

The State of Workers' Rights in New York City

Third Annual Report



Bill de Blasio
Mayor

Consumer and
Worker Protection

Lorelei Salas
Commissioner

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Table of Contents

Message from Commissioner Lorelei Salas	6
Executive Summary	7
Enforcing NYC’s Worker Protection Laws	8
Educating New Yorkers about Workers’ Rights	16
Developing New Policies to Raise Labor Standards	19
Analyzing NYC’s Labor Markets	21
Conclusion	22
Endnotes	23
Appendices	
Appendix A: DCWP Statistics	26
Appendix B: Overview of DCWP Laws	32
Appendix C: Overview of Paid Care Division	35

Message from Commissioner Lorelei Salas

The year 2019 was a momentous one for our Agency.

While celebrating our 50th anniversary as the first municipal consumer protection agency in the country, we announced our new name—Department of Consumer and Worker Protection (DCWP)—which better reflects our broader mission to protect and expand labor rights. Beginning with implementation of NYC’s Paid Sick Leave Law in 2014, followed by enactment of groundbreaking new worker protection laws, and finally creation of our Office of Labor Policy & Standards (OLPS) in 2016, our work protecting workers is truly on equal footing with our longstanding work protecting consumers.

I am thrilled to announce that in 2019, under the direction of Deputy Commissioner Ben Holt, OLPS set a new record for restitution, securing \$3,220,448 for 7,708 New York City workers. This achievement was made possible by strategic enforcement of the Paid Safe and Sick Leave, Fair Workweek, and Freelance Isn’t Free laws.

Still, we know we have more work to do.

Together with our partners throughout the city, I look forward to another year of great progress toward ensuring that all working New Yorkers can receive the compensation and respect they deserve.

A handwritten signature in black ink, consisting of a stylized initial 'L' followed by a long horizontal stroke.

Lorelei Salas
Commissioner

Executive Summary

In his 2019 State of the City address, Mayor Bill de Blasio announced that the Department of Consumer Affairs (DCA) would be renamed the Department of Consumer and Worker Protection (DCWP), marking an important milestone in the growth of the Agency.

Established in 1969 as the first municipal consumer protection agency in the country,¹ DCA has, in recent years, assumed responsibility for an expanding portfolio of worker protection laws, including Paid Sick Leave (2014),² Commuter Benefits (2016),³ Freelance Isn't Free (2017),⁴ and Fair Workweek (2017),⁵ among others. The Agency's Office of Labor Policy & Standards (OLPS) is charged by statute with enforcing these workplace laws, developing new policies to raise labor standards, and acting as a central resource to help working New Yorkers assert their rights under City, state, and federal law.⁶

The Agency's new name better reflects its expanded role and mandate.

This report follows two previous publications about *The State of Workers' Rights*.⁷ It is organized according to DCWP's four main worker protection functions:

1. Enforcing NYC's Worker Protection Laws
2. Educating New Yorkers about Workers' Rights
3. Developing New Policies to Raise Labor Standards
4. Analyzing NYC's Labor Markets

Key highlights include:

- DCWP secured a record \$3,220,448 in restitution for 7,708 workers under the Paid Safe and Sick Leave, Fair Workweek, and Freelance Isn't Free laws.
- DCWP introduced the public to its new name through a public awareness campaign and strengthened its relationships with at-risk workers and their organizations by hosting a series of immigrant worker convenings.
- DCWP provided legal and economic analysis on key issues before the administration and City Council, helping to inform policy decisions.
- Through research, DCWP obtained new insight into the ways labor policy and enforcement can sometimes fail to effectively protect workers, which has informed worker protection activities and helped set an agenda for further research.

DCWP is also home to the first-of-its-kind Paid Care Division within OLPS. This Division is charged with raising job standards for home care aides and domestic workers.

Strengthening workers' rights remains at the top of the City's policy agenda. In 2020, DCWP will continue its work to protect and advocate for all New York City workers as part of the City's broader efforts to achieve equity for working people.

Enforcing NYC’s Worker Protection Laws

“New York City is already the greatest city in the world and we now need to be the greatest city to live in. That’s what the fairest big city in America means and that’s exactly what New Yorkers deserve—to live in a city where work is rewarded and all this prosperity is shared.”

- Mayor Bill de Blasio⁸

In 2019, DCWP continued to vigorously enforce the City’s workplace laws; the Agency:

- received 1,123 complaints;
- closed 894 investigations;
- secured \$512,139 in penalties payable to the City; and
- recovered \$3,220,448 for 7,708 New York City workers.

Many of these figures are records for DCWP. Paid Safe and Sick Leave continues to represent the largest portion of the Agency’s labor standards enforcement work. Recent growth in complaints and investigations has been driven by the Freelance Isn’t Free Law,⁹ and recent growth in restitution and penalties has been driven by the Fair Workweek Law. See Appendix A, Tables 3 and 4 for further detail.

Table 1. Labor Standards Enforcement, 2017-2019

	2017	2018	2019
Complaints Received	524	1,046	1,123
Investigations Opened	404	555	1,004
Investigations Closed	428	888	894
Cases Filed	48	35	30
Restitution	\$2,258,692	\$2,682,245	\$3,220,448
Workers Receiving Restitution	6,241	7,749	7,708
Penalties	\$498,847	\$467,019	\$512,139

Notes: Cases Filed excludes prosecutions limited to procedural violations by the employer, such as failure to respond to document demands.

Within DCWP, labor standards enforcement happens in a few ways:

- The OLPS investigations unit conducts Paid Safe and Sick Leave and Fair Workweek investigations, which they refer as necessary to the OLPS litigation team for prosecution before the City’s Office of Administrative Trials and Hearings (OATH).
- The litigation team also works with the City’s Law Department to prosecute cases in civil court.
- Navigators in OLPS’s Navigation Program address Freelance Isn’t Free Law complaints. Civil litigation occurs directly between freelancers and hiring parties, without the Agency prosecuting.

The following sections cover the major areas of DCWP’s labor standards enforcement work in 2019. Appendix A features additional statistics. Appendix B features brief descriptions of the labor standards laws that DCWP enforces. Appendix C features an overview of the Paid Care Division.

Paid Safe and Sick Leave

NYC’s Paid Sick Leave Law—also known as the Earned Sick Time Act—took effect on April 1, 2014, guaranteeing most private and nonprofit sector employees in New York City the right to paid time off to address a personal or family health need.¹⁰ The law was amended in May 2018 as Paid Safe and Sick Leave to include leave in cases of domestic violence, unwanted sexual contact, stalking, or human trafficking and to expand who qualifies as a covered family member.¹¹

In 2019, OLPS:

- closed 255 Paid Safe and Sick Leave investigations;
- secured \$2,427,430 in restitution for 7,208 workers; and
- recorded nearly \$12 million in total penalties and restitution since the law went into effect.¹²

As in past years, OLPS made strategic use of its investigative authority to leverage complaints from individuals into restitution and improved compliance for *all* affected workers, conducting 32 percent of its Paid Safe and Sick Leave investigations on a workplacewide basis. Complainants’ most common allegation in 2019 was that employers failed to pay them when they used their earned sick leave. See Appendix A, Table 7 for additional Paid Safe and Sick Leave complaint allegations.

Table 2. Paid Safe and Sick Leave Enforcement, 2017-2019

	2017	2018	2019
Complaints Received	381	332	320
Investigations Opened	392	284	280
Investigations Closed	319	386	255
Settlement	168	241	171
Decision	0	6	2
Administrative Closure	151	139	82
Cases Filed	48	35	30
Restitution	\$2,067,339	\$1,888,114	\$2,427,430
Workers Receiving Restitution	6,147	7,481	7,208
Penalties	\$497,447	\$447,019	\$454,009

Notes: Cases Filed excludes prosecutions limited to procedural violations by the employer, such as failure to respond to document demands. Investigations are considered administratively closed if DCWP concludes that there is insufficient evidence to proceed with enforcement or if it consolidates multiple investigations into one open investigation.

The vast majority of Paid Safe and Sick Leave investigations were resolved without litigation in 2019 (222 out of 255).¹³ In the remaining 33 investigations, OLPS filed charges with OATH, resulting in 30 settlements, two court decisions, and one withdrawal.

Highlights include:

- **Major Settlement with Starbucks**

On December 19, 2019, Mayor de Blasio and New York State Attorney General Letitia James announced a major settlement with Starbucks, capping a long-running investigation into systemic violations of the Paid Safe and Sick Leave Law at the chain's New York City locations. Through its joint investigation with the Office of the Attorney General, DCWP found that Starbucks had an illegal sick leave policy that required employees to find a substitute when they used sick leave and, if they failed to find that substitute, subjected employees to corrective action, including termination of employment. The settlement requires Starbucks to:

- create a \$150,000 restitution fund for all employees whose rights were violated; and
- post an educational poster about the Paid Safe and Sick Leave Law in all its New York City stores, visible to employees and customers alike. An innovative settlement term, the posting requirement is designed to maximize the impact of the enforcement action by facilitating greater awareness of rights throughout the city.

- **Strong Decisions Establishing Individuals' Personal Liability for Labor Violations**

In three separate cases filed at OATH (*DCA v. Excel Interior Contracting, Inc.*, *DCA v. AQP General Services Corp. and Angel Cardenas*, and *DCA v. Brewer, Attorneys & Counselors*), DCWP secured favorable decisions concerning the issue of whether a business owner was personally liable for violations of NYC's Paid Safe and Sick Leave Law. In each case, DCWP sued an individual jointly with the business, and OATH found that the individual qualified as a liable employer independent of the business entity's status. Together, these decisions reinforce DCWP's authority to use this critical tool for holding business owners financially liable for their violations of law.

- **Agency-Initiated Enforcement in Home Care**

Though most Paid Safe and Sick Leave investigations originate with worker complaints, OLPS's authority to launch investigations remains very important, enabling DCWP to pursue coordinated enforcement actions to effect changes to prevailing practices at an industry level and to reach workplaces where the threat of retaliation and limited awareness of rights may prevent workers from filing complaints. In 2017, OLPS exercised this authority in launching a large-scale enforcement initiative in the home care industry, ultimately encompassing 42 employers and more than 50,000 employees. After initial investigative findings were announced in September 2018,¹⁴ DCWP commenced litigation against several home care agencies, resulting in 11 new settlements. The initiative has so far resulted in:

- \$495,805 restitution for 4,474 workers;
- \$145,374 in civil penalties; and
- 15 referrals to state agencies for violation of state labor standards laws.

As of May 2020, one case—pursued jointly by DCWP and the Attorney General—remains open.

- **Litigation to Enforce the Rights of Airline Employees**

In 2017, DCWP sued Delta Airlines, Inc. for denying accrual and use of sick leave during flight attendants' first year of employment and for enforcing a progressive disciplinary system that penalized them for using sick time.¹⁵

In 2019, DCWP sued American Airlines, Inc. for enforcing a similar progressive discipline system against ground crew, as well as violating other requirements of the Paid Safe and Sick Leave Law, such as unlawfully requiring medical documentation, failing to pay sick time at the required rate, and unlawfully requiring advance notice of leave.¹⁶

Both airlines have sued DCWP in federal court, claiming that the federal Airline Deregulation Act and the U.S. Constitution's interstate commerce clause preempt the Paid Safe and Sick Leave Law's application to airlines, exempting them from its requirements.¹⁷ Together with the City's Law Department, DCWP is defending the law's application to airline employees and submitted its most recent filings in late 2019. DCWP is encouraged by the recent holding in the U.S. District Court for the Western District of Washington, *Air Transport Association of America v. Washington Dept. of Labor & Industries, et al., Case No. 18-cv-05092-RBL*, which found that Washington's Paid Sick Leave Law, as applied to flight crew employees, did not violate federal law or the Constitution. As of May 2020, the two cases are ongoing.

- **Increased Public Awareness of Safe Leave and First Charges Filed**

Legislation expanding the Paid Sick Leave Law to also include Safe Leave took effect May 5, 2018.¹⁸ To make New Yorkers aware of this new right, DCWP:

- conducted an extensive outreach campaign;
- issued new FAQs;
- updated the notices that employers must give employees;
- established referral relationships with key social service providers; and
- partnered with the Mayor's Office to End Domestic and Gender-Based Violence on a citywide learning tour during Domestic Violence Awareness month.¹⁹

In 2019, DCWP filed its first charges at OATH under the law's safe leave provisions. As of May 2020, the case is still under litigation at OATH.

- **Successful Use of Mediation to Resolve Protracted Cases**

In August 2019, DCWP had its first case referred to the OATH Center for Creative Conflict Resolution. The Center has offered mediation services in unique cases that have not been able to settle through OATH's traditional settlement conference process but where the parties have indicated a preference for settlement over trial. Though the referred case had been in protracted investigation, negotiation, and litigation since 2015, the mediation resulted in a settlement of \$51,000 to an individual employee, the highest amount yet obtained for a single individual in a settlement.

Fair Workweek

"So many RAP [Retail Action Project] members come through our doors with child and elder care needs or are looking to take on educational classes. The on-call ban in NYC has given workers an opportunity to take back their schedules and their lives."

- Rachel Laforest, Executive Director of the Retail Action Project²⁰

NYC's Fair Workweek Law, which went into effect November 26, 2017, provides covered fast food and retail workers protection against unpredictable schedules, including last-minute schedule changes and on-call shifts.²¹ The law also provides a pathway to full-time employment for fast food workers by requiring that any available shifts be offered to existing employees before new workers are hired.

The rights guaranteed by NYC's Fair Workweek Law are substantial:

- The opportunity to work full time represents a doubling of income for many workers.
- Predictable scheduling is strongly associated with reduced risks for hunger, homelessness, and behavioral problems in employees' children.²²

Given the severity of these harms, the legislation provides for substantial penalties and restitution to be charged on a per-employee, per-instance basis. Generally, the protections under the law are more extensive for fast food employees than for retail employees.

In 2018, DCWP closed 48 Fair Workweek investigations, securing \$252,135 for 1,270 workers. In 2019, DCWP closed 84 Fair Workweek investigations, securing \$962,827 for 1,918 workers.

Effective 2019, the OLPS research team began providing ongoing assistance in the gathering and analysis of employers' human resources and operational data, helping the Agency meet the demands of the especially complex investigations that arise under the law. As with Paid Safe and Sick Leave, most investigations are resolved without litigation, and there has yet to be a court decision issued under the law or a civil action commenced by the Law Department.

Enforcement has been especially intensive in fast food, where the 53 fast food investigations closed in 2019 were responsible for over a third of the total Fair Workweek and Paid Safe and Sick Leave penalties and restitution for the year, reflecting both the high damages provided for under the statute and the high level of labor rights activism among fast food workers.

Table 3. Fair Workweek Enforcement, 2017-2019

	Fast Food			Retail		
	2017	2018	2019	2017	2018	2019
Complaints Received	2	151	98	1	30	45
Investigations Opened	8	62	40	2	29	42
Investigations Closed	1	29	53	0	19	31
Settlement	0	10	33	0	6	15
Decision	0	0	0	0	0	0
Administrative Closure	1	19	20	0	13	16
Cases Filed	1	5	5	0	3	2
Restitution	0	\$208,335	\$872,332	0	\$43,800	\$90,495
Workers Receiving Restitution	0	1,172	1,888	0	98	30
Penalties	0	\$54,740	\$159,018	0	\$14,400	\$55,640

Notes: Cases Filed excludes prosecutions limited to procedural violations by the employer, such as failure to respond to document demands. Investigations are considered administratively closed if DCWP concludes that there is insufficient evidence to proceed with enforcement or if it consolidates multiple investigations into one open case.

Highlights include:

- **Settlement with the Operator of Five McDonald's Locations**
 On the two-year anniversary of the law, the de Blasio Administration announced a settlement with Star Parker, LLC, the operator of five McDonald's locations in Queens. The settlement provided for \$155,000 in restitution to 280 workers and required the operator to retain an independent compliance monitor. DCWP charged Star Parker with violations of nearly every aspect of the law, including:
 - failing to provide schedules to employees;
 - failing to get written consent from employees when schedules were changed;

- failing to pay employees premiums when schedules were changed without 14 days' advance notice; and
- scheduling employees to work "clopings"²³ without their consent.

DCWP also charged the employer with retaliation against employees who tried to exercise their rights by taking away their shifts, reducing hours and, in one case, terminating an employee.

- **Settlement with a Domino's Franchise**

In summer 2019, DCWP settled with 3683 Washington Heights Pizza, LLC., a Domino's Pizza franchise, securing \$95,899 in restitution for 48 workers. DCWP found that the employer had failed to:

- provide good faith estimates;
- transmit schedules on a timely basis; or
- obtain written consent and provide premium pay for "clopings" and schedule changes with less than 14 days' notice.

The investigation also found a range of Paid Safe and Sick Leave Law violations, including failure to allow employees to use paid sick leave and retaliation against two employees for requesting paid sick time.

- **Multiple Investigations of Chipotle**

On September 10, 2019, Mayor de Blasio and Commissioner Salas announced a lawsuit against Chipotle Mexican Grill, Inc. (Chipotle) seeking more than \$1 million in restitution plus civil penalties for widespread violations of the Fair Workweek Law at five Brooklyn locations. The investigation was furthered by the participation of more than 30 workers who were referred by SEIU 32BJ and filed complaints with OLPS.

In a related matter, in 2019, OLPS began investigating similar allegations at a wider set of Chipotle locations throughout New York City. All Chipotle locations are corporate-owned, making it one of the largest fast food employers in the city. As of May 2020, both matters are ongoing.

Freelance Isn't Free

"The new legislation is a fundamental step toward the goal of protecting freelance workers of many different industries, and represents an important achievement in protecting the rights of all New Yorkers."

- Favio Ramirez-Caminatti, Executive Director of El Centro del Inmigrante²⁴

The Freelance Isn't Free Law, which took effect May 15, 2017, aims to address the problem of hiring parties failing to pay freelancers promptly and in full for the work they perform. The law:

- requires a written contract for freelance work worth \$800 or more;
- provides freelancers with additional monetary remedies if a hiring party tries to avoid paying them; and
- empowers freelancers to enforce their rights in court with a provision for payment by the hiring party of double damages and attorneys' fees when freelancers prevail in their suits for nonpayment.

The law also authorizes OLPS to administer a Navigation Program to assist freelancers in accessing resources and exercising their rights. Navigators:

- field general inquiries;
- conduct initial consultations with freelancers who believe their hiring party may have violated the law;
- administer a complaint procedure that involves noticing hiring parties of a claim against them; and
- guide freelancers through the process of pursuing their claims in civil court should they choose to do so.

This design allows OLPS to help workers recover considerable amounts without the costly and often protracted process of arriving at investigative findings, attempting to settle with employers, and ultimately litigating claims in court if settlement is unsuccessful. As a result, with only two Navigators, the program was able to close 590 cases in 2019, helping 215 freelancers recover almost \$645,000. Since outcomes are self-reported to OLPS by complainants (and in many cases remain unknown to OLPS), it is likely that the true recoveries are even greater. The 670 complaints received by the program in 2019 represent a 24 percent increase over 2018 (542).

Table 4. Freelance Isn't Free Enforcement, 2017-2019

	2017	2018	2019
Complaints Received	128	542	670
Cases Opened	128	530	671
Cases Closed	95	465	590
Amounts Recovered	\$130,136	\$724,831	\$644,667
Workers Recovering	56	229	215

Highlights include:

- Successful Class Action Suit Against a Film and TV Production Company**
 In September 2018, OLPS received several complaints against the film and television production company Dique Pic Productions LLC and helped to connect the complainants to a lawyer. After going through the OLPS complaint process, in April 2019, the freelancers filed a class action suit in federal court alleging violations of federal and state laws as well as NYC’s Freelance Isn’t Free Law. The case settled in November 2019, with 17 plaintiffs set to receive \$80,000.²⁵
- Collective Action by Writers to Address Nonpayment**
 OLPS received a series of complaints from freelancers alleging that Out Magazine failed to pay them for the work they performed. After notifying the hiring party of the claims and receiving no response, Navigators connected the complainants to the National Writers Union to assist them in pursuing a group grievance claim against the hiring party, illustrating how the law can be used to bring independent workers together to contest unfair practices in their industries.

Countering Retaliation

The threat—and reality—of employer retaliation is widely recognized as the most severe deterrent to workers exercising their rights on the job.²⁶ All DCWP labor standards laws prohibit employers or hiring parties from taking, or threatening to take, any adverse action against workers who exercise their rights. Still, in 2019, 43 percent of Paid Safe and Sick Leave complaints, 19 percent of Fair Workweek complaints, and 9 percent of Freelance Isn’t Free complaints included an allegation of retaliation.

In 2019, DCWP continued to aggressively counter retaliation using a variety of tools. Highlights include:

- Record Judgment for Retaliation under the Paid Safe and Sick Leave Law**
 In July 2019, DCWP secured an OATH judgment against Brewer, Attorneys & Counselors (Brewer), a law firm with offices in New York City, in which the complainant was awarded a record \$172,215.30. The court found that Brewer and its founding partner had unlawfully retaliated against the complainant, terminating the employee only hours after the employee had requested use of sick time.

- **Successful Implementation of DCWP's Fast-Track Retaliation Program**

In 2018, DCWP developed an expedited protocol to address complaints that included allegations of retaliatory termination or threats of termination. Under the protocol, a dedicated team works immediately to resolve the allegation of retaliation (including reinstatement if the employee wishes), allowing a comprehensive investigation into employers' compliance with City workplace laws to proceed on a separate track, if appropriate. The project's intent is to minimize the impact of retaliation on other workers and to ensure all workers know they can assert their rights without fear of reprisal. In 2019, DCWP opened 45 fast-track retaliation investigations, settling 26 of them for money or reinstatement. As of May 2020, four of these cases remain open. The remaining 15 were administratively closed without a settlement or court decision.

Enforcing Licensing Laws

DCWP licenses over 75,000 businesses in more than 50 industries. In 2017 and 2018, two innovative new laws (City Laundry Equity and Accountability Law and the Car Wash Accountability Law) took effect,²⁷ authorizing DCWP to deny licenses to car wash or industrial laundry operators for past noncompliance with labor standards requirements, including requirements imposed by state and federal law. OLPS assists with the enforcement of these requirements by performing labor standards compliance reviews for DCWP's Licensing Division.

In 2019, OLPS continued to conduct labor standards reviews of licensees and new license applicants and recommended its first denial of an Industrial Laundry license on labor standards grounds. The laundry has since ceased operating, demonstrating that the law is having its intended effect of helping to remove the most egregious violators from the market.

Educating New Yorkers about Workers' Rights

“With this new public education campaign, we hope hard-working New Yorkers realize that we want their voices heard and that we are here to protect them. It is only when our economy is inclusive by ensuring workers across all industries and all demographics have the tools and information they need to succeed, that our city can truly be a place of opportunity for all.”

- Deputy Mayor for Strategic Policy Initiatives J. Phillip Thompson²⁸

DCWP sees its work ensuring that businesses are aware of their obligations and workers aware of their rights as essential to the success of the City's workplace laws.

Worker Rights Public Awareness Campaign

In spring 2019, DCWP launched a major public awareness campaign to educate New Yorkers about their workplace rights and to introduce DCWP as a City agency that fights for every worker in NYC.

The multilingual multimedia campaign included:

- advertising in subway cars and stations, bus shelters, LinkNYC, Staten Island ferries and ferry terminals, and neighborhood businesses, as well as in community and ethnic newspapers, on the radio, and online;
- an animated video²⁹ about workplace rights as a companion to print materials;³⁰
- 68 worker-focused events across the city;
- three days of door-to-door outreach; and
- distribution of more than 40,000 pieces of informational material in close collaboration with nonprofit organizations that serve or represent workers with low incomes.

The Worker Rights Campaign followed major public awareness campaigns about Paid Sick Leave (2014-2016) and Commuter Benefits (2015-2016).

Research by the Community Service Society has documented a decline in workers' awareness of their Paid Safe and Sick Leave rights since the initial public awareness campaign made the benefit widely known,³¹ and they also found a need for greater awareness of Fair Workweek Law protections among covered workers.³² Prior OLPS research also found that complaints to the Navigation Program came disproportionately from freelancers with more education,³³ similarly suggesting that many who could benefit from the law's protections lack the information necessary to take advantage of them.

DCWP is committed to improving awareness about the labor laws it enforces to make sure employers know their responsibilities and workers know their rights.

Immigrant Worker Convenings

Given the unique challenges for immigrant workers in both learning about and acting on their labor rights, in 2019, DCWP co-hosted three Immigrant Worker Convenings in the Bronx, Queens, and Brooklyn. The convenings presented a platform for DCWP to expand its relationship with partners and to gain a deeper understanding of the concerns of New York City's immigrant workforce.

Co-hosts and panelists included a wide range of nonprofits and government agencies, including:

- Mayor’s Office of Immigrant Affairs (MOIA)
- Mexican Consulate
- NYC Commission on Human Rights (the Commission)
- NYC Comptroller
- NYC Department of Buildings (DOB)
- New York Committee for Occupational Safety and Health (NYCOSH)
- New York Public Library
- New York State Department of Labor
- New York State Workers’ Compensation Board
- Bellevue/NYU Occupational Environmental Medicine Clinic
- Brandworkers
- Bronx Immigration Partnership
- Catholic Charities of the Archdiocese of New York
- Catholic Migration Services
- Cooperative Home Care Associates
- Garifuna Community Services
- La Jornada
- Make The Road New York
- Mount Sinai Selikoff Centers for Occupational Health
- New Immigrant Community Empowerment
- New Sanctuary Coalition
- New York Nail Salon Workers Association
- Northern Manhattan Improvement Corporation
- Restaurant Opportunities Center
- Urban Health Plan, Project HOPE
- Worker’s Justice Project

Over 300 participants attended the convenings. Panel topics covered:

- immigration worksite enforcement;
- employer retaliation;
- labor rights;
- employment agency fraud;
- NYC’s new construction safety training law; and
- employment discrimination.

Indigenous Language Outreach

In fall 2019, DCWP expanded access to workers’ rights information with audio translations in five indigenous languages, including:

- Garifuna
- K’iche
- Kichwa
- Mixteco
- Nahautl

DCWP partnered with MOIA, the Commission, the Mayor’s Community Affairs Unit, and the Mexican Consulate on events to promote the audio translations. DCWP plans to work with additional consulates in 2020.

Outreach to Paid Care Workers

“I, and many domestic workers like me, have long faced abuses in our jobs. But we are standing up, and together are demanding that our employers follow the law and recognize the important work we do. United, we can make a difference.”

- Erika Gonzalez, domestic worker and member of Worker’s Justice Project³⁴

Domestic and home care workers are at particular risk for labor standards violations.³⁵ As in past years, DCWP made a concerted effort in 2019 to hear from paid care workers about the challenges they face and to provide information about rights and resources tailored to their unique circumstances. Highlights include:

- **Open House for Paid Care Workers**

On October 26, 2019, DCWP and the National Domestic Workers Alliance (NDWA) co-hosted a Paid Care Open House at the Brooklyn Library. About 60 paid care workers participated. Participants learned about:

- the Paid Care Division within DCWP’s OLPS;
- job interviewing and negotiation skills;
- workplace rights ranging from wages to discrimination to paid time off; and
- how to submit complaints about workplace violations.

- **On-site Trainings at Home Care Agencies**

In 2019, the Paid Care Division began providing workers’ rights trainings on-site at home care agencies’ offices. This outreach was the result of innovative settlements DCWP reached with home care agencies to resolve Paid Safe and Sick Leave Law violations that included the provision of on-site trainings, among other measures, to ensure agencies’ ongoing compliance. At the trainings, the Paid Care Advocate and other DCWP staff provided information on NYC’s Paid Safe and Sick Leave Law and other relevant labor laws.

- **Meeting Paid Care Workers Where They Work**

In summer 2019, DCWP staff partnered with home care organizations to approach domestic workers in the field, including at local playgrounds, to discuss their rights and offer Agency resources. This informal outreach proved to be invaluable to building trust among workers and broadening Agency outreach methodology to attract and educate more workers about City resources.

- **Paid Care Working Group Meeting**

In November 2019, OLPS held the third annual meeting of the Paid Care Working Group, charged by statute to provide recommendations for assisting paid care workers.³⁶ City agencies, including MOIA and the Commission, and nonprofits that work directly with and advocate for paid care workers gathered at DCWP to share successes and develop next steps in the collective effort to empower paid care workers in New York City. Looking ahead to 2020, the Paid Care Working Group will focus on:

- increasing outreach to employers of paid care workers;
- expanding the scope of statutory protections for paid care workers; and
- educating members of the public about workplace issues faced by paid care workers.

Developing New Policies to Raise Labor Standards

“Too many working New Yorkers—especially women and immigrants—are in an impossible struggle for more time, often having to choose between their paycheck and their well-being.”

- First Lady Chirlane McCray³⁷

Informed by its enforcement and outreach work, OLPS also acts as a center for advocacy and policy development on workers’ rights issues within City government. The following sections describe the Agency’s work in this area in 2019.

Addressing Legislation before the City Council

Since 2014, the de Blasio administration and the New York City Council have enacted a wide range of workers’ rights legislation, including the laws that DCWP enforces, as well as new anti-discrimination protections (enforced by the Commission) and new training requirements to improve safety for construction workers (enforced by DOB). This wave of legislative activity continued in 2019, and DCWP continued to play an active part in helping to design and to advocate for legislation to raise standards for New York City workers.

The focal point of 2019 efforts was Paid Personal Time, championed by Mayor de Blasio and Public Advocate Jumaane Williams. If the law passes, New York City will be the first jurisdiction in the country to give private sector employees a right to paid time off for vacation or other personal uses. DCWP:

- contributed to the legislative drafting;
- advised on the law’s economic impact;
- testified in support before the Council; and
- briefed stakeholders and the press.

In 2019, DCWP also addressed a range of other legislative proposals, testifying before the Council about:

- the need for predictable scheduling for utility safety workers;
- the right of employees to disconnect from work communications during off-work hours;
- expanding anti-discrimination protections for domestic workers; and
- addressing protections for freelance workers regarding mandatory non-compete agreements.

Supporting City Agencies

Designed to ensure that app-based drivers are paid at a rate equivalent to the minimum wage in the city (\$15 per hour), the Taxi and Limousine Commission (TLC) driver minimum income policy went into effect on February 1, 2019. As a result, 85,000 drivers are seeing substantial increases in earnings, as much as \$10,000 per year in the typical case.³⁸ The policy was the result of a multiyear effort. OLPS supported TLC in this groundbreaking initiative by commenting on proposed rules³⁹ and advising TLC staff throughout their deliberations.

Advocating for Stronger Protections under State and Federal Law

DCWP advocates for policy changes at the state and federal levels that will strengthen workers' rights in New York City. 2019 advocacy efforts included:

- **Eliminating Subminimum Wages for Tipped Workers**

DCWP submitted a Memorandum in Support to the Governor concerning legislation eliminating the “tip credit” for car wash workers, a long-standing policy that permits employers to pay car wash workers a “subminimum wage” as long as tips and wages add up to at least the regular minimum wage. This memorandum was in line with previous formal comments submitted by DCWP to the New York State Department of Labor (NYSDOL) advocating for the elimination of the credit for all tipped workers.⁴⁰

On December 31, 2019, Governor Cuomo directed NYSDOL to eliminate the tip credit for all workers covered by the Miscellaneous Wage Order, including car wash workers, as well as nail salon workers, hairdressers, and others.⁴¹ NYSDOL is currently phasing out the tip credit, with scheduled completion by the beginning of 2021.⁴²

- **Recommending Policy Changes to Raise Labor Standards in Long Term Care**

OLPS was an active participant in the Long Term Care Learning Community, an interagency stakeholder engagement and policy development initiative led by Deputy Mayor J. Phillip Thompson to tackle the dual challenges of ensuring quality care and quality jobs in New York City's nursing home and home care industries. The initiative resulted in a consensus policy agenda consisting of 23 recommendations. As a result of the initiative, the Paid Care Division will develop and disseminate a document for employers of direct care workers to provide guidance on how to comply with applicable City, state, and federal labor laws and regulations.

- **Opposing the Federal Rollback of Workers' Rights**

In 2019, the U.S. Department of Labor (USDOL) proposed rules that would dramatically narrow the circumstances in which multiple employers could be held jointly liable for violations of an employee's rights, in effect opening the door for corporations to use labor subcontracting arrangements to escape liability.⁴³ DCWP opposed the proposed rule, arguing that it would have a domino effect on state and local laws that reference federal employment law definitions and weaken worker protections.⁴⁴ In addition, DCWP argued that the new rules would hurt workers by failing to consider the realities of the modern workforce, including:

- the vulnerability of workers to wage theft and misclassification;
- the challenges in collection of wage and hour judgments; and
- the efforts of unscrupulous employers to skirt their legal obligations through the use of subcontractors.⁴⁵

Although USDOL largely adopted the proposed rule in early 2020, it recognized DCWP as one of the few government bodies that submitted comments in opposition to the rules and cited portions of DCWP's comments in its adoption of the final rule.

Analyzing NYC's Labor Markets

“New York City continues to lead in modeling how states and cities can strengthen labor standards for workers and address the endemic violations and serious inequality and inequity that workers face on the job today.”

- Tsedeye Gebreselassie, Director of Work Quality, National Employment Law Project⁴⁶

Under the City Charter, OLPS is charged with collecting and analyzing information on the city's labor markets and disseminating findings to policymakers and the public. OLPS's research program fulfills this mandate while also providing technical and analytical assistance to support DCWP's workers' rights enforcement, policy, and outreach work.

From the beginning, OLPS's research program has focused on how law, policy, and agency enforcement activities can be used to affect employment and job standards for low-wage and other vulnerable workers. In 2019, a priority was to assemble a detailed picture of what labor standards enforcement looks like from the perspective of vulnerable New Yorkers.

Highlights include:

- **Using Public Testimony to Document the State of Workers' Rights in New York City**

In January 2019, DCWP published a second State of Workers' Rights report⁴⁷ derived from worker testimony at a large-scale public hearing. The report described an environment of pervasive labor rights violations, including wage theft, unsafe work, and discrimination, finding that some populations, such as immigrant New Yorkers or paid care workers, are especially at risk. The report also discussed the obstacles workers face in accessing information about their rights under NYC's labor laws and the ways in which insecure employment undermines workers' bargaining power.

- **Explaining Low Worker Complaint Volumes under Labor Standards Laws**

In 2019, OLPS completed a systematic review of published research on how workers respond to labor standards violations, focusing on why workers so rarely engage government agencies for assistance.

Among the findings:

- The threat of employer retaliation is the greatest deterrent preventing workers from engaging government for assistance.
- Gaps in the information workers have about their rights and how to exercise them also contribute meaningfully to low complaint volumes.

OLPS presented these findings to representatives of faith-based organizations that help workers assert their rights.

- **Analyzing Paid Care Work**

In August 2019, OLPS presented its research on paid care work in New York City⁴⁸ to the 114th annual meeting of the American Sociological Association, the premier forum for the exchange of sociological research. The presentation focused on the demographic and social characteristics of New York City's home care and domestic workers and the ways in which OLPS leverages sociological methods and insights to design more effective enforcement and outreach strategies.

Conclusion

Workers in cities across the U.S. gained important new protections in 2019, extending the trend of municipal action on workers' rights that has been steadily building in recent years:

- Paid sick leave laws took effect in Michigan,⁴⁹ Dallas,⁵⁰ and Westchester.⁵¹
- Philadelphia⁵² and Chicago⁵³ joined New York City, Seattle, and San Francisco in enacting fair workweek laws.

Building on the momentum created by local initiatives, the U.S. House of Representatives passed a \$15 minimum wage,⁵⁴ and Sen. Bernie Sanders of Vermont, a Democratic presidential candidate, championed this issue in his campaign.⁵⁵

DCWP is proud to contribute to New York City's leading role in this still-growing movement of local governments pursuing higher labor standards and stronger enforcement and is committed to standing with working New Yorkers to ensure all receive the compensation and respect they deserve.

Endnotes

- ¹ NYC Department of Consumer Affairs, *Overview*, <https://www1.nyc.gov/site/dca/about/overview.page> (last visited Jan. 21, 2020).
- ² Earned Safe and Sick Time Act, N.Y.C. Admin. Code §§ 20-911 – 925 (2018).
- ³ Commuter Benefits Act, N.Y.C. Admin. Code § 20-926 (2015).
- ⁴ Freelance Isn't Free Act, N.Y.C. Admin. Code §§ 20-927 – 936 (2017).
- ⁵ Fair Workweek Law, N.Y.C. Admin. Code §§ 20-1201 – 1263 (2018).
- ⁶ NYC Charter Section 20-a.
- ⁷ NYC Department of Consumer Affairs, *The State of Workers' Rights in New York City* (2017), available at <https://www1.nyc.gov/assets/dca/downloads/pdf/workers/StateofWorkersRights-Report-2017.pdf>; NYC Department of Consumer Affairs, *Advances and Setbacks in Turbulent Times* (2019), available at <https://www1.nyc.gov/assets/dca/downloads/pdf/workers/StateofWorkersRights-Report-2019.pdf>.
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- ⁹ When included in statistics spanning multiple laws, the Navigation Program's complaint handling procedure is considered an "investigation," though its innovative design differs in important respects from common uses of the term.
- ¹⁰ Press Release, Office of the NYC Mayor, *New York City's Paid Sick Leave Law Goes Into Effect: City Launches Public Education And Outreach Campaign*, <https://www1.nyc.gov/office-of-the-mayor/news/121-14/new-york-city-s-paid-sick-leave-law-goes-effect-city-launches-public-education-outreach>.
- ¹¹ Press Release, Office of the NYC Mayor, *De Blasio Administration Announces Paid Safe Leave Law Now in Effect*, <https://www1.nyc.gov/office-of-the-mayor/news/239-18/de-blasio-administration-announces-paid-safe-leave-law-now-effect>.
- ¹² OLPS sometimes receives complaints, conducts investigations, and prosecutes cases under multiple laws simultaneously. Typically, this will come in the form of an investigation in which both Paid Safe and Sick Leave and Fair Workweek compliance are assessed. Unless otherwise noted, Paid Safe and Sick Leave statistics are reported for all matters involving the Paid Safe and Sick Leave Law, including those where additional OLPS laws were also involved.
- ¹³ All litigation statistics exclude cases in which OLPS's charges were limited to procedural violations by the employer, such as failure to respond to document demands.
- ¹⁴ Press Release, NYC Department of Consumer Affairs, *Department of Consumer Affairs Announces Findings of Major Investigations Involving 42 Home Care Agencies That Employ More Than 50,000 Workers*, <https://www1.nyc.gov/site/dca/media/pr090518-DCA-Announces-Findings-of-Investigations-42-Home-Care-Agencies.page>.
- ¹⁵ Dep't of Consumer Affairs v. Delta Air Lines, Inc., No. 171570/2017 (N.Y.C. Office of Admin. Trials and Hearings 2017).
- ¹⁶ Dep't of Consumer Affairs v. American Airlines, Inc., No. 200139/2019 (N.Y.C. Office of Admin. Trials and Hearings 2019).
- ¹⁷ See *Delta Air Lines, Inc. v. N.Y.C. Dep't of Consumer Affairs*, No. 1:17-cv-01343-ILG-RML, 2019 WL 6654395 (E.D.N.Y. Dec. 12, 2019); *American Airlines, Inc., v. N.Y.C. Dep't of Consumer Affairs*, No. 1:19-cv-04424, 2019 WL 3502787 (E.D.N.Y. Nov. 19, 2019).
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²¹ Specific requirements vary by industry. For more information, visit nyc.gov/dca and search “fair workweek.”

²² Daniel Schneider & Kristen Harknett, *It's About Time: How Work Schedule Instability Matters for Workers, Families, and Racial Inequality* (2019), The Shift Project, available at <https://shift.berkeley.edu/files/2019/10/Its-About-Time-How-Work-Schedule-Instability-Matters-for-Workers-Families-and-Racial-Inequality.pdf>.

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²⁴ Press Release, Office of the NYC Mayor, *Freelancers Aren't Free: Mayor Announces First in Nation Protections for Freelance Workers*, <https://www1.nyc.gov/office-of-the-mayor/news/307-17/freelancers-aren-t-free-mayor-first-nation-protections-freelance-workers>.

²⁵ *Bailey v. Dique Pic Productions LLC*, No. 1:19-cv-03168, 2019 WL 6330012 (S.D.N.Y. Nov. 14, 2019).

²⁶ See National Employment Law Project (NELP), *How Do Workers Make Complaints About Working Conditions? Findings from the 2008 Unregulated Work Survey* (2010), available at <https://www.nelp.org/wp-content/uploads/2015/03/ComplaintMethodsFactSheet2010.pdf> & Shannon Gleeson, *Brokered Pathways to Justice and Cracks in the Law: A Closer Look at the Claims-Making Experiences of Low-Wage Workers* (2015), WorkingUSA, available at <https://doi.org/10.1111/wusa.12154>.

²⁷ City Laundry Equity and Accountability Act, Local Law No. 87 (2016) of City of New York; Car Wash Accountability Act, Local Law No. 62 (2015) of City of New York.

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²⁹ NYC Department of Consumer Affairs, *NYC Workers' Bill of Rights Animation* (Apr. 1, 2019), available at <https://www.youtube.com/watch?v=WA0JpyQiQcI&feature=youtu.be>.

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³⁴ Press Release, NYC Department of Consumer Affairs, *Department of Consumer Affairs Launches First-of-its-Kind 'Paid Care Division' to Focus on the Needs of Low-wage Domestic and Home Care Workers*, <https://www1.nyc.gov/site/dca/media/pr030817.page>.

³⁵ NYC Department of Consumer Affairs, *Lifting up Paid Care Work: Year One of New York City's Paid Care Division* (2018), available at <https://www1.nyc.gov/assets/dca/downloads/pdf/workers/Lifting-up-Paid-Care-Work.pdf>.

³⁶ Division of Paid Care, N.Y.C. Admin. Code §§ 32-201 – 204 (2016).

³⁷ Press Release, Office of the NYC Mayor, *Mayor de Blasio, First Lady McCray, Public Advocate Williams and Activist Gloria Steinem Rally for New Paid Personal Time Legislation Benefitting Nearly 1 Million New Yorkers*, <https://www1.nyc.gov/office-of-the-mayor/news/268-19/mayor-de-blasio-first-lady-mccray-public-advocate-williams-activist-gloria-steinem-rally-for#/0>.

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- ⁴⁴ Letter from Lorelei Salas, Commissioner, NYC Department of Consumer Affairs, to Cheryl Marie Stanton, Administrator, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor (June 25, 2019), available at <https://www1.nyc.gov/assets/dca/downloads/pdf/partners/Advocacy-DOI-JointEmployerRule-RIN1235AA26.pdf>.
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- ⁴⁶ Press Release, NYC Department of Consumer Affairs, *Department of Consumer Affairs Releases Second Annual Report on the State of Workers' Rights in New York City*, <https://www1.nyc.gov/site/dca/media/pr013119-DCA-Releases-Second-Annual-Workers-Rights-Report.page>.
- ⁴⁷ NYC Department of Consumer Affairs, *Advances and Setbacks in Turbulent Times: Second Annual Report on the State of Workers' Rights in NYC* (2019), available at <https://www1.nyc.gov/assets/dca/downloads/pdf/workers/StateofWorkersRights-Report-2019.pdf>.
- ⁴⁸ NYC Department of Consumer Affairs, *Lifting Up Paid Care Work* (2018), available at <https://www1.nyc.gov/assets/dca/downloads/pdf/workers/Lifting-up-Paid-Care-Work.pdf>.
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- ⁵³ Alexia Elejalde-Ruiz, *Chicago's fair workweek law shouldn't apply to union workers, building owners say in lawsuit*, Chicago Tribune, Nov. 5, 2019, <http://www.chicagotribune.com/business/ct-biz-fair-workweek-lawsuit-20191105-qdaopbs75fasdivvyfjhjn2uja-story.html>.
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Appendix A: DCWP Statistics

Table 1. OLPS Staffing, 2016-2019

	2016	2017	2018	2019
Staff	25	37	39	31
Investigators	5	10	12	10
Attorneys	12	13	12	12
Researchers	0	2	4	4
Intake, Operations, and Navigation	5	7	7	4
Outreach and Advocacy	3	5	4	1

Notes: Staff counts are as of December 31, 2019. Outreach and Advocacy includes the Paid Care Advocate.

Table 2. Labor Standards Intakes, Outreach Events, Materials Distributed, and Referrals, 2017-2019

	2017	2018	2019
Intakes	2,781	3,105	3,232
Outreach Events	445	292	191
Materials Distributed	60,938	70,620	50,000
Referrals	188	266	229

Notes: Intakes consist of complaints or information requests received by OLPS.

Table 3. Labor Standards Enforcement Volumes, 2017-2019

	2017	2018	2019
Complaints Received	524	1,046	1,123
Paid Safe and Sick Leave	381	332	320
Fair Workweek	3	181	143
Retail	1	30	45
Fast Food	2	151	98
Freelance Isn't Free	128	542	670
Investigations Opened	404	555	1,004
Paid Safe and Sick Leave	392	284	280
Fair Workweek	10	91	82
Retail	2	29	42
Fast Food	8	62	40
Freelance Isn't Free	128	530	671
Investigations Closed	428	888	894
Paid Safe and Sick Leave	319	386	255
Fair Workweek	1	48	84
Retail	0	19	31
Fast Food	1	29	53
Freelance Isn't Free	95	462	590
Cases Filed	48	35	30
Paid Safe and Sick Leave	48	31	29
Fair Workweek	1	8	7
Retail	-	3	2
Fast Food	1	5	5
Days to Resolution (All Investigations)	169	138	121
Paid Safe and Sick Leave	211	258	254
Fair Workweek	0	126	202
Retail	0	103	131
Fast Food	0	141	244
Freelance Isn't Free	37	35	62
Days to Resolution (Complaints)	169	138	121
Paid Safe and Sick Leave	216	250	226
Fair Workweek	0	126	202
Retail	0	103	131
Fast Food	0	141	244
Freelance Isn't Free	37	35	62

Notes: Totals reflect all DCWP worker protection laws, including those not individually shown. If a complaint or enforcement action encompasses multiple laws, it is included in the statistics for each law. Cases Filed excludes prosecutions limited to procedural violations by the employer, such as failure to respond to document demands.

Table 4. Labor Standards Restitution and Penalties, 2017-2019

	2017	2018	2019
Restitution	\$2,258,692	\$2,682,245	\$3,220,448
Paid Safe and Sick Leave	\$2,067,339	\$1,888,114	\$2,427,430
Fair Workweek	0	\$252,135	\$962,827
Retail	0	\$43,800	\$90,495
Fast Food	0	\$208,335	\$872,332
Freelance Isn't Free	\$130,136	\$724,831	\$644,667
Workers Receiving Restitution	6,241	7,749	7,708
Paid Safe and Sick Leave	6,147	7,481	7,208
Fair Workweek	0	1,270	1,918
Retail	0	98	30
Fast Food	0	1,172	1,888
Freelance Isn't Free	56	229	215
Penalties	\$498,847	\$467,019	\$512,139
Paid Safe and Sick Leave	\$497,447	\$447,019	\$454,009
Fair Workweek	0	\$69,140	\$215,658
Retail	0	\$14,400	\$56,640
Fast Food	0	\$54,740	\$159,018

Notes: Totals reflect all DCWP worker protection laws, including those not individually shown. If a complaint or enforcement action encompasses multiple laws, it is included in the statistics for each law.

Table 5. Labor Standards Investigations, by Type of Resolution, 2017-2019

	2017	2018	2019
Settlement	168	248	188
Paid Safe and Sick Leave	168	241	171
Fair Workweek	1	16	48
Retail	0	6	15
Fast Food	1	10	33
Decision	0	6	2
Paid Safe and Sick Leave	0	6	2
Fair Workweek	0	0	0
Retail	0	0	0
Fast Food	0	0	0
Administrative Closure	152	165	113
Paid Safe and Sick Leave	151	139	82
Fair Workweek	1	32	36
Retail	0	13	16
Fast Food	1	19	20

Notes: Totals reflect all DCWP worker protection laws, including those not individually shown. If a complaint or enforcement action encompasses multiple laws, it is included in the statistics for each law. Investigations are considered administratively closed if DCWP concludes that there is insufficient evidence to proceed with enforcement or if it consolidates multiple investigations into one open investigation.

Table 6. Summary of Paid Safe and Sick Leave Enforcement, Restricted to Complaints and Enforcement Actions where Paid Safe and Sick Leave was the only DCWP Labor Standards Law Implicated, 2017-2019

	2017	2018	2019
Complaints Received	381	310	294
Investigations Opened	389	247	249
Investigations Closed	319	370	218
Settlement	168	232	140
Decision	0	6	2
Administrative Closure	151	132	76
Cases Filed	47	26	23
Restitution	\$2,067,339	\$1,705,279	\$1,612,953
Workers Receiving Restitution	6,147	6,250	5,575
Penalties	\$497,447	\$397,879	\$297,481

Notes: Cases Filed excludes prosecutions limited to procedural violations by the employer, such as failure to respond to document demands. Investigations are considered administratively closed if DCWP concludes that there is insufficient evidence to proceed with enforcement or if it consolidates multiple investigations into one open investigation.

Table 7. Paid Safe and Sick Leave Complaints Received, by Allegation, 2017-2019

	2017	2018	2019
Complaints Received	381	332	320
Did not pay for use	191	179	186
Did not provide notice	183	144	139
Failed to maintain adequate policy	194	70	143
Retaliated (includes threats)	114	109	136
Did not allow use	106	112	88
Required documentation	26	32	44
Did not provide correct accrual	20	18	19
Restricted use	5	38	91
Did not provide correct carryover	15	49	23
Required employee to find replacement	14	7	10
Interfered with use	0	20	41
Paid incorrect rate	7	13	13
Did not provide adequate notice	8	9	13
Required employee to make up time	11	7	5
Required or disclosed medical information	10	4	4
Required unreasonable notice	5	5	1
Did not allow use to care for family	0	4	11
Failed to maintain records	0	3	9
Paid late	1	2	3
Required use	1	1	0
Did not reinstate safe or sick time	1	3	2
Did not transfer accrual with job	2	1	1
Did not frontload correctly	1	2	1
Failed to provide reasonable accommodation	0	1	3

Table 8. Fair Workweek Complaints Received, by Industry and Allegation, 2017-2019

	2017	2018	2019
Complaints Received	3	181	143
Fast Food	2	151	98
Failed to provide “premium pay”	0	60	29
Did not provide Good Faith Estimate	1	66	13
Failed to update schedule	0	47	34
Failed to post/provide schedule	0	52	26
Did not provide access to hours	0	53	16
Schedule incomplete/noncompliant	1	46	11
Retaliated (includes threats)	0	43	14
Did not post notice	0	45	8
Unlawful clopening	0	21	6
Did not provide worker with records	0	6	0
Disclosed protected schedule	0	1	1
Retail	1	30	45
Failed to post/provide schedule	0	15	24
Failed to update schedule	0	15	22
Cancelled shift within 72 hours	1	10	20
Did not post notice	0	9	19
Retaliated (includes threats)	0	13	13
Added shift without consent	0	3	8
Scheduled on-call shift	0	2	7
Scheduled call-in shift	0	1	3
Did not provide worker with records	0	1	0

Table 9. Freelance Isn’t Free Complaints, by Allegation, 2017-2019

	2017	2018	2019
Complaints Received	128	542	670
Written Contract Required	14	50	92
Unlawful Payment Practices	124	528	652
Retaliation	12	28	62

Appendix B: Overview of DCWP Laws

The NYC Department of Consumer and Worker Protection (DCWP) Office of Labor Policy & Standards enforces the labor standards laws described below. This includes some, but not all, of the City's workplace laws.

For information on public employees:

- Visit the NYC Office of Labor Relations at nyc.gov/olr.

For information concerning anti-discrimination in employment:

- Visit the NYC Commission on Human Rights at nyc.gov/humanrights.

For information concerning drivers:

- Visit the NYC Taxi and Limousine Commission at nyc.gov/taxi.

For information concerning construction workers:

- Visit the NYC Department of Buildings at nyc.gov/buildings.

Paid Safe and Sick Leave

Under NYC's Paid Safe and Sick Leave Law (Earned Safe and Sick Time Act), certain employers must give their employees safe and sick leave. Employees who work 80+ hours a year at any size business or nonprofit in New York City can earn up to 40 hours of safe and sick leave each year. Employees can use leave for themselves or to help anyone they consider family for care and treatment, or to seek help or take other safety measures for any act or threat of domestic violence, unwanted sexual contact, stalking, or human trafficking.

For more information, visit nyc.gov/dca and search "paid safe and sick leave."

Fair Workweek and Fast Food Deductions

Under NYC's Fair Workweek Law, fast food employers in New York City must give employees good faith estimates of when and how many hours they will work, predictable work schedules, and the opportunity to work newly available shifts before hiring new workers.

Retail employers in New York City must give employees predictable work schedules.

Under NYC's Fast Food Deductions Law, fast food employers must honor employee requests to deduct voluntary payments from their paychecks to send to nonprofits that have a registration letter from DCA. The law does not allow contributions to labor organizations.

For more information, visit nyc.gov/dca and search "fair workweek."

Freelance Isn't Free

NYC's Freelance Isn't Free Law establishes and enhances protections for freelance workers, specifically the right to a written contract, timely and full payment, and protection from retaliation. The law establishes penalties for violations of these rights, including statutory damages, double damages, injunctive relief, and attorneys' fees and costs.

For more information, visit nyc.gov/dca and search "freelance."

Commuter Benefits

NYC’s Commuter Benefits Law requires for-profit and nonprofit employers with 20 or more full-time non-union employees in New York City to offer their full-time employees the opportunity to use pre-tax income to pay for qualified transit expenses. Under federal tax law, employees can currently use up to \$270 of pre-tax income a month to pay for their commute.

For more information, visit nyc.gov/dca and search “commuter benefits.”

Grocery Worker Retention

The Grocery Worker Retention Act requires new grocery store owners to retain employees of the previous owner for a 90-day transitional period following a change in control of the grocery store.

For more information visit nyc.gov/dca and search “grocery worker retention.”

Living and Prevailing Wage

The Living Wage Law requires certain employers that receive at least \$1 million of financial assistance from the City or a City economic development entity to pay no less than the living wage to their employees at the project site, unless the employer qualifies for certain exemptions.

For more information, visit nyc.gov/dca and search “living wage.”

Temporary Schedule Change

NYC’s Temporary Schedule Change Law requires employers to grant a temporary change to hours, times, or locations of work to accommodate a worker’s “personal event.” Employees have the right to two (2) temporary schedule changes per year—up to one (1) business day per request, or two (2) business days for one request.

For more information, visit nyc.gov/dca and search “temporary schedule change.”

Displaced Building Service Workers Protection

The Displaced Building Service Workers Protection Act requires certain new building owners, managers, contractors, and commercial lessees to retain pre-existing building service employees for a 90-day transition period. During the transition period, employees can only be terminated for cause or if the new employer determines that fewer building service employees are required to perform building service work. At the end of the transition period, employees will be offered continued employment if the new employer considers their performance to be satisfactory.

For more information, visit nyc.gov/dca and search “displaced service worker.”

Car Wash Accountability Law

The Car Wash Accountability Law requires car wash operators to obtain a license from DCWP in order to do business in New York City. Among other provisions, the law allows DCWP to suspend or revoke a Car Wash license for egregious or repeated nonpayment or underpayment of wages, or other illegal acts or omissions by a car wash business. The law also requires operators to maintain surety bonds to provide a source of funds to satisfy judgments for wage theft.

For more information, visit nyc.gov/dca and search “car wash.”

City Laundry Equity and Accountability Act

The City Laundry Equity and Accountability Law requires operators of industrial laundries to obtain a license from DCWP in order to do business in New York City. Among other provisions, the law authorizes DCWP to deny a license application if the applicant received a final determination of liability in a civil, criminal, or administrative action involving egregious or repeated nonpayment or underpayment of wages. The law also requires operators to maintain surety bonds to provide a source of funds to satisfy judgments for wage theft.

For more information, visit nyc.gov/dca and search “laundry.”

Appendix C: Overview of Paid Care Division (2019 Highlights)

In February 2017, the Paid Care Division was established within the NYC Department of Consumer and Worker Protection (DCWP) Office of Labor Policy & Standards (OLPS). The only governmental office of its kind in the U.S., the Paid Care Division is charged with developing and implementing innovative strategies to raise job standards for home care and domestic workers. The office is led by the OLPS Director of Policy and staffed by the Paid Care Advocate. 2019 highlights include:

- **Enforcement:** Paid Safe and Sick Leave Law enforcement focused on paid care industries, including continuation of the large-scale enforcement initiative in the home care industry begun in 2017.
- **Outreach:** Extensive outreach efforts included:
 - Open House for Paid Care Workers
 - Ongoing engagement of the Paid Care Working Group
 - On-site trainings for workers at home care agencies' offices

Outreach included distribution of multilingual informational materials tailored to paid care workers, including Workers' Bill of Rights, Paid Care Division brochure, Notice of Employee Rights or Notice of Employee Rights for Nannies, House Cleaners, and Other Domestic Workers (Paid Safe and Sick Leave Law), as well as OLPS reports on paid care. The Division also distributed these materials to fulfill requests for information.

- **Policy:** As part of the Long Term Care Learning Community, OLPS advocated for new policies to raise standards in New York City's nursing home and home care industries. The Paid Care Division will develop and disseminate a document for employers of direct care workers to provide guidance on how to comply with applicable City, state, and federal labor laws and regulations.
- **Research:** DCWP used its in-depth research into the characteristics, experiences, and perspectives of paid care workers to inform policy and practice and presented its findings at the 114th annual meeting of the American Sociological Association.

Complaints and information requests are handled through OLPS's general intake system. Table 1 provides data regarding paid care workers.

Table 1. Paid Care Worker Complaints, Enforcement, and Referrals, 2017-2019

	2017	2018	2019
Complaints Received	75	20	13
Investigations Opened	78	17	10
Investigations Closed	31	53	18
Cases Filed	2	11	1
Restitution	\$5,200	\$175,306	\$540,031
Workers Receiving Restitution	2	758	4,491
Referrals	16	16	10

Notes: Complaints Received excludes complaints under laws not enforced by DCWP. Complaints under non-DCWP laws are reflected in Referrals. Referrals consist of instances in which DCWP staff refers a worker to another agency or organization for assistance. Occasionally, DCWP refers an investigation to another agency for directed enforcement, and these referrals are not included in the counts shown.

