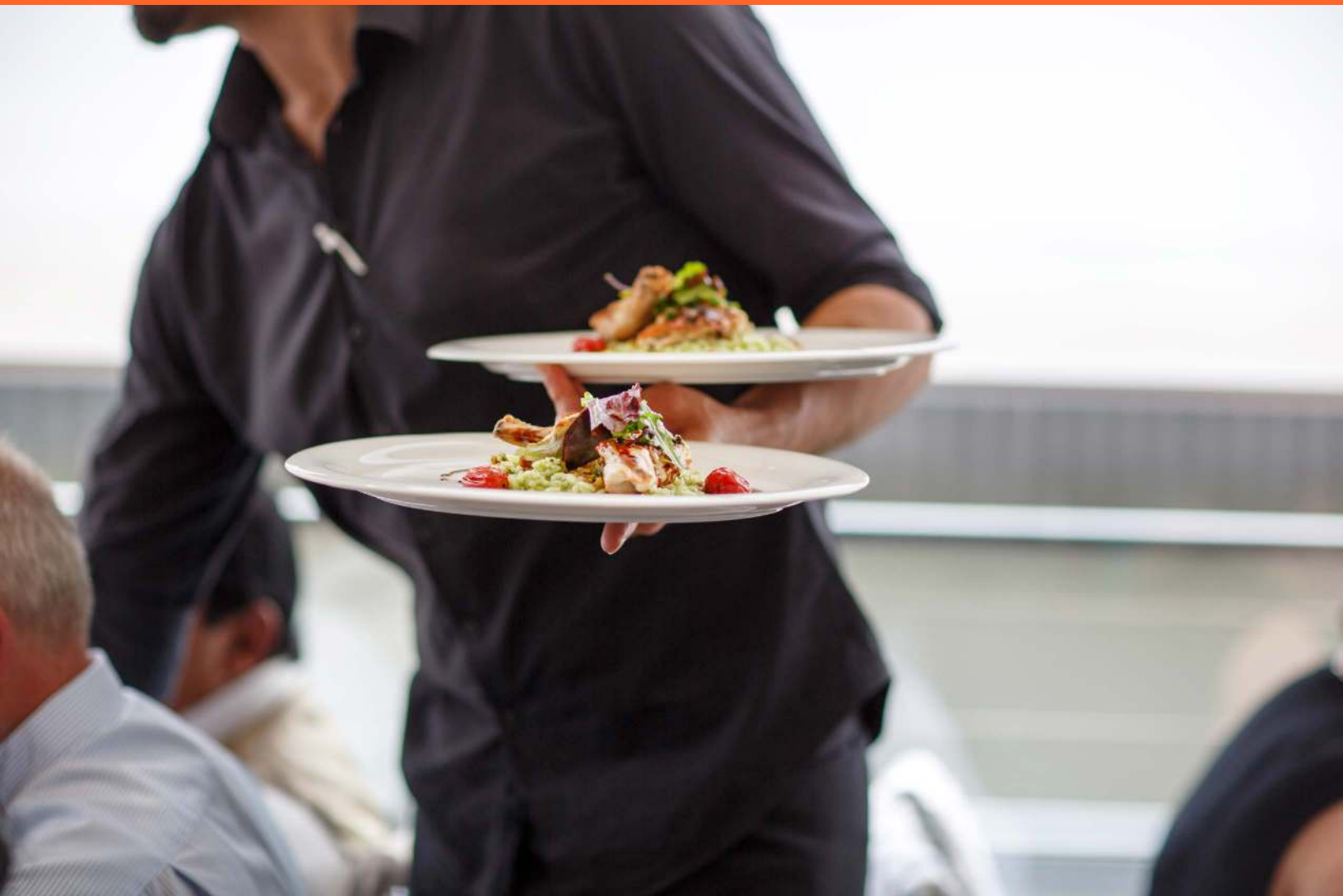


NEW YORK CITY RESTAURANT WORKER REPORT & SURVEY



**HUNTER COLLEGE
NEW YORK CITY
FOOD POLICY CENTER**

Summary and Key Survey Findings

Summary

The Hunter College New York City Food Policy Center (The Center) conducted a city-wide survey of restaurant workers to examine the industry's climate from their perspective, explore the extent to which workers' rights and benefits are implemented, and compare working conditions in "good food"/health-forward restaurants with those in other types of restaurants.

Growth in the restaurant/hospitality industry is projected to continue for the next several years; therefore, it is important that job conditions/workers' experiences be adequately understood and course-corrected where possible. The Center evaluated 380 restaurant worker responses to survey questions covering job benefits, workers' rights, perception of fairness, occurrence of sexual harassment, and overall job satisfaction in order to contextualize and highlight areas of possible weakness.

Our key survey findings indicated the following: more than half of workers surveyed did not have

paid sick days or paid vacation days and went to work when sick. More than three quarters of those surveyed reported that they sometimes or always worked more than 10 hours a day. Furthermore, just over one-third of workers had experienced sexual harassment at their current job, and 70% of them did not report this harassment.

Additionally, we found that there was greater perceived fairness in the workplace in "good food"/health-forward restaurants, that employees in back of house (BOH) positions reported higher levels of education as compared to those in other types of restaurants, and that managers at "good food"/health-forward restaurants were more likely to say that written policies concerning how to file a claim/how to handle instances of physical, sexual, and verbal harassment were made known to all employees. We also found that "good food"/health-forward restaurants tended to offer their employees more benefits, such as health insurance and investment/retirement benefits.

Key Survey Findings

- **86%** of restaurant workers surveyed rated their health as good or excellent
- **42%** of those surveyed worried about losing their job
- More than **65%** of those surveyed did not have paid vacation days
- More than **55%** of those surveyed did not have paid sick days
- **62%** of those surveyed go to work when they are sick
- **78%** of those surveyed reported that they sometimes or always work more than 10 hours a day
- **31%** had been sexually harassed at their current job—almost **25%** by a coworker
- **70%** of those who said they were sexually harassed did not report it

Restaurant Industry Overview



The leisure and hospitality industry, which includes restaurants and bars, is the third largest industry in New York City (NYC), behind educational services and professional and technical services.¹ Jobs in the leisure and hospitality industry are expected to have increased by more than 30% between 2012 and 2022.

The restaurant industry in particular is one of the largest and fastest-growing private sector employers in the United States, with almost 13 million employees.² NYC is the fourth most restaurant-dense city in the United States with 25.3 restaurants per 10,000 households.³ In 2018, the five boroughs of NYC were home to 22,282 restaurants and eating

establishments, with 302,425 reported and taxed employees.⁴

Despite the growth and profitability of the industry, however, in 2014, the food services and drinking places sector had the lowest average annual wage (\$26,200) of any of the major workforce sectors in NYC, as defined by the New York State Department of Labor's Division of Research and Statistics on the basis of number of jobs, wage levels, and job growth.⁵ Additionally, according to the Pew Research Center's detailed analysis by state, as of 2012, 10% of all workers in the service industry in New York State were unauthorized immigrant workers.⁶

1 "Our Work." Rocunited, 11 May 2016, rocunited.org/our-work/#advocacy. Accessed 4 June 2019.

2 "Our Work." Rocunited, 11 May 2016, rocunited.org/our-work/#advocacy. Accessed 4 June 2019.

3 Forbes, Paula. "Here Are the Most Restaurant- and Bar-Dense US Cities." *Eater*, 1 Aug. 2012, www.eater.com/2012/8/1/6559451/here-are-the-most-restaurant-and-bar-dense-us-cities. Accessed 4 June 2019.

4 United States, Department of Labor, Bureau of Labor Statistics. *Quarterly Census of Employment and Wages (QCEW)*, NAICS 7225, NAICS 7223. Q3: 2018.

5 United States, Department of Labor, Bureau of Labor Market Information Division of Research and Statistics. *Significant Industries A Report to the Workforce Development System*. 2015, www.labor.ny.gov/stats/PDFs/Significant-Industries-New-York-City.pdf. Accessed 4 June 2019.

6 "Occupations with Highest Shares of Unauthorized Immigrant Workers, by State, 2012." *Pew Research Center's Hispanic Trends Project*, 26 Mar. 2015, www.pewhispanic.org/2015/03/26/share-of-unauthorized-immigrant-workers-in-production-construction-jobs-falls-since-2007/ph_2015-03-26_unauthorized-immigrants-testimony-report-13/. Accessed 5 June 2019.

Restaurant Workers' Rights

The United States Department of Labor, as well as state and local governments, are responsible for ensuring that restaurant workers are provided fair pay, equal opportunities, and safe working conditions.⁷ Federal regulations require restaurants to follow minimum standards on wages and tipping practices through the Fair Labor Standards Act (FLSA), which establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.⁸

The Department of Labor in New York State has outlined in Part 146 of Title 12 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (NYCRR 146) basic tenets to protect all New York State employees in the leisure and hospitality industry.⁹ These include: basic minimum wage, tip credits, overtime hourly rates, call-in pay, span of hours higher than 10 in restaurants and non-resort hotels, uniform maintenance pay, costs of purchasing required uniforms, and meal and lodging credits. Furthermore, as per NYCRR 146, prior to the start of employment, the employer is required to give written notice of the employee's regular hourly and overtime pay rate, as well as the amount of tip credit (if any) to be taken from his or her basic minimum hourly rate and regular pay.

While the federal minimum wage for tipped employees is \$2.13 per hour, NYC's minimum wage for tipped employees increased to \$10 per hour on December 31, 2018.¹⁰ This compares to the \$15 minimum wage of non-tipped employees as of 2018. Employers of tipped employees can claim a tip credit, thereby paying employees \$10

per hour, as long as the employee earns at least the difference (\$5) in tips. If less than the minimum is earned (tipped + \$10 base hourly for tipped employees), then employers are legally required to pay any difference in hourly earnings ensuring that all employees will reach \$15 per hour.^{11,12}

Workers are also legally protected by NY State Executive Law Article 15: Human Rights Law, which defines equality as a civil right.¹³ The Human Rights Law outlines the protective measures that guard against unlawful discriminatory practices based on gender, gender identity or expression, race, religion, national origin, disability, etc. of those working and/or residing in New York State. Additionally, the Occupational Health and Safety Administration (OSHA), a division of the Department of Labor (DOL) operating at a state-wide and national level, has set measures in place to promote worker rights including a whistleblower protection program, outreach training programs to promote workplace safety and health, labor liaisons to maintain communication with workers, and a suicide prevention lifeline.^{14,15}

The federal government sets standards for wages and protection from unlawful discriminatory practices; however, individual states establish mandates for workers' breaks. New York requires meal breaks. In the NYC restaurant industry, a free or discounted "family meal" for staff is a fixture of many restaurants.¹⁶

Wage Battles

Congress originally introduced minimum wage in 1938 as part of the Federal Labor Standards Act (FLSA) in order to stabilize the post-depression economy and protect workers in the labor force.¹⁷ It

11 McDonough, Annie. "Which New Yorkers Don't Get a \$15 Minimum Wage?" *City & State New York*, 18 April 2019. <https://www.cityandstateny.com/articles/policy/labor/who-doesnt-make-15-minimum-wage-new-york.html>. Accessed 5 June 2019.

12 "Rising Labor Costs Survey." Membership Association Supporting the Hospitality Industry in New York City | NYC Hospitality Alliance, 2018, thenycalliance.org/assets/documents/informationitems/0211b.pdf. Accessed 5 June 2019.

13 United States, Division of Human Rights. *New York State Executive Law Article 15 Human Rights Law*. 2016 <https://dhr.ny.gov/sites/default/files/doc/HRL.pdf>. Accessed 5 June 2019.

14 United States, Department of Labor, Occupational Safety and Health Administration. *www.osha.gov*. Accessed 5 June 2019.

15 United States, Department of Labor, Occupational Safety and Health Administration. "Home // Workers." <https://www.osha.gov/workers/index.html>. Accessed 4 June 2019.

16 "New York Meal and Rest Break Laws." *www.nolo.com*, 20 May 2013, www.nolo.com/legal-encyclopedia/new-york-meal-rest-break-laws.html. Accessed 4 June 2019.

17 United States, Department of Labor, Wage and Hour Division. "Handy Reference Guide to the Fair Labor Standards Act." Revised September 2016. <https://www.dol.gov/whd/regs/compliance/hrg.htm>. Accessed 4 June 2019.

7 "Restaurant Labor Laws." *WebstaurantStore*, 30 July 2018, www.webstaurantstore.com/article/62/restaurant-labor-laws.html. Accessed 5 June 2019.

8 United States, Department of Labor, Wage and Hour Division. "Handy Reference Guide to the Fair Labor Standards Act." Revised September 2016. <https://www.dol.gov/whd/regs/compliance/hrg.htm>. Accessed 4 June, 2019.

9 United States, Department of Labor. *Hospitality Industry Wage Order, NYCRR 146*. 2016. www.labor.ny.gov/formsdocs/wvp/CR146.pdf. Accessed 5 June 2019.

10 United States, Department of Labor. *Hospitality Industry Wage Order Summary*. 2017 <https://labor.ny.gov/formsdocs/wvp/Part146.pdf>. Accessed 5 June 2019.



was designed to create a minimum standard of living to protect the health and well-being of employees.¹⁸ The labor movement has successfully pushed for incremental increases in the minimum wage, which has typically increased either when there is healthy economic growth or in times of low unemployment; however, the increases have been too small to counter the reduction in buying power of a minimum wage income resulting from inflation.¹⁹ For example, after adjusting for inflation, in 2018, the federal minimum wage of \$7.25 was worth 14.8% less than when it was last raised in 2009.

Since 2012 when 200 fast-food workers walked off the job to demand \$15 per hour, wage and union rights in NYC activists have been fighting for an increase in fair wages through the Fight for \$15 movement.²⁰ This movement has now expanded to more than 300 cities on six continents. As part of the 2016-2017 budget, Governor Andrew Cuomo signed legislation enacting a statewide plan to increase the minimum wage to \$15 in all industries across the state on December 31, 2018. With the recent increase in minimum wage in NYC, tipped

workers also saw the industry's tip credit double in a mere three years (previously from \$2.13 per hour to \$10 per hour).

While the increased minimum wage is a victory for hourly employees, in 2018, the NYC Hospitality Alliance surveyed the operators of 574 limited-service and full service establishments, including fast-food and fast casual restaurants, to investigate how restaurants in NYC are addressing increased labor costs. The survey found that 76% of full-service restaurants reduced employee hours, and 36% eliminated jobs in 2018, possibly in anticipation of mandated wage increases. Moreover, the survey found that 75% of limited-service restaurant respondents said they would further reduce employee hours, and more than 50% would eliminate jobs in 2019 as a result of the mandated wage increases.²¹

There are further ramifications for potential job insecurity as increased minimum wage positions become more desirable to more qualified workers who might, therefore, take jobs away from those who are less qualified and who depend on entry-level minimum-wage positions to improve their

18 "Minimum Wage." *LII / Legal Information Institute*, 24 Oct. 2017, www.law.cornell.edu/wex/minimum_wage. Accessed 4 June, 2019.

19 "Raising the Federal Minimum Wage to \$15 by 2024 Would Lift Pay for Nearly 40 Million Workers." *Economic Policy Institute*, www.epi.org/publication/raising-the-federal-minimum-wage-to-15-by-2024-would-lift-pay-for-nearly-40-million-workers/. Accessed 4 June 2019.

20 "About Us." *Fight for \$15*, fightfor15.org/about-us/. Accessed 4 June 2019.

21 "Rising Labor Costs Survey." *Membership Association Supporting the Hospitality Industry in New York City | NYC Hospitality Alliance*, 2018, thenycalliance.org/assets/documents/informationitems/0211b.pdf. Accessed 5 June 2019.

skills and start their careers. Long-term evaluation of how these changes affect the poverty cycle and equal-opportunity for lower socio-economic or immigrant populations continues to be an important consideration for economists.²²

The Restaurant Opportunities Center United (ROC), an organization devoted to improving wages and working conditions for the nation's restaurant workforce is currently campaigning for One Fair Wage, an initiative to eliminate the tip credit and level the minimum wage for tipped and non-tipped employees.²³ Seven states--California, Oregon, Washington, Alaska, Nevada, Montana, and Minnesota--have already established One Fair Wage. Other organizations that are also advocating for fair pay in the restaurant industry include Brandworkers, the Food Chain Workers Alliance, New York Communities for Change, the Rural & Migrant Ministry, the Street Vendor Project, the Workers Center of Central NY, and the Workers Justice Center of New York.^{24,25,26,27,28,29,30}

In response to wage and tip violations of the Fair Labor Standards Act, attorneys Maimon Kirschenbaum and Lou Pechman, among others, have filed lawsuits against celebrity chefs in NYC, including Mario Batali, Daniel Boulud, and Keith McNally.^{31, 32} One restaurateur, Joe Bastianich, described Kirschenbaum as “shaking the very foundation of Manhattan’s restaurant industry.”³³ By his own count, Kirschenbaum has filed between 100 and 200 cases, which have cost New York restaurateurs more than \$40 million in legal

settlements. Though Kirschenbaum is controversial, as he is a for-profit lawyer who some believe is exploiting the system by operating in a legal gray area, the lawsuits he has filed serve as a warning to other restaurants.

According to the NYS Department of Labor’s Worker Protection Wage Theft Recovery Statistics, NYS recovers more money for workers than almost every other state in the nation, has one of the largest labor enforcement staffs in the nation, and resolves more than 85% of all investigations within 6 months.³⁴ In 2014 alone, \$30.2 million was given back to 27,000 workers. Information about worker’s wage rights, FAQs, a toll-free telephone number, contact information, and a form to file a complaint are listed on the government’s webpage.³⁵

Sexual Harassment in the Restaurant Industry

Sexual harassment is endemic to the foodservice industry with restaurant workers filing more claims than those in any other industry.³⁶ According to ROC’s publication on One Fair Wage, workers in tipped occupations experience higher rates of sexual harassment than workers in non-tipped occupations.³⁷ ROC’s report finds that, because wages come not only from employers but also from tips, these employees may feel particular pressure to flirt with customers, tolerate inappropriate comments or touching, or put undue emphasis on a sexualized appearance. In fact, almost 90% of tipped female restaurant workers report having experienced some form of sexual harassment or assault in the workplace.³⁸

In New York State, more than 70% of all tipped workers are women who rely on customers’ tips

22 Sherk, James. “What is Minimum Wage: Its History and Effects on the Economy.” *The Heritage Foundation*, 26 June 2013, www.heritage.org/testimony/what-minimum-wage-its-history-and-effects-the-economy. Accessed 7 June 2019.

23 “Better Wages, Better Tips: Restaurants Flourish With One Fair Wage.” *Rocunited*, 13 Feb. 2018, rocunited.org/wp-content/uploads/2018/02/OneFairWage_W.pdf. Accessed 5 June 2019.

24 *Brandworkers*, 12 Apr. 2017, brandworkers.org. Accessed 5 June 2019.

25 *Food Chain Workers Alliance*, 2019, foodchainworkers.org. Accessed 5 June 2019.

26 New York Communities for Change | New York Communities for Change, 2019, www.nycommunities.org. Accessed 5 June 2019.

27 Rural & Migrant Ministry | Hope, Justice and Empowerment, 2019, ruralmigrantministry.org. Accessed 5 June 2019.

28 Urban Justice Center. *The Street Vendor Project*, 2019, streetvendor.org. Accessed 5 June 2019.

29 “Workers Center.” Workers Center | Working Together Towards Economic and Labor Justice!, 2019, workerscny.org/en/home/. Accessed 5 June 2019.

30 *Worker Justice Center of New York*, 2019, www.wjcnyc.org. Accessed 5 June 2019.

31 “Why Are New York’s Chefs Afraid of This Man?” *Grub Street*, 24 May 2013, www.grubstreet.com/2013/05/maimon-kirschenbaum-profile.html. Accessed 5 June 2019.

32 Kadet, Anne. “In Waitstaff Pay Disputes, This Attorney Has Become a Key Ingredient.” *WSJ*, 16 Apr. 2019, www.wsj.com/articles/in-waitstaff-pay-disputes-this-attorney-has-become-a-key-ingredient-11555423201. Accessed 5 June 2019.

33 “Why Are New York’s Chefs Afraid of This Man?” *Grub Street*, 24 May 2013, www.grubstreet.com/2013/05/maimon-kirschenbaum-profile.html. Accessed 5 June 2019.

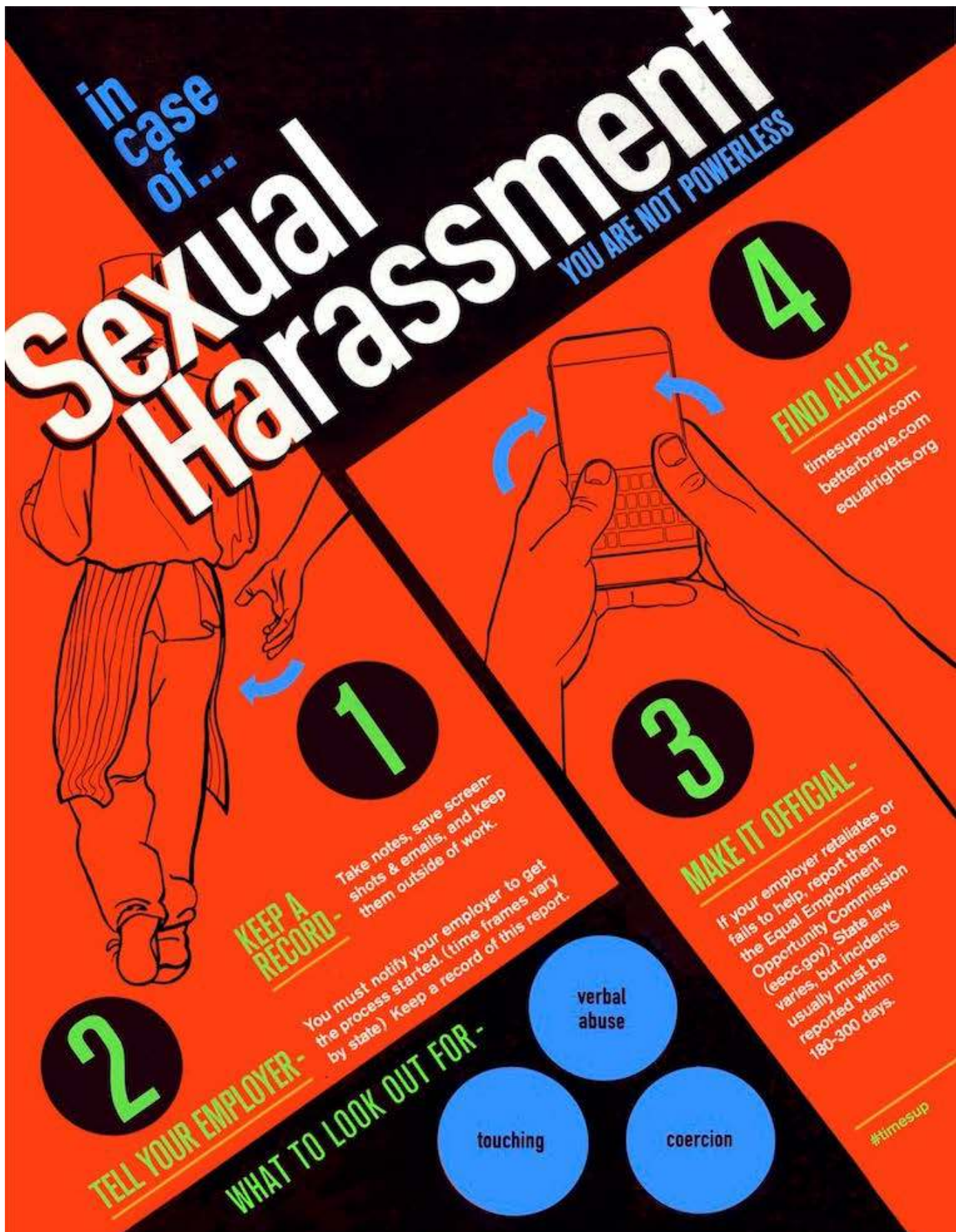
34 United States, Department of Labor, “Wage Theft Recovery.” www.labor.ny.gov/workerprotection/laborstandards/wage-theft-recovery.shtm. Accessed 5 June 2019.

35 United States, Department of Labor, “Division of Labor Standards - Contact Us” https://www.labor.ny.gov/workerprotection/laborstandards/lr_contactUs.shtm. Accessed 5 June 2019.

36 Galarza, Daniela. “Restaurant Workers File More Sexual Harassment Claims Than Employees of Any Other Industry.” *Eater*, 7 Dec. 2017, www.eater.com/2017/12/7/16746064/sexual-harassment-restaurant-workers-data-servers-cooks-bartenders. Accessed 5 June 2019.

37 “Better Wages, Better Tips: Restaurants Flourish With One Fair Wage.” *Rocunited*, 13 Feb. 2018, rocunited.org/wp-content/uploads/2018/02/OneFairWage_W.pdf. Accessed 5 June 2019.

38 “Our Tips Belong To Us: Overcoming the National Restaurant Association’s Attempt to Steal Workers’ Tips, Perpetuate Sexual Harassment, and Maintain Racial Exploitation.” *Rocunited*, Oct. 2017, rocunited.org/wp-content/uploads/2017/10/OurTips_2017_W.pdf. Accessed 5 June 2019.



Kelli Anderson and Karen Leibowitz

STOP SEXUAL HARASSMENT ACT NOTICE

All employers are required to provide written notice of employees' rights under the Human Rights Law both in the form of a displayed poster **and** as an information sheet distributed to individual employees at the time of hire. This document satisfies the poster requirement.

The NYC Human Rights Law

The NYC Human Rights Law, one of the strongest anti-discrimination laws in the nation, protects all individuals against discrimination based on gender, which includes sexual harassment in the workplace, in housing, and in public accommodations like stores and restaurants. Violators can be held accountable with civil penalties of up to \$250,000 in the case of a willful violation. The Commission can also assess emotional distress damages and other remedies to the victim, require the violator to undergo training, and mandate other remedies such as community service.

Sexual Harassment Under the Law

Sexual harassment, a form of gender-based discrimination, is unwelcome verbal or physical behavior based on a person's gender.

Some Examples of Sexual Harassment

- unwelcome or inappropriate touching of employees or customers
- threatening or engaging in adverse action after someone refuses a sexual advance
- making lewd or sexual comments about an individual's appearance, body, or style of dress
- conditioning promotions or other opportunities on sexual favors
- displaying pornographic images, cartoons, or graffiti on computers, emails, cell phones, bulletin boards, etc.
- making sexist remarks or derogatory comments based on gender

Retaliation Is Prohibited Under the Law

It is a violation of the law for an employer to take action against you because you oppose or speak out against sexual harassment in the workplace. The NYC Human Rights Law prohibits employers from retaliating or discriminating "in any manner against any person" because that person opposed an unlawful discriminatory practice. Retaliation can manifest through direct actions, such as demotions or terminations, or more subtle behavior, such as an increased work load or being transferred to a less desirable location. The NYC Human Rights Law protects individuals against retaliation who have a good faith belief that their employer's conduct is illegal, even if it turns out that they were mistaken.

Report Sexual Harassment

If you have witnessed or experienced sexual harassment inform a manager, the equal employment opportunity officer at your workplace, or human resources as soon as possible.

Report sexual harassment to the NYC Commission on Human Rights. Call 718-722-3131 or visit NYC.gov/HumanRights to learn how to file a complaint or report discrimination. You can file a complaint anonymously.

State and Federal Government Resources

Sexual harassment is also unlawful under state and federal law where statutes of limitations vary.

To file a complaint with the New York State Division of Human Rights, please visit the Division's website at www.dhr.ny.gov.

To file a charge with the U.S. Equal Employment Opportunity Commission (EEOC), please visit the EEOC's website at www.eeoc.gov.

for the majority of their income. Statistics show that there is double the incidence of harassment for these women as compared to women that work in states where the minimum wage for tipped employees is the same as that for employees who are not tipped.^{39,40} In addition to the excessive rates of sexual harassment experienced by women, 70% of men in the foodservice industry have also experienced some form of sexual harassment.⁴¹

In the wake of the #MeToo movement, scores of recent stories have exposed almost a dozen prominent men in the food and beverage industry that have been accused of sexual assault, harassment, and abuse.⁴² Celebrity chefs and restaurateurs Mario Batali and Ken Friedman are just two of the increasing number of those who have been accused of sexual misconduct in an industry where sexual harassment and assault remain rampant.^{43,44} According to the U.S. Equal Employment Commission (EEOC), there has been a 12% increase in sexual harassment allegations from fiscal year 2017.⁴⁵ As a result, states are coming under pressure to address this issue.

New York and California have already passed new sexual harassment laws. For example, since October 9, 2018, as part of the Governor Cuomo's 2018 Women's Agenda for New York: Equal Rights, Equal Opportunities Law, companies in New York, regardless of size, must adopt a sexual harassment prevention policy and implement a training program that meets minimum standards.⁴⁶ Mayor de Blasio has also signed the Stop Sexual Harassment in NYC

bill, which requires employers to provide annual sexual harassment training for workers.⁴⁷ In addition to recent laws addressing sexual harassment in the workplace, advocacy groups including Women in Hospitality United, which was created as a result of the #MeToo movement, and the New York Women's Culinary Alliance, have made fighting sexual harassment and assault in the food industry one of their main objectives.^{48,49}

Mental Health Issues Among Restaurant Workers

According to a 2017 study published by Mental Health America, which surveyed more than 17,000 employees, the food and beverage industry is one of the three "unhealthiest" workplace industries, based on environment, stress, and employee engagement.⁵⁰ Service workers who rely on tips are at a greater risk for depression, sleep problems, and stress than those who work in non-tipped positions; the greatest impact is felt by women, who make up 56% of all service workers.⁵¹ Food service workers also have one of the highest rates of self-reported alcohol and drug abuse.⁵²

Fast-food workers face additional challenges, particularly related to work-life balance, as shifts are unpredictable and change on a weekly basis, making it more difficult to find reliable childcare, have adequate sleep, find time to schedule appointments, and seek medical care.⁵³ The 24/7 nature of foodservice, its reliance on part-time workers, fast pace, and low penetration of organized labor make

39 "Cuomo's Labor Department Is Dragging Its Feet On Tipped Wage Reform, Worker Advocates Say." *Gothamist*, 15 Mar. 2019, gothamist.com/2019/03/15/tipped_wage_cuomo_restaurants.php. Accessed 5 June 2019.

40 "The Glass Floor: Sexual Harassment in the Restaurant Industry." *Rocunited*, 7 Oct. 2014, rocunited.org/2014/10/new-report-the-glass-floor-sexual-harassment-in-the-restaurant-industry/. Accessed 5 June 2019.

41 "The Glass Floor: Sexual Harassment in the Restaurant Industry." *Rocunited*, 7 Oct. 2014, rocunited.org/2014/10/new-report-the-glass-floor-sexual-harassment-in-the-restaurant-industry/. Accessed 5 June 2019.

42 Richardson, Nikita. "Every Chef and Restaurant Owner Accused of Sexual Misconduct in the #MeToo Era." *Grub Street*, www.grubstreet.com/2018/10/how-chefs-and-restaurateurs-are-faring-post-metoo.html. Accessed 5 June 2019.

43 "Mario Batali Appears in Court to Deny Charges of Indecent Assault." *The New York Times - Breaking News, World News & Multimedia*, 25 May 2019, www.nytimes.com/2019/05/24/dining/mario-batali-arraignment.html. Accessed 4 June 2019.

44 "Ken Friedman, Power Restaurateur, Is Accused of Sexual Harassment." *The New York Times - Breaking News, World News & Multimedia*, 6 Mar. 2019, www.nytimes.com/2017/12/12/dining/ken-friedman-sexual-harassment.html. Accessed 4 June 2019.

45 United States, U.S. Equal Employment Opportunity Commission. *EEOC Releases Preliminary FY 2018 Sexual Harassment Data*. 2018. www.eeoc.gov/eeoc/newsroom/release/10-4-18.cfm. Accessed 5 June 2019.

46 United States, New York State, Programs. *Combating Sexual Harassment in the Workplace*. 4 Apr. 2019. www.ny.gov/programs/combating-sexual-harassment-workplace. Accessed 5 June 2019.

47 United States, NYC Human Rights. *Stop Sexual Harassment in NYC | The Law | NYC Human Rights*. 2018. www1.nyc.gov/site/cchr/law/stop-sexual-harassment-act.page. Accessed 5 June 2019.

48 *Women In Hospitality United*, www.womeninhospitalityunited.org. Accessed 5 June 2019.

49 *New York Women's Culinary Alliance - Home*, 20 June 2019, nywca.org. Accessed 5 June 2019.

50 Mental Health America. "Mind The Workplace." *Mental Health Support - Mental Health Recovery and Advocacy*, 2017, www.mentalhealthamerica.net/sites/default/files/Mind%20the%20Workplace%20-%20MHA%20Workplace%20Health%20Survey%202017%20FINAL.PDF. Accessed 5 June 2019.

51 "The Tipping Point: Service Sector Employees Are More Susceptible to Mental Health Issues." *ScienceDaily*, 5 2019, www.sciencedaily.com/releases/2018/07/180731125553.htm. Accessed 5 June 2019.

52 United States, U.S. Department of Health & Human Services, Substance Abuse and Mental Health Services Administration. *Substance Use and Substance Use Disorder by Industry*. 2015. www.samhsa.gov/data/sites/default/files/report_1959/ShortReport-1959.html. Accessed 5 June 2019.

53 Jenny G. Zhang. "Overworked, Understaffed, and Completely Stressed Out: the Life of a Burger King Employee." *Eater*, 23 May 2019, www.eater.com/2019/5/23/18636093/burger-king-real-meals-fast-food-workers-mental-health-depression-anxiety.



food work particularly stressful. This is particularly so in NYC.

As detailed above, overall work conditions can affect health as well as mental health status. A study published in the *Scandinavian Journal of Psychology*, points to a potential long-standing problem of embedded harassment in the restaurant environment, where working within this environment was shown to affect the victim's as well as his or her coworkers' health, wellbeing and state of mind.⁵⁴

Women in the Restaurant Industry

Female restaurant workers working full-time, year-round, earn on average 79 cents for every dollar earned by their male counterparts.⁵⁵ One-fifth of female restaurant workers live below the poverty line (\$24,860 for a family of four in 2017), and almost half (46%) live below twice the poverty line (\$49,720 for a family of four in 2017), as compared to 40% of men,

54 Mathisen GE, Einarsen S, Mykletun R. "The occurrences and correlates of bullying and harassment in the restaurant sector". *Scandinavian Journal of Psychology*. 49.1 (2008): 59–68. Print.

55 "The Third Shift: Child Care Needs and Access for Working Mothers in Restaurants." *Rocunited*, 1 July 2013, rocunited.org/publications/the-third-shift/. Accessed 5 June 2019.

and 20% of women in other industries.^{56,57}

Almost 2 million restaurant workers in the United States, equating to 15% of employees in the industry, are mothers.⁵⁸ Among this group, more than half (1.2 million) are single mothers. According to a study by ROC, working mothers in the restaurant industry face barriers to career mobility and meeting their childcare needs, including affordability and accessibility.⁵⁹ Night and weekend shifts often garner more tips; however, because of the lack of childcare options available, almost one-third of mothers surveyed in the study were not able to work those desirable shifts.

56 Fontenot, Kayla, et al. "Income and Poverty in the United States: 2017." *United States Census Bureau*, 12 Sept. 2018, <https://www.census.gov/content/census/en/library/publications/2018/demo/p60-263.html>. Accessed 10 June 2019.

57 "The Glass Floor: Sexual Harassment in the Restaurant Industry." *Rocunited*, 7 Oct. 2014, rocunited.org/2014/10/new-report-the-glass-floor-sexual-harassment-in-the-restaurant-industry/. Accessed 5 June 2019.

58 "The Third Shift: Child Care Needs and Access for Working Mothers in Restaurants." *Rocunited*, 1 July 2013, rocunited.org/publications/the-third-shift/. Accessed 5 June 2019.

59 "The Third Shift: Child Care Needs and Access for Working Mothers in Restaurants." *Rocunited*, 1 July 2013, rocunited.org/publications/the-third-shift/. Accessed 5 June 2019.



Poverty Rates in the Industry

Restaurant workers experience poverty at nearly three times the rate of workers overall, and restaurant workers of color experience poverty at nearly twice the rate of white restaurant workers.⁶⁰ As a result, almost half of the families of full-service restaurant workers are enrolled in one or more public-assistance programs.⁶¹ According to a study published by ROC, public assistance for families of workers in the full-service restaurant industry costs the government \$9,434,067,497 per year.⁶² This is largely due to low-wages associated with the sector. According to a report by the Center on Budget and Policy Priorities, in 2016 six of the top 20 job categories in the country (retail salespersons, cashiers, food preparation and serving workers, waiters and waitresses, stock clerks, and personal care aides), which together employed about one

in eight American workers, paid median wages close to or below the poverty threshold for a family of three.⁶³ The *New Food Economy*, who obtained data on Supplemental Nutrition Assistance Program (SNAP) enrollment from six states, presented results that highlighted a jarring juxtaposition: thousands of people who work in the food industry are food insecure themselves.⁶⁴

Additionally, restaurant workers rarely receive fringe benefits--only 14.4% receive health insurance from their employer, compared with approximately half of other workers, and only 8.4% are included a pension plan, one-fifth the rate of pension coverage outside of the restaurant industry.⁶⁵

60 "Ending Jim Crow in America's Restaurants: Racial and Gender Occupational Segregation in the Restaurant Industry." *Rocunited*, 20 Oct. 2015. rocunited.org/publications/ending-jim-crow-in-americas-restaurants/. Accessed 5 June 2019.

61 "Picking Up The NRA's Tab: The Public Cost of Low Wages in the Full-Service Restaurant Industry." *Rocunited*, Oct. 2013. rocunited.org/wp2015b/wp-content/uploads/2015/04/REPORT-Public-Cost-of-Low-Wages-in-Full-Service-Restaurant-Industry.pdf. Accessed 5 June 2019.

62 "Picking Up The NRA's Tab: The Public Cost of Low Wages in the Full-Service Restaurant Industry." *Rocunited*, Oct. 2013. rocunited.org/wp2015b/wp-content/uploads/2015/04/REPORT-Public-Cost-of-Low-Wages-in-Full-Service-Restaurant-Industry.pdf. Accessed 5 June 2019.

63 "SNAP Helps Millions of Low-Wage Workers: Crucial Financial Support Assists Workers in Jobs with Low Wages, Volatile Income, and Few Benefits." *Center on Budget and Policy Priorities*, 10 May 2017. <https://www.cbpp.org/research/food-assistance/snap-helps-millions-of-low-wage-workers>. Accessed 19 June 2019.

64 "The Food Industry's Food Stamps Problem." *New Food Economy*, 19 April 2018. <https://newfoodeconomy.org/food-industry-food-stamps-problem/>. Accessed 19 June 2019.

65 "Low Wages and Few Benefits Mean Many Restaurant Workers Can't Make Ends Meet." *Economic Policy Institute*, 24 Aug. 2014. www.epi.org/publication/restaurant-workers/. Accessed 5 June 2019.

ALWAYS
FRESH DELICIOUS



The Survey

Purpose

To better understand worker conditions, the Hunter College New York City Food Policy Center (The Center) conducted a five-borough exploratory, pilot survey of NYC restaurant employees. Specifically, the study surveyed 380 back- and front-of-house workers and management professionals to measure their knowledge, awareness and attitudes about topics such as tipping, wages, and sexual harassment.

Procedure

Recruitment

Trained graduate students from The Center distributed paper questionnaires via street intercept in neighborhoods with high concentrations of restaurants, areas where there were higher concentrations of “good food”/health-forward restaurants, or directly prior to or following food policy-related events at The Center. Additionally, the survey was posted on The Center’s website, allowing restaurant workers to also complete the survey online. Figures 1 and 2 below indicate in which borough the survey responses were collected by restaurant type.



Figure 1. Other than “good food”/health-forward restaurants survey returns by borough



Figure 2. “Good food”/health-forward restaurants survey returns by borough

Survey

The questionnaires were comprised of 27 questions, took respondents about 10 minutes to complete and were completed anonymously. No contact or other personal information was collected or stored, and, for submissions received online, no ISP tracking data was retained. No monetary compensation or other incentive was given for participation in the survey. All responses, including restaurant type, were self-reported by the survey participants.

The survey captured information on the following topics.

- Demographics (i.e., age, race, gender, household income, highest level of education, etc.),
- Workplace characteristics (i.e., size of restaurant, annual income of restaurant, type/classification of restaurant, single-location or chain restaurant),
- Perception of fairness, workers' rights awareness, perks (i.e., employee meals) and benefits (i.e., paid sick leave, paid vacation, health insurance, maternity/paternity leave),
- Sexual harassment (i.e., rates of prevalence and action taken by management),
- Type of restaurant (i.e., fine dining, upscale, etc.), including whether it could be described as farm-to-table, sustainable, organic, local/locally-sourced/seasonal, natural, vegan/vegetarian, or none of the above,
- Worker job position (i.e., front-of-house (FOH), back-of-house (BOH), or management) and job characteristics (i.e., primary role, position, length of employment, hours worked per week)⁶⁶

One limitation of the sample to note is the gender imbalance within the survey returns as noted below in the demographics section. This could be attributed to the distribution of females to males in front-of-house (FOH) and back-of-house (BOH) job positions in the industry. According to a 2014 [national demographic data analysis](#) of restaurant workers' gender completed by the Economic Policy Institute (EPI), while the industry employs approximately the same number of men as women, the microdata shows that women are much more likely to be employed in FOH positions and men are more highly employed in BOH roles. Since our survey had more returns from FOH employees, this could explain the higher number of women in the total sample.

Analysis

The data were analyzed using independent-samples t-tests and chi-squared tests, and aggregate scores were computed where appropriate. Independent-samples t-tests (unpaired samples) were conducted to look at differences for ordinal or scale variables, such as: "I worry about losing my job." Chi-square tests of independence were conducted to examine restaurant employee responses for all nominal variables, such as: "Have you ever been charged for a customer walkout? (Yes, or No?)"

To compare across "good food"/health-forward versus other types of restaurants, participants were divided into two groups based on whether they selected at least one "good food"/health-forward characteristic (farm-to-table, sustainable, organic, local/locally-sourced/seasonal, natural, or vegan/vegetarian). These categories comprise what this report considers a "good food"/health-forward restaurant (n=161) or none of the above (n=214). This approach was used to create the largest groupings, while also attempting to keep groups as similar in size as possible.

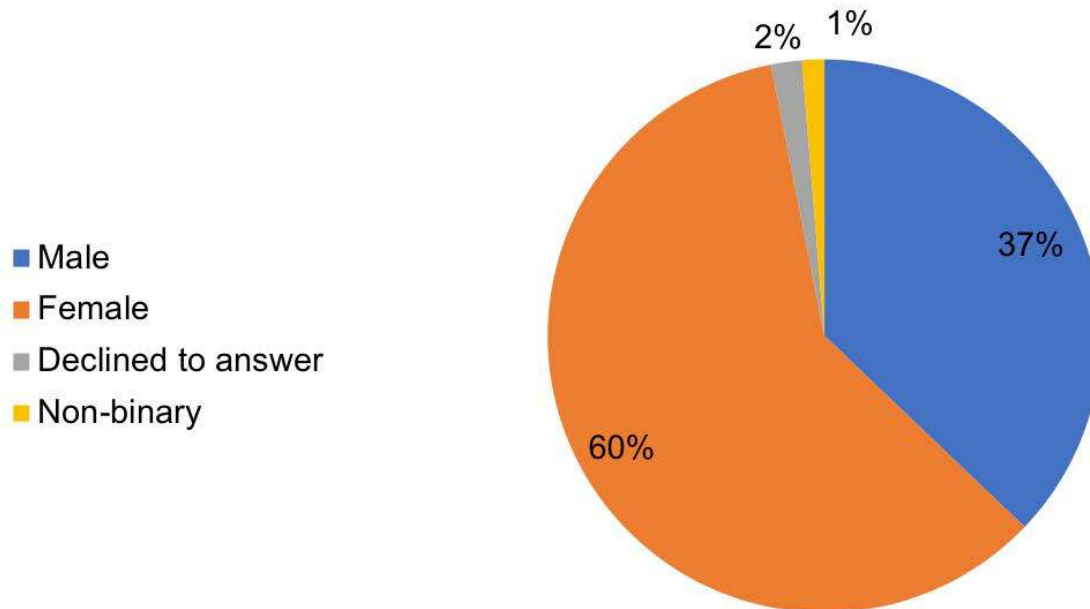
Aggregate scores were computed to quantify employees' overall perceived fairness in the workplace ("My supervisor is fair and honest." + "My supervisor will listen if I have a problem at work." + "Rules and regulations are enforced fairly." + "All employees are treated fairly." + "I get paid for all the hours I work."), as well as the total number of benefits offered (i.e., paid sick days, paid vacation days, maternity/paternity or family leave, retirement benefits, health insurance).

⁶⁶ All demographic questions were the same in the management compared to FOH/BOH surveys. Managers were additionally asked about whether part-or full-time employees qualified for benefits (i.e. paid sick days), and to rate whether they felt employees would feel comfortable reporting sexual harassment incidents to them and whether they would intervene immediately.

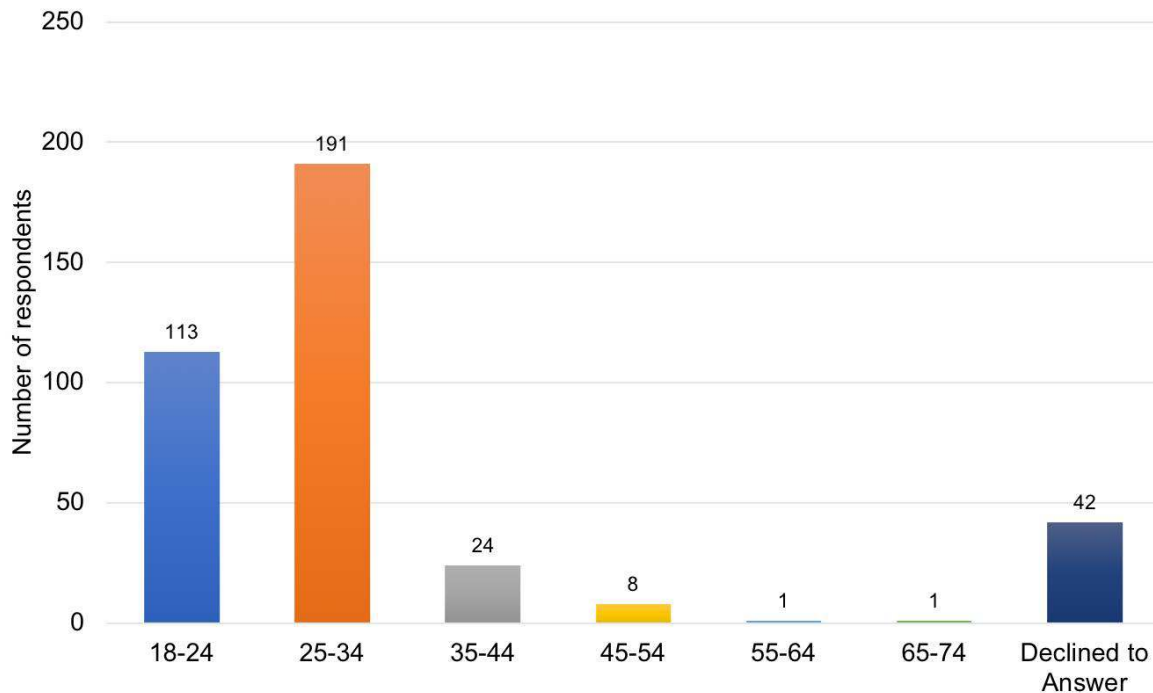
The Survey Says

Demographics (N=380): Gender, Age, Job Role, Highest Level of Education, Estimated Household Income, USA as Place of Birth, Race/Ethnicity

GENDER

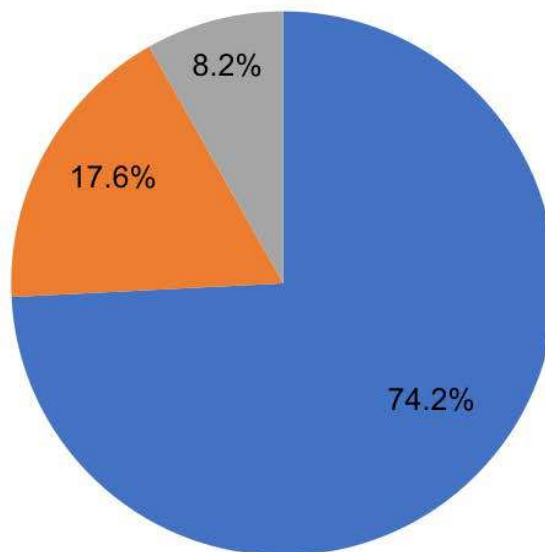


AGE



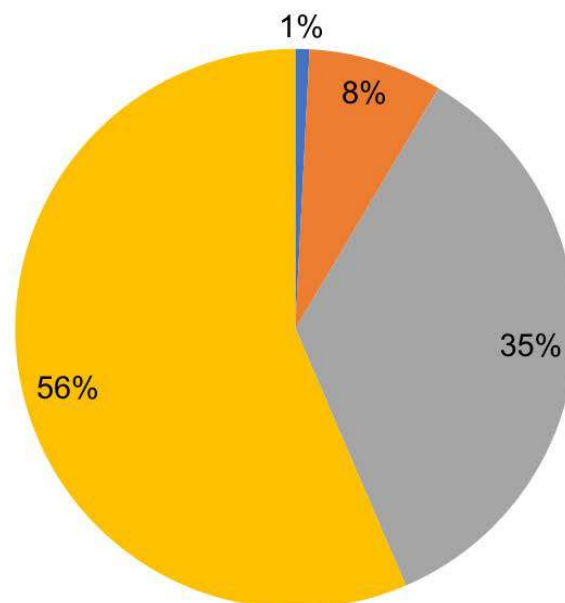
JOB ROLE

- Front of House
- Back of House
- Management

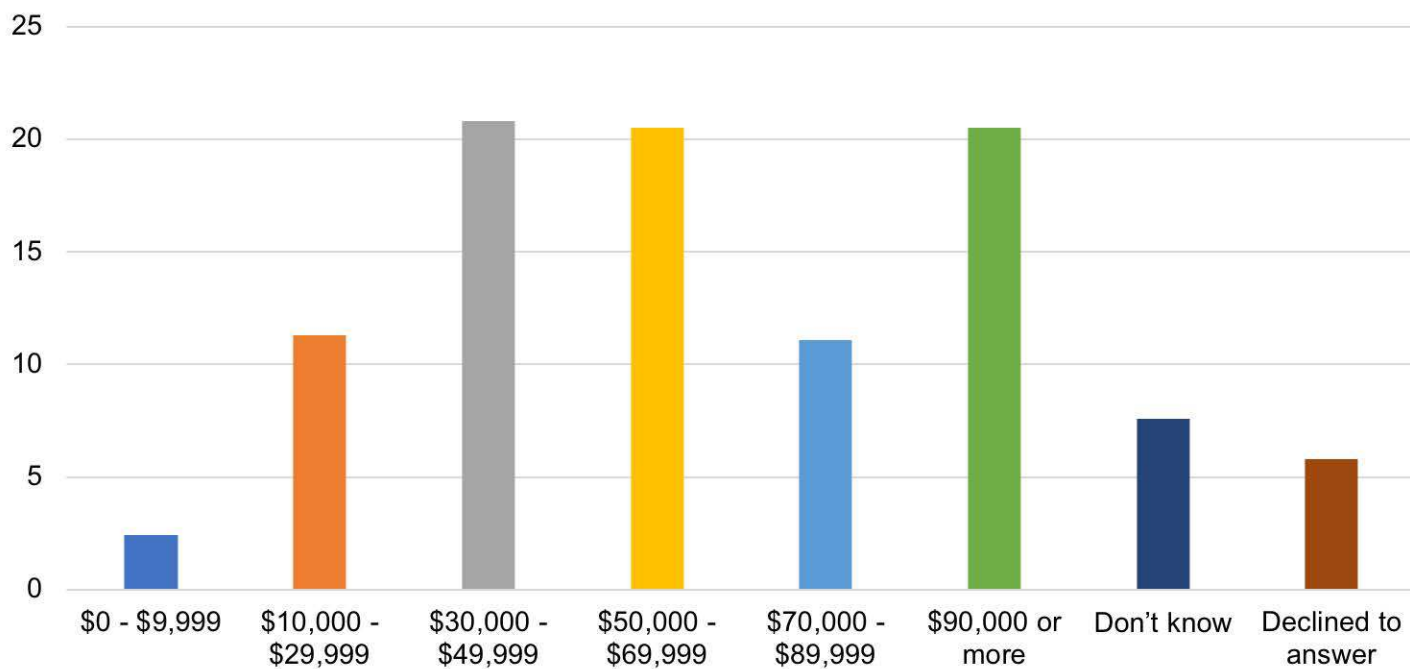


HIGHEST LEVEL OF EDUCATION

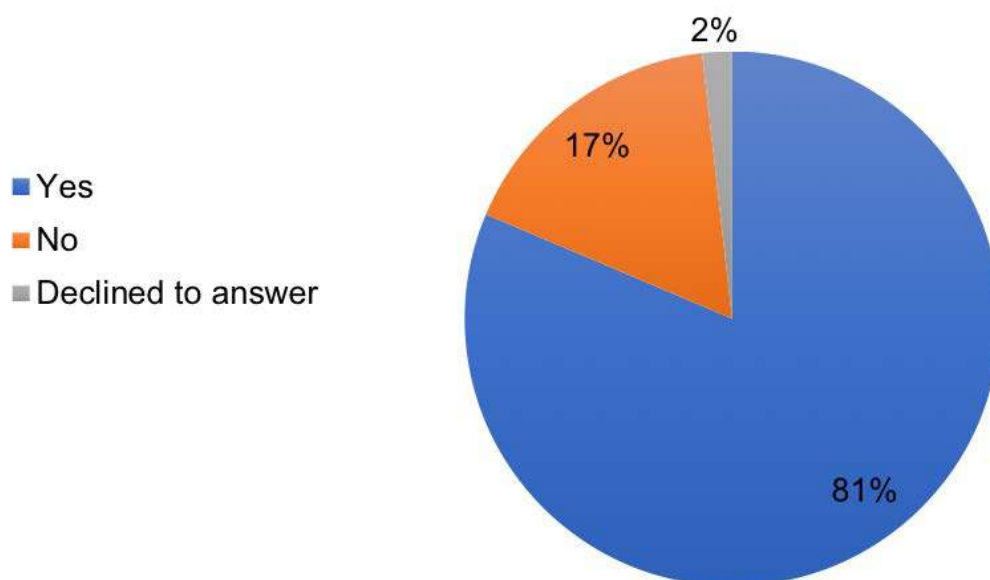
- No high school diploma or GED
- Have a high school diploma or GED
- Some college, no degree
- College degree or higher



ESTIMATED HOUSEHOLD INCOME

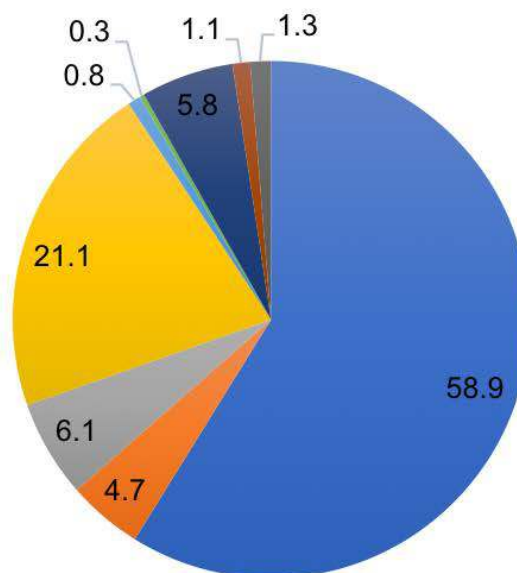


USA AS BIRTHPLACE



RACE/ETHNICITY

- White/Caucasian
- Black/African American
- Asian
- Hispanic
- West Indian
- Middle Eastern
- More than one race/ethnicity
- Other not specified
- Declined to answer



Full demographic information is presented in Appendix A, separately for front-of-house employees, back-of-house employees, and managers.

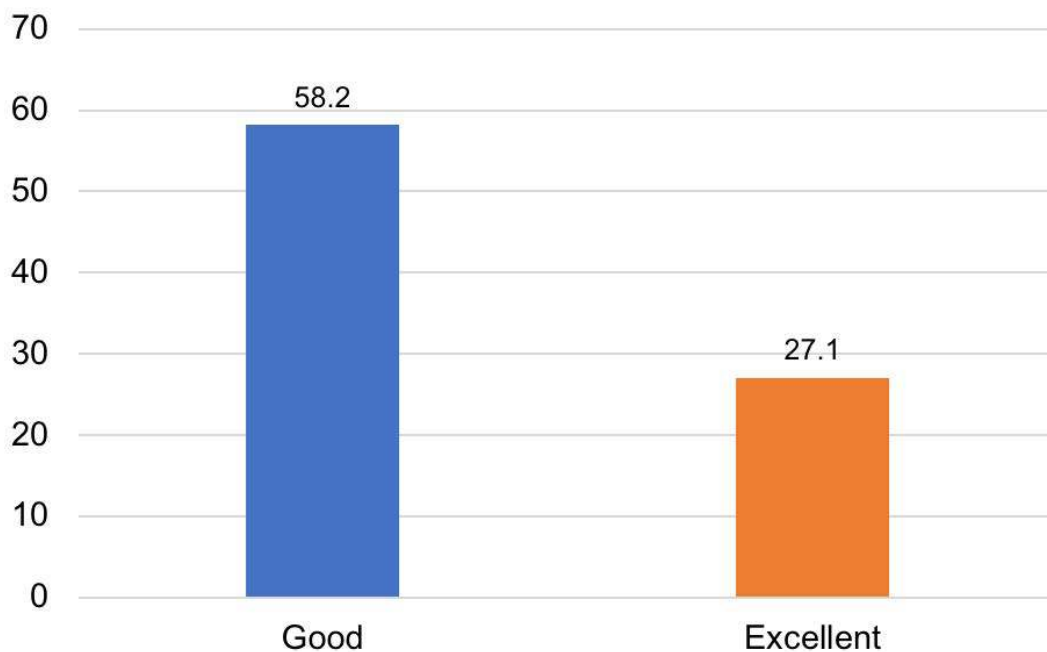
Health and the Workplace

Summary and Key Findings

- More than **85%** of restaurant workers surveyed rated their health as good (**58%**) or excellent (**27%**)
- More than **46%** of restaurant workers surveyed always (**14%**) or sometimes (**28%**) worried about losing their job
- More than **63%** of restaurant workers reported going into work when they were sick
- More than **75%** of restaurant workers thought that meal options provided to them were always or sometimes healthy

How would you rate your health?

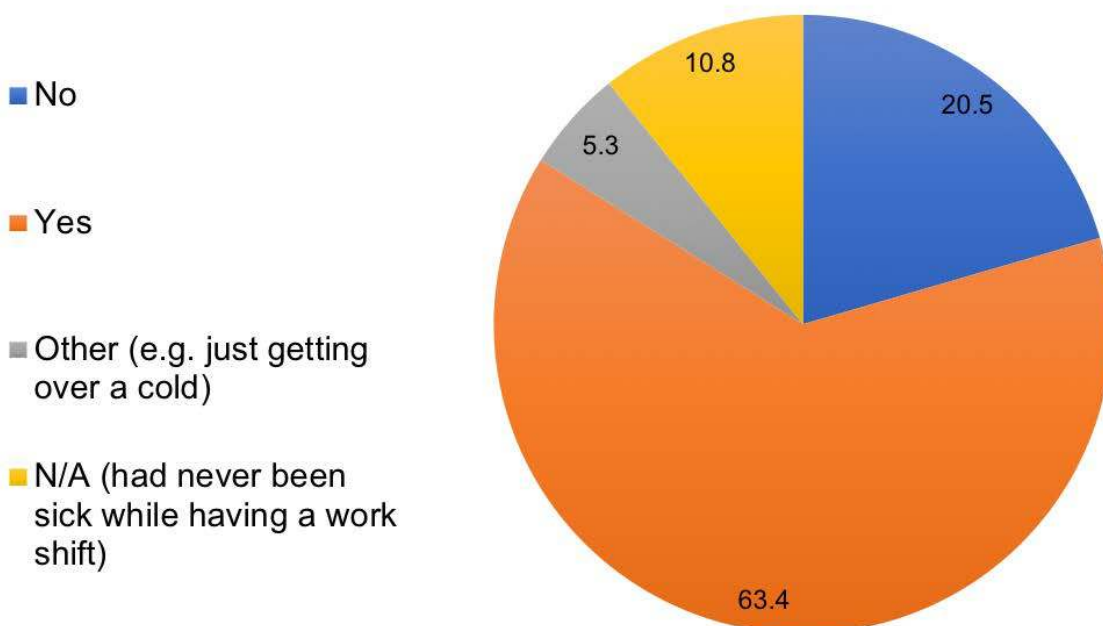
More than 85% of restaurant workers surveyed rated their health as good (58%) or excellent (27%)





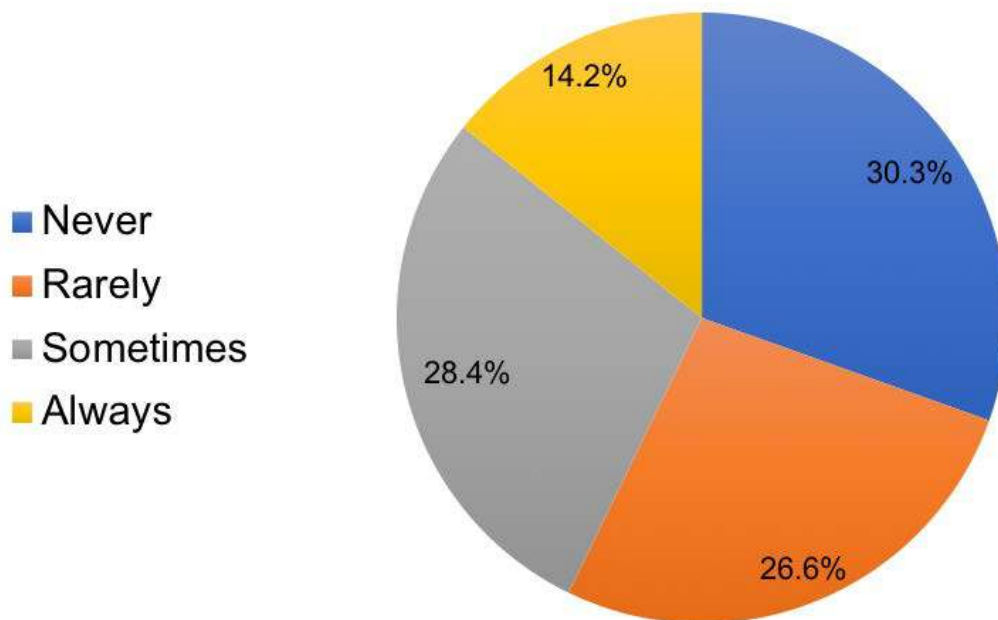
Do you go into work when you are sick?

More than 63% of restaurant workers reported going into work when they are sick



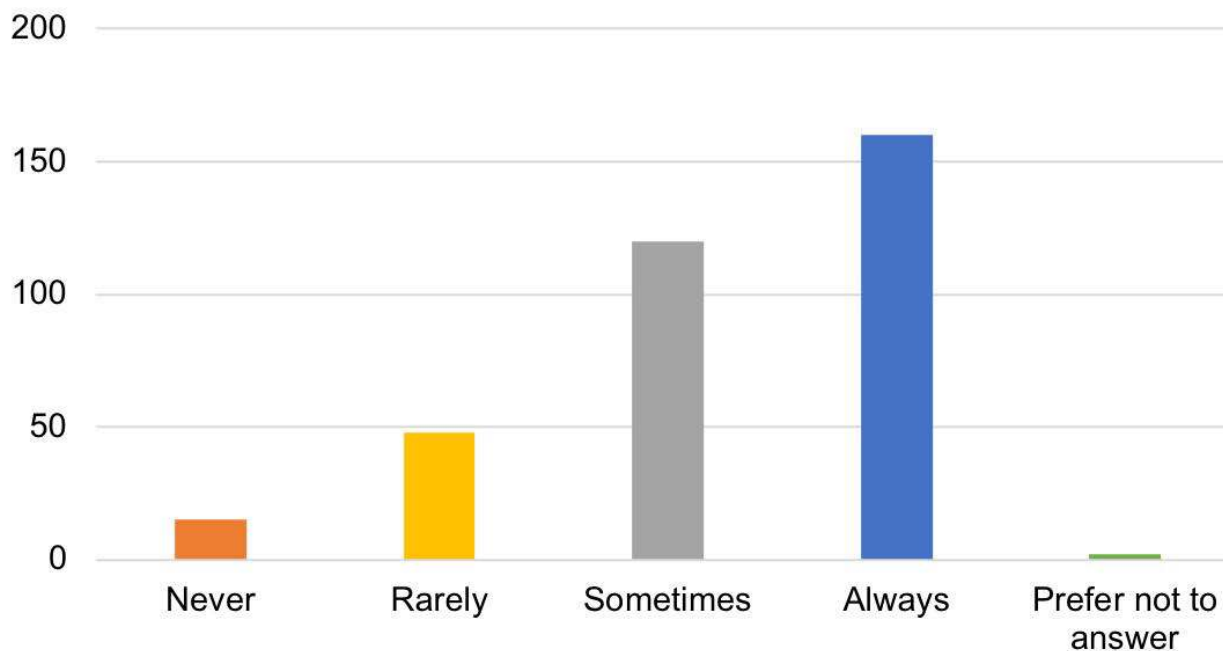
Do you worry about losing your job?

More than 46% of restaurant workers surveyed always (14%) or sometimes (28%) worried about losing their job



Do you consider the meal options provided to you to be healthy?

More than 75% of restaurant workers thought that meal options provided to them were always or sometimes healthy



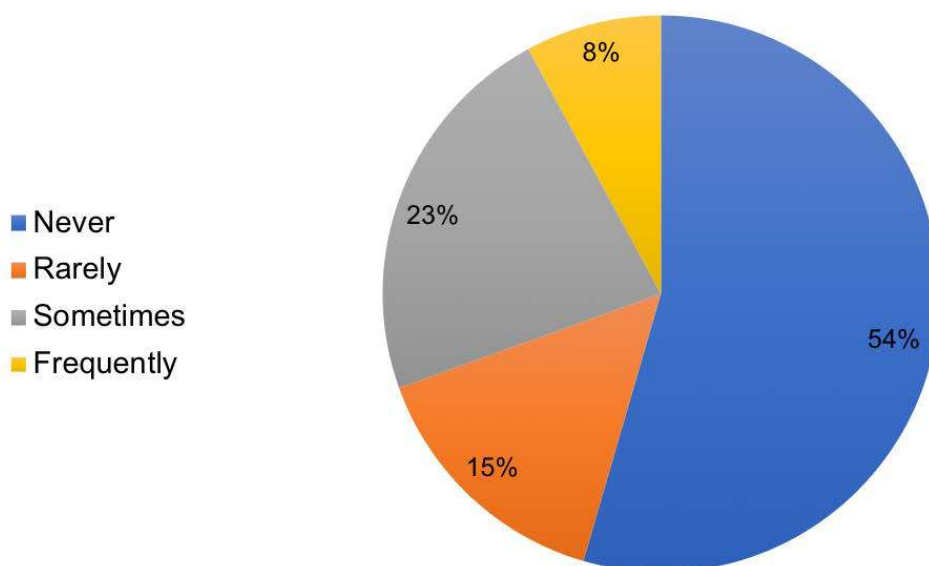
Sexual Harassment

Summary and Key Findings

- More than **30%** of restaurant workers reported being frequently (**7.9%**) or sometimes (**22.6%**) sexually harassed at their current job
- **77%** of women surveyed reported being sexually harassed at their current job
- Almost **25%** of restaurant workers surveyed reported that they had been sexually harassed by a coworker, while **2.4%** reported being sexually harassed by a supervisor
- **70%** of those restaurant workers reported that they had not reported the harassment to a person in a position of authority
- More than **56%** of restaurant workers surveyed reported that the sexual harassment still occurs

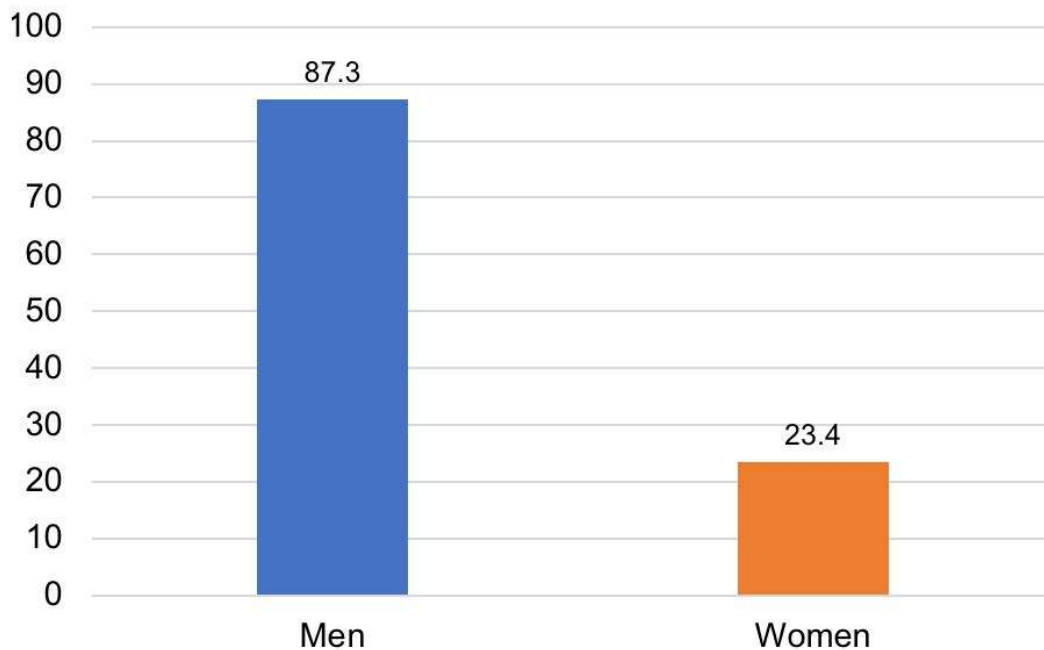
Have you ever been sexually harassed at your current job?

More than 30% of restaurant workers reported being sexually harassed at their current job



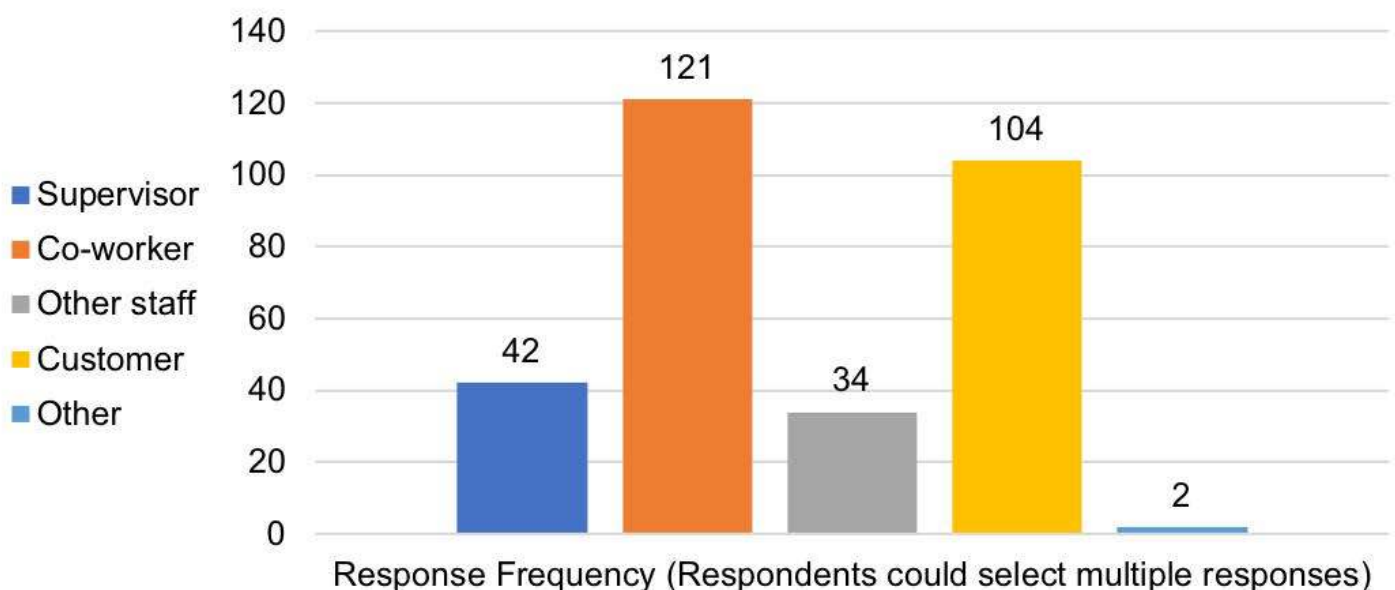
Were you sexually harassed by a male or female at your current job?

More than 87% of restaurant workers were sexually harassed by men at their current job



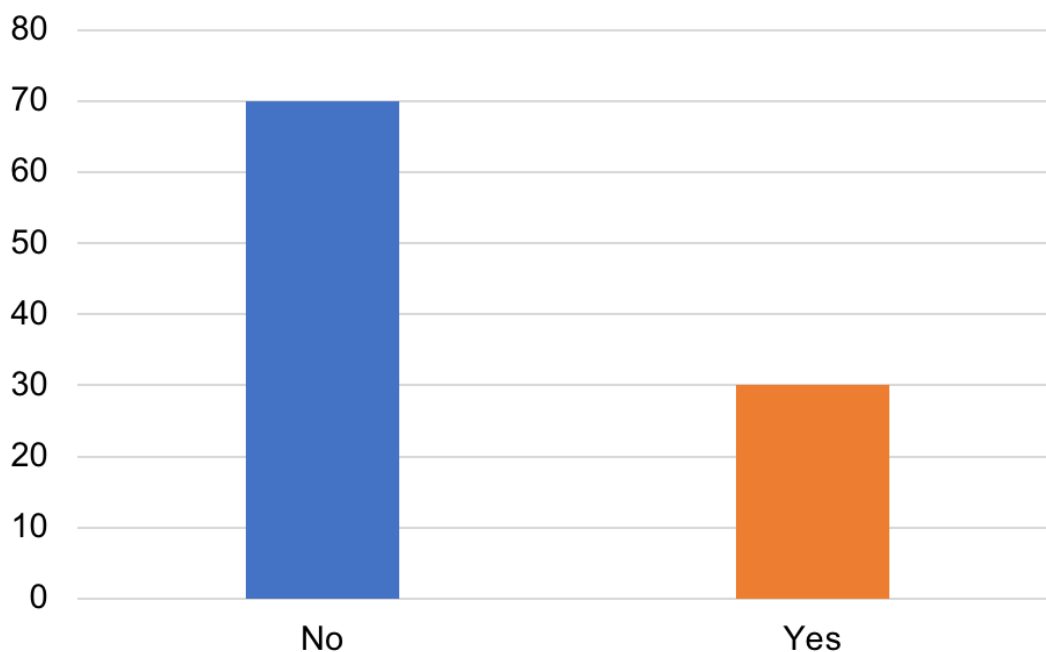
Who sexually harassed you at your current job?

Nearly 25% of restaurant workers reported being sexually harassed at their current job by a coworker and nearly 20% reported being sexually harassed by a customer



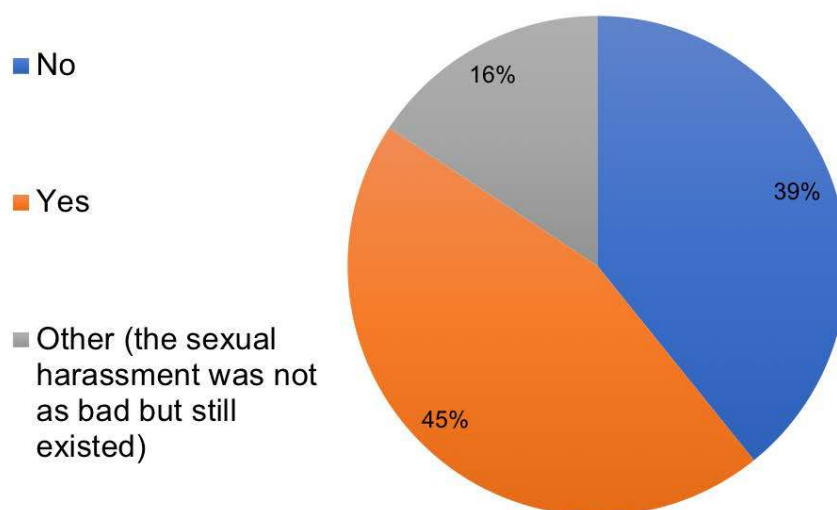
Did you report your sexual harassment to someone in a position of authority?

70% of restaurant workers did not report their harassment at their current job to a person of authority



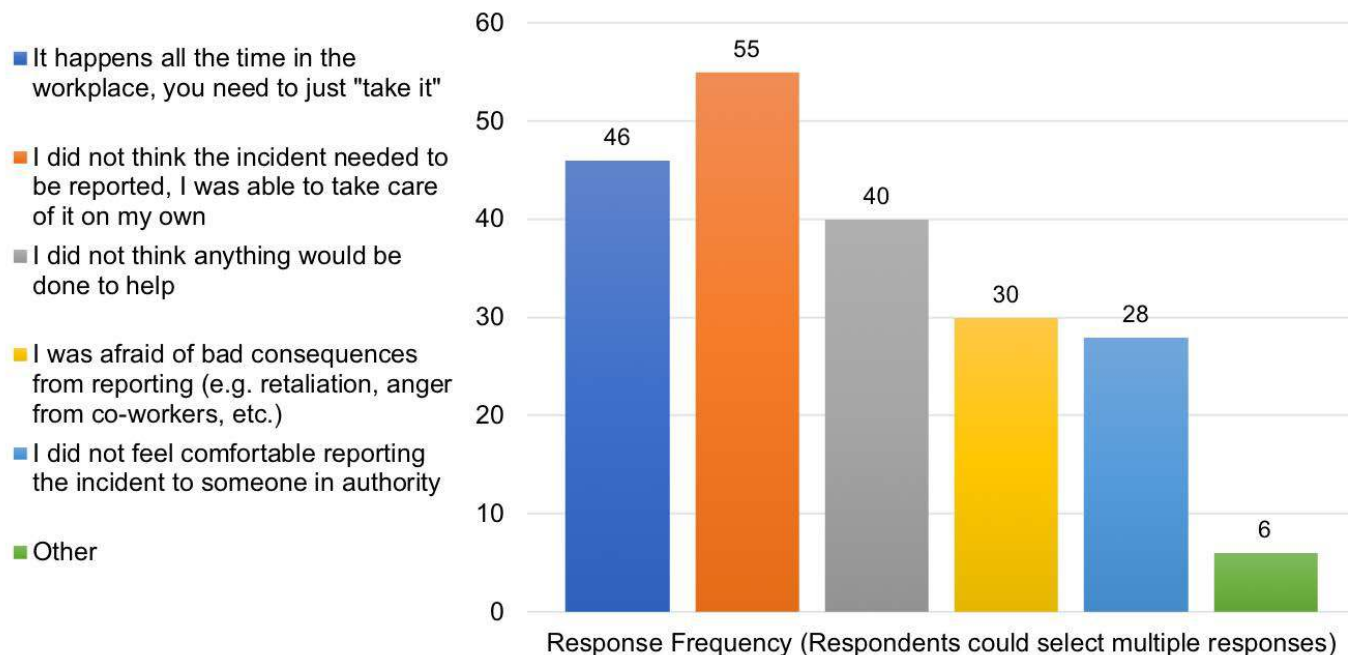
If you reported being sexually harassed, did the harassment stop?

Nearly 40% of restaurant workers who reported being sexually harassed to someone in a position of authority said the problem had not been fixed



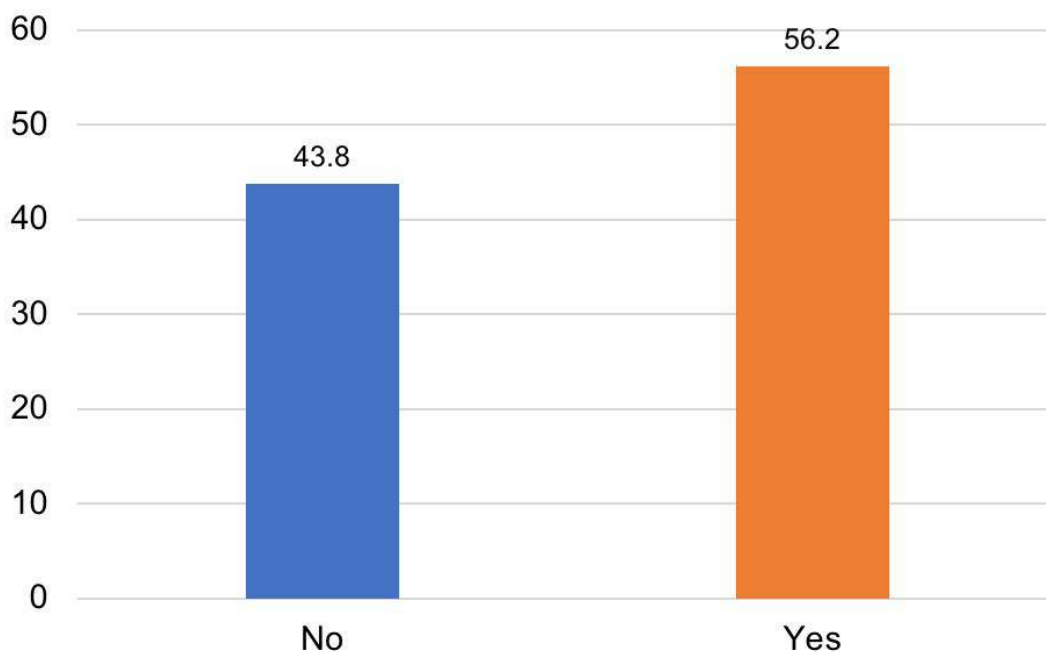
If you did not report being sexually harassed, why not?

More than 25% of restaurant workers did not report being sexually harassed because they did not think incident needed to be reported and thought they were able to take care of it on their own



If you were sexually harassed at your current job are you still being sexually harassed?

More than 56% of restaurant workers reported that they were still being sexually harassed at their current job



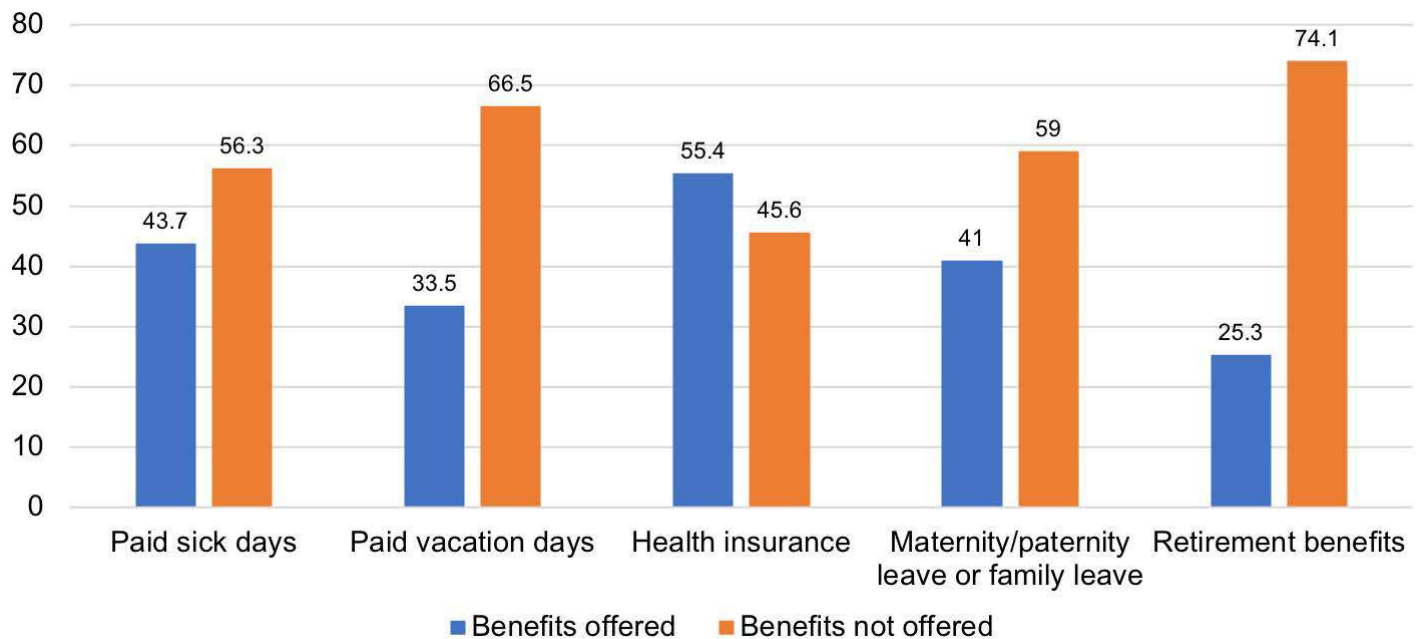
Restaurant Worker Employee Benefits

Summary and Key Findings

- More than **55%** of restaurant workers did not receive paid sick days
- More than **65%** of restaurant workers did not receive paid vacation days
- More than **55%** of restaurant workers had health insurance available at their restaurant
- Almost **60%** of restaurant workers did not receive maternity/paternity or paid family leave
- Almost **75%** of restaurant workers did not have retirement benefits available at their restaurant

What benefits are available at your restaurant?

Less than 45% of workers received paid sick days



Treatment of Workers and Workers' Rights

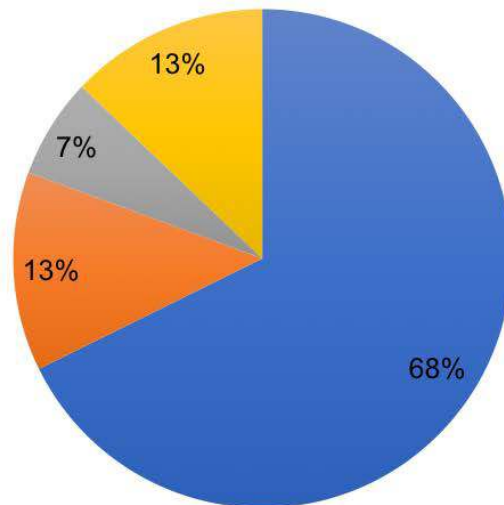
Summary and Key Findings

- More than **67%** of restaurant workers reported working for a tipped model restaurant (sub-minimum wage and tips)
- **20%** of restaurant workers reported being charged when a customer left the restaurant without paying for their meal
- More than **20%** of restaurant workers reported having their tips kept by the restaurant management without their permission
- More than **20%** of restaurant workers did not receive overtime if they worked more than 40 hours a week
- More than **78%** of restaurant workers reported always (**58%**) or sometimes (**20%**) working longer than 10 hours a day

What is your wage policy for serving staff?⁶⁷

Nearly 70% of managers reported working in a tipped model restaurant (subminimum wage + tips)

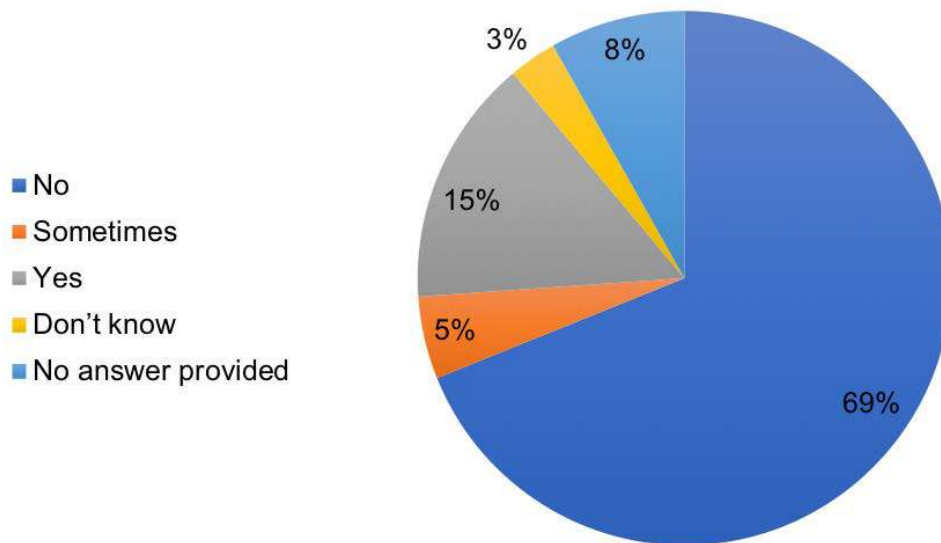
- Tipped Model (subminimum wage + tips)
- Tipped House Model (full minimum wage + tips)
- Tip-less Model (all workers paid at least full minimum wage, receive benefits)
- Other



⁶⁷ This question was only asked to survey respondents who identified as working in management.

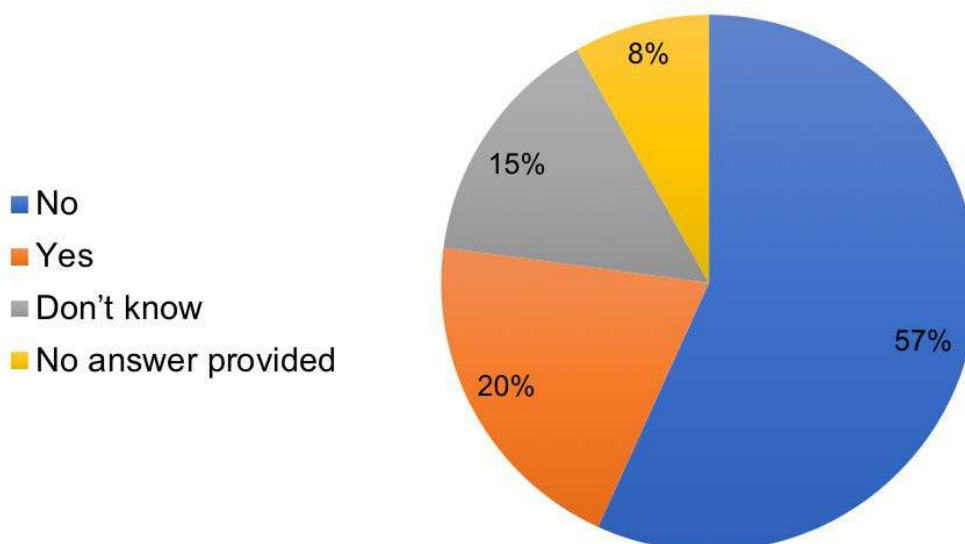
If a customer leaves without paying for their meal do you have to pay for it?

20% of restaurant workers reported being charged when a customer left the restaurant without paying for their meal



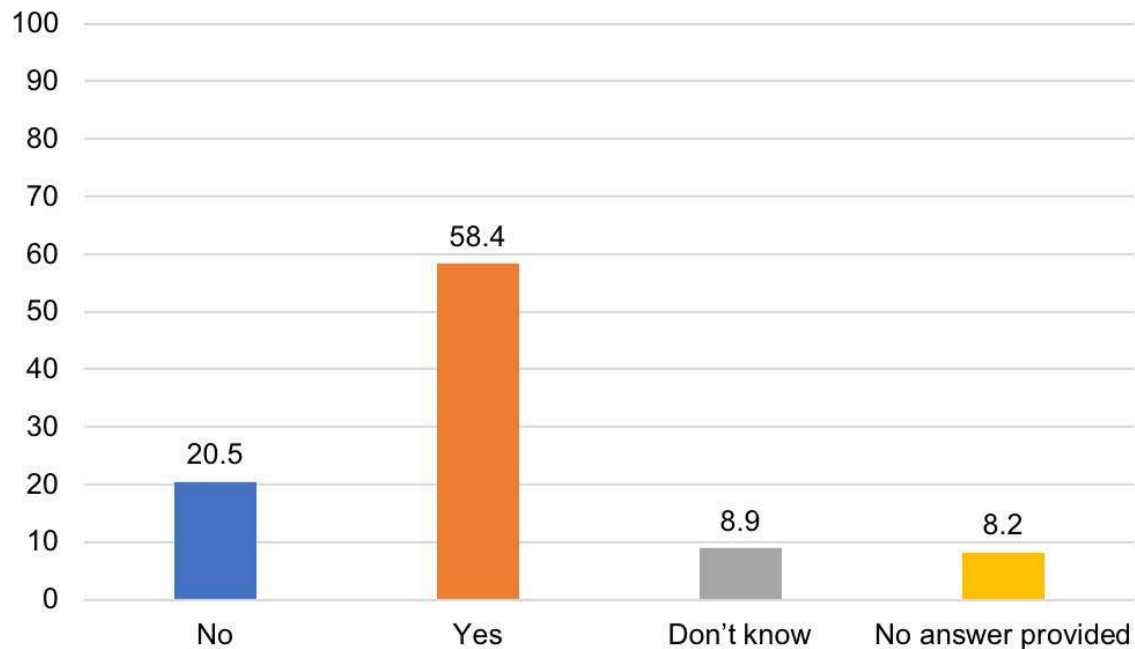
Have you, or someone you know at the restaurant, had tips kept by the restaurant management without permission?

20% of workers reported having tips held by the restaurant management without their permission



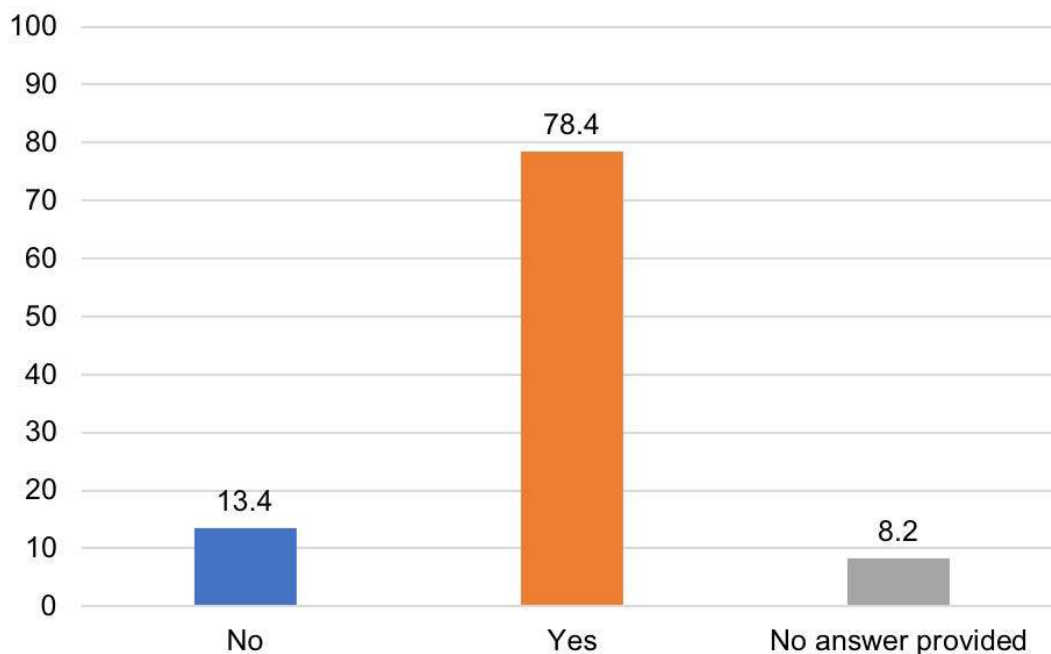
Do you get paid overtime if you work over 40 hours per week?

Nearly 60% of workers do not get paid overtime when they work more than 40 hours a week



Is your workday ever longer than 10 hours?

Over 75% of restaurant workers work longer than 10 hours



Spotlight on “Good Food”/ Health-Forward Restaurants



Why Spotlight “Good Food”/Health-Forward Restaurants?

Restaurants play a unique role in creating a more sustainable food system through their food sourcing and selection choices, food waste practices, and energy use. The interconnectivity between food and environmental issues is forcing restaurants to change the way they do business. Fortunately, many restaurants, including those in NYC, are making a commitment to more sustainable modes of operation. Sustainability is quickly becoming an integral part of today’s restaurant business, and there is ample opportunity for positive change as NYC is the fourth most restaurant-dense city in the United States with 25.3 restaurants per 10,000 households.⁶⁸

68 Forbes, Paula. “Here Are the Most Restaurant- and Bar-Dense US Cities.” *Eater*, 1 Aug. 2012, www.eater.com/2012/8/1/6559451/here-are-the-most-restaurant-and-bar-dense-us-cities. Accessed 4 June 2019.

According to the National Restaurant Association’s (NRA) State of Restaurant Sustainability 2019 report, food waste reduction has become one of the top sustainability issues for restaurants.⁶⁹ The report found that about half of all restaurants track the food waste they generate, while at least one in 10 compost their food waste. The NRA report also found that guests can be influenced by a restaurant’s sustainability practices, with about half of customers factoring in a restaurant’s recycling and food donation programs, as well as work to reduce food waste, when choosing where to dine. The Green Restaurant Association’s report found similar results.⁷⁰

The NRA’s report shows there is a rise in a more eco-friendly perspective and greater emphasis on enhanced availability of healthy items, showing that American diners want foods that not only nourish them, but also help sustain the planet. Three out of the 15 trending items on their “What’s Hot Culinary

69 “2019 State of Restaurant Sustainability Report.” *The National Restaurant Association*, <https://restaurant.org/research/reports/state-of-restaurant-industry>. Accessed 15 June 2019.

70 “2019 Green Restaurant Trends.” *Green Restaurant Association*, <http://www.dinegreen.com/single-post/2019/02/04/2019-Green-Restaurant-Trends>. Accessed 15 June 2019.

Forecast” are plant-based sausages/burgers, veggie-centric/vegetable forward cuisine and plant-based proteins. Hyper-local sourcing, including restaurants that grow produce in their own gardens, also made the list of Top 10 trends.

Restaurants striving to thoughtfully source ingredients, minimize their environmental impact, and promote a positive workplace environment, have existed for decades in NYC and other regional and national areas. These restaurants put high value on their own sustainable practices, and the past decades have seen formal mechanisms by which restaurants can receive official recognition as “green.” Green Restaurant Standards were established by the Green Restaurant Association (GRA) based on 29 years of field research to provide a transparent way of measuring each restaurant’s environmental accomplishments while also providing a pathway for the next steps they could take towards increased environmental sustainability.⁷¹

Founded in 1990, the GRA has been the leading voice for the “Green Restaurant” movement within the industry, encouraging restaurants to green their operations according to transparent, science-based certification standards. Certification is based on a set of eight environmental categories including water efficiency, waste reduction and recycling, sustainable durable goods and building materials, sustainable food, energy, reusables and environmentally preferable disposables, chemical and pollution reduction, and transparency and education. Restaurant standards should reach beyond environmental sustainability and food safety, and take into account the working conditions of restaurant employees. Since the working environment in NYC restaurants can vary widely depending on the scale and type of restaurant, volume of business, single or chain location and business model, etc., continued evaluation and intake of demographic data as well as evaluation of the work environment from the employee perspective are two vital ways to increase understanding of the industry. Such understanding can help support policies that, in turn, can positively impact working conditions.⁷² It has become

increasingly clear that our daily food choices have a direct economic, social, and environmental impact on our world, and the trend towards “good food”/health-forward restaurants is evident in NYC.

The Center’s report characterizes a “good food”/health-forward restaurant as one that has at least one of the following characteristics: farm-to-table, sustainable, organic, local/locally-sourced/seasonal, natural, or vegan/vegetarian.

Figure 1

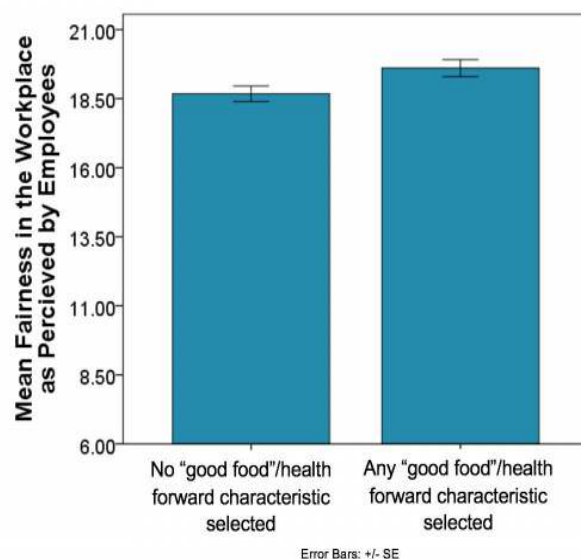
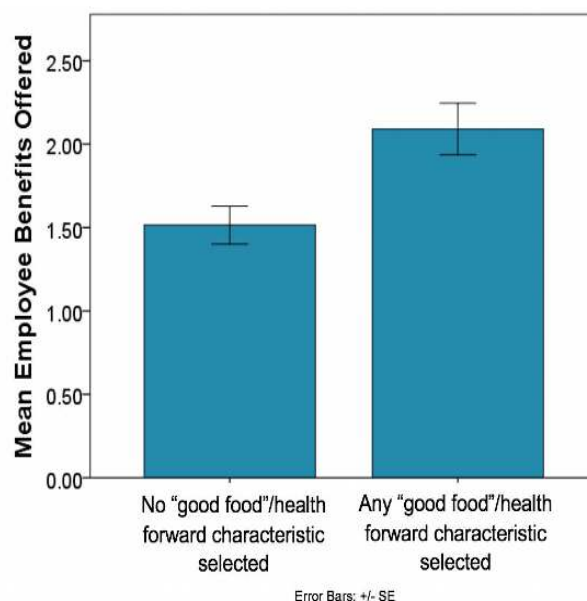


Figure 2



71 "Green Restaurant Association Certification Standards." *Green Restaurant Association*, www.dinegreen.com/certification-standards. Accessed 8 June 2019.

72 "Reinventing Low Wage Work: Ideas that Work for Employees, Employers, and the Economy." *AspenWSI – Workforce Strategies Initiative*, www.aspenwsi.org/wordpress/wp-content/uploads/The-Restaurant-Workforce-in-the-United-States.pdf. Accessed 5 June 2019.

Discussion

The study examined whether workers and managers in healthy or environmentally conscious restaurants (i.e. “good food”/health-forward restaurants) differed in terms of experiences of sexual harassment, perceived fairness in the workplace, and availability of benefits, when compared to other, more traditional restaurants. Results revealed that workers in “good food”/health-forward restaurants viewed their supervisors to be fair and honest, acknowledged that rules were fairly enforced, and indicated that they were paid for all hours worked, more often than workers in other-types of restaurants.

“Good food”/health-forward restaurants also tended to offer more benefits to their employees, specifically health insurance and investment/retirement benefits. These differences, however, were driven by front-of-house workers; no differences were perceived by back-of-house workers in “good food”/health-forward versus other types of restaurants. Further, managers of “good food”/health-forward restaurants reported making a greater effort to protect employee rights, specifically through policies encouraging sexual harassment reporting and employee absences due to illness. And, finally, while experience of sexual harassment in the workplace was not related to whether or not the restaurant possessed any “good food”/health-forward characteristics, greater worker perception that their workplace was unfair was associated with greater sexual harassment frequency.

Although the present findings revealed significant differences between “good food”/health-forward and other-types of restaurants, particularly in terms of perceived fairness in the workplace and benefits offered, some limitations must be noted. First, the sample consisted of approximately 23% more females than males. This gender imbalance could, however, be attributed to the distribution of females to males in job positions (FOH vs. BOH) in the restaurant industry. According to a 2014 [national demographic data analysis](#) of restaurant workers’ gender completed by the Economic Policy Institute (EPI), the industry employs approximately the same number of men as women, with women at slightly

more than half (52%), but women are much more likely to be employed in FOH positions such as cashiers/counter attendants (75%), hostesses (85%), and waitresses (71%), and men are more highly employed in BOH roles such as dishwashers (85%) and cooks (73%).⁷³ Since our survey had more returns from FOH employees, this could explain the higher number of women in the total sample.

Also, for certain questionnaire items, particularly some questions about employee treatment and potential violations of rights (i.e., whether servers are charged for customers not paying their bills, or whether workers get paid overtime) some participants responded that they did not have the requested information. For example, for the question “Have you, or someone you know at the restaurant, had tips kept by the restaurant management without permission?” 15% of respondents replied that they did not know. This suggests that many restaurant workers are simply not aware of whether their rights, or those of their coworkers, are being violated, and this may have prevented the present study from identifying factors related to these rights violations.

Why does it matter when benefits are not offered to a large number of people and when sexual harassment goes unchecked? According to ROC, the first job that women often obtain is in the restaurant industry, and a negative first experience in the restaurant industry increases the likelihood that women will accept sexual harassment in other environments.⁷⁴ Therefore, the endemic sexual harassment in the restaurant industry can have a rippling effect on the acceptance of sexual harassment of female workers in other industries. These specific issues in the restaurant industry not only impact the perpetuation of sexual harassment in the workplace, they also affect the take-home income of many, and that ultimately impacts the economic well-being of NYC.

73 “Low Wages and Few Benefits Mean Many Restaurant Workers Can’t Make Ends Meet.” *Economic Policy Institute*, www.epi.org/publication/restaurant-workers/. Accessed 9 June 2019.

74 “The Glass Floor: Sexual Harassment in the Restaurant Industry.” *Rocunited*, 7 Oct. 2014, rocunited.org/2014/10/new-report-the-glass-floor-sexual-harassment-in-the-restaurant-industry/. Accessed 5 June 2019.

Recommendations



There is a clear correlation: unhealthy workers lead to an unhealthy economy.⁷⁵ Instead of supporting healthy workers through family leave, paid time off, and helping them to contribute to their retirement, employers in the restaurant industry may view workers as an economic burden. However, what actually happens when restaurant workers are supported is higher profits and overall income for the whole of society.⁶⁸ The vastness of the restaurant industry offers an opportunity to intervene on behalf of a large sub-population in NYC, and, indeed, our results show there is room for further improvement.

Based on the research and survey findings presented in the report, the Hunter College NYC Food Policy Center recommends the following actions and policies to increase employees' wages and opportunities and to expand the protection and rights of those working in the restaurant industry:

- **Workers Need To Know Their Legal Rights:** It is important workers understand their rights and how to document unfair and potentially illegal practices they encounter at work. As a first step, workers should write an account of the date, time, places, description

of harassment, who was involved, and any possible witnesses. Workers can familiarize themselves with the NYC Workers' Bill of Rights and seek out third-party support through community groups or organizations such as The Restaurant Opportunities Center for New York.^{76, 77}

- **Restaurants Should Mandate Sexual Harassment Training:** All staff and managers should be trained to recognize various forms of sexual harassment, understand the legal requirements for maintaining a workplace free from sexual harassment, and learn the proper steps to take in addressing complaints. The Harvard Business Review recommends that all employees take bystander intervention training so that anyone who witnesses harassment knows how to identify it and how to help those who experience it.⁷⁸
- **Signs Prohibitting Sexual Harassment Should Be Visibly Posted:** Similar to the NYC restaurant grading system signs, restaurants can voluntarily choose to post a statement prohibiting sexual harassment of

⁷⁵ Stuckler, David, and Sanjay Basu. *The Body Economic: Why Austerity Kills*. Penguin Books, 2014.

⁷⁶ "Workers' Bill of Rights." NYC Consumer Affairs. <https://www1.nyc.gov/site/dca/workers/workersrights/know-your-worker-rights.page> Accessed 6 August 2019

⁷⁷ Restaurant Opportunities Center United. <https://rocunited.org/staff-and-locals/new-york/> Accessed 6 August 2019.

⁷⁸ "Sexual Harassment Is Pervasive in the Restaurant Industry. Here's What Needs to Change". Harvard Business Review. <https://hbr.org/2018/01/sexual-harassment-is-pervasive-in-the-restaurant-industry-heres-what-needs-to-change> Accessed 6 August 2019.

staff on their menu, front door, tables or other places where they may signal their right to refuse service to anyone who acts improperly towards a staff member. This not only gives notice to customers but also signals to employees that their workplace supports and protects them.

- **The Restaurant Industry Should Rethink The “Customer Is Always Right” Approach:** Tipped workers are more inclined to put up with bad behavior from customers as workers must rely on the approval of strangers for adequate tips. This power imbalance establishes a “customer is always right” mentality where sexual harassment is brushed off or unreported. Restaurant workers must feel that their report of harassment will be taken seriously, that they have the support of management and that they will not face negative repercussions due to creating conflict with the customer. As the survey notes, 70 percent of workers who said they were sexually harassed at work, whether through customer or fellow employee interaction, did not report it.
- **Customers Should Make Smarter Choices About Where They Choose to Dine:** Customers also play a role in creating a safer and more equitable working environment. Customers should make smarter choices about where they dine and aim to support responsible restaurants that provide fair wages, benefits and opportunities for their staff. At the bare minimum, customers should decide against dining in establishments with reputations for poor treatment of their employees. The Restaurant Opportunities Center’s *National Diners’ Guide* is a useful resource for customers navigating these decisions.⁷⁹ In addition, the book, *FORKED: A New Standard for American Dining*, offers a view of the highest—and lowest—scoring restaurants for worker pay and benefits.⁸⁰
- **The New York State Department of Labor (NYS-DOL) Must Be a Strong Champion for Workers’ Rights:** At the state-level, the NYSDOL should continue to pledge to investigate complaints and high-violation industries, partner with community and

labor groups to better understand industry violations and conduct outreach to educate workers about their rights and the NYSDOL’s services, and make the NYSDOL more accessible and responsive to the needs of all workers, but especially immigrants, and improve coordination with state and local enforcement agencies to protect them. *Protecting New York’s Workers* report by Mobilization for Justice makes further recommendations for how NYSDOL can improve wage- and hour-enforcement.⁸¹

- **Skills Training Should Be Offered To Employees To Help Advance Their Careers:** Local, state and federal policymakers should provide incentives to employers who offer on-the job-or off-premises skills training that supports employees’ efforts to advance their careers, particularly for underrepresented groups such as people of color, women, and immigrants.
- **Policymakers Should Support Pro-Worker Legislation:** Such legislation should ensure workers have access to paid sick days, and employers should explore offering this in their benefits package, regardless of whether legislation exists or not. Our survey found that 62 percent of employees went to work when they were sick.
- **Paid Sick Leave Should Be Considered a Food Safety Issue:** The NYC Health Department could consider taking paid sick leave into account when rating restaurants on their food safety as there are public benefits to be had from a reduced exposure to contagious disease.⁸²

79 “Diners’ Guide”. Consumer Association of ROC United: Diners United. <https://rocunited.org/diners-guide/> Accessed 6 August 2019.

80 FORKED: A New Standard for American Dining. Saru Jayarama. <https://www.amazon.com/Forked-New-Standard-American-Dining/dp/0199380473> Accessed 6 August 2019.

81 “Protecting New York’s Workers.” Mobilization for Justice. <http://mobilizationforjustice.org/wp-content/uploads/reports/Protecting-Workers-Dept-of-Labor.pdf> Accessed 6 August 2019.

82 Food Establishment Inspections. NYC Department of Health. <https://www1.nyc.gov/site/doh/services/restaurant-grades.page> Accessed 6 August 2019.

Resources

Restaurant Workers Rights' in the News and Media

[90% of Female Restaurant Workers Experience Sexual Harassment, Report Confirms \(Eater\)](#)

[April Bloomfield Breaks Her Silence About Harassment at Her Restaurants \(New York Times\)](#)

[Burger King Wants You to 'Feel Your Way.' But What About Its Own Employees? \(Eater\)](#)

[Cuomo's Labor Department is Dragging its Feet on Tipped Wage Reform, Worker Advocates Say \(Gothamist\)](#)

[Every Chef and Restaurant Owner Accused of Sexual Misconduct in the #MeToo Era \(Grub Street\)](#)

[Food Writing in the #MeToo Era \(New York Times\)](#)

[Here Are the Most Restaurant-and Bar-Dense US Cities \(Eater\)](#)

[How Can the Restaurant Industry Fix Its Massive Sexual Harassment Problem? \(Eater\)](#)

[Immigration Crackdown Steps Into the Kitchen \(New York Times\)](#)

[In Waitstaff Pay Disputes, This Attorney Has Become a Key Ingredient \(Wall Street Journal\)](#)

[José Andrés: How the Immigration Debate Hits a Restaurant Kitchen \(Washington Post\)](#)

[Ken Friedman, Power Restaurateur, Is Accused of Sexual Harassment \(New York Times\)](#)

[Mario Batali Appears in Court to Deny Charges of Indecent Assault \(New York Times\)](#)

[Mario Batali Pleads Not Guilty to Assault and Battery of a Woman in Boston Restaurant \(Eater\)](#)

[New Harassment and Equal Pay Laws Could Have Serious Impact on Restaurants \(Eater NY\)](#)

[Restaurant Workers File More Sexual Harassment Claims Than Employees of Any Other Industry \(Eater\)](#)

[Restaurateurs Are Scrambling to Cut Service and Raise Prices After Minimum Wage Hike \(Eater\)](#)

[Why Are New York's Chefs Afraid of This Man? \(Grub Street\)](#)

[Why Fury Toward McDonald's Is at an All-Time High \(Eater\)](#)

Restaurant Workers' Rights in Academic Articles and Publications

[Better Wages, Better Tips: Restaurants Flourish With One Fair Wage \(Restaurant Opportunities Centers United\)](#)

[Ending Jim Crow in America's Restaurants: Racial and Gender Occupational Segregation in the Restaurant Industry \(Restaurant Opportunities Centers United\)](#)

[Low Wages and Few Benefits Mean Many Restaurant Workers Can't Make Ends Meet \(Economic Policy Institute\)](#)

[Mind the Workplace \(Mental Health America\)](#)

[Our Tips Belong to Us: Overcoming the National Restaurant Association's Attempt to Steal Workers' Tips, Perpetuate Sexual Harassment, and Maintain Racial Exploitation \(Restaurant Opportunities Centers United\)](#)

[Picking Up the NRA's Tab: The Public Cost of Low Wages in the Full-Service Restaurant Industry \(Restaurant Opportunities Centers United\)](#)

[Raising the Federal Minimum Wage to \\$15 by 2024 Would Life Pay for Nearly 40 Million Workers \(Economic Policy Institute\)](#)

[Reinventing Low Wage Work: Ideas that Work for Employees, Employers, and the Economy \(Aspen Institute\)](#)

[Rising Labor Costs Survey \(NYC Hospitality Alliance\)](#)

[Share of Unauthorized Immigrant Workers in Production, Construction Jobs Falls Since 2007 \(Pew Research Center\)](#)

[Substance Use and Substance Use Disorder by Industry \(Substance Abuse and Mental Health Services Administration\)](#)

[The Glass Floor: Sexual Harassment in the Restaurant Industry \(Restaurant Opportunities Centers United\)](#)

[The Occurrences and Correlates of Bullying and Harassment in the Restaurant Sector](#) (Scandinavian Journal of Psychology)
[The Third Shift: Child Care Needs and Access for Working Mothers in Restaurants](#) (Restaurant Opportunities Centers United)
[The Tipping Point: Service Sector Employees are More Susceptible to Mental Health Issues](#) (Oregon Health & Science University)
[What is Minimum Wage: Its History and Effects on the Economy](#) (The Heritage Foundation)

Federal and State Resources for Restaurant Workers

[Division of Labor Standards](#)
[Fair Labor Standards Act](#)
[Handy Reference Guide to the Fair Labor Standards Act](#)
[Hospitality Industry Wage Order, NYCRR 146](#)
[New York Meal and Rest Break Laws](#)
[New York State Executive Law Article 15 Human Rights Law](#)
[Occupational Safety and Health Administration](#)
[Stop Sexual Harassment in NYC Act](#)
[Wage Order Summary](#)
[Wage Theft Recovery](#)

Organizations Fighting for Restaurant Workers' Rights

[Brandworkers](#)
[Fight for \\$15](#)
[Food Chain Workers Alliance](#)
[New York Communities for Change](#)
[New York Women's Culinary Alliance](#)
[Restaurant Opportunities Centers United](#)
[Rural & Migrant Ministry](#)
[Street Vendor Project](#)
[Workers Center of Central NY](#)
[Workers Justice Center of New York](#)
[Women in Hospitality United](#)

Appendix A

Participant Demographics for entire sample ($N = 380$)
 Front of House ($N=282$)
 Back of House ($N=67$)
 Management ($N=31$)

Variable	<i>N</i>	Minimum	Maximum	<i>M</i>	<i>SD</i>
Age	375	18	67	28.16	6.799
Household Members	380	1	8	2.32	1.352
Minimum hourly amount earned (including tips)	286	9 or less	80	16.95	8.27

Race/Ethnicity	Frequency	Percent
White/Caucasian	224	58.9
Black/African American	18	4.7
Asian	23	6.1
Hispanic	80	21.1
West Indian	3	.8
Middle Eastern	1	.3
More than one race/ethnicity	22	5.8
Other not specified	4	1.1
Declined to answer	5	1.3

Were you born in the US?	Frequency	Percent
Yes	309	81.3
No	64	16.8
Declined to answer	7	1.8

What is your gender?	Frequency	Percent
Male	141	37.1
Female	227	59.7
Non-binary	5	1.3
Declined to answer	7	1.8

What is your highest level of education?	Frequency	Percent
<i>Median</i> = College degree or higher		
No high school diploma or GED	3	.8
Have a high school diploma or GED	29	7.6
Some college, no degree	129	33.9
Have attended college	2	.5
College degree or higher	211	55.5

Participant Job Characteristics

Primary (Main) Role	Frequency	Percent
Back-of-house (e.g. chefs, cooks, food preparation staff, dishwashers, cleaners, etc.)	67	17.6
Front-of-house (e.g. bartenders, waitstaff, bussers, runners, etc.)	282	74.2
Management	31	8.2
Position	Frequency	Percent
Server / Bartender	202	53.2
Host / Hostess / Maitre D'	11	2.9
Chef (e.g. executive, sous, pastry, baker)	25	6.6
Cook (e.g. broiler, fry/saute, pantry, soup/sauce)	27	7.1
Expeditor / Food Runner	2	.5
Manager (banquet, event, catering, beverage, general, human resources, kitchen, dining room, etc.)	31	8.2
Sommelier / Wine Steward	2	.5
Other	2	.5
Multiple Positions Listed	78	20.5

What is your estimated household income?	Frequency	Percent
<i>Median</i> = \$50,000 - \$69,999		
\$0 - \$9,999	9	2.4
\$10,000 - \$29,999	43	11.3
\$30,000 - \$49,999	79	20.8
\$50,000 - \$69,999	78	20.5
\$70,000 - \$89,999	42	11.1
\$90,000 or more	78	20.5
Don't know	29	7.6
Declined to answer	22	5.8

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