at 7-8 (describing service with impossible travel times, such as swearing to service 400 miles apart in seventeen minutes).

21 Report, *Deceptive Delivery – The Real Cost of 'Sewer Service' in the Courtroom*, New York Legal Assistance Group 6-7 (Apr. 1, 2025), https://nylag.org/new-report-deceptive-delivery-the-real-cost-of-sewer-service-in-the-courtroom/ (describing pattern of sewer service in a class action litigation involving the systemic falsifying of service of non-existent relatives).

22 In a review of 91 affidavits of service, advocates stated that "[b]ecause collection companies tend to purchase a large number of index numbers at a time, we attempted to look at multiple cases handled by the same process serving company." Report, *Justice Disserved*, MFY Legal Services, Inc., Consumer Rights Project 6 (June 2008), https://mobilizationforjustice.org/wp-content/uploads/reports/Justice_Disserved.pdf. In the two federal affirmative lawsuits challenging sewer service practices, advocates spent time and effort collecting hundreds of affidavits of service from NYSCEF (*Prince v. Boroff, et al.*, 1:24-cv-02706, ECF No. 43 at 11 (S.D.N.Y. 2025) and at the New York City Civil Court's Public Access Terminal (*Burks v. Gotham, et al.*, 1:20-cv-01001, ECF No. 27 at 12 (E.D.N.Y. 2020).

23 *See* N.Y.C. Admin. Code § 20-104(b); N.Y.C.C. § 2203(f).

24 *Administrative Structure*, The New York State Unified Court System (May 4, 2026) https://www.nycourts.gov/LegacyPDFS/admin/AdminStructure.pdf; Admin. Order 158/25, New York State Unified Court System (July 1, 2025). https://iappscontent.courts.state.ny.us/NYSCEF/live/legislation/AO.158.25.pdf.

25 These reforms would not alter substantive service requirements or impose new obligations on litigants beyond minimal data entry. Plaintiffs already must file proof of service, 22 N.Y.C.R.R. 1245.3(c)(5), and the identity of the process server is already contained within affidavits. In addition, NYSCEF already generates document-specific data entry fields when filing documents and supports similar search functionality by party name search and attorney name search.

26 *Judging Debt*, at 273-74.

27 *See generally*, N.Y.C.C. § 2203.

28 *See Deceptive Delivery*, at 4.

29 *Judging Debt*, at 287, 302.

30 Report, *Due Process and Consumer Debt: Eliminating Barriers to Justice in Consumer Credit Cases*, N.Y. Appleseed 30 (June 22, 2009), https://www.ftc.gov/sites/default/files/documents/public_comments/protecting-consumers-debt-collection-litigation-and-arbitration-series-roundtable-discussions-august/545921-00031.pdf.

HOLDING CORPORATIONS ACCOUNTABLE FOR EXPLOITING ONLINE EDUCATION

NEW YORK CITY CAN PROTECT STUDENTS FROM EXPLOITATION BY FOR-PROFIT ONLINE PROGRAM MANAGEMENT COMPANIES

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Affordable NYC Now

2026

For-profit companies that partner with New York City's nonprofit colleges to operate online programs are misleading students—including non-traditional students, student parents, and Black and Latino students—and driving tuition prices up.

Online college programs are an increasingly popular alternative to traditional in-person programs, in part because online programs provide comparatively greater scheduling flexibility and convenience. Online college programs are especially attractive to working students and parenting students, who may find that online programs can better accommodate work and/or child-care obligations. While online enrollment has grown in every demographic, Black and Latino students have shown the largest increases in online college enrollment and are overrepresented in online college programs.[1]

As colleges expand their online offerings, many public and nonprofit colleges have entered into arrangements with third-party,[2] for-profit companies called Online Program Managers (OPMs).[3] These companies provide a variety of services to colleges, including designing, marketing, and operating online courses. In some cases, OPMs create marketing materials, recruit prospective students, develop admissions requirements, design curriculum, and even provide instruction. In New York City, schools such as New York University and Fordham University offer online programs through arrangements with OPMs.[4]

While OPMs often play a key role in developing and operating programs, the OPMs' role is often inadequately disclosed to students. Instead, the online programs are presented under the branding of the institution, creating the false impression that the program and associated services are being offered directly by the institution. As a result, students may be misled to believe that the OPM-operated programs are offered directly by the institution and have the same faculty, admissions criteria, rigor, and quality as programs offered directly by the institution, when in fact the programs may be designed, marketed, and taught by the OPM, rather than by the institution's faculty.[5]

In addition, OPMs are frequently paid through "tuition-sharing" arrangements, where the OPM receives a percentage of each student's tuition.[6] In such arrangements, the OPM's compensation is tied to how many students enroll in the program. OPMs are typically paid 50 percent or more of tuition dollars pursuant to such an arrangement. When OPMs are also involved in marketing and recruiting, this type of per-student bounty

payment creates a financial incentive for the OPM to enroll as many students as possible, which can lead to aggressive or even deceptive marketing practices. While federal law ordinarily prohibits colleges from paying a per-student incentive to recruiters, guidance issued by the U.S. Department of Education in 2011 created a loophole that permits colleges to pay OPMs via tuition-sharing arrangements where recruitment services are provided along with other services.[7]

Tuition-sharing arrangements create incentives for OPMs to enroll as many students as possible in order to maximize profits. Where OPMs participate in decisions about admissions standards, admissions decisions, or enrollment targets, tuition-sharing arrangements create incentives for OPMs to water down admissions requirements or admit students without concern for whether or not the student will succeed in or benefit from the online program.[8]

There have been several instances where the financial incentives to maximize enrollment has led OPMs to allegedly use deceptive and misleading marketing strategies to lure students into enrolling.[9] In some cases, OPMs have been the subject of lawsuits, including a class action alleging that students were misled to believe that the online programs they were enrolling in would be taught by faculty of the institution rather than employees of the OPM.[10] OPMs have also raised concerns for targeting marketing to low-income students and students of color.[11]

In addition, tuition-sharing arrangements between colleges and OPMs divert public dollars from public and nonprofit institutions to for-profit companies and create incentives for colleges and OPMs to drive up tuition costs, leading to increased student debt and greater strain on students' finances.[12] Indeed, students who take courses exclusively online tend to have more difficulty repaying student loans than students who attend in person courses.[13]

New York City can adopt regulations to address OPMs' most deceptive and unconscionable practices.

To help protect New York City students from deceptive conduct by OPMs, help control college tuition costs, and prevent the diversion of public investment in higher education to for-profit companies, the New York City Department of Consumer and Worker Protection (DCWP) should issue regulations under the New York City Consumer Protection Law (CPL) to place guardrails on colleges' arrangements with OPMs.[14] The CPL prohibits covered entities from engaging in deceptive or unconscionable trade practices in the sale of consumer goods or services or in the collection of consumer debts. The DCWP has established authority to issue regulations under the CPL, as well as authority to enforce the CPL and underlying regulations, with respect to colleges' sale of educational services.[15]

The CPL prohibits deceptive and unconscionable trade practices and provides that conduct is "unconscionable" where it unfairly takes advantage of a consumer's lack of knowledge.[16] Tuition-sharing arrangements and marketing and recruiting practices that obscure OPMs' role in developing, marketing, and/or instruction are unconscionable practices under the CPL. OPMs exploit consumer information asymmetry and rely on students' trust in their college and lack of knowledge about the their role. OPMs exploit this trust and lack of knowledge by using advertising that prominently features the college's name, logo, and branding. OPM staff may also use email addresses that create the impression that they are employees of the college.

The new regulations covering colleges' arrangements with OPMs should:

1. **Limit the use of incentive compensation**. While not all tuition-sharing arrangements between colleges and OPMs would be banned, the regulations should prohibit colleges from entering tuition-sharing arrangements where the OPM provides marketing, recruiting, or admissions services. Colleges would have the option of entering into tuition-sharing arrangements with OPMs that do not provide those services. Colleges would also retain the option of contracting with OPMs to provide marketing, recruiting, and admissions services, but such contracts would be restricted to a "fee for service" model, rather than via a tuition-sharing compensation model.

2. **Require reporting**. Regulations should require colleges that partner with OPMs to submit OPM contracts to DCWP so that DCWP can track programs operated by OPMs and monitor compliance with the requirements of City law and regulations.

3. **Protect colleges' authority**. Regulations should ensure that colleges retain full decision-making control over essential functions, such as curriculum development, instructor selection, admissions standards, enrollment targets, and prioritization of existing or new online programs.
4. **Prevent misrepresentations and misleading branding**. Regulations should prohibit OPMs from engaging in deceptive marketing or recruiting practices. Regulations should also require OPMs to clearly disclose their status as third-party providers. Regulations should require OPMs to use distinct branding and prohibit OPM employees from using college logos, email addresses, or falsely presenting themselves as college staff.
5. **Protect faculty intellectual property**. Regulations could also safeguard faculty rights, ensuring that intellectual property, such as course materials developed by faculty, remains owned by the faculty members, not the OPM.
6. **Require transparency**. Regulations should require OPMs and their college partners to disclose OPMs' role in marketing, enrollment, and instruction in promotional materials.

Note that The Century Foundation and Protect Borrowers drafted model OPM legislation that incorporates each of these elements and could serve as a model for a DCWP regulation.[17]

As noted above, federal law includes a prohibition on colleges providing incentive compensation to recruiters, but in 2011 the Department of Education issued guidance that created a loophole for colleges' arrangements with OPMs that provide recruiting services as part of a "bundle" of services. However, in recognition of the concerns about OPMs, several states, such as Minnesota, Ohio, and New Jersey, have introduced or enacted legislation that would address some of the risks posed by colleges' arrangements with OPMs.

The Minnesota law, enacted in 2024, prohibits public colleges in Minnesota from entering into new tuition-sharing agreements with OPMs that provide recruitment and marketing services. The law also prohibits OPMs from having decision-making authority over admissions requirements.[18] The law also creates improved oversight and increased reporting requirements for OPMs. The law requires an institution's governing board to review OPM contracts and ensure compliance with state law before approving new contracts. The law also requires OPMs to identify themselves as third-party providers when engaging in any recruitment or marketing activities. It also provides that colleges that contract with OPMs must approve all marketing and recruitment communications from the OPM and publish on their website a list of all online programs that are supported by the OPM.

The Ohio law, which was enacted in 2025, applies to private, public, and career colleges, and contains guardrails on schools' arrangements with OPMs.[19] Notably, the Ohio law does *not* prohibit tuition-sharing arrangements between schools and OPMs. However, the law does (1) require colleges to disclose partnerships with the OPM on program websites; (2) require the OPM staff identify themselves when providing services to students; and (3) prohibit the OPM from controlling or making decisions regarding student financial aid.

Finally, in New Jersey, a bill was introduced in 2025 that would prohibit public, private nonprofit, and for-profit colleges in New Jersey from entering into tuition-sharing agreements with OPMs that provide recruiting services, prevent colleges from granting OPMs inappropriate control over college and program decisions, and require institutions to share information about their OPM contracts with the state.[20]

Students of color are at particular risk of harm from OPM arrangements with schools.

Students of color are at a particular risk of harm from OPM arrangements. Black students are more concentrated in online undergraduate education than in in-person programs, and both Black and Hispanic students are overrepresented in online education relative to their respective adult populations in the United States.[21] While data on OPM-program enrollment is limited, a 2020 report by 2U, one of the largest OPMs, noted that 19.5 percent of students in their network of programs were Black and 16 percent were Hispanic.[22] 2U thus had a clear overrepresentation of Black students, larger than the Black U.S. adult population (at 12 percent) and larger than the already large representation of Black students in undergraduate online programs (15 percent) and graduate online programs (17.4 percent).

While overrepresentation in higher education would be a positive development in some contexts, it raises concerns here because student outcomes for exclusively online programs trail outcomes for hybrid or fully in person programs. For example, Black and Hispanic graduates of online degree programs experience more difficulty with student debt than Black and Hispanic graduates of brick and mortar programs. For those that complete their undergraduate degree programs online, more than 50 percent of Black and more than 50 percent of Hispanic students have difficulty repaying their student loans, relative to only 34 percent of white students who completed online degree programs.[23] Conversely, only 32 percent of Black and 22 percent of Hispanic students who completed their degrees at brick and mortar programs experience difficulty repaying their loans one year after graduation. Stronger regulation of OPMs by DCWP would help protect Black and Hispanic students from being the target of misleading marketing by OPMs.

Conclusion

New York City can protect online college students from deceptive practices, help control the cost of online programs, and prevent public investment in higher education from being diverted to for-profit companies by regulating colleges' arrangements with OPMs. Strengthening regulation of OPMs will be especially beneficial to non-traditional students, working students, parenting students, and Black and Hispanic students.

Endnotes

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2 Amber Villalobos, *Colleges Should Still Tread Carefully When Outsourcing Their Online Programs*, The Century Foundation (Mar. 5, 2025), https://tcf.org/content/report/colleges-should-still-tread-carefully-when-outsourcing-their-online-programs/.

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4 *NYU Steinhardt MA in Mental Health Counseling | Online*, NYU Steinhardt School of Culture, Education, and Human Development, https://counseling.steinhardt.nyu.edu/online-masters-mental-health-counseling/ (accessed May 7, 2026); *Fordham University Online Degree Program Partnership*, 2U, https://2u.com/partners/fordham-university/ (accessed May 7, 2026).

5 *See, e.g.*, Alan Blinder, *Students Paid Thousands for a Caltech Boot Camp. Caltech Didn't Teach It*, New York Times (Sept. 29, 2024), https://www.nytimes.com/2024/09/29/us/caltech-simplilearn-class-students.html.

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11 Amber Villalobos, *Online College Programs Increasingly Put Black and Hispanic Students at Risk*.

12 Stephanie Hall and Taela Dudley, *Dear Colleges: Take Control of Your Online Courses*, The Century Foundation, (Sept. 12, 2019), https://tcf.org/content/report/dear-colleges-take-control-online-courses/.

13 Christian Michael Smith, Amber D. Villalobos, Laura T. Hamilton, and Charlie Eaton, *Promising or Predatory? Online Education in Non-Profit and For-Profit Universities*, Social Forces 102, No. 3 952-77 (Mar. 2024), https://doi.org/10.1093/sf/soad074.

14 New York City Consumer Protection Law, N.Y. Admin. Code § 20-7– et seq.

15 *City of New York v. Berkeley Educational Services of New York, Inc.*, 179 A.D.3d 538 (1st Dep't 2020).

16 The CPL also provides that for conduct to be "unconscionable", the conduct must be declared unconscionable and described in a rule or regulation. Accordingly, DCWP should explicitly state in the OPM regulation that the prohibited conduct is unconscionable.

17 The model legislation developed by The Century Foundation and Protect Borrowers is available at https://protectborrowers.org/wp-content/uploads/2025/05/Model-OPM-State-Legislation.pdf.

18 H.F. 4024, 93rd Leg., Reg. Sess. (Minn. 2024), https://www.revisor.mn.gov/bills/93/2024/0/HF/4024/versions/bill/3/.

19 H.B. 96, 136th Gen. Assemb. (Ohio 2025), https://www.legislature.ohio.gov/legislation/136/hb96.

20 S. 4818, 2024-2025 Leg., Reg. Sess. (N.J. 2025), https://www.njleg.state.nj.us/bill-search/2024/S4818.

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22 Letter to U.S. Senators Brown, Smith, and Warren, *Follow-up to Online Program Managers (OPM)*, 2U (Jan. 28, 2022), https://protectborrowers.org/wp-content/uploads/2026/05/FINAL_2U_Reponse_to_Senators_Brown_Smith_Warren_2022_luDAKtT.pdf.

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HOLDING CORPORATIONS ACCOUNTABLE USING CITY CONTRACTS

STRENGTHENING WORKER AND CONSUMER PROTECTIONS THROUGH CITY PROCUREMENT

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Affordable NYC Now

2026

Introduction: New York City's $40+ billion dollar procurement budget is an under-tapped opportunity to enhance consumer and worker protections.[1]

Procurement can be an impactful tool to advance policies that benefit New Yorkers. The City entered contracts with vendors exceeding $40 billion in FY25.[2] Mayoral agencies accounted for over 85 percent of those dollars.

Existing laws and policies establish the viability of using the City's procurement authority to advance its economic justice and affordability goals.[3] The City has already adopted a number of procurement rules that benefit workers, consumers, and small business owners: a living wage requirement for some workers,[4] prevailing wage requirements for others,[5] a labor peace agreement provision for human services contracts,[6] minority- and woman-owned business enterprise (MWBE) standards,[7] and noncompetitive small purchase (NSP) method rules,[8] to name a few. New York State also requires contractors to adopt various worker protection provisions verbatim in their contracts.[9]

We propose expanding the use of the City's procurement authority to further the Administration's policy aims. Specifically, we suggest two policy ideas that illustrate how the Mayor can use the City's own contracts to directly promote the Administration's worker and consumer protection priorities:

1. Banning contractors on public works contracts from using or enforcing mandatory arbitration agreements,[10] class action waivers, and noncompete clauses against their workers;[11] and
2. Requiring contractors to affirm compliance with the ban on training repayment agreement provisions (TRAPs[12]) in their agreements with workers on City projects, and to notify workers of their rights under the ban.

The City can enhance and enforce worker and consumer rights by implementing two additional procurement policies.

Through the Mayor's Office of Contracting Services (MOCS)[13] and contracting agencies, the City can advance worker and consumer protections in two salient ways.

1. **The City can ban its contractors from using or enforcing mandatory arbitration agreements, class action waivers, and noncompete clauses against workers engaged on City projects.**

To promote transparency, accountability, competition, the local economy, and worker safety, the City can forbid contractors from imposing mandatory arbitration provisions, class action waivers, and noncompete clauses on their workers on City projects. The City can require that the same standard apply, as well, to all subcontractors on those projects.

Limiting forced arbitration greatly benefits workers and consumers. A recent study by the U.S. Department of Labor found that after the U.S. Supreme Court green-lit mandatory arbitration and class action waivers in employment contracts, enforcement of wage laws and recovery of lost wages dropped significantly.[14] A separate study by the National Employment Law Project found that women, Black, and Hispanic workers are significantly more likely to be subject to mandatory arbitration and class action waivers.[15] Many of the sectors that the U.S. Department of Labor reports as being the most prone to labor violations are highly represented in City procurement: construction, agriculture, amusement, food services, guard services, janitorial services, and landscaping, among others.[16]

That is why preventing forced arbitration matters. Because when there is no arbitration provision in an employment or consumer contract, important disputes are aired in court, in public, and the information unearthed can be shared. Case outcomes and decisions can be relied on by later courts. Widespread abuses by the same entity become public, and can be addressed across the board.

By contrast, when workers and consumers are forced into private arbitration, the information that is discovered generally cannot be shared and does not reach other people who may have been harmed by the same business practice. And the outcomes for workers and consumers, even in their individual cases, tend to be much worse. A study by two Cornell University professors, for example, found strikingly lower win rates and damages awarded in arbitrated employment disputes compared to litigated cases.[17] Another study, by

Harvard and Stanford Business School professors, found that industry-friendly arbitrators were 40 percent more likely to be selected than consumer-friendly arbitrators.[18] The study also found that repeat-player industry attorneys picked arbitrators based on their past favorable rulings, which the authors noted seemed to influence arbitrators to favor industry in their future decision making.

Where there is less forced arbitration, there is more justice. The City is better off when it contracts with companies that avoid litigation by treating their workers fairly and that comply with the law, rather than those that can bid below their competition because they systematically exploit workers and then block them from obtaining redress.

Noncompete clauses operate similarly. When workers are not allowed to move to a competitor, their employers have less incentive to offer them competitive wages, benefits, safety, and fair treatment.[19] Barring the use of noncompete clauses would allow workers to offer their work to the highest bidder.

The benefits would be greatest for the workers currently most negatively affected by noncompete clauses. The Federal Trade Commission's rulemaking on noncompete clauses found evidence that these clauses increase racial and gender wage gaps by disproportionately reducing the wages of women, Black, and brown workers;[20] researchers estimated that banning the clauses could make tangible progress toward closing racial and gender wage gaps.[21]

New York case law applies a skeptical eye to noncompete clauses but they are not prohibited under city, state, or federal statute or rule.[22] Prohibiting these provisions in City contracts could substantially advance workers' rights.

A caveat about the arbitration and class action waiver aspects of the proposal: The Federal Arbitration Act (FAA) preempts the City from *regulating* the use of forced arbitration provisions and class action waivers within the City's borders writ large, and may also prevent the City from prohibiting its contractors from using these terms in their contracts that do not involve the City. But the City can ban these terms for workers on City-funded projects.[23] The difference lies in the "market participant" doctrine developed in the context of the "dormant commerce clause" of the U.S. Constitution.[24] The dormant commerce clause prevents state and local governments from engaging in certain types of discrimination against or burdening interstate commerce. When a city or state acts as a "market participant"—buying and selling goods and services—it has more leeway to further its policy goals than it does when imposing a general regulation on all businesses.[25] Similarly, in the context of FAA preemption, the City has more latitude to restrict the use of arbitration and noncompete provisions when it is spending its own funds than when it is making a broad policy that regulates all businesses

that operate within the City.[26] That same greater discretion probably allows the City to impose similar conditions on subcontractors and sub-subcontractors working on City projects.

2. **The City can help to enforce the New York State statute banning the use of most training repayment agreement provisions (TRAPs) by requiring contractors and subcontractors to notify employees of this protection.**

As another exercise of its procurement authority to benefit workers, the City can require an affirmative statement from bidders that they will not enforce or include TRAPs in their worker agreements, and can require all contractors to notify their workers on City projects of their rights under the state law. This change could be significant in increasing compliance with a new and important law.

As the policy statement of the New York State "Trapped at Work Act" bill put it:

> [P]rovisions in employment contracts that effectively leave workers indebted to their former employers for the costs of training upon departure have the deleterious effect of stifling professional mobility, creating significant barriers to achieving long-term financial security, and ultimately chilling the state's broader economy. Such arrangements trap vulnerable workers in hostile or undercompensated environments, thereby undermining the integrity of the labor market and the economic well-being of all New Yorkers.[27]

Requiring a specific "no TRAPs" affirmation in a bid and making a disclosure available to workers operationalizes the promise each bidder already makes to comply with CIty and State laws. The City already engages in this practice. For example, the City's standard contract language currently requires contractors to provide employees with information about whistleblower protections and procedures.[28] Practically, the TRAPs removal requirement—enforced through the procurement power—would increase the likelihood that companies ensure they have removed such provisions from their contracts.

Conclusion

The City has significant authority to improve the conditions of workers and consumers by using its procurement power to advance economic justice policies. Two steps the City could take immediately are (1) to stop contractors from using forced arbitration agreements, class action waivers, and noncompete clauses, and (2) to require that contractors remove TRAPs from their contracts and notify workers of the new state statute prohibiting these provisions. These measures would illustrate the potential of the City's procurement authority and advance protections for the City's most vulnerable residents.

Endnotes

1 The views expressed in this proposal are solely those of the authors. Affiliation is only listed for identification purposes.

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3 For example, the CIty already uses procurement to advance equity goals, labor standards, climate goals, and corporate accountability. *See generally* Rules of the City of New York, Title 9, Procurement Policy Board Rules (2026).

4 N.Y.C. Admin. Code § 6-109.

5 *Id*.

6 *Rider to City Service Contracts Pursuant to City of New York Admin. Code § 6145 Labor Peace Agreements for Human Services Contracts*, New York City, https://www.nyc.gov/assets/dycd/downloads/pdf/Combined_LPA_Rider_attachments.pdf (last accessed May 16, 2026).

7 N.Y.C. Admin. Code § 6-129.

8 N.Y.C.R.R. § 3-08.

9 *Appendix A, Standard Clauses for New York State Contracts*, New York State (June 2023), https://ogs.ny.gov/system/files/documents/2023/06/appendix-a-june-2023.pdf (last accessed May 17, 2026). Some of the required standard clauses include: wage and hour compliance, participation in workers' compensation, and compliance with NY's Human Rights Law (anti-discrimination).

10 Mandatory or forced arbitration agreements and class action waivers force the signatories to agree to resolve all disputes between them in private arbitration proceedings that are not subject to appeal or judicial review, waive the right to trial by jury, and preclude class actions.

11 That is, any subcontractors working on the City project. The City can also require its contractors' agreements with subcontractors to reflect the prohibition with respect to any sub-subcontractors.

12 Training Repayment Agreement Provisions (TRAPs) are contract terms that require workers to pay the employer back if they resign before a certain amount of time, ostensibly to compensate the employer for training the worker. In practice, TRAPs deter workers from seeking better wages and working conditions. *See* Report, *Trapped at Work: How Big Business Uses Student Debt to Restrict Worker Mobility*, Student Borrower Protection Center (July 2022), https://protectborrowers.org/wp-content/uploads/2022/07/Trapped-at-Work_Final.pdf.

13 Further review of this proposal by experienced City procurement attorneys is highly recommended. In addition, MOCS and contracting agencies implementation capacity will be key to successful implementation.

14 Fact Sheet, *Workers Lose Billions in Unpaid Wages Every Year*, National Employment Law Project 4 (July 2023), https://www.nelp.org/app/uploads/2023/07/Workers-Lose-Billions-Unpaid-Wages-Every-Year.pdf.

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19 *See* Matthew S. Johnson et al., Working Paper No. 31929, *The Labor Market Effects of Legal*

Restrictions on Worker Mobility, Natl. Bureau of Econ. Research (rev. Dec. 2024), https://www.nber.org/system/files/working_papers/w31929/w31929.pdf.

20 *See* Federal Trade Commission, *Non-Compete Clause Rule*, 88 Federal Register 3482 (Jan. 19, 2023) (gathering studies), https://www.federalregister.gov/documents/2023/01/19/2023-00414/non-compete-clause-rule.

21 *Id.*

22 *See BDO Seidman v. Hirshberg*, 93 N.Y.2d 382 (1999) (limiting the use of noncompete agreements); *Non-Compete Rule*, Federal Trade Commission (Sept. 2025) (noting "the Noncompete Rule is not in effect and it is not enforceable"), https://www.ftc.gov/legal-library/browse/rules/noncompete-rule.

23 *See, e.g.*, Notes, *The Market Participation Doctrine & Forced Arbitration*, 137 Harv. L. Rev. 1359 (2024), https://harvardlawreview.org/print/vol-137/the-market-participant-doctrine-and-forced-arbitration/ (citing David Seligman, *The Model State Consumer & Employee Justice Enforcement Act*, Nat'l Consumer L. Ctr. 31, 33–38 (Nov. 2015), https://www.nclc.org/wp-content/uploads/2022/09/model-state-arb-act-2015.pdf.

24 U.S. Const., Art. I, Sec. 8, cl. 3.

25 Dan T. Coenen, *Untangling the Market-Participant Exemption to the Dormant Commerce Clause*, 88 Mich. L. Rev. 395, 398 (1989), https://repository.law.umich.edu/mlr/vol88/iss3/2/.

26 More generally, the attraction of using the City's procurement authority (rather than its regulatory authority) to effect policy is the reduction of litigation risk under either federal law (*e.g.*, the privileges and immunities clause of the 14th Amendment or the National Labor Relations Act, in addition to the FAA and the dormant commerce clause) or state law. *See Boreali v. Axelrod*, 71 NY2d 1, 7 (1987); *New York Statewide Coalition of Hispanic Chamber of Commerce v. the New York City Department of Health and Mental Hygiene*, 23 NY3d 681 (2014).

27 *Trapped At Work Act*, S4070 (N.Y.2025-2026), https://www.nysenate.gov/legislation/bills/2025/S4070/amendment/A.

28 *General Provisions Governing Contracts for Consultants, Professionals, Technical, Human, and Client Services (Whistleblower Protection Expansion Act)*, Appendix A, Section 4.07, New York City (Jan. 2018), https://www.nyc.gov/assets/probation/pdf/procurement/Attachment_8_Appendix_A_General_Provisions_Governing_Contracts.pdf.

HOLDING CORPORATIONS ACCOUNTABLE BY EMPOWERING EVERYDAY NEW YORKERS

A NEW LAW FOR A NEW ERA: THE MAMDANI ADMINISTRATION CAN PROTECT ALL NEW YORKERS THROUGH A NEW CONSUMER PROTECTION LAW

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Affordable NYC Now

2026

Existing consumer protection laws aren't being enforced or have gaps in coverage, and New Yorkers are paying the price.

At the same time that New York City, like the rest of the country, is experiencing an affordability crisis, the federal government has completely abdicated its responsibilities to protect consumers, workers, and small businesses. This abdication, although apparent in almost every agency, is especially brazen with respect to the Consumer Financial Protection Bureau (CFPB). The administration has attempted to fire nearly all agency staff and attempted to cut off its funding,[1] dismissed or terminated the majority of its enforcement actions,[2] pardoned some of the worst corporate offenders responsible for over $3 billion in consumer harm,[3] and stopped complying with at least 87 statutory mandates.[4] The agency has also deprioritized its work related to certain topics, such as medical debt and student loans,[5] and announced that its examiners—who are charged with auditing companies for compliance with applicable consumer protections—must make a "humility pledge" to each company before commencing an exam.[6] The cumulative effect of these actions has already caused an estimated $18 billion in costs for working families.[7]

New Yorkers are lucky to have a powerful local agency working overtime to compensate for this federal retrenchment in the Department of Consumer and Worker Protection (DCWP). However, one agency cannot address the needs of every resident or worker, and the agency lacks authority to protect small businesses. What's more, even if DCWP had an infinite budget and robust staffing, it can only enforce the laws that the City Council has empowered it to enforce, which cannot keep up with the breadth and pace of abuses that plague New Yorkers every day. Without a broad law meant to ensure a fair economy and the ability to meaningfully enforce that law, New Yorkers will continue to experience abusive practices, including those that violate federal laws but for which there is no actual accountability.

The Mamdani Administration can empower everyday New Yorkers by allowing them to enforce existing consumer protections on their own.

New York City can enact a new municipal consumer protection law to fill the oversight and accountability void left by the federal government and ensure all New Yorkers are safe from unfair, deceptive, and abusive conduct. Although the City already has a consumer protection law, it is only enforceable by DCWP, its scope does not include workers or small businesses, and it requires the agency to engage in rulemaking before protecting consumers from certain practices.[8] The Mamdani Administration can deliver New Yorkers from all manner of abuses in short order, and at no cost to the City, by partnering with the City Council to enact a new city law that protects that consumers, workers, and small businesses can enforce directly against companies that break the law through a private right of action.

Banning unfair, deception, or abusive acts or practices is already the national standard for consumer protection.

New York's problem is not a lack of protections, but a lack of enforcement of existing protections. Every state—including New York—and the federal government has a version of a law that bans unfair, deceptive, and/or abusive acts or practices in trade and commerce.[9] These so-called UDAAP laws vary in terms of scope, but all have roots in the Federal Trade Commission (FTC) Act's ban against "unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce."[10] In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which created the CFPB and banned unfair, deceptive, or abusive acts or practices in the consumer finance industry,[11] in recognition that the existing bans on unfairness and deception alone were insufficient to prevent the 2008 financial crisis. UDAAPs intentionally prohibit categories of conduct, rather than specific acts or practices, to provide a flexible standard that can be applied as new fact patterns emerge without requiring additional legislation.[12]

Between these two agencies and statutes, almost every actor in every jurisdiction currently operates under a UDAAP, although without meaningful oversight there is no accountability for misconduct.

For decades, New York State's UDAAP failed to meaningfully plug any oversight holes left by the federal government. Although the law was enforceable by both the Office of the Attorney General and private parties, unlike 42 other jurisdictions, it only prohibited deception, not unfairness or abusiveness.[13] Although the

State amended its UDAAP in 2025, the amendment expanded only the attorney general's authority, banning unfairness and abusiveness, but failed to carry over these new protections to New York's existing private right of action, and also did not address the law's other limitations.[14]

As with DCWP, the Office of the Attorney General cannot address every New Yorker's problems; the attorney general may be the People's Lawyer, but she cannot be every person's lawyer. Without a robust, privately enforceable protection, New Yorkers will continue to be subjected to abusive practices.

By enacting a local law to allow for UDAAP enforcement by private litigants, New York City can protect its residents, workers, and businesses.

The City can enact a municipal law equivalent to the FTC's and CFPB's protections around unfairness, deception, and abuse, and make this law privately enforceable. By mirroring the federal standards, the new law would not create a new standard of conduct with which businesses would have to comply. By making the law privately enforceable, the new law would address limitations in public enforcement and resources. Much like how New Yorkers' federal protections should not depend on whether the federal government chooses to enforce them, New Yorkers' state or local protections should not depend on whether the Office of the Attorney General or DCWP have the resources and personnel sufficient to investigate and prosecute every violation.

A strong local UDAAP must have the following components:

1. **A broad ban on unfair, deceptive, or abusive acts or practices**. Core to any UDAAP is a prohibition on conduct that undermines faith in the system, takes advantage of consumers, or puts honest brokers on an uneven playing field. The law can directly incorporate the definitions of unfairness, deception, and abusiveness from existing state and federal law to ensure consistency in industry compliance.

2. **Apply to all trade and commerce, not just traditional "consumer" transactions**. A strong city-level UDAAP must ban all unfair, deceptive, or abusive conduct in all aspects of trade, commerce, or business. To limit its applicability to "consumer" transactions for personal, family, or household purposes leaves workers and small businesses with no recourse. This is especially true of workers across the gig economy and "mom and pop" business owners, who too often find themselves falling between the cracks between traditional "consumer" and "worker" protections. Similarly, the law must apply to private or "one off" transactions and broad patterns and practices equally; there is no policy justification for allowing one New Yorker to suffer just because he or she cannot prove that others have experienced the same misconduct.

3. **The law must be privately enforceable**. As we're seeing with federal protections, laws are meaningless if they are not enforced. Even with a strong attorney general and DCWP, New Yorkers must be able to enforce their own rights if those rights are to afford meaningful protections. New York City already has several local laws offering consumer or worker protections that can be privately enforced. For example, the Fair Work Week law includes a private right of action,[15] as does the City's law regulating legal process servers.[16] For a private right of action to be practical for low-income New Yorkers, it must also include mandatory fee shifting, so that a defendant found to have committed a UDAAP is required to pay for the plaintiff's legal fees.

4. **The law should allow for third-party standing**. Too often, consumers and workers experience abusive conduct involving a contract that includes a binding arbitration agreement, precluding them from getting their day in court.[17] One way that a New York City law can ensure justice for these New Yorkers is to allow third parties, such as public interest organizations or unions, to sue on behalf of the public interest to stop ongoing UDAAP violations. As nonparties to the related contracts, these litigants cannot be compelled to arbitration, and so can obtain relief that extends to the public at large. Washington, D.C.'s UDAAP includes a third-party standing provision that has been used to successfully overcome an attempt to compel arbitration.[18]

5. **Relief under the law must be meaningful**. A law meant to address unfair, deceptive, or abusive conduct must be able to make any victim of that conduct whole through restitution and must deter future misconduct through statutory damages and injunctive relief. The state UDAAP currently imposes only a $50 penalty, which could hardly be considered even a slap on the wrist.[19] A strong local law should impose $2000 per violation to ensure true behavior change. The law can allow for a pre-litigation notice provision and opportunity to provide damages and cease the unlawful conduct, so that inadvertent violations do not result in costly litigation.

None of these concepts is novel, but they would meaningfully shift the paradigm in New York City for consumers, workers, and small businesses.

Enacting a new UDAAP is preferable to amending the City's existing Consumer Protection Law (CPL) for several reasons. Perhaps most importantly, creating a new law is simpler than amending the CPL, which does not currently meet the criteria listed above. The CPL applies only to consumers,[20] cannot be enforced by private litigants,[21] and only allows for enforcement against unfair or abusive practices that have already been identified as unlawful through rulemaking.[22] Although these deficiencies could be resolved through a series of

amendments, that would require unnecessary delays while the agency reviews its past and ongoing matters for any unintended consequences from such amendments. Keeping the CPL and a new UDAAP as legally distinct tools also affords a belt-and-suspenders approach to consumer protection, as if one authority is successfully challenged in court, the other does not necessarily fall with it.

Having two distinct authorities with two distinct enforcers is not unusual: in New York State, the Department of Financial Services—the state-level version of the CFPB—can enforce its own UDAAP focused on the consumer finance industry through the state Financial Services Law,[23] while the attorney general and private parties can enforce the more general UDAAP through the General Business Law.[24] Having two complementary laws would increase protections for New Yorkers, and where, as proposed here, the prohibited conduct mirrors federal standards, industry should have no compliance challenge. Indeed, any industry actor that cries foul would be revealing their active noncompliance with federal law.

New Yorkers experience real harms that are currently unaddressed.

Legal services providers across the city regularly hear from people who are in need of assistance due to unscrupulous business practices. These range from New Yorkers who are tricked into paying for unnecessary add-on products by used car dealers,[25] to the families of nursing home patients sued by the nursing homes to collect debts for which they are legally not liable,[26] to older homeowners who fall victim to deed theft.[27]

Available data make clear that New Yorkers are suffering. The number of complaints filed with the CFPB by NYC residents increased by 63 percent in 2025 relative to 2024, totalling 184,830 in 2025.[28] This increase was not evenly distributed across the city: the Bronx saw a 71 percent increase, Queens a 68 percent increase, Manhattan a 65 percent increase, Staten Island a 56 percent increase, and Brooklyn a 52 percent increase.[29] At the same time that the number of complaints to the CFPB increased across the city, the number of complaints from NYC that were resolved and included relief to consumers fell by approximately 10 percentage points.[30]

Workers in New York also need stronger protections against misconduct, including abuses in the workplace that range from overreaching non-compete agreements to worker surveillance by employers.[31] Gig workers are particularly vulnerable to exploitation, and generally have fewer options for recourse than traditional employees.

In addition to these well-established practices and scams, all New Yorkers—consumers, workers, and small businesses—face the shared risk that Artificial Intelligence poses. In light of the federal government's

attempts to preempt the AI industry from state oversight,[32] it is especially important that New York City have a strong and robust consumer protection law, which as a law of general applicability, can be used to combat misconduct as it arises from the misuse of AI and similar technology. The City does not need to know exactly what shape these emerging risks will take to equip its residents with tools they can use to protect themselves from future harms.

Conclusion

Now is the time for New York City to act. The federal government's primary UDAAP enforcement agencies, the CFPB and FTC, are being gutted and have rolled back protections. The state legislature just enhanced the Attorney General's consumer protection authority, but declined to enhance the law that individual New Yorkers can enforce themselves, and DCWP's consumer protection law is limited in scope and can only be enforced by the City, which leaves consumers, workers, and small businesses subject to the government's staffing constraints and bandwidth. At the same time, we are in an affordability crisis. Price gouging in on the rise and consumers are filing record numbers of complaints about predatory business practices. Enacting a new consumer protection law that New Yorkers can use to enforce existing standards for fair dealing is a common-sense, budget-smart way for the Mamdani Administration to promote a just economy for all.

Endnotes

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11 12 U.S.C. § 5531.

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