Closing the Skills Gap & Opening More Doors
Connecting Workers with Criminal Histories to Jobs in New York City’s High Growth Sectors

MAY 2016
Closing the Skills Gap and Opening More Doors

Connecting Workers with Criminal Histories to Jobs in High Growth Sectors in the New York City Job Market

About the Legal Action Center

Legal Action Center is the only non-profit law and policy organization in the United States whose sole mission is to fight discrimination against people with histories of addiction, HIV/AIDS, or criminal records, and to advocate for sound public policies in these areas. The Center’s National Helping Individuals with criminal records Re-enter through Employment (H.I.R.E.) Network was established in 2001 to increase the number and quality of employment opportunities available to qualified individuals with criminal records by improving employment practices and public policies, and changing public opinion.

Acknowledgements

This report was made possible through the generous support of the Ira W. DeCamp Foundation. The Legal Action Center also appreciates the participation of our Advisory Group of leaders from the fields of workforce and economic development, labor market analysis, employment and training, higher education, business services, legal services, and criminal justice policy in New York City.

Advisory Group Members

Mary Bedeau, Deputy Executive Director, Center for Employment Opportunities NYC; Patricia Brooks, Vice President of Special Populations, Grant Associates; David Giles, Research Director, The Center for an Urban Future; Chino Hardin, Field Trainer/Organizer, Center for NuLeadership on Urban Solutions; Lesley Hirsch, Director of the New York City Labor Market Information Service; Tani Mills, Chief of External & Legislative Affairs, Center for Employment Opportunities; Lou Miceli, Executive Director, Jobs First NYC; Vivian Nixon, Executive Director, College & Community Fellowship; James Parrott, Deputy Director & Chief Economist, Fiscal Policy Institute; Kyung-Ji Kate Rhee, IJRA Project Director, Center for NuLeadership on Urban Solutions; Sharon Sewell, Executive Director, Workforce Professionals Training Institute; Margaret Stix, Principal, Lookout Hill Public Policy Associates; and Monica Welby, Senior Staff Attorney, Legal Action Center.
# Table of Contents

1. Introduction

3. Challenges Faced by Workers with Prior Justice Involvement

8. Laws Promoting Employment of People with Criminal Records

15. Workforce Development Support Services That Work

17. Recommendations

18. Labor Market Opportunities

**Healthcare**

22. Sector Summary

24. Sector & Barrier Analysis

**Telecommunications & Utilities**

35. Sector Summary

36. Sector & Barrier Analysis

**Property & Building Maintenance Workers**

38. Sector Summary

39. Sector & Barrier Analysis

**Transportation**

41. Sector Summary

42. Sector & Barrier Analysis

**Office & Administrative Support**

50. Sector Summary

53. Sector & Barrier Analysis

**Retail**

58. Sector Summary

59. Sector & Barrier Analysis

**Food, Hospitality, & Personal Care Services**

64. Sector Summary

67. Sector Barrier Analysis

73. Conclusion

74. Resources

75. Endnotes
FROM THE NATIONAL H.I.R.E DIRECTOR

For years the National H.I.R.E. Network received this common question from workforce development professionals: “Which companies hire people with criminal records?” First, we responded that there was no secret comprehensive list. Second, we spent time explaining that they needed to “pound the pavement” and meet with employers in their communities to develop job opportunities for their customers. These answers remain true today; however, there are other strategic ways to identify employment opportunities for workers with criminal histories. By studying economic and labor data from one’s region and locality, one can learn which jobs are—and will be—in demand for years to come. This report contains that analysis.

However, given the myriad of legal restrictions tied to employment and occupational licensing for individuals with criminal records, it is imperative that job market analysis includes the impact a criminal record may have on job opportunities. Many working-aged adults have had contact with the criminal justice system and sending them blindly into an often-hostile labor market is not a productive strategy; neither is spending already limited resources training individuals for occupations that may have criminal record restrictions that are not easily removed.

The analysis in this report, for New York City and New York State, ideally should be done in every jurisdiction across the country to assist policymakers, investors, workforce practitioners, and jobseekers with identifying the best industries to invest time, money, and effort toward building a workforce that is capable of filling the job gaps that exist in the labor market. We also want to encourage more jurisdictions to identify and remove barriers to employment that undermine the goals of employers and workers alike.

In order for our nation to reach its potential of having the most productive workforce, we must open more doors to employment for those workers with criminal histories who are ready to be productive and contributing members of the workforce.

Roberta Meyers
Director of National H. I. R. E. Network
EXECUTIVE SUMMARY

*Closing the Skills Gap and Opening More Doors* breaks new ground by combining labor market forecasts for New York City and New York State with information about barriers to employment for individuals with criminal records. In addition, it provides detailed explanations of New York City and State protections for workers with criminal records. Finally, this report sets forth recommendations on how to overcome the substantial barriers that keep this population unemployed and underemployed. We know of no other document that combines this type of information or provides this level of detail on forecasted job openings, criminal record barriers and ways to overcome them.

A steady job is a critical component of successful community reentry for people with criminal justice involvement. It is also the best means for escaping poverty, supporting a family, avoiding recidivism and moving up the economic ladder. In the aftermath of the Great Recession, however, unemployment has been especially high among New York City workers without a college education or substantial work experience. Many of these individuals also have criminal records.

For them, an array of legal and policy barriers can thwart opportunities to work or obtain a license required in certain industries and jobs. However, workforce professionals can increase the employability of people with criminal records by understanding the barriers they face and being prepared to help individuals overcome them. They can also use labor market forecasts to learn where the highest number of suitable, well-paying jobs most likely will be. Combining labor market forecasting with a thorough understanding of the legal and policy challenges that follow a criminal record will help workforce practitioners, job seekers, and employers fill tomorrow’s jobs.

*Closing the Skills Gap and Opening More Doors* builds on the Center for an Urban Future’s research report, *Now Hiring* (May 2012) that profiled seven economic sectors in New York State and New York City which could yield high demand, well-paid work from 2008 to 2018. That report identified 26 occupations within those sectors that could provide individuals opportunities to work and earn decent pay without “substantial educational and training requirements.” *Closing the Skills Gap and Opening More Doors* updates the labor information from the *Now Hiring* report with a review of the same occupations and a few others over the ten year period of 2012-2022.
MAIN SECTIONS

CHALLENGES FACED BY WORKERS WITH PRIOR JUSTICE INVOLVEMENT

I. Challenges faced by workers with prior justice involvement reviews 1) unemployment rates and history of mass incarceration in New York City, 2) the widespread availability of criminal history information (and its notorious inaccuracy), 3) institutionalized or individual discrimination in the labor market, and 4) competing demands set by probation and parole officers and others.

LEGAL PROTECTIONS FOR WORKERS WITH CRIMINAL RECORDS

II. Legal protections for workers with criminal records reviews 1) federal, state and local anti-discrimination and human rights laws; 2) new “Ban the Box” laws that delay when employers may ask about criminal history; 3) the Fair Credit Reporting Act and other requirements that give workers a right to see and correct errors in a criminal history report; 4) laws that limit liability and protect employers who hire workers with criminal records; and 5) opportunities for sealing criminal history information and obtaining proof of rehabilitation and “good conduct.”

WORKFORCE DEVELOPMENT SUPPORT SERVICES

III. Workforce Development Support Services offers practical guidance regarding how workforce developers and other stakeholders can remove employment barriers so that they can prepare and place individuals in jobs where they can succeed.
Labor Market Opportunities

IV. Labor Market Opportunities contains labor market forecasts for New York State and City for the following sectors: Healthcare; Telecommunications & Utilities; Property & Building Maintenance; Transportation; Office & Administrative Support; Retail Trade; and Food, Hospitality, & Personal Care Services. It pairs these forecasts with information about particular challenges a criminal conviction may create in each of the high-growth sectors and job descriptions examined.

Recommendations

V. Recommendations make up the final section with our recommendations for policy makers and the workforce development field:

1. Engage and educate employers in high-growth industries so they understand the benefits of hiring qualified workers with criminal records. This engagement should include educating employers about financial incentives for such hiring and best practices for complying with the existing employment laws pertaining to individuals with criminal records.

2. Increase funding resources to:

   a) Create more advanced-skills training opportunities specifically for individuals with criminal histories who are unemployed or underemployed.

   b) Create more professional development training opportunities for NYC workforce practitioners in order to help them understand how to assist workers with criminal histories.

   c) Expand transitional job services and programs for occupations in the specific sectors that are expected to grow.

   d) Increase subsidized and unsubsidized employment opportunities in the sectors that are expected to experience job growth.

   e) Increase free legal support services to help workers with criminal records address employment challenges.
3. Encourage workforce development programs serving jobseekers with criminal records to establish formal partnerships with legal service providers that can help their customers navigate and address occupational and employment restrictions and also understand their legal rights.

4. Require workforce development professionals working in New York City to undergo training and earn a credential on understanding criminal record reports, employment laws that impact job seekers with criminal records, and best practices unique to this population.

5. Ensure that employment and vocational training organizations do not discourage or deter applicants with criminal records from applying for, or participating in, sector-based training or job placement programs solely because of a criminal history. Instead, they first should seek legal advice.

We hope workforce professionals will use this report to help them better serve the interests of both employers and job seekers with criminal records. We also hope employers, funders and policymakers who read this report will commit not only to increasing opportunities for educational and skill advancement, but also to eliminating or easing criminal record restrictions that prevent these skilled and qualified workers from securing employment so that they can be independent, self-sufficient, productive and contributing members of society.
INTRODUCTION

The coming decade is likely to see skilled worker shortages in at least four U.S. industry sectors—healthcare, technology, transportation, and manufacturing. Causes include attrition from increased retirements, lack of investment in advanced skills training, as well as sector and job growth. Millions of dollars are rightfully being poured into strategies to develop a workforce to fill these gaps. These programs are working to prepare and equip unemployed and underemployed segments of the population—particularly those with limited education and work experience—to receive skills training and to connect to these job vacancies. The challenge for these programs is that individuals with criminal records are a large segment of the unemployed and underemployed population they will need to serve, and these individuals face additional obstacles to employment.

An estimated one in three adults has a criminal record, with over 100 million criminal records on file nationally.\(^1\) A 2014 employment poll found that men with criminal records accounted for about 34% of all nonworking men ages 25 to 54 in the United States.\(^2\) A report by Community Legal Services of Philadelphia concluded that women with criminal records often fare worse than men because they tend to look for work in the retail and caregiving fields, where criminal record checks are standard practice.\(^3\)

In New York City, a large number of job seekers has a criminal record with approximately 50% of the state’s prison population coming from the five boroughs.\(^4\) They encounter numerous obstacles because of their criminal history, including the fact that over 90% of employers now conduct criminal record screens as part of the hiring process.\(^5\) The information these criminal record screens produce is often rife with errors. There are nearly a thousand occupations nationwide that automatically disqualify people with felony convictions for life. In New York State alone there are over 100 occupational licensing restrictions.\(^6\) Many employers are ill equipped to understand those records and evaluate a candidate’s potential risk of reoffending and therefore avoid hiring individuals with a criminal history.

Unless we consider the needs of the vast number of workers with criminal records and the employment obstacles they face, no investment in workforce programs will yield a sufficient return.
This report leads the way for new labor and employment analysis by combining labor market forecasts for New York City and State with information about barriers to employment for individuals with criminal records. We explain background screening processes, criminal record employment and licensure restrictions, appeal and waiver processes, and fidelity bonding requirements. In addition, we provide detailed explanations of existing federal, state and city protections for workers with criminal records, including anti—discrimination and human rights laws, new “Ban the Box” laws that delay when employers can ask about a criminal history, the Fair Credit Reporting Act and other requirements that can help people correct errors in a criminal history report, laws that limit liability and protect employers who hire workers with criminal records and opportunities for sealing criminal history information and obtaining proof of rehabilitation and “good conduct.” Finally, we set forth recommendations on how to overcome remaining, and substantial, barriers that continue to keep this population un— and underemployed, offering practical guidance to workforce development and staffing professionals on how to prepare and place these workers in jobs where they can succeed.

Our work was inspired by the Center for an Urban Future’s (CFU’s) *Now Hiring* (May 2012) report, which profiled seven economic sectors that could yield high-demand, well-paid work in New York City. *Closing the Skills Gap and Opening More Doors* not only updates those forecasts but pairs them with criminal record barrier information. We used the most recent statistics from the New York State Department of Labor and analyzed the same list of occupations *Now Hiring* profiled. We noted changes in projected growth since the *Now Hiring* report and then focused on jobs that presented the most promise for people with criminal records, those that: 1) require limited work experience (no experience or less than five years); 2) low levels of educational attainment (high school diploma or equivalent or a postsecondary non-degree award); and 3) require little formal training (none at all or short-term job training). For those job seekers with criminal records in New York City who have had access to higher education—either prior to their criminal justice involvement or through education, apprenticeship, and skills training obtained while incarcerated or under community supervision—we also profiled other jobs that require higher credentials. As New York City increases education and training services to fill the middle—skill worker gap, it is our hope that the combined forecasted job opportunities with criminal record policy information and the detailed recommendations will help New York City put more workers on a direct path to job and life opportunities.
CHALLENGES FACED BY WORKERS WITH PRIOR JUSTICE-INVOLVEMENT

High rates of joblessness remain a conspicuous feature of New York City’s recovery from the Great Recession, which officially ended in June 2009. As the city’s unemployment rate has declined, workers of color, low-wage workers, and young workers, many of whom have no college education or substantial work history, continue to confront a difficult labor market. As noted by U.S. News and World Report:

About 30 percent of the unemployed in New York City have been out of a job for a year. In the Bronx, the unemployment rate is double the national level at 11.8 percent. African Americans and Latinos bearing the brunt of joblessness and more than one third of youths aged 18 to 24 are either unemployed or are in low-wage positions with no opportunity to advance.\(^8\)

New York City’s unemployed and under—employed population is also predominantly made up of African—American and Latino males, many of whom have had contact with the criminal justice system.

The tough-on-crime policies of the War on Drugs, especially aggressive “broken – windows” policies, and over-policing in communities of color have left tens of thousands of African American and Latino workers in New York City with some type of prior justice involvement that will appear on a criminal history report.\(^9\)

For example, a study released in early 2014 found that by age 18, 30% of black men, 26% of Latino men and 22% of white men had been arrested.\(^10\) By age 23, the numbers climbed to 49% for black men, 44% for Latino men and 38% for white men. The percentage of women arrested by age 23 was 20% for blacks, 18% for whites and 16% for Latinos. The long-term consequences of a criminal history on employment in New York City’s communities of color has contributed to income gaps for blacks and Latinos that are significantly higher than those for whites.\(^11\) The individuals who contact the Legal Action Center (LAC) for help overcoming barriers to employment caused by their criminal records
illustrate these ethnic, racial and income disparities. People who seek LAC’s help are concentrated in 25 zip codes that comprise 16.4% of the City’s population but account for 47.2% of total prison admissions for City residents. These same zip codes absorb 38.1% of prison releases.

These communities are overwhelmingly non-white (97%) and poor (51.2% of households have an annual income below $25,000). The average unemployment rate in these neighborhoods is more than double the rate for the City as a whole, and 42.9% of households are headed by single parents.

Despite these statistics, people with criminal records are not a monolithic group, particularly in their criminal justice experiences. Some only have convictions for violations but not crimes (misdemeanors and felonies). Some may have one conviction while others have many, for varying types of offenses. Some have never been in jail or prison. Others have been incarcerated in a local jail while some have served a sentence in a state or federal penitentiary. Regardless of their criminal histories, looking for work poses many challenges for job seekers with a criminal history. Laurie Parise, Executive Director of Youth Represent, a youth defense and advocacy nonprofit organization in New York City, stated: “Some of our clients see questions about criminal history on job applications and they eliminate themselves from the opportunity. But another real challenge is that decision-makers in many agencies deny people automatically when they see a criminal record. Our clients often do not understand
The astronomical increase in the number of people with a criminal record has been accompanied by new technology and an expansion of access to Federal and other databases containing criminal history information. This makes it commonplace for employers to seek criminal history information about workers and job applicants and difficult or impossible for a person to ever overcome his/her past. Criminal history information provided through these databases is notoriously inaccurate or incomplete, including the provision of information about the wrong individual. Most employers are not well-versed in reading criminal history records or assessing what those records mean about a person’s potential risks. As a result, many jobseekers with criminal histories lose the opportunity to be fairly considered for employment, and employers potentially overlook numerous otherwise qualified and skilled candidates.

Some of our clients see questions about criminal history on job applications and they eliminate themselves from the opportunity. But another real challenge is that decision-makers in many agencies deny people automatically when they see a criminal record. Our clients often do not understand or know how to pursue an appeal or challenge those decisions.

Laurie Parise, Executive director of Youth Represent
Workers with criminal records frequently confront blatant employment discrimination from private and public sector employers. Few states and localities have enacted laws or administrative policies that protect the rights of qualified jobseekers with criminal histories to compete for jobs. In many cases, decisions about a worker’s criminal record and its bearing on his or her suitability for employment is made without regard to the person’s individual circumstances or to evidence of rehabilitation. Employers often overlook such emblems of rehabilitation as the amount of time that has passed since the last arrest, other work history, higher educational attainment, and the completion of professional or personal development programs. In addition, most employers admittedly report that they fear negligent hiring liability, workplace violence, theft, or bad publicity if they hire a worker with a criminal history.

Thousands of statutes and regulations at the Federal, state, and city levels restrict job and occupational licensure opportunities for individuals with criminal records. For example, as discussed later in this report, the healthcare and transportation industries have criminal record restrictions for both licensing and specific occupations. While in many cases an individual often may have the right to challenge or overcome a legal bar—if denial is not mandatory—the applicant will often have to demonstrate “good moral character.” Moral character determinations, which involve the use of past and present conduct (in most cases) will vary, and determinations are not scientifically based or universally applied.
Individuals who have been incarcerated must often meet multiple mandates that can interfere with their ability to look for and find work. Community reintegration for recently released individuals often includes, as a condition of their release, requirements that they seek housing, and if substance use was at the center of their criminal behavior, seek treatment services. Additionally, they may be required to comply with conditions made by a community supervision agency like parole or probation. Formerly incarcerated men and women may also have to navigate the family court system to reunite with their children or deal with child support obligations.

In addition to the competing demands often dictated by the criminal justice system, because at least 40% of formerly incarcerated individuals have not completed high school and have limited employment skills, many will need to connect to a workforce intermediary to receive basic education, skills training, and employment support. To meet New York City’s future labor market demands, it is crucial for jobseekers, workforce providers and employers to understand this combination of formidable barriers. It is also crucial that they also understand that these barriers are surmountable.

Although finding work with a criminal record remains an uphill battle, there are Federal, State and local laws that can help individuals with criminal histories overcome barriers to employment. Given these laws, workers in New York that have criminal records are more likely to have a fair opportunity to compete for jobs in the public and private sectors than other workers around the country.
Laws Promoting Employment of People with Criminal Records

Legal Protections for Workers with Criminal Records

Federal Anti-Discrimination Law: Title VII

In 2012, the U.S. Equal Employment Opportunity Commission (EEOC), the agency responsible for enforcing the federal employment anti-discrimination law (Title VII of the U.S. Civil Rights Act of 1964), released its updated guidance for consideration of arrest and conviction records in employment decisions.

This guidance stressed to employers that automatic disqualification of individuals with criminal records may violate Title VII and disproportionately and negatively affect African Americans and other minorities because substantial racial disparities characterize the U.S. population with formal criminal records. Almost all employers are covered by Title VII, including private employers and federal, state, and local governments.15
The EEOC Guidance Encourages Employers To:

1. Eliminate policies or practices that exclude people from employment solely because they have a criminal record.

2. Train managers, hiring officials, and decision-makers to understand Title VII and its prohibition on employment discrimination.

3. Develop and record the justification for a narrowly tailored written policy and procedure for screening applicants and employees for criminal conduct. This policy should:
   a) Identify essential job requirements and describe the actual circumstances under which the jobs are performed.
   b) Identify the specific offenses—based on all available evidence—that may demonstrate unfitness for performing such jobs.
   c) Determine how long people should be excluded for criminal conduct from each position based on all available evidence.
   d) Note and keep a record of consultations & research considered in crafting the policy and procedures.
   e) Conduct an individualized assessment.
   f) Only ask questions about criminal records that would affect performance in the position in question and make sure those questions are consistent with business necessity.

4. Keep information about applicants’ and employees’ criminal records confidential. It should only be used for the purpose for which it was intended—to assess the fitness of a job applicant for the position in question.
New York State and New York City Laws

New York offers some of the best employment protections in the country for workers with criminal records. Article 23-A of the New York State Corrections Law prohibits employers from having a blanket ban that bars considering candidates with criminal histories. It also requires employers to take into account many factors in addition to criminal record information, including:

(a) New York’s stated public policy of encouraging the licensure and employment of persons previously convicted of one or more criminal offenses.

(b) The specific duties and responsibilities substantially related to the license or employment sought or held by the person.

(c) The bearing, if any, that a person’s previous criminal offense or offenses will have on his fitness or ability to perform one or more such duties or responsibilities.

(d) The time which has elapsed since the occurrence of the criminal offense or offenses.

(e) A person’s age at the time of the criminal offense or offenses.

(f) The seriousness of the offense or offenses.

(g) Any information the person produces, or which is produced on his behalf, in regard to his rehabilitation and good conduct.

(h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.16

Moreover, New York State and New York City’s Human Rights laws prohibit employers from asking about or considering arrests that did not lead to conviction in employment decisions. New York City’s Human Rights Law also prohibits the use of credit history in hiring and employment decisions, with few exceptions. Finally, New York is one of the few states that provides additional protections against negligent hiring claims for employers that hire workers with criminal records.17 (See “Protections for Employers.”)
Ban the Box

A number of local jurisdictions in New York State have enacted policies that prohibit employers from asking questions about an applicant’s conviction history before the employer provides a conditional job offer. This policy, often referred to as “Ban the Box” because of a check–off box that often included a criminal history question on many employment applications, has been enacted by ordinance in Buffalo, Rochester, and Syracuse. New York City joined this group in June 2015 with its Fair Chance Act, described more fully in the side bar.

Sealing Laws

In addition to the laws that prohibit discrimination against workers with criminal histories, workers may be able to limit the availability of information about their prior justice involvement by seeking to have their criminal record sealed. In New York, there are five laws that limit the dissemination and disclosure of sealed criminal records—which include arrests that did not lead to conviction, certain violation convictions, certain drug convictions that fall under Rockefeller Drug Law Reform, convictions later vacated because the record holder’s history was deemed to be the result of being victimized as a sex worker, and youthful offender adjudications.

Arrests that did not lead to conviction are cases where the district attorney declined to prosecute (it may also be referred to as a nolle prosequi in some states), a grand jury decided not to indict the defendant, or the charges that were brought were dismissed by a judge. Violation offenses in New York State are defined as non–criminal offenses, other than a “traffic infraction,” for which a sentence to a term of imprisonment in excess of fifteen days cannot be imposed. There are several offenses that fall within this category but the most common are disorderly conduct or
tresspass. Most violations are sealable offenses. However
the few that are not include loitering in a deviant manner or
for prostitution and driving while ability impaired.

A 2009 amendment to the Rockefeller Drug Law created
a new conditional sealing provision for individuals who
successfully completed court-ordered substance abuse
treatment.\(^{25}\) Graduates of court-ordered treatment can
petition the judge to have a delineated non-violent felony
and up to three prior misdemeanor cases sealed. If the
records are sealed, any subsequent arrests would result in
the unsealing of all conditionally sealed cases. In 2010 New
York State became the first state to pass legislation that
allows survivors of sex trafficking to vacate their convictions
for prostitution offenses. Once the record(s) is vacated they
are then sealed from public access.\(^{26}\)

Finally, while New York is one of only two states that require
16-18 year olds to enter the adult criminal justice system
if arrested, the state does have a law that allows judges,
at their discretion, to convert a young person’s criminal
conviction to a non-criminal youthful offender adjudication.
The adjudication record is suppressed from public access
and may only be made available in criminal justice related
matters.\(^{27}\) Sealed and suppressed records should not appear
on a standard fingerprint or commercial reporting criminal
background check for employment or occupational licensing
purposes. However, unsealed records will remain available
for the rest of a person’s life.

**THE FAIR CREDIT REPORTING ACT**

Most private sector employers will request criminal record
information from commercial background screening
companies, also known as consumer reporting agencies
(CRAs). These agencies are regulated by the Fair Credit
Reporting Act (FCRA).\(^ {28}\) Among other things, this federal law
requires CRAs to follow reasonable procedures to assure
maximum possible accuracy. It also requires them to tell
each consumer when they report public record information
likely to adversely affect employment and to provide the
address of the person to receive the report. The law also
directs commercial background screeners to ensure that the
public record information it reports is complete and up to
date.
In addition to the federal law, New York State has its own FCRA law. This state statute expands protections for consumers by prohibiting reports from containing information about arrests that did not lead to a criminal conviction and arrests that led to a violation-level offense (See Sealing Law section above). The background check can only include “adverse information” dating back seven years unless the job pays or will pay $25,000 or more, in which case there is no time limit.29

**Certificates of Relief from Disabilities and Certificates of Good Conduct**

New York offers individuals convicted of crimes the opportunity to receive Certificates of Relief or Good Conduct if they demonstrate rehabilitation to the state’s satisfaction.30 These Certificates lift automatic legal or regulatory bars to employment due to a criminal conviction for most individuals (restrictions may still be imposed on a case-by-case basis). The Certificates can also provide evidence to employers that a worker with a criminal record is unlikely to commit a new offense while on the job. Depending upon the seriousness of the individual’s record, the process for obtaining these certificates often requires a community corrections official to thoroughly review the applicant’s criminal history and rehabilitative efforts. On behalf of the court or the New York State Board of Parole, the official must also review evidence of rehabilitation including vocational training, educational advancement and work history.

**Federal Bonding Program**

Many jobs may require workers to be insured or bonded as protection against money or property loss due to employee dishonesty. This is particularly true in jobs that require the handling of cash, going into people’s homes, access to financial information or valuable merchandise. However, many private bonding agencies will not bond job applicants with criminal histories or other questionable past behaviors. Thus, ineligibility for private bonding insurance can be an additional employment barrier for many qualified job applicants with past criminal records except that the employer may instead apply for bonding coverage through the Federal Bonding Program.
The Federal Bonding Program, established by the U.S. Department of Labor in 1966, exists to help alleviate employers’ concerns about hiring qualified, but “at-risk,” job applicants. This program works in partnership with the McLaughlin Company, an insurance brokerage firm, as agent for Travelers Casualty and Surety Company of America, to indemnify employers for loss of money or property sustained through the dishonest acts of their employees (i.e., theft, forgery, larceny, and embezzlement). The bond can be issued to the employer as soon as the applicant has a job offer and a start date. The initial bond is free and insurance coverage ranges from $5,000 to $25,000 for a 6-month period with no deductible (the employer gets 100% insurance coverage). When the initial bond coverage for that employee expires, the employer may purchase continuing coverage from Travelers Casualty as long as the worker demonstrated job honesty.

WORK OPPORTUNITY TAX CREDIT

The Work Opportunity Tax Credit is a Federal tax credit available to employers for hiring individuals from certain target groups who have consistently faced significant barriers to employment. People with criminal and addiction histories are identified in this group. The tax credit employers can claim depends upon the target group of the individual hired, the wages paid to that individual in the first year of employment, and the number of hours that individual worked. There is also a maximum tax credit that can be earned.

NEGLIGENCE HIRING LAW

In New York, employers who comply with Article 23-A’s requirements (discussed above) to conduct individualized and fair assessments of all job candidates are better positioned to defend against negligent hiring, retention, and supervision claims. New York’s Human Rights Law grants such employers a “rebuttable presumption to exclude” evidence of prior convictions or incarcerations if an employee with a criminal record becomes the subject of a legal claim.
**WORKFORCE DEVELOPMENT SUPPORT SERVICES THAT WORK**

Many New Yorkers who would benefit most from a job do not possess the networks, training, and access that are necessary to find a position on their own. Jobseekers with criminal histories often find workforce development intermediaries essential to obtaining employment. Several programs in New York City exclusively serve the needs of justice-involved individuals and focus on helping them find employment. However, these programs have limited capacity to meet the needs of the large number of individuals returning to New York City communities with criminal records. New York City’s workforce development system must therefore increase its capacity to serve this population.

To effectively help individuals with a history of justice system involvement, workforce development professionals must understand industry practices and legal standards concerning criminal records. In addition, they should provide an array of services essential to ensuring this population’s workplace success, including education and training and soft–cognitive skill development, which includes the practice of good communication and interpersonal skills, the ability and willingness to learn, attention to detail, reliability, and showing up for work on time. In a survey published in 2014, a lack of soft–cognitive skills was the number one hiring challenge cited by employers. One in four reported that prospective workers lack these soft skills; one in six reported that a candidate’s criminal record was an issue, and one in ten reported problems because of candidates’ inability to pass a drug test.\(^3\)

Workforce practitioners must also help prepare job seekers to answer criminal record questions completely, directly, and honestly on applications and in interviews. Agencies should be able to help consumers become familiar with their record of arrest and prosecution (RAP sheets) and understand the distinction between arrest and conviction, sealing and expungement. Workforce professionals should also be able to inform people about certificates of rehabilitation and other restorations of rights.

As individuals prepare to enter the workforce, workforce agencies should also encourage clients to obtain a copy of their criminal record and correct any misinformation. “Cleaning up” a criminal record report is arduous
and time consuming, particularly if an individual has a criminal record in several jurisdictions. Jobseekers will often need assistance or guidance from offices like the Legal Action Center to help them understand how criminal records are generated, where they are maintained, how to identify errors, and how the information is disseminated. Not only will individuals need to review their criminal record reports to verify their accuracy, but in many cases they will need to use them to remember and prepare the relevant details necessary to accurately complete employment or licensing applications.

Other components of effective job-readiness programs for this population include: transitional–job placement, non–transitional subsidized employment, job development and coaching, retention services, and financial work incentives. In addition to helping jobseekers, workforce agencies should also support employers who are willing to hire people with criminal records. They should assist them in securing financial incentives, such as the Work Opportunity Tax Credit, other tax credits and federal bonding. They may also provide no–cost services to employers, such as collecting criminal record information and helping job creators establish alternative pathways to employment (temporary jobs, internships, transitional jobs).

Advocates in the criminal justice system should work to ensure that their customers/constituents do not end up in dead-end jobs.

Practitioners need to be able to understand the progression of options available to someone who works hard, sticks it out, and may, with a bit more training, experience, and access to the right people in their networks, move up.

Lou Miceli, Executive Director
Jobs First NYC
RECOMMENDATIONS

To meet the needs of jobseekers with criminal histories and fill forecasted labor gaps in New York City and State, we encourage all stakeholders, including investors and policymakers as well as workforce development and vocational training institutions, to consider the recommendations outlined below.

1. **Engage and educate employers in high–growth industries so they understand the benefits of hiring qualified workers with criminal records for the jobs that need filling.** This engagement should include educating employers about financial incentives for such hiring, and best practices for complying with the existing employment laws pertaining to individuals with criminal records.

2. **Increase funding resources:**
   a) *Create more advanced skills training opportunities specifically for individuals with criminal histories who are unemployed or underemployed.*
   b) *Create more professional development training opportunities for NYC workforce practitioners in order to help them understand how to assist workers with criminal histories.*
   c) *Expand transitional job services and programs for occupations in the specific sectors that are expected to grow.*
   d) *Increase subsidized employment opportunities in the sectors that are expected to experience job growth.*
   e) *Increase free legal support services to help workers with criminal records address employment challenges.*

3. **Encourage workforce development programs serving jobseekers with criminal records to establish formal partnerships with legal service providers** that can help their customers navigate and address occupational and employment restrictions and also understand their legal rights.

4. **Require workforce development professionals working in New York City to undergo training and earn a credential** on understanding criminal record reports, employment laws that impact jobseekers with criminal records, and best practices that are unique to this population.

5. **Ensure that employment and vocational training organizations do not discourage or deter applicants with criminal records from applying for, or participating in, sector–based training or job placement programs** solely because of a criminal history. Instead, they should encourage applicants to seek legal advice.
Labor market forecasting can provide workforce professionals with information about the industries and occupations likely to create career pathways and opportunities for the largest number of individuals. Both nationally and at the New York City level, however, these forecasts alone are not sufficient to help the one in three individuals with criminal records who must navigate the job market. Therefore we have supplemented labor market forecasts with information on potential criminal record barriers in the sectors and jobs projected to grow in New York State and New York City.

To identify the sectors and jobs projected to be in high demand in New York State and New York City, we first reviewed the labor market analyses in the Center for an Urban Future’s (CUF) Now Hiring report (2012). That report leaned heavily on the New York State Department of Labor’s (NYSDOL) ten–year employment projections for 2008 to 2018. To update CUF’s conclusions, we compared NYSDOL’s 2008 – 2018 projections with its updated 2012 – 2022 forecasts for New York State and New York City for the same sectors and occupations covered in Now Hiring. We also applied economic and labor criteria similar to those used by CUF where almost all of the jobs listed required limited work experience (no experience or less than five years,) low levels of educational attainment (high school diploma or equivalent) and little formal training (none at all or short–term job training). Most of the occupations listed in the forecasts have at least 500 expected openings a year in New York State and New York City.

With this updated data we compiled Sector Summaries for each sector that contain the lists of occupations in the sector, employment standing in 2012 and the expected standing in 2022—the change in growth by sector. Following the Sector Summaries is the Labor Market Analysis for each sector. The labor market analysis contains the detailed labor forecasts information, education and certification requirements, criminal record screening requirements and restrictions, and sector and occupational-specific details.
The Labor Forecast Charts are the first of their kind. In one place, they combine job–specific data for workforce developers and job seekers that cover:

1. *Growing industry sectors and corresponding occupations; the average number of openings expected in New York State and New York City;*

2. *The number of jobs that are currently filled and the growth opportunities for those positions by 2022; and*

3. *The median starting salaries and salaries.*

Most importantly, these charts also include information on potential criminal record barriers for each position. We show all of the occupations that were listed in the *Now Hiring* (2012) report and a few others that fit our criteria. We have also included those jobs that have since experienced decreases in job openings to reflect changes from 2012; they are highlighted in red. Finally, the average annual job openings reported on the charts include newly created positions and turnovers through workers who retire, change jobs, or resign.

We have also included a small number of jobs that require some work experience or postsecondary non–degree and credentialing. A pool of job seekers with criminal records in New York City have had access to higher education either before their involvement in the criminal justice system or through educational advancement, apprenticeship, and skills training opportunities while incarcerated or under community supervision. Some of these jobs require short–term training, sometimes on–the–job, and offer low wages to start. However, for some occupations there is considerable opportunity for advancement to higher–paying positions.

The seven sectors and occupations we reviewed were:

1. **HEALTHCARE:** PHARMACY TECHNICIAN, CERTIFIED NURSE ASSISTANT AND PATIENT CARE TECHNICIAN, DENTAL ASSISTANT, MEDICAL ASSISTANT, AND HEALTHCARE SUPPORT WORKER;

2. **TELECOMMUNICATIONS & UTILITIES:** TELECOMMUNICATIONS EQUIPMENT INSTALLER AND REPAIRER, TELECOMMUNICATIONS LINE INSTALLER AND REPAIRER, AND METER READER;

3. **PROPERTY MAINTENANCE AND BUILDING MAINTENANCE:** MAINTENANCE AND REPAIR WORKER, JANITOR AND CLEANER, AND LANDSCAPER AND GROUNDSKEEPER;

4. **TRANSPORTATION:** TRUCK DRIVER, AIRPORT CARGO AND RAMP SERVICE AGENT, AND PARATRANSIT DRIVER;
5. **Office and Administrative Support**: Customer service representative, bookkeeping/accounting, auditing, office and general support, receptionist & information clerk, shipping & receiving clerk, billing & posting-machine operator, file clerk, mail/mail machine operator, information & records clerk, computer support specialist, and bill and account collector;

6. **Retail Trade**: Retail salesperson, cashier, bank teller, and counter and rental clerk;

7. **Food, Hospitality, & Personal Care Services**: Waiter/waitress, food preparer, cook, host, baggage porter, hotel/motel clerk, skin care specialist, personal & home care aide, fitness trainer and aerobic instructor.

**The Top 10 Entry Level Positions Forecasted for the Highest Job Growth in New York City Through 2022**

1. Personal & Home Care Aide
2. Retail Salesperson
3. Waiter & Waitress
4. Janitor & Cleaner
5. Cooks-Restaurant
6. Cashier
7. Clerk-Receptionist
8. Customer Service Representative
9. Bookkeeper, Accounting, Auditor
10. Clerk-Office & General
As noted previously, criminal record checks are a standard part of the background screening process for prospective employee selection. While employers in each of the sectors reviewed in this study will likely conduct a criminal record check, a candidate that is able to accurately and comprehensively describe his or her criminal history, presents strong evidence of rehabilitation and is qualified for the job is in a strong position to be hired. Other than certified nurse assistants, the top ten entry-level occupations are unregulated with no statutory criminal record restrictions and offer great opportunities for individuals with criminal records if given a fair chance to compete.

Three of the seven sectors analyzed for this report—healthcare, transportation, and retail—do have federal and/or state criminal record restrictions that are described in detail in the Criminal Record Restriction document that follows each Labor Forecast chart. We summarize general prerequisites, including educational, criminal record screening, and training requirements as well as whether or not bonding is necessary for the job.

Jobseekers in New York have a range of choices and opportunities beyond those analyzed in this report. For example, there are entry-level job opportunities in the community and social services industry that offer additional career paths in New York State and New York City. This industry is often made up of counseling professions that include entry-level opportunities requiring only a high school diploma or equivalent and no previous experience. Social and human service assistant positions and community health worker positions have few prerequisites and have a starting average salary of $25,000 after short-term, on-the-job training. Individuals may choose to earn an undergraduate degree that would likely open opportunities for advancement and higher pay.

Community and social service agencies often offer opportunities to individuals whose direct life experiences mirror those of their clients which is of special importance to workers with criminal histories. The region is rich with these types of organizations and government agencies that may offer employment opportunities. The sector is expected to grow by 12.4% in New York State and 8.7% in New York City.
### Sector Summary: Healthcare

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Healthcare</td>
<td>Pharmacy Technician (29-2052)</td>
<td>NYS</td>
<td>520</td>
<td>310</td>
<td>16,670</td>
<td>20,120</td>
<td>3,450</td>
<td>6,750</td>
<td>$24,670</td>
<td>$37,010</td>
</tr>
<tr>
<td></td>
<td></td>
<td>NYC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NYS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NYC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Certified Nurse Assistant (31-1014)</td>
<td>NYS</td>
<td>3,420</td>
<td>1,370</td>
<td>104,700</td>
<td>119,010</td>
<td>14,310</td>
<td>42,260</td>
<td>$30,170</td>
<td>$36,240</td>
</tr>
<tr>
<td></td>
<td></td>
<td>NYC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NYS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NYC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Dental Assistant (31-9091)</td>
<td>NYS</td>
<td>650</td>
<td>250</td>
<td>17,570</td>
<td>20,420</td>
<td>2,850</td>
<td>6,410</td>
<td>$25,230</td>
<td>$33,900</td>
</tr>
<tr>
<td></td>
<td></td>
<td>NYC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NYS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NYC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**General Prerequisites for Employment and Potential Criminal Record Barriers:**

1. A high school diploma or equivalent is typically needed;
2. Moderate amount of job training required for competency;
3. Employers prefer to hire candidates who have been certified. Certification boards have different eligibility requirements that may preclude an individual with a criminal record from becoming certified;
4. Successful completion of a background check;
5. Eligible for fidelity bond.

For Certified Nurse Assistant:

- A postsecondary non-degree award is typically needed;
- No on the job training required for competency;
- There are specific statutory barriers in New York State that restrict certain individuals with past criminal histories from becoming a CAN;
- Successful completion of a background check;
- Eligible for fidelity bond.

For Dental Assistant:

- A postsecondary non-degree award is typically needed;
- No on the job training required for competency;
- Employers prefer to hire candidates who have been certified;
- Successful completion of a background check;
- Eligible for fidelity bond.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Healthcare</td>
<td>Medical Assistant (31-9092)</td>
<td>1,010</td>
<td>450</td>
<td>22,140</td>
<td>28,080</td>
<td>5,940</td>
<td>9,280</td>
<td>11,950</td>
<td>2,670</td>
</tr>
<tr>
<td></td>
<td></td>
<td>82%</td>
<td>70%</td>
<td>119%</td>
<td>13%</td>
<td>82%</td>
<td>70%</td>
<td>119%</td>
<td>13%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9,280</td>
<td>5,940</td>
<td>4,340</td>
<td>2,670</td>
<td>5,940</td>
<td>3,340</td>
<td>1,670</td>
<td>3,670</td>
</tr>
<tr>
<td></td>
<td></td>
<td>337%</td>
<td>233%</td>
<td>166%</td>
<td>100%</td>
<td>166%</td>
<td>133%</td>
<td>66%</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,010</td>
<td>450</td>
<td>560</td>
<td>220</td>
<td>560</td>
<td>220</td>
<td>140</td>
<td>220</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.01</td>
<td>0.45</td>
<td>0.56</td>
<td>0.22</td>
<td>0.56</td>
<td>0.22</td>
<td>0.14</td>
<td>0.22</td>
</tr>
<tr>
<td></td>
<td></td>
<td>82%</td>
<td>70%</td>
<td>119%</td>
<td>13%</td>
<td>82%</td>
<td>70%</td>
<td>119%</td>
<td>13%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9,280</td>
<td>5,940</td>
<td>4,340</td>
<td>2,670</td>
<td>5,940</td>
<td>3,340</td>
<td>1,670</td>
<td>3,670</td>
</tr>
<tr>
<td></td>
<td></td>
<td>337%</td>
<td>233%</td>
<td>166%</td>
<td>100%</td>
<td>166%</td>
<td>133%</td>
<td>66%</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,010</td>
<td>450</td>
<td>560</td>
<td>220</td>
<td>560</td>
<td>220</td>
<td>140</td>
<td>220</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.01</td>
<td>0.45</td>
<td>0.56</td>
<td>0.22</td>
<td>0.56</td>
<td>0.22</td>
<td>0.14</td>
<td>0.22</td>
</tr>
<tr>
<td></td>
<td>Healthcare</td>
<td>Support Worker (31-9099)</td>
<td>290</td>
<td>100</td>
<td>8,800</td>
<td>9,940</td>
<td>1,140</td>
<td>2,980</td>
<td>3,390</td>
</tr>
<tr>
<td></td>
<td></td>
<td>82%</td>
<td>70%</td>
<td>119%</td>
<td>13%</td>
<td>82%</td>
<td>70%</td>
<td>119%</td>
<td>13%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9,280</td>
<td>5,940</td>
<td>4,340</td>
<td>2,670</td>
<td>5,940</td>
<td>3,340</td>
<td>1,670</td>
<td>3,670</td>
</tr>
<tr>
<td></td>
<td></td>
<td>337%</td>
<td>233%</td>
<td>166%</td>
<td>100%</td>
<td>166%</td>
<td>133%</td>
<td>66%</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,010</td>
<td>450</td>
<td>560</td>
<td>220</td>
<td>560</td>
<td>220</td>
<td>140</td>
<td>220</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.01</td>
<td>0.45</td>
<td>0.56</td>
<td>0.22</td>
<td>0.56</td>
<td>0.22</td>
<td>0.14</td>
<td>0.22</td>
</tr>
<tr>
<td></td>
<td></td>
<td>82%</td>
<td>70%</td>
<td>119%</td>
<td>13%</td>
<td>82%</td>
<td>70%</td>
<td>119%</td>
<td>13%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9,280</td>
<td>5,940</td>
<td>4,340</td>
<td>2,670</td>
<td>5,940</td>
<td>3,340</td>
<td>1,670</td>
<td>3,670</td>
</tr>
<tr>
<td></td>
<td></td>
<td>337%</td>
<td>233%</td>
<td>166%</td>
<td>100%</td>
<td>166%</td>
<td>133%</td>
<td>66%</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,010</td>
<td>450</td>
<td>560</td>
<td>220</td>
<td>560</td>
<td>220</td>
<td>140</td>
<td>220</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.01</td>
<td>0.45</td>
<td>0.56</td>
<td>0.22</td>
<td>0.56</td>
<td>0.22</td>
<td>0.14</td>
<td>0.22</td>
</tr>
</tbody>
</table>
The healthcare sector is recognized by multiple sources as one of the fastest growing in New York State and New York City. This growth is largely attributed to the aging of the population, increased access to healthcare because of the Affordable Care Act and Medicaid expansion, and changes in healthcare information technology. The New York State Department of Labor (NYSDOL) projects healthcare support occupations to grow statewide 27.3% and 21% in New York City by 2022.

The sector is governed by federal and state laws that prohibit those convicted of certain crimes from providing healthcare services. Federal law creates numerous barriers to employment for individuals with misdemeanor or felony convictions. For individuals with drug–related and certain other types of convictions, a number of these federal statutes and regulations require mandatory exclusions from employment in a health care office or institution, including those that participate in any federal health care program such as Medicare, Medicaid or state Block...
Grants. An individual could be permanently barred from working in many positions in healthcare if she or he has multiple criminal convictions. However, a waiver process does exist that may help someone overcome certain exclusions. Although the process is extremely limited, no one should be discouraged from seeking employment in this industry without first obtaining legal advice.

**FEDERAL LAWS**

The Social Security Act of 1965 has been amended to prohibit individuals with drug-related and certain other types of conviction records from working in a health care office or institution that participates in any federal health care program such as Medicare, Medicaid and state Block Grant programs. Felony drug–related convictions or health care fraud convictions will interfere with an individual’s ability to secure employment; however, the older the conviction, the better chance the job seeker has in overcoming the criminal record barrier. Individuals who do not have multiple felony convictions may overcome a mandatory restriction. The Office of the Inspector General advises employers to follow the guidelines below regarding mandatory exclusions for healthcare providers.

**Mandatory Exclusions**

- *Conviction of program-related crimes.*
  Minimum period: 5 years

- *Conviction relating to patient abuse or neglect.*
  Minimum period: 5 years

- *Felony conviction relating to health care fraud.*
  Minimum period: 5 years

- *Felony conviction relating to controlled substance.*
  Minimum period: 5 years

- *Conviction of two mandatory exclusion offenses.*
  Minimum period: 10 years

- *Conviction on 3 or more occasions of mandatory exclusion Offenses. Permanent exclusion*
There are also a number of permissive (also known as “discretionary”) employment exclusions promulgated by the U.S. Department of Health and Human Services (HHS) for positions that require no medical competency or fiduciary trust. This category includes jobs such as maintenance, administration, or food preparation in a health care facility. These discretionary restrictions should serve as “red flags,” but not as automatic barriers to employment.

Discretionary Exclusions

» Misdemeanor conviction relating to health care fraud. Minimum period: 3 years

» Conviction relating to fraud in non-health care programs. Minimum period: 3 years

» Conviction relating to obstruction of an investigation. Minimum period: 3 years

» Misdemeanor conviction relating to controlled substance. Minimum period: 3 years

» License revocation or suspension. Minimum period: No less than the period imposed by the state licensing authority

» Exclusion or suspension under federal or state health care program. Minimum period: No less than the period imposed by federal or state health care program

» Claims for: Excessive charges, unnecessary services or services which fail to meet professionally recognized standards of health care, or failure of an HMO to furnish medically necessary services. Minimum period: 1 year

» Fraud, kickbacks, and other prohibited activities. Minimum period: None

» Entities controlled by a sanctioned individual. Minimum period: Same as length of individual’s exclusion

» Entities controlled by a family or household member of an excluded individual and where there has been a transfer of ownership/ control. Minimum period: Same as length of individual’s exclusion
In New York State, the Department of Health (DOH) is authorized by law to bar employment in a number of situations. However, DOH can determine, at its discretion, that a prospective employee will not jeopardize the health, safety or welfare of patients, residents or clients, and therefore, allow an individual to work in the sector. Additionally, New York State created an agency called the Justice Center for the Protection of People with Special Needs (Justice Center), which takes part in the background screening and clearance process for many jobs in the healthcare industry.

The Justice Center centralizes the criminal history background check process for facilities or service providers overseen by several state agencies. Among these are: the Office of Alcohol and Substance Abuse Services (OASAS), Office of Mental Health (OMH), and the Office for People with Developmental Disabilities (OPWDD). The Justice Center also grants or denies employment clearance for providers of residential programs for children overseen by the Office of Children and Family Services (OCFS). In June 2013, the Justice Center Criminal Background Check (CBC) Unit began reviewing the criminal histories of prospective employees or volunteers of all these agencies to make an initial employment suitability determination. Anyone who is expected to have regular and substantial unsupervised or unrestricted contact with persons receiving services is required to have their criminal history information obtained and reviewed by the Justice Center.

Once an applicant is registered and fingerprinted, requests for a State and federal criminal history are made through the Justice Center’s CBC Unit to the Division of Criminal Justice Services (DCJS) and the Federal Bureau of Investigation (FBI). The Justice Center submits fingerprints to DCJS and the FBI. The results are sent to the CBC Unit, which reviews the information and advises the service provider’s Authorized Person(s) whether or not the applicant has a criminal history and, if so, whether it precludes the individual from being hired.

The law specifies crimes that presumptively disqualify an applicant from further consideration. The Justice Center has authority to make determinations with regard to other crimes. The presumptively disqualifying crimes listed in the statute are:

» A felony conviction at any time for a sex offense;

» A felony conviction within the past ten years involving violence;
A conviction pursuant to Penal Law (PL) Section(s) 260.00, 260.25, 260.32 or 260.34 (abandonments or endangerment of children, the elderly, or mentally or physically challenged individuals); or

Any similar offense in any other jurisdiction outside of New York State.

If an applicant’s criminal history reveals a conviction for any of these types of crimes, he or she cannot be hired unless the Justice Center determines that the health, safety, and welfare of the provider’s clients would not be jeopardized. The Justice Center may issue a denial based on any criminal conviction (misdemeanor or felony), as long as it is consistent with the State’s policy to encourage the employment of people with criminal convictions as defined by Article 23-A of the Correction Law. If the Justice Center intends to deny an applicant, prior to making a final determination, it must give the applicant notice and an opportunity to explain, in writing, why he or she should not be denied. If the applicant has not already submitted evidence that demonstrates rehabilitation and good conduct, it is the time to submit all information for consideration.

A. PHARMACY TECHNICIAN

Pharmacy technicians work mostly in drugstores, including those found in grocery stores and hospitals, assisting pharmacists in counting pills and preparing prescription labels. The NYSDOL projects very favorable employment prospects in the field during the years 2012 – 2022. The field is expected to grow in New York State by 20.7% and in New York City by 27%. The median salary is $37,010 and the median starting salary in NYC is $24,670. An applicant requires only a high school diploma or equivalent, and no work experience in a related occupation.

New York State does not regulate pharmacy technicians. However, a bill has been proposed in at least the past two sessions of the New York State legislature to require technicians to be certified. There are also no certification requirements for this occupation, although individuals who receive extra training and certification from the Pharmacy Technician Certification Board, which has been approved by the state, are more likely to get hired by the one of the major pharmacy chains.
The Pharmacy Technician Certification Board (PTCB) is a private certification organization that administers the Pharmacy Technician Certification Exam (PTCE). The PTCE is a two–hour computer–based exam which consists of 90 multiple choice questions. According to the PTCB, the test assesses knowledge critical to the pharmacy technician practice. Regarding individuals with past criminal convictions, the PTCB states that a candidate may be disqualified for the PTCB Certification upon the disclosure or discovery of criminal conduct. Furthermore, “PTCB reserves the right to investigate criminal background, verify candidate eligibility and deny certification to any individual.” Additionally, a certified pharmacy technician must report “any felony conviction, drug or pharmacy–related violations, or State Board of Pharmacy action taken against their license or registration at the occurrence and at the time of recertification, to PTCB for review.”

In contrast, the National Health Career Association (NHCA), which provides the ExCPT Pharmacy Technician Certification states that, “considerations related to each candidate’s background, including but not limited to criminal history, are deferred to prospective employers, and where applicable, state licensing boards for individual determination.”

There are no statutory bars to certification or employment for pharmacy technicians. Certification agencies and employers are, therefore, required to follow all of the laws discussed in the Legal Protections for Workers section of this report. Employment is at the discretion of the individual pharmacy but it cannot impose flat bans against considering or hiring candidates with criminal histories.

B.  CERTIFIED NURSING ASSISTANT & PATIENT CARE TECHNICIAN

Certified Nursing Assistants (CNA) and Patient Care Technicians (PCT) provide direct care to patients under the supervision of nursing and medical staff, primarily in nursing homes. CNAs and PCTs serve meals, make beds, set up equipment, and help patients eat and get into and out of bed. They may also check patients’ vital signs, like pulse rate and temperature. According to the NYSDOL, the employment prospects in the field are favorable, with a 13.7% projected growth statewide and 13.5% in New York City through 2022. The median level salary in NYC is $30,170 and the median salary is $36,240. CNAs and PCTs are required to receive a postsecondary non-degree award; however, work experience in a related occupation is not required.

Statutory barriers in New York State restrict certain individuals with criminal histories from becoming a CNA. Department of Health (DOH) regulation, 10, NYCRR Part 402, provides a list of convictions that preclude an individual from being placed on the NYS Nurse Aide registry:

» Any felony for a sex offense;
» A felony within the past 10 years involving violence;
» A conviction endangering the welfare of an incompetent or
physically disabled person;

» Any Class A felony defined in the penal law;

» Any Class B or C felony occurring within 10 years preceding the date of the background check;

» Any Class D or E felony listed within Penal Law Article 120 (assault), 130 (sex offenses) 155 (larceny), 160 (robbery), 178 (criminal diversion of prescription medications) or 220 (controlled substance offenses) within the ten years preceding;

» Any comparable offense in another jurisdiction.

Other unspecified criminal convictions or open charges may also affect an applicant’s certification. Additionally, for crimes not listed above, DOH, consistent with article 23-A of the Correction Law, may propose disapproval of eligibility for employment. New York State requires CNAs to register with the New York State Nurse Aide Registry if actively working in the field.

The DOH background screening process requires an employer to submit a request for a criminal record check for each prospective employee. The law requires the employer to inform prospective employees of the background check requirement and obtain their signed consent. The applicant will need two forms of identification at the time fingerprints are taken. The form identifies the names of the prospective employee and the specific duties for which the candidate is being considered. The form attests that the applicant is a prospective employee and that the results of the criminal history report will be used solely for the purposes authorized by law. The form also attests that the provider, agents, and employees will abide by the confidentiality requirements found in Art. 28-E of the Public Health Law.

If the DOH rejects an applicant for employment eligibility, it will provide a summary of the criminal history as well as a notification of proposed disapproval. The employer cannot allow prospective employees to provide direct care until receipt of a final eligibility determination. If the applicant is not barred, the employer/provider can make a hiring decision in accordance with Article 23-A of the Corrections Law. Prior to making a final determination to disapprove the prospective employee, the DOH will afford the prospective employee an opportunity to explain in writing, within 30 calendar days from the date the notification was mailed, why employment eligibility should not be disapproved. In these situations, the candidate should reach out to a legal services organization to receive advice and/or representation with filing an appeal against an adverse decision.
C.  DENTAL ASSISTANTS

Dental Assistants help dentists set up equipment, prepare patients for treatment, keep records and provide patient care from taking x-rays to recordkeeping and scheduling appointments. New York State requires a certification for individuals described as Certified Dental Assistants. The individual must have a high school diploma or equivalent and complete a licensure–qualifying program in dental assisting or an equivalent program as determined by the State Education Department. However, individuals can also work as an unlicensed dental assistant. As such, they may only serve as an extra pair of hands for the dentist during procedures, perform tasks such as suctioning excess saliva, provide instruments, or hold a curing lamp for the dentist. The NYSDOL finds the employment prospects very favorable, and the field is expected to grow 16.2% in New York State and 19.2% in New York City, with a median entry level salary of $25,230 and median salary of $33,900.

There are no statutory bars to employment; therefore, employers of dental assistants are required to follow the laws discussed in the Legal Protections for Workers section of this report. Employers cannot impose flat bans against considering or hiring candidates with criminal histories.

D.  MEDICAL ASSISTANT

Medical assistants perform administrative and/or clinical tasks to support the work of physicians and other health professionals. They often perform routine office tasks like scheduling appointments, receiving payments, handling billing and filing insurance claims. They also perform clinical tasks such as measuring patients’ vital signs, administering medications and injections, recording information in medical recordkeeping systems, preparing and handling medical instruments and supplies, and collecting and preparing specimens of bodily fluids and tissues for laboratory testing. The NYSDOL finds the employment prospects very favorable, and the field is expected to grow 26.8% in New York State and 28.8% in New York City, with a median entry level salary of $24,960 and median salary of $33,710.

In New York State, there are no express licensing, certification or registration requirements for employment as a medical assistant. Prospective medical assistants in New York do not need to earn a national certification or a state license to practice. Students may enroll in diploma, certificate, or degree programs in medical assisting in schools throughout the state. Although there are no formal restrictions per se, employers may prefer candidates with a certification.

Individuals with a criminal conviction may face a barrier to employment depending on the employer’s certification preferences. For example, according to the American Association of Medical Assistants (AAMA),
a candidate with a felony conviction or guilty plea may be ineligible for certification. The CMA (AMAA) Candidate Application and Handbook states that: “Generally, individuals who have been found guilty of a felony, or had a professional license registration or certification denied, revoked, suspended, or subjected to probationary conditions by a regulatory authority or certification board are not eligible to take the CMA (AAMA) Exam.” However, the certifying board may grant a waiver based on mitigating circumstances, which may include, but not be limited to the following: the age at which the crime was committed; the circumstances surrounding the crime; the nature of the crime; the length of time since the conviction; the individual’s criminal history since the conviction; the individual’s current employment references; the individual’s character references; other evidence demonstrating the ability of the individual to perform the professional responsibilities competently; and evidence that the individual does not pose a threat to the health or safety of patients.

To request a waiver, the applicant must submit a Request for Waiver using the form found at www.aama-ntl.org. In addition, an applicant must provide written information demonstrating that the felony conviction or plea should not preclude their ability to take the CMA (AAMA) exam. The Request for Waiver asks the applicant to specify whether the waiver applies to a felony conviction or plea. It also asks whether the conviction applies to a denial, revocation, suspension or probation of a professional license. In addition the applicant must provide written evidence of rehabilitation and evidence to refute the CMA (AAMA) decision to deny credentialing. The agency notes that, at a minimum, the following documentation should be included with the Request for Waiver:

1. A written explanation of the events regarding the incident(s) requiring a checked box or boxes [on the application]. This should include any special circumstances (such as age of the applicant at the time of the incident[s]) as well as any life changes since the incident(s);

2. Copies of official documentation related to the incident(s), including police reports showing the initial charge(s), court documentation outlining sentencing requirements or documentation showing how the case was resolved, e.g., dismissed, pretrial program, etc.;

3. Any additional information or documentation regarding remedial measures imposed by the court, including letter from parole or probation officer confirming successful completion of parole or probation requirements, (or current status if not yet completed), or letter confirming successful completion of chemical dependence treatment;
4. Any documentation of a waiver by a government agency or other entity that was granted after the incident(s);

5. At least two written references by individuals—other than family and friends—such as current or past employers, counselors, instructors, probation officers, or clergy, etc., who will attest to the applicant’s rehabilitation and affirm that he or she would not be a threat to patients, employers, or any other persons; and

6. The length of time since the felony was committed (at least 3 years must have passed between when the felony was committed, or adverse action was taken against a professional credential, and the applicant’s submission of a waiver application), the age of the applicant at the time of the incident, and any criminal history since the incident(s) occurred.

The Request for Waiver form states that adverse action taken against a professional credential for a felony conviction or plea does not automatically disqualify an individual from sitting for the CMA (AAMA) certification/recertification exam. Instead the Certification Department reviews the applicant’s waiver application on an individual basis and determines whether the incident has a direct relationship to a potential violation(s) of the code of conduct. If a direct relationship is found, the certifying board may impose sanctions; including barring a candidate from becoming certified by the AAMA either indefinitely or for a designated period of time.

Additionally, the waiver, if granted, is subject to review and modification and/or retraction if the applicant has any additional violations, including criminal conviction(s) and guilty plea(s). An applicant must immediately report such conviction(s) or plea(s) to the board. The applicant should also reach out to a legal services organization to receive advice and/or representation with filing an appeal against an adverse decision regarding a past criminal conviction. Also, the AAMA website states that the applicant may appeal a waiver denial to a panel established by the Certifying Board. However the AAMA is a private organization and has its own internal appeals policies and procedures, which are not detailed on its website.

E. HEALTHCARE SUPPORT WORKER

Healthcare support workers deliver care, evaluate patients’ conditions, and provide other services to patients or clients as required. They generally receive short-term on-the-job training before they are permitted to perform their job. They perform a variety of patient
care and administrative duties. In medical offices, they interview patients, assist with patient exams, record data, and maintain exam room equipment. In long-term care facilities and hospitals, they often help patients with hygiene needs, serve meals, and check vital signs. Healthcare support workers in the dental field may sterilize equipment, take x-rays, and make casts of teeth. Some health care workers with nursing assistant certifications become home-care aides to provide health-related services to home-bound patients. They work in fields ranging from physical therapy and mental health to cardiology and nursing. The NYSDOL finds the employment prospects favorable in this field. It is expected to grow 13% in New York State and 13.8% in New York City, with an entry level salary of $32,910 and median salary of $37,230.

There are no statutory bars to employment; therefore, an employer is required to follow all of the laws discussed in the Legal Protections for Workers section of this report. Employers may not impose flat bans against considering or hiring candidates with criminal histories.
# Telecomunications & Utilities

## Sector Summary

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Telecommunications Equipment Installer &amp; Repairer (49-2022)</td>
<td>270</td>
<td>90</td>
<td>15,110</td>
<td>15,730</td>
<td>620</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$44,050</td>
<td>$77,570</td>
</tr>
<tr>
<td></td>
<td>(1) A postsecondary non-degree award is typically needed; (2) Moderate term on the job training for competency; (3) No certification or licensing requirements; (4) Successful completion of a background check; (5) Eligible for fidelity bond.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Telecommunications Line Installer &amp; Repairer (49-9052)</td>
<td>390</td>
<td>160</td>
<td>15,780</td>
<td>14,880</td>
<td>-900</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$46,060</td>
<td>$84,990</td>
</tr>
<tr>
<td></td>
<td>(1) A postsecondary non-degree award is typically needed; (2) Moderate term on the job training for competency; (3) No certification or licensing requirements; (4) Successful completion of a background check; (5) Eligible for fidelity bond.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Meter Reader (43-5041)</td>
<td>50</td>
<td>20</td>
<td>1,800</td>
<td>1,420</td>
<td>-380</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$40,920</td>
<td>$52,710</td>
</tr>
<tr>
<td></td>
<td>(1) A high school diploma or high school equivalency is typically needed; (2) Short term on the job training for competency; (3) No certification or licensing requirements; (4) Successful completion of a background check; (5) Eligible for fidelity bond.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Sector & Barrier Analysis: Telecommunications & Utilities

OCCUPATIONS

» TELECOMMUNICATIONS EQUIPMENT INSTALLER & REPAIRER

» TELECOMMUNICATIONS LINE INSTALLER & REPAIRER

» METER READER (GENERAL UTILITY WORKER)

JOB GROWTH

UNFAVORABLE

NYS: 4.1%

NYC: 1.5%

CRIMINAL RECORD RESTRICTIONS

NONE

The telecommunications and utilities sector for the most part is expecting to see job opportunities decline over the next several years. Two occupations, telecommunications line installers/preparers and meter readers, were considered viable opportunities for jobs in 2012 but are now expected to decline by 2022. Telecommunication line installer/repairer positions are forecasted to decrease by 5.7% throughout the state and 7.8% in New York City. Additionally, meter reader jobs are expected to have a significant decline by 2022, 21.1% in New York State and 22% in New York City.
A. TELECOMMUNICATIONS EQUIPMENT INSTALLERS/REPAIRERS

Telecommunications equipment installers and repairers, also known as telecom technicians, set up and maintain devices or equipment that carry communications signals, connect to telephone lines, or access the Internet. According to the NYSDOL the demand for this industry, in general, is expected to have very limited increases in jobs—4.1% statewide and only 1.5% in New York City by 2022. In NYC the median starting salary is $44,050 and the median salary is $77,570. A postsecondary non-degree award is required but work experience in a related occupation usually is not.

There are no express statutory criminal record barriers to employment. However, employers are likely to require a candidate to successfully complete a background screen that includes a criminal record check and a drug test. Also, the job may require an employee to be commercially bondable (see Federal Bonding in Legal Protections for Employers). Applicants may also be required to have a valid driver’s license. Because suspension of a driver’s license is an immediate and automatic collateral consequence of drug-related convictions—even if the conviction did not involve the operation of a motor vehicle—individuals convicted of drug-related offenses will need to determine if their driver’s license has been suspended.

B. METER READERS (GENERAL UTILITY WORKERS)

Utility meter readers are employed by utility companies to monitor commercial and residential consumers’ use of water, gas or electricity. Typical duties include driving along a route and recording the readings on meters, inspecting meters for defects and monitoring for abnormal usage volume or tampering that may indicate unlawful usage. Utility meter readers work in and outdoors and often have to go on people’s property or even enter a home. The median entry level wage in NYC is $40,920 and the median entry salary is $52,710. Additionally, a high school diploma or equivalent is required but one does not need work experience in a related occupation. According to the NYSDOL the demand for this industry is expected to decrease by 21.1% by 2022, with very unfavorable employment prospects. This adjustment in the forecast has happened in the past three years. Therefore, the sector should be monitored to identify any new opportunities that may develop over time.

There are no criminal record restrictions for this occupation. Employers must follow Article 23-A of the Corrections Law and all of the laws discussed in the Legal Protections for Workers section of this report. Con Edison, New York City’s largest utility company, posts the full text of Article 23-A on its website in the careers section.
## Closing the Skills Gap and Opening More Doors

### Sector Summary: Property Maintenance

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance &amp; Repair Worker - General</td>
<td></td>
<td></td>
<td>2,930</td>
<td>1,440</td>
<td>98,020</td>
<td>108,480</td>
<td>$27,690</td>
<td>$44,020</td>
</tr>
<tr>
<td>- High school diploma or high school equivalency is typically needed;</td>
<td></td>
<td></td>
<td>8,740</td>
<td>9,770</td>
<td>5,480</td>
<td>6,860</td>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td>- No certification or licensing requirements;</td>
<td></td>
<td></td>
<td>46,540</td>
<td>52,010</td>
<td>5,470</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Successful completion of a background check;</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Eligible for fidelity bond.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Janitor &amp; Cleaners (except maids and housecleaners)</td>
<td></td>
<td></td>
<td>6,500</td>
<td>3,230</td>
<td>200,270</td>
<td>227,520</td>
<td>$21,110</td>
<td>$34,430</td>
</tr>
<tr>
<td>- Less than high school is typically needed;</td>
<td></td>
<td></td>
<td>227,200</td>
<td>232,720</td>
<td>14,450</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Short term on the job training for competency;</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- No certification or licensing requirements;</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Successful completion of a background check;</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Eligible for fidelity bond.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Landscaping &amp; Groundskeeping Worker</td>
<td></td>
<td></td>
<td>1,890</td>
<td>300</td>
<td>48,120</td>
<td>54,950</td>
<td>$25,430</td>
<td>$37,770</td>
</tr>
<tr>
<td>- Less than high school is typically needed;</td>
<td></td>
<td></td>
<td>8,740</td>
<td>9,770</td>
<td>5,480</td>
<td>6,860</td>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td>- No certification or licensing requirements;</td>
<td></td>
<td></td>
<td>46,540</td>
<td>52,010</td>
<td>5,470</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Successful completion of a background check;</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Eligible for fidelity bond.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The property/building maintenance sector is expected to grow 13.8% in New York State and 15.4% in NYC by 2022. Billions of dollars have been used toward energy efficiency, home weatherization, and maintaining and improving transportation infrastructure, thus, maintenance and repair workers are expected to see an increased demand for their services. These jobs typically do not require a high school diploma or equivalency. However, short to moderate term training may be necessary.

A. MAINTENANCE AND REPAIR WORKER

The NYSDOL predicts a 12.1% increase in maintenance and repair worker positions through 2022. General maintenance and repair workers fix and maintain machines, mechanical equipment, and buildings. They work on plumbing, electrical, air-conditioning and heating systems and could work at any number of locations, both indoor and outdoor. Jobs in this occupation typically do not require any formal education beyond
high school, and workers often learn their skills on the job. The median starting salary for general maintenance and repair workers is $27,690 and the median salary is $44,020.

**While there are no statutory restrictions for these occupations, individuals will have to undergo a criminal record screen for employment.** They may also face particular challenges with securing employment depending upon the job location. Maintenance workers in schools, hotels, hospitals, and nursing home facilities may face more criminal record restrictions than someone who works in a standard office setting. Employers in either scenario are required to comply with Article 23-A and other applicable employment laws discussed in the *Legal Protections for Workers* section of this report.

**B. JANITOR & CLEANER, EXCEPT MAIDS AND HOUSEKEEPING CLEANERS**

Janitors are responsible mainly for cleaning buildings, removing debris, and keeping areas neat and tidy. Janitor’s vacuum and buff floors, shampoo carpets, empty trash receptacles, among other things. The NYSDOL finds employment prospects in this field favorable. It is expected to grow 15.2% in NYC and have a median entry level salary of $21,110 and a median salary of $34,430. Additionally, these jobs typically do not require a high school diploma or work experience in a related occupation.

**While there are no statutory restrictions for this sector, individuals must undergo a criminal record screen for employment.** Individuals may face more criminal record challenges if they seek employment in schools, hotels, hospitals, and nursing home facilities, rather than in a standard office setting. Employers in all settings are required to comply with Article 23-A of New York State Corrections Law when considering an applicant with a criminal history.

**C. LANDSCAPING & GROUNDS KEEPING WORKER**

Landscapers and grounds keepers maintain property grounds using hand or power tools or equipment. Workers perform a variety of tasks, including the following: sod laying, mowing, trimming, planting, watering, fertilizing, digging, raking, and sprinkler installation. The NYSDOL finds employment prospects in this field very favorable. It is expected to grow 14.2% in New York State and 12.5% in New York City, with a median entry level salary of $25,430 and a median salary of $37,770. Additionally, less than a high school diploma is typically required, and one does not need work experience in a related occupation.

**There are no statutory criminal record restrictions for this sector and employers are required to comply with Article 23-A and other applicable employment laws discussed in the *Legal Protections for Workers* section of this report.**
### Transportation Sector Summary

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Annual Openings</th>
<th>NYS Job Growth 2012-2022</th>
<th>Median Starting Salary</th>
<th>Median Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Truck Drivers, Light &amp; Delivery Services (53-3033)</td>
<td>890</td>
<td>410</td>
<td>$21,560</td>
<td>$36,190</td>
</tr>
<tr>
<td>Cargo &amp; Freight Agent (43-5011)</td>
<td>250</td>
<td>160</td>
<td>$26,490</td>
<td>$43,680</td>
</tr>
<tr>
<td>Paratransit Driver (53-3011)</td>
<td>80</td>
<td>40</td>
<td>$26,260</td>
<td>$35,490</td>
</tr>
</tbody>
</table>

#### General Prerequisites for Employment and Potential Criminal Record Barriers:

1. A high school diploma or high school equivalency is typically needed.
2. Short term on the job training for competency.
3. A valid driver's license is required.
4. Successful completion of a background check.
5. Eligible for fidelity bond.
6. There are specific statutory barriers that restrict certain individuals with past criminal histories from becoming a cargo and freight agent.
The transportation sector is expected to experience some growth both throughout New York State and New York City over the next few years. The sector is, however, heavily regulated on the federal and state levels particularly as a result of increased public safety precautions. Federal law requires some transportation workers to undergo a criminal background check and, in varying circumstances, to be disqualified for having a criminal record. The Transportation Security Administration (TSA) conducts pre–application screens for airport and port workers and determines whether to issue a Transportation Worker Identification Credential (TWIC) or Hazardous Material (HazMat) Endorsement, which may be required for many truck driver jobs. Applicants who seek these credentials should always appeal a denial and immediately seek legal advice and support.
A. COMMERCIAL DRIVERS

Commercial drivers must obtain a commercial driver’s license (CDL) from the Department of Motor Vehicles in order to drive tractor trailers, trucks over a certain weight, tow trucks, or buses that are not school buses. Commercial drivers mainly transport, load and unload cargo, maintain log books, maintain records of vehicle inspections, deliver products to stores or businesses, and collect signatures and/or money. The NYSDOL finds employment prospects in this field favorable with an average growth of 5.5% in New York State and 7.5% in New York City by 2022. The entry level salary in New York City is $21,560 and a median salary of $36,190. A postsecondary non-degree award is typically required but one does not need work experience in a related occupation. Individuals usually have to attend a commercial driving school to prepare for the required State test that ensures their competency.

The Federal Motor Commercial Safety Administration regulates commercial vehicle drivers. It calls for a CDL applicant’s driving record to be checked in state and federal databases. The state will view and consider the driving record for the last ten years. Employers are also required to request an applicant’s employment history for the previous 10 years. An individual may be disqualified from receiving a CDL for “major offenses,” serious traffic violations (second offense), railroad-highway grade crossing offenses, violating out-of-service orders, violating implied consent laws, or operating a commercial motor vehicle with a CDL from a decertified state.

There are three classifications for a commercial driver’s license: A—to drive a tractor trailer or truck trailer; B—to drive a heavy single unit truck intrastate; or C—to drive a single unit truck or bus intrastate. Drivers who are required to have special endorsements, such as Hazardous Materials, HazMat, School Bus, or Tow Truck, also will have to complete a criminal record screening and clearance process with an agency other than the Department of Motor Vehicles. See the Federal Statutory and Restrictions in Transportation section below regarding criminal record clearances for HazMat endorsement by the Transportation Security Administration (TSA).

B. AIRPORT CARGO AGENT AND RAMP SERVICE AGENT

In the Now Hiring report, entry-level air cargo and ramp service agent positions were predicted to grow substantially. The airport transportation industry employs a large number of people and has high turnover rates. Air cargo agents load and unload cargo to and from aircraft. Ramp service agent position aircraft in the gate and load, unload, and sort freight and baggage. The NYSDOL finds employment prospects in this field favorable through 2022, with expected to growth
of 8.4% statewide and 9.1% in New York City, and with a median entry level salary of $26,490 and a median salary of $43,680. Positions typically require a high school diploma or its equivalent, and one does not need work experience in a related occupation. Applicants may also be required to have a valid driver’s license. Because suspension of a driver’s license is an immediate and automatic collateral consequence of drug-related convictions — even if the conviction did not involve the operation of a motor vehicle — individuals convicted of drug-related offenses will need to determine if their driver’s license has been suspended.

In the *Now Hiring* report, the authors noted that pre-application screening was the biggest hurdle to securing a job as a cargo or ramp service agent. Applicants are required to complete a background check and airport security clearance by the Transportation Security Administration (TSA). This clearance is called the Transportation Worker Identification Credential (TWIC).

**FEDERAL STATUTORY & REGULATORY RESTRICTIONS IN TRANSPORTATION**

The Transportation Security Administration (TSA) provides a list of disqualifying factors that are divided into three categories that apply to TWIC, HazMat Endorsement (HME) and TSA Pre-Application. The TSA provides this information in its Application Program Disqualifying Offenses/Factors (APDOF) publication.

The first category is *Part (A), Permanent Disqualifying Criminal Offenses*. The criminal offenses listed in this category disqualify an applicant if s/he was convicted, pled guilty to (including no contest) or was found guilty by reason of insanity regardless of when the offense occurred. However, TWIC and HME applicants may apply for a waiver of any of the disqualifying offenses listed under Part A, numbers 5 through 12. The relevant criminal offenses are as follows:

1. Espionage or conspiracy to commit espionage.
2. Sedition or conspiracy to commit sedition.
3. Treason or conspiracy to commit treason.
4. A federal crime of terrorism as defined in 18 U.S.C. 2332B (G), or comparable state law, or conspiracy to commit such crime.
5. A crime involving a TSI (Transportation Security Incident). Note: A Transportation Security Incident is a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area, as
defined in 46 U.S.C. 70101. The term “economic disruption” does not include a work stoppage or other employee-related action resulting from an employer-employee dispute that is not related to terrorism.

6. Improper transportation of a hazardous material under 49 U.S.C. 5124 or a comparable state law.

7. Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device. Explosive or explosive devices include material as defined in 18 U.S.C. 232(5), 841(c) through 841(f), and 844(j); and a destructive device, as defined in 18 U.S.C. 921(a)(4) and 26 U.S.C. 5845(f).

8. Murder.

9. Threatening or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a state or government facility, a public transportsations system, or an infrastructure facility.

10. Violations of the Racketeer Influenced and Corrupt Organizations act, 18 U.S.C.1961, et seq., or a comparable state law, where one of the predicate acts found by a jury or admitted by the defendant, consists of one of the permanently disqualifying crimes.

11. Attempt to commit the crimes in items 1-4 of this section.

12. Conspiracy or attempt to commit the crimes in items 5-10 of this section.

**Part B: Interim Disqualifying Criminal Offenses** provides that a conviction of a felony found in Part B is disqualifying if the applicant was convicted—pled guilty (including no contest), or was found guilty by reason of insanity within seven years of the date of the application. It also disqualifies applicants who were released from prison after conviction within five years of the date of the application. However, APDOF states that a TWIC and HME applicant may apply for a waiver for any disqualifying offense listed under Part B. Part B offenses are as follows:

1. Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export of, or dealing in a firearm or other weapon. This category includes, but is not limited to, firearms as defined in 18 U.S.C. 921(a)(3) or 26 U.S.C. 5 845(a), or items contained on the U.S. Munitions Import List at 27 CFR 447.21.
2. Extortion.

3. Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering, where the money laundering is related to a crime listed in Parts A or B (except welfare fraud and passing bad checks).


5. Smuggling.

6. Immigration violations.

7. Distribution, possession w/intent to distribute, or importation of a controlled substance.

8. Arson.

9. Kidnapping or hostage taking.

10. Rape or aggravated sexual abuse.

11. Assault with intent to kill.

12. Robbery.

13. Fraudulent entry into a seaport as described in 18 U.S.C. 1036, or a comparable state law.


15. Voluntary manslaughter.

16. Conspiracy or attempt to commit crimes in this section.

Part C: Under Want, Warrant or Indictment, provides that an applicant will be disqualified if s/he is wanted under indictment in any civilian or military jurisdiction for a felony listed under Part A or B until the want or warrant is released or the indictment is dismissed.41

TWIC APPEALS & WAIVERS

According to the TSA, if an applicant is sent a Preliminary Determination of Ineligibility (PDI) letter, she or he may respond as follows:

1. Apply for an appeal.

2. Apply for a waiver.

3. Request a time extension (automatically granted)

4. Request releasable materials that TSA used to make its decision.
Appeal and waiver materials must be sent to the address listed in the applicant’s PDI and the applicant must demonstrate that she or he —

1. Does not have a disqualifying criminal offense;
2. Meets lawful presence requirements, e.g. immigration status;
3. Does not pose a terrorism threat; and/or
4. Does not lack mental capacity.

Requests must be submitted within 60 days from the date on the PDI. They must state why the applicant is disputing TSA’s determination and show with supporting documentation that—

1. The conviction identified in the initial determination is incorrect;
2. The applicant received a pardon;
3. The conviction was expunged or overturned on appeal;
4. The applicant is a citizen of the United States who has not renounced or lost his or her United States citizenship;
5. The applicant is a lawful permanent resident of the United States. They must be: a) in lawful non-immigration status and possess valid evidence of unrestricted employment authorization; b) a refugee admitted under 8 U.S.C & 1157, and possess valid evidence of unrestricted employment authorization; or c) an alien granted asylum under 8 U.S.C. & 1158, and possess valid evidence of unrestricted employment authorization;
6. The applicant was not found to be lacking mental capacity;
7. The applicant was not committed to a mental institution;
8. The applicant does not pose a threat of terrorism or a threat to national or transportation security;
9. The applicant does not have extensive foreign or domestic criminal convictions;
10. The applicant was not convicted of a serious offense that is not otherwise listed as a disqualifying criminal conviction in 49 C.F.R. 1572.103; or
11. The applicant has not been incarcerated for more than 365 consecutive days.

Individuals may apply for a waiver after they have completed the security threat assessment and should seek legal advice as soon as possible.
The National Employment Law Project’s (NELP) publication, “How to Respond to a TSA Initial Determination That You May Not be Eligible for a TWIC Card: Overview of TWIC Waiver and Appeal Process,” also explains the process for filing an appeal or waiver in response to an adverse initial determination from the TSA.42

TWIC applicants should request an appeal if—

1. They were not convicted of the offense(s) listed in the letter from TSA because the charge(s) was dismissed, nolle prossed, or they were found not guilty; or

2. They were convicted of a misdemeanor(s) only; or;

3. They were convicted of simple drug possession; or;

4. The charge is an interim disqualifying felony as described under Part B with a conviction date more than 7 years old and the applicant was released from incarceration over five years ago.

C. PARATRANSIT DRIVER

Paratransit drivers work for transportation companies, providing service to people with medical mobility issues. They operate vehicles like buses and vans and ensure that passengers are safe and comfortable in transit. In New York City, these workers must hold a chauffer’s license in addition to a paratransit license issued by the NYC Taxi & Limousine Commission. According to Now Hiring, the NYSDOL does not have a Standard Occupational Category title for paratransit drivers. Instead, paratransit positions are placed within “Ambulance Drivers and Attendants, Except Emergency Medical Technicians” grouping. The NYSDOL finds the employment prospects for the Ambulance Drivers extremely favorable. The field is expected to grow 30.7% with a median entry level salary of $26,260 and a median salary of $35,490. Additionally, a high school diploma or its equivalent is typically required, and one does not need work experience in a related occupation.

An applicant for a Paratransit Driver’s License must meet the special requirements for school bus drivers under Article 19-A of the NYS Vehicle and Traffic Law.43 One of the requirements is to submit fingerprints for a criminal record check from the New York State Division of Criminal Justice Services (DCJS) and the Federal Bureau of Investigation (FBI), which means there is a national criminal record search. Article 19-A has numerous disqualifying offenses; however, the automatic bar to licensing may be lifted if the applicant has been granted a Certificate of Relief from Disabilities or Certificate of Good Conduct covering all related offenses. If a candidate has a Certificate,
then the rules of Article 23-A of the New York State Corrections law will apply.\textsuperscript{44}

Individuals convicted of crimes enumerated in N.Y. VAT. LAW § 509-cc(4)(b) are permanently disqualified, though they “shall” become qualified if they have a Certificate of Relief from Disabilities (CRD) or Certificate of Good Conduct and five years have passed since their release from imprisonment for the disqualifying crime. The DMV Commissioner may waive the five–year requirement and qualify a person at any time if they have a CRD. This five-year requirement does not apply if the individual has a CRD. There are many criminal offenses that are permanent or temporary licensing restrictions. A school bus driver applicant must have CRD that specifically indicates that the issuing authority has considered the bearing of the individual’s conviction history on his fitness or ability to drive a school bus. This requirement just applies to school bus drivers, not bus drivers.
### Office & Administrative Support

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer Service Representative</td>
<td>5,350</td>
<td>2,330</td>
<td>146,970</td>
<td>160,450</td>
<td>13,480</td>
</tr>
<tr>
<td>Clerk: Bookkeeping, Accounting, &amp; Auditing</td>
<td>2,530</td>
<td>1,070</td>
<td>123,050</td>
<td>137,070</td>
<td>14,020</td>
</tr>
<tr>
<td>Clerk: Office and General</td>
<td>5,560</td>
<td>2,860</td>
<td>221,910</td>
<td>230,900</td>
<td>8,990</td>
</tr>
<tr>
<td>Receptionist &amp; Information Clerk</td>
<td>3,620</td>
<td>1,710</td>
<td>87,300</td>
<td>99,970</td>
<td>12,670</td>
</tr>
</tbody>
</table>

**General Prerequisites for Employment and Potential Criminal Record Barriers**

1. A high school diploma or high school equivalency is typically needed;
2. Short term on the job training required for competency;
3. No certification or licensing requirements;
4. Successful completion of a background check;
5. Eligible for fidelity bond.

---

**SECTOR SUMMARY:**

Office & Administrative Support

**Closing the Skills Gap and Opening More Doors**
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Support</td>
<td>Clerk: Billing and Posting, Machine Operator</td>
<td>$28,630</td>
<td>$40,340</td>
<td>820</td>
<td>120</td>
<td>230</td>
<td>520</td>
<td>3260</td>
<td>80</td>
</tr>
<tr>
<td></td>
<td>Clerk: Mail and Mail Machine Operator</td>
<td>$23,470</td>
<td>$33,100</td>
<td>-410</td>
<td>-410</td>
<td>-410</td>
<td>-410</td>
<td>-410</td>
<td>-410</td>
</tr>
<tr>
<td></td>
<td>Clerk: Payroll Clerk</td>
<td>$21,270</td>
<td>$33,360</td>
<td>17,620</td>
<td>18,240</td>
<td>620</td>
<td>1190</td>
<td>10,840</td>
<td>110</td>
</tr>
</tbody>
</table>

1. A high school diploma or high school equivalency is typically needed.
2. Short term on the job training required for competency.
3. No certification or licensing requirements.
4. Successful completion of a background check.
5. Eligible for fidelity bond.
### Office & Administrative Support

**Sector Summary:**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Clerk: Information, Record, All Other (43-4199)</td>
<td>170</td>
<td>70</td>
<td>3,440</td>
<td>4,400</td>
<td>-700</td>
<td>$34,140</td>
<td>$42,940</td>
</tr>
<tr>
<td>Computer Support Specialist (15-1151)</td>
<td>1,200</td>
<td>640</td>
<td>3,220</td>
<td>3,600</td>
<td>420</td>
<td>$38,150</td>
<td>$58,960</td>
</tr>
<tr>
<td>Bill and Account Collector (43-3011)</td>
<td>1,160</td>
<td>310</td>
<td>3,000</td>
<td>3,440</td>
<td>400</td>
<td>$29,200</td>
<td>$44,930</td>
</tr>
</tbody>
</table>

**General Prerequisites for Employment and Potential Criminal Record Barriers:**

1. **Education:**
   - Some college but no degree is typically needed.
   - Short term on the job training required for competency.
   - No certification or licensing requirements.
   - Successful completion of a background check.
   - Eligible for fidelity bond.

2. **Other:**
   - A high school diploma or GED is required.
   - Short term on the job training required for competency.
   - No certification or licensing requirements.
   - Successful completion of a background check.
   - Eligible for fidelity bond.
A. CUSTOMER SERVICE REPRESENTATIVE

Customer service representatives handle customer complaints, process orders, and provide information about an organization’s products and services. The NYSDOL finds employment prospects in this field very favorable. The field is expected to grow 9.2% in New York State and 10.3% in New York City, with an entry level salary of $26,430 and a median salary of $39,470. Additionally, jobs typically require a high school diploma or its equivalent but not work experience in a related occupation.

There are no criminal record restrictions tied to this field and employers must comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report.
B. CLERKS

Three clerk occupations are expected to experience job losses through 2022: 1) file clerks—at least 3%; 2) mail and mail machine (except postal service)—over 8%; and 3) information and record clerks—8.8% in NYS and 12.8% in NYC. These jobs are highlighted in red on the Sector Summary Office & Administrative Support chart. The other clerk positions that follow are forecasted to have job opportunities in the future.

C. BOOKKEEPING, ACCOUNTING, AND AUDITING CLERKS

Bookkeeping, accounting, and auditing clerks produce financial records for organizations. They record financial transactions, update statements, and check financial records for accuracy. Employment of bookkeeping, accounting, and auditing clerks is projected to grow 11.4% statewide and 13.1% in New York City from 2012 to 2022, about as fast as the average for all occupations. Expectations are that as financial regulations become stricter, there will be greater demand for these workers to help maintain books and provide accounting services. Entry level salaries average $26,980, and the median salary is $42,040. Most bookkeeping, accounting, and auditing clerks need a high school diploma, and they usually learn some skills on the job. They must have basic math and computer competency, including knowledge of spreadsheets and bookkeeping software.

There are no criminal record restrictions tied to this field and employers must comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report. This occupation may require employees to be commercially bonded.

D. GENERAL OFFICE CLERK

General office clerks perform a variety of administrative tasks, including answering telephones, typing or word processing, making copies of documents, and maintaining records. The NYSDOL finds the employment prospects for this field favorable. The field is expected to grow 4.1% throughout the state and 5.8% in New York City, with a median entry level salary of $20,060 and a median salary of $31,100. Additionally, jobs typically require a high school diploma or its equivalent, but do not need work experience in a related occupation.

There are no criminal record restrictions tied to this field and employers must comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report. The worker may need to be commercially bonded.
E. RECEPTIONIST & INFORMATION CLERK

Receptionists perform administrative tasks, such as answering phones, receiving visitors, and providing general information about their organization to the public and customers. Jobs may require a high school diploma or equivalent and good communication skills. Those with related work experience and good computer skills are likely to have the best job prospects, although short on-the-job training is most useful. The median hourly wage for receptionists was $12.49 in May 2012 with an average yearly starting wage of $22,970. Although receptionists are employed in nearly every industry, many work in healthcare and personal care services, including physicians’ and dentists’ offices and hair salons. About 1 in 3 worked part time in 2012. Employment of receptionists is projected to grow 14.5% in the state and 16.8% in New York City from 2012 to 2022.

Information clerks perform routine clerical duties such as maintaining records, collecting data, and providing information to customers. Although information clerks are employed in nearly every industry, many work in government agencies, hotels, and healthcare facilities. Most work full time. Information clerks typically need a high school diploma and can learn their skills on the job. Some employers prefer to hire candidates with some college education, depending on the specialty. The median annual wage for information clerks was $30,340 in May 2012.

Employment of information clerks is projected to show little or no change from 2012 to 2022. Nonetheless, overall job opportunities should be good because of the need to replace workers who leave the occupation each year. Candidates with some college education and good computer skills should have the best job prospects.

There are no criminal record restrictions tied to this field, and employers must comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report.

F. SHIPPING AND RECEIVING

Shipping and receiving clerks verify and maintain records on incoming and outgoing shipments. They prepare items for shipment including assembling, addressing, stamping, and shipping merchandise or material; receiving, unpacking, verifying and recording incoming merchandise or material; and arranging for the transportation of products. This occupation is expected to have very limited growth by 2022, with the state only expected to experience 1.7% growth and New York City 3.5%. The median starting salary is $21,270. The median salary is $33,360.
A high school diploma or its equivalent is typically required, and one does not need work experience in a related occupation.

There are no criminal record restrictions tied to this field and employers must comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report. The worker may need to be bonded.

G. BILLING AND POSTING, MACHINE OPERATOR

Billing and posting machine operators compile, compute, and record billing, accounting, statistical, and other numerical data for billing purposes. They prepare billing invoices for services rendered or for delivery or shipment of goods. According to the NYSDOL, this field is expected to grow 19% through 2022 in New York State and 20.4% in New York City.

There are no statutory criminal record restrictions for this sector and employers are required to comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report. The worker may also be required to be commercially bonded.

H. COMPUTER SUPPORT SPECIALIST

Computer support specialists provide help and advice to people and organizations using computer software or equipment. Some, called computer network support specialists, help information technology (IT) employees within their organization. Others, called computer user support specialists, assist non–IT users who are having computer problems including answering questions or resolving computer issues for clients in person, via telephone or from remote locations. They may also provide assistance concerning the use of computer hardware and software, including printing, installation, word processing, electronic mail, and operating systems. According to the NYSDOL, this field is an expected to grow 17.9% through 2022 in New York State and 21.9% in New York City. The median starting salary is $38,150 and median salary for the field is $58,960.

There are no criminal record restrictions tied to this field and employers must comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report.
I. BILL AND ACCOUNT COLLECTOR

Bill and account collectors, sometimes called “collectors,” try to recover payment on overdue bills. They negotiate repayment plans with debtors and help them find solutions to make paying their overdue bills easier. Many bill and account collectors work in a call center for a third-party collection agency rather than the original creditor. Most work full time, and some have flexible schedules. Collectors usually must have a high school diploma. A few months of on-the-job training is common. NYSDOL predicts a 15.8% growth in New York State and 13.2% in New York City through 2022. Collectors have a median starting salary of $29,200 and median salary of $44,930.

There are no statutory criminal record restrictions for this field and employers are required to comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report. The worker may also be required to be commercially bonded.
## Sector Summary: Retail

**Retail Trade**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Salesperson (41-2031)</td>
<td>13,380</td>
<td>5,940</td>
<td>300,390</td>
<td>$18,860</td>
<td>$22,470</td>
</tr>
<tr>
<td>Cashier (41-2011)</td>
<td>9,540</td>
<td>4,020</td>
<td>197,130</td>
<td>$18,930</td>
<td>$20,030</td>
</tr>
<tr>
<td>Teller (41-2051)</td>
<td>1,480</td>
<td>540</td>
<td>31,600</td>
<td>$22,400</td>
<td>$28,170</td>
</tr>
<tr>
<td>Counter &amp; Rental Clerk (41-2021)</td>
<td>610</td>
<td>180</td>
<td>10,570</td>
<td>$20,260</td>
<td>$30,020</td>
</tr>
</tbody>
</table>

### General Prerequisites for Employment and Potential Criminal Record Barriers

1. Less than a high school diploma is typically needed;
2. Short term on the job training required for competency;
3. No certification or licensing requirements;
4. Successful completion of a background check;
5. Eligible for fidelity bond.
The retail sector offers many opportunities for individuals to secure entry level positions that could be on a pathway to other career opportunities. Most jobs only require a standard criminal record check and do not have statutory restrictions. However, individuals may be disqualified from working in institutions insured by the Federal Deposit Insurance Corporation (FDIC) if convicted of offenses involving dishonesty, breach of trust, or money laundering or if they entered a pre-trial diversion or similar program in connection with a pro se action for such an offense. Cashiers who receive and disburse money in establishments other than financial institutions—retail stores, restaurants, etc. – are not affected by these FDIC rules. However, those who work in a money services company (for example a check cashing company or a Western Union) or in banks are affected by these restrictions. A waiver process does exist to request an exception and FDIC clearance. Any candidate with a criminal record who is denied employment in the banking/finance sector can immediately apply
for a waiver with the appropriate regional FDIC office. The waiver application may be filed by the prospective employer or by the job applicant. See more details under in Section B below.

It is important to note that individuals who work in other positions in an FDIC-insured institution may also be required to apply for clearance. However, the FDIC has noted that:

Some applications can be approved without an extensive review because the person will not be in a position to constitute any substantial risk to the safety and soundness of the insured institution. Persons who would occupy clerical, maintenance, service or purely administrative positions, generally fall into this category.

Statement of Policy for Section 19 of the FDI Act.

A. RETAIL SALESPERSON AND CASHIER

Retail salespersons and cashiers often handle merchandise and collect payments from customers purchasing goods and services. According to the NYSDOL, this field is expected to grow 10.3% in New York State and over 14.3% through 2022 in New York City with thousands of positions being available throughout the state. While there are no statutory criminal record restrictions against the employment of workers with criminal histories, workers will likely need to be commercially bonded. Employers in this industry are very concerned about theft and are likely to require a candidate to successfully complete a background screen that includes a criminal record check and drug test. Companies in this industry are also known to check retail theft databases.

B. TELLER

Tellers are responsible for accurately processing routine transactions at a bank. These transactions include cashing checks, depositing money, and collecting payments. According to the NYSDOL, the field is not expected to experience any job growth and in fact, slight decreases are expected. New York State is forecasted to have a .2% decline and New York City a .1% decline between 2012 and 2022. There may, however, be some job opportunities through replacements in New York City. Teller positions, however, typically require a high school diploma or its equivalent. One does not need work experience in a related occupation because the job usually starts with short-term, on-the-job training for competency. However, it is important to note that there are federal restrictions tied to this type of job.
Pursuant to Section 19 of the Federal Deposit Insurance Act, 19 U.S.C § 1829(a), persons convicted of certain criminal offenses are prohibited from participating in the affairs of an insured depository institution without the express consent of the Federal Deposit Insurance Corporation (FDIC). This bar applies to any person convicted of a criminal offense involving dishonesty, breach of trust, or money laundering or who has entered into a pretrial diversion or similar program in connection with a prosecution for such offense. The FDIC prohibits any person who falls in the category described above from being directly or indirectly “affiliated” with an insured institution; owning or controlling an insured institution; or otherwise directly or indirectly participating in the conduct of the affairs of an insured depository institution.

**DE MINIMIS RULE, AUTOMATIC CONSENT:**

Article 19 does, however, provides an exception if the covered offense is considered de minimis. (See de minimis criteria below). In such cases, consent automatically will be granted and no application for consent will be required.

De Minimis Criteria:

1. There is only one conviction or program entry of record for a covered offense; and

2. The offense was punishable by imprisonment for a term of one year or less and/or a fine of $1,000 or less, and the individual did not serve jail time; and

3. The conviction or program was entered at least five years before the application; and

4. The offense did not involve an insured depository institution or insured credit union. An offense based on the issuing of insufficient fund checks (bad checks) in an aggregate value of $1,000 or less where no insured depository institution or insured credit union was a payee on any of the checks, will be considered as not involving an insured depository institution or credit union.

Additionally, a person who meets these criteria must be covered by a fidelity bond to the same extent as others in similar positions and shall disclose the presence of the conviction, pretrial diversion or other program to all insured institutions where they will participate.

There are two ways a person can apply for FDIC Section 19 consent. First, an insured depository may file a Section 19 application on behalf
of a prospective director, officer, or employee. This process is known as “sponsorship.” Second, if an insured depository will not file a Section 19 application on behalf of an applicant, the applicant may seek an “individual waiver” by applying him/herself. Requests for individual waivers will be considered on a case–by–case basis “where substantial good cause exists for granting the waiver.” The application must be submitted to the FDIC regional office where the applicant currently resides. The FDIC advises individuals to focus particularly on the “Individual Waiver Statement” and “Individual Waiver Certification” sections of the application.

Section 19 does not apply if there is no “conviction of record.” Therefore, arrests, pending cases not brought to trial, acquittals, convictions reversed on appeal, or completely expunged are excluded from the requirements of Section 19. Additionally, Section 19 applies to convictions for criminal offenses involving dishonesty, breach of trust or money laundering. All offenses, including misdemeanors and felonies, are considered.

Section 19 also applies to drug crimes in which money laundering is an element. All convictions for offenses involving the illegal manufacture, sale, and distribution of or trafficking in controlled substances require an application. However, convictions adjudged as Youthful Offenders do not require an application under Section 19.

The essential criteria used when assessing a Section 19 application is “whether the person has demonstrated his or her fitness to participate in the conduct of the affairs of an insured depository institution, and whether the affiliation, ownership, control, or participation by the [applicant]...constitute a threat to the safety and soundness of the... institution.”

The FDIC will consider the following in its Section 19 determination:

1. The conviction and specific nature and circumstances of the covered offense;

2. Evidence of rehabilitation including the applicant’s reputation since the conviction, age at the time of the conviction, and amount of time that has elapsed since the conviction;

3. The position to be held or the level of participation by the applicant at the insured institution;

4. The amount of influence and control the applicant will have over the management or affairs of the institution;
5. The ability of the institution to control the applicant’s activities;

6. The degree of ownership the applicant will have of the institution;

7. The applicability of the insured depository institution’s fidelity bond coverage to the person;

8. The opinion or position of the primary federal and/or state regulator; and

9. Any additional relevant factors specific to the case.

C. COUNTER & RENTAL CLERK

Counter and rental clerks receive orders, generally in person, for repairs, rentals, and services. They also may describe available options, compute costs, and accept payments. Some may rent moving vans, or appliances and others may work at grocery stores, laundry mats, or information booths. Specific tasks may vary for each type of employee depending on the enterprise for which they work, but all counter and rental clerks are responsible to informatively answer questions posed by customers about cost, availability, or rental agreements regarding the products they are lending or selling. According to NYSDOL, this occupation is expected to grow 8.5% in New York State and 10% in New York City. The median starting salary is $20,260 and the median salary is $30,020.

The job does not require a high school diploma and offers on-the-job training. Many of these jobs will require a valid driver’s license.

There are no statutory bars to employment therefore an employer is required to follow all of the laws discussed in the Legal Protections for Workers section of this report. Employers cannot impose flat bans against considering or hiring candidates with criminal histories.
### Food, Hospitality & Personal Care Services - Sector Summary

#### Average Annual Openings in NYS & NYC until 2022

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Food Service</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Waiters &amp; Waitresses (35-3031)</td>
<td>28,710</td>
<td>58,910</td>
<td>73,710</td>
<td>14,800</td>
<td>2,900</td>
<td>11,540</td>
<td>1,440</td>
</tr>
<tr>
<td>Median Starting Salary</td>
<td>$18,380</td>
<td>$21,920</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Median Salary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Food Preparation Workers</strong></td>
<td>5,490</td>
<td>25,570</td>
<td>28,180</td>
<td>2,610</td>
<td>570</td>
<td>240</td>
<td>210</td>
</tr>
<tr>
<td>Median Starting Salary</td>
<td>$18,340</td>
<td>$24,620</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Median Salary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Cooks (Institution &amp; Cafeteria)</strong> (35-2012)</td>
<td>2,300</td>
<td>6,970</td>
<td>7,870</td>
<td>360</td>
<td>70</td>
<td>120</td>
<td>50</td>
</tr>
<tr>
<td>Median Starting Salary</td>
<td>$24,980</td>
<td>$33,840</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Median Salary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Cooks (Restaurant not fast food)</strong> (35-2014)</td>
<td>17,780</td>
<td>27,080</td>
<td>37,150</td>
<td>10,070</td>
<td>2,000</td>
<td>1,540</td>
<td>470</td>
</tr>
<tr>
<td>Median Starting Salary</td>
<td>$20,630</td>
<td>$25,480</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Median Salary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>General Prerequisites for Employment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Less than a high school graduation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Short term on the job training required for competency</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) No certification or licensing requirements</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4) Successful completion of a background check</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(5) Eligible for fidelity bond</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

**NOTE:** The data in the table represents the average annual openings in the food, hospitality, and personal care services sector from 2012 until 2022. This data includes job growth, employment numbers, starting salaries, and general prerequisites for employment. The data is segmented by occupation and provides a comprehensive overview of the labor market within this sector.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Hospitality</strong></td>
<td><strong>Food, Hospitality &amp; Personal Care Services</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Hosts, Hostesses (Restaurant, Lounge, &amp; Coffee Shop)</strong></td>
<td>71114</td>
<td>35-9031</td>
<td>1,530</td>
<td>660</td>
<td>16,010</td>
<td>19,330</td>
<td>3,320</td>
<td>6,440</td>
<td>8,110</td>
<td>1,670</td>
</tr>
<tr>
<td><strong>Baggage Porters and Bellhops</strong></td>
<td>71114</td>
<td>39-6011</td>
<td>200</td>
<td>170</td>
<td>4,840</td>
<td>5,660</td>
<td>820</td>
<td>3,640</td>
<td>4,400</td>
<td>760</td>
</tr>
<tr>
<td><strong>Hotel, Motel &amp; Resort Clerks</strong></td>
<td>71114</td>
<td>43-4081</td>
<td>640</td>
<td>280</td>
<td>8,680</td>
<td>10,980</td>
<td>2,300</td>
<td>3,380</td>
<td>4,560</td>
<td>1,180</td>
</tr>
<tr>
<td><strong>Skin Care Specialists</strong></td>
<td>62119</td>
<td>39-5094</td>
<td>390</td>
<td>80</td>
<td>2,690</td>
<td>4,690</td>
<td>390</td>
<td>700</td>
<td>1,090</td>
<td>380</td>
</tr>
</tbody>
</table>

(1) Less than a high school diploma is typically needed; (2) short term on the job training required for competency; (3) no certification or licensing requirements; (4) successful completion of a background check; (5) eligible for fidelity bond.
### Sector Summary: Food, Hospitality & Personal Care Services

<table>
<thead>
<tr>
<th>SECTOR OCCUPATION</th>
<th>Average Annual Openings in NYS &amp; NYC Until 2022</th>
<th>Personal Care Trainers &amp; Instrumental Aides (39-9021)</th>
<th>Personal Care Home Aides (39-9022)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Median Starting Salary</td>
<td>Median Salary</td>
<td>Median Starting Salary</td>
</tr>
<tr>
<td>Fitness Trainers &amp; Aerobics Instructors (39-9091)</td>
<td>620</td>
<td>320</td>
<td>18,900</td>
</tr>
<tr>
<td></td>
<td>6700</td>
<td>3700</td>
<td>194,990</td>
</tr>
<tr>
<td></td>
<td>$20,910</td>
<td>$22,730</td>
<td>$27,280</td>
</tr>
<tr>
<td>Personal Care Trainers &amp; Instrumental Aides (39-9021)</td>
<td>6,270</td>
<td>3,610</td>
<td>142,480</td>
</tr>
<tr>
<td>Personal Care Home Aides (39-9022)</td>
<td>6,270</td>
<td>3,610</td>
<td>142,480</td>
</tr>
<tr>
<td></td>
<td>(1) Less than a high school diploma is typically needed; (2) Short term on the job training required for competency; (3) No certification or licensing requirements; (4) Successful completion of a background check.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(1) A postsecondary non-degree award is typically needed; (2) No on the job training required for competency; (3) No certification or licensing requirements; (4) Successful completion of a background check.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

General Prerequisites for Employment and Potential Criminal Record Barriers:

- (1) Less than a high school diploma is typically needed;
- (2) Short term on the job training required for competency;
- (3) No certification or licensing requirements;
- (4) Successful completion of a background check.

- (1) A postsecondary non-degree award is typically needed;
- (2) No on the job training required for competency;
- (3) No certification or licensing requirements;
- (4) Successful completion of a background check.
Sector & Barrier Analysis: Food, Hospitality & Personal Care Services

OCCUPATIONS

» Waiter & Waitress
» Food Preparation Worker
» Cook
» Host/Hostess (Restaurant, Lounge, & Coffee Shop)
» Baggage Porter & Bellhop
» Hotel/Motel Resort Clerk
» Skin Care Specialist
» Personal & Home Care Aide
» Fitness Trainer & Aerobics Instructor

JOB GROWTH

EXTREMELY FAVORABLE

NYS:
Food Service: 22.2%
Hospitality: 21.7%
Personal Care: 20.6%

NYC:
Food Service: 29%
Hospitality: 27.2%
Personal Care: 24%

CRIMINAL RECORD RESTRICTIONS

Some
Individuals with felony convictions may face barriers to employment in both the food service and hospitality sectors if they want to work in an establishment that is licensed to sell alcoholic beverages. According to the Division of Alcoholic Beverage Control State Liquor Authority, businesses may hire someone that has been convicted of a felony if they have an off–premises license (the business sells alcohol to be consumed somewhere other than the sale location—i.e. a store) or an on-premises license for a catering establishment, hotel, restaurant, not–for–profit club or recreational facility. Any other type of business that has an “on–premises” license cannot hire someone convicted of a felony unless the candidate has been granted a pardon, Certificate of Relief from Disabilities or Certificate of Good Conduct or has been cleared to work by the State Liquor Authority to work.46

Now that the economy has begun its rebound, the NYSDOL has projected that nearly 150,330 food preparation and serving related jobs will open in New York State in the next seven years, and approximately 74,000 in NYC. There is an expected 22.2% increase in these types of positions in New York State and 29% increase in New York City. These positions typically require less than a high school diploma and do not require work experience in a related occupation.

There are no criminal record restrictions tied to this field and employers must comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report.

The Department of Health and Mental Hygiene requires supervisors in any food service establishment, including non–retail and temporary food service establishments, to obtain a food protection certificate. The certificate is awarded upon successful completion of a 15–hour food protection course (in person or online) that trains individuals to ensure the safety of the food served in New York City’s culinary establishments.

A. WAITERS & WAITRESSES

Waiters and waitresses take orders and serve food and beverages to patrons in dining establishments like restaurants, bars, hotels, and other food–serving and drinking venues. The NYSDOL finds the employment prospects very favorable. The field is expected to grow 20.2% throughout the state and 25.1% in New York City, with a
median entry level salary of $18,380 and a median salary of $21,920. Candidates seeking employment at upscale restaurants will likely face strong competition for jobs. Jobs typically do not require formal education or work experience in a related occupation.

**There are no criminal record restrictions tied to this occupation**, and employers must comply with Article 23-A and other applicable employment laws discussed in the [Legal Protections for Workers](#) section of this report.

B. **FOOD PREPARATION WORKERS**

Food preparation workers perform a variety of duties other than cooking, such as preparing cold foods and shellfish, slicing meat, and brewing coffee or tea. The field is expected to grow 8.4% in New York State and 10.2% in New York City, with a median entry level salary of $18,340 and a median salary of $24,620. Growth in this field is slower than the average for all occupations, but job opportunities are expected to be very good because of annual turnover. Candidates seeking employment at upscale restaurants will likely face strong competition for jobs. Jobs typically do not require formal education or work experience in a related occupation.

**There are no criminal record restrictions tied to this occupation**, and employers must comply with Article 23-A and other applicable employment laws discussed in the [Legal Protections for Workers](#) section of this report.

C. **COOKS**

Cooks may work in restaurants or in institutions. Restaurant cooks will prepare, season, and cook dishes such as soups, meats, vegetables, or desserts. They may also be responsible for ordering supplies, keeping records and accounts, pricing items and planning menus. Cooks that work in schools, hospitals, or other cafeteria locations prepare and cook large quantities of food. Cooks who work in institutions will find that job opportunities are likely to increase 13.2% across the state and 12.9% in New York City. (The average salary for restaurant cooks is $25,480, while cafeteria cooks have an average salary of $33,840.) Jobs for restaurant cooks are expected to grow 31.5% statewide and 37.2% in New York City with a median starting salary of $20,630. These jobs do not require formal education or work experience in a related occupation.

**There are no criminal record restrictions tied to this occupation** and employers must comply with Article 23-A and other applicable employment laws discussed in the [Legal Protections for Workers](#) section of this report.
**HOSPITALITY OCCUPATIONS**

**D. HOSTS, HOSTESSES (RESTAURANT, LOUNGE & COFFEE SHOP)**

Hosts and hostesses welcome patrons, seat them at tables or in lounges, and help ensure quality of facilities and service. These jobs do not require formal education or work experience in a related occupation.

_There are no criminal record restrictions tied to this occupation_, and employers must comply with Article 23-A and other applicable employment laws discussed in the _Legal Protections for Workers_ section of this report.

The field is expected to grow 20.7% in New York State and 25.9% in New York City, with an average starting salary of $18,800 and a median salary of $24,960.

**E. BAGGAGE PORTERS AND BELLHOPS**

Baggage porters and bellhops help incoming guests and escort them to their rooms, assist with handling luggage, supply guests or travelers with directions, travel information, and other information such as available services and points of interest; deliver messages and runs errands; deliver room service orders (if available), pick up articles for laundry and valet service; call taxis for guests; transport guests about premises or local areas in company shuttle, and provide valet service. Jobs typically require less than a high school diploma and do not require work experience in a related occupation. However, employers may require individuals to have a valid driver’s license and be commercially bonded.

_There are no criminal record restrictions tied to this field_ and employers must comply with Article 23-A and other applicable employment laws discussed in the _Legal Protections for Workers_ section of this report. The NYSDOL expects these jobs to grow by 16.9% in New York State and 20.9% in New York City. The median starting salary is $23,660 and the median salary is $35,960.

**F. HOTEL, MOTEL & RESORT CLERKS**

Hotel, motel, and resort desk clerks accommodate hotel, motel, and resort patrons by registering and assigning rooms to guests, issuing room keys or cards, transmitting and receiving messages, keeping records of occupied rooms and guests’ accounts, making and
confirming reservations, and presenting statements to and collecting payments from departing guests. Candidates typically need a high school diploma for most positions. However, employers may prefer to hire candidates with some college education or an associate’s degree. According to the NYSDOL, these jobs are expected to have a 26.5% growth by 2022, and 34.9% growth in New York City.

There are no criminal record restrictions tied to this occupation and employers must comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report. Individuals may be required to be bonded for these positions.

PERSONAL CARE OCCUPATIONS

The personal care and services sector is expected to experience a 20.6% increase in jobs in New York State by 2022, with 96,660 expected openings by 2022. New York City is expected to have a 24% increase in these jobs, with the majority of statewide openings, 53,910 concentrated in the City by 2022.

G. SKIN CARE SPECIALISTS

According to the NYSDOL, the field of skin care specialists or estheticians is expected to grow 41.3% in New York City and 38.7% in New York State. Skin care specialists can earn a starting salary of $22,280 and, with experience, up to $38,720. Trained skincare professionals provide clients with cosmetic treatments. They often work alongside cosmetologists and massage therapists in spas and salons. In addition, these workers can provide assistance in various fields of medicine such as dermatology and plastic surgery and sometimes find employment in these types of medical offices. Individuals who want to secure employment in a residential or long-term healthcare facility will have to complete the criminal record clearance process described in the Sector & Barrier Analysis: Healthcare section of this report.

Cosmetology schools may require applicants to have a high school diploma or GED before applying. Esthetician training can be obtained at technical or trade schools, beauty schools, or career colleges. Generally, individuals have to complete a number of class and practical hours. Certificate programs may take 4 to 12 months to complete. After completing the required courses and receiving clinical experience, graduates can take the state exam which usually consists of written, verbal, and practical segments.
There are no criminal record restrictions tied to this occupation and employers must comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report.

H. PERSONAL & HOME CARE AIDES

Personal care aides (PCA) assist the elderly, convalescents, or persons with disabilities with daily living activities at the person’s home or in a care facility. Duties performed at a place of residence may include keeping house (making beds, doing laundry, washing dishes) and preparing meals. PCA’s may provide assistance at non-residential care facilities. The median salary for this job is $22,730. The field is expected to grow by 36.9% in New York State and by 41% in New York City.

Jobs do not require formal education or work experience in a related occupation. There are no criminal record restrictions tied to this occupation, and employers must comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report. However, individuals who want to secure employment in a residential or long-term healthcare facility will have to complete the criminal record clearance process described in the Sector & Barrier Analysis: Healthcare section of this report.

I. FITNESS TRAINERS AND AEROBICS INSTRUCTORS

Fitness trainers and aerobics instructors coach groups or individuals in exercise activities but not teams. These individuals demonstrate techniques and form, observe participants, and explain corrective measures necessary to improve their skills. They may work independently or inside a gym facility. Training with an accredited certifying organization like the Academy of Applied Science Personal Training Education is recommended as the industry becomes more regulated. Certification is granted by the training organization and not a government agency.

The NYSDOL finds employment prospects in this field very favorable. It is expected to grow 13% in New York State, but 40% in New York City. The median entry level salary for this job is approximately $27,280, and the median annual salary is $59,860.

There are no criminal record restrictions tied to this occupation, and employers must comply with Article 23-A and other applicable employment laws discussed in the Legal Protections for Workers section of this report.
New York City’s workforce development system functions with the help of a large community of public and private workforce development practitioners who aim to serve the needs of workers and employers. Workforce professionals should use this report to help them construct their programs and services to build a workforce that includes all individuals, including those with criminal histories, who can and want to work and who are committed to obtaining the skills necessary to help businesses thrive.

Labor market forecasting is a useful tool for targeting limited workforce development resources toward industries and specific occupations where the largest number of job seekers is likely to find well-paid work and opportunities for advancement. However, neither workforce developers nor employers can afford to ignore the impact the nation’s criminal justice policies and New York City’s history of mass arrest and incarceration has made on the labor market. The City’s workforce professionals must develop expertise not only in where the jobs are likely to be, but also in how to allay employers’ concerns and how to help individuals with criminal records fill those jobs.

Although some criminal record restrictions exist in many of the industries projected to experience high growth in New York City, the state has some of the best anti-discrimination protections in the country in addition to the political will and commitment to ensure everyone who wants to work and contribute to society can. We hope this report will provide new dialogue around closing the skills gap in New York State and New York City so that we create an inclusive labor market that allows qualified people with criminal records a real opportunity to compete for tomorrow’s jobs.

Conclusion
RESOURCES

BROOKLYN EMPLOYMENT WORKS CENTER
www.grantassociatesinc.com/employment-works-celebrates-customer-success/

CENTER FOR EMPLOYMENT OPPORTUNITIES
www.ceoworks.org

CENTER FOR NULEADERSHIP ON URBAN SOLUTIONS
www.centerfornuleadership.org

THE CENTER FOR AN URBAN FUTURE
www.nycfuture.org

COLLEGE AND COMMUNITY FELLOWSHIP
www.collegeandcommunity.org

FISCAL POLICY INSTITUTE
www.fiscalpolicy.org

JOBS FIRST NEW YORK CITY
www.jobsfirstnyc.org

LEGAL ACTION CENTER
www.lac.org
1. “How to Get and Clean Up Your New York State RAP Sheet”
2. “Lowering Criminal Record Barriers: Certificate of Relief/ Good Conduct and record sealing”
3. “Best Practice Standards: The proper use of criminal records in hiring”

NEW YORK CITY LABOR MARKET INFORMATION SERVICE
www.gc.cuny.edu/lmis

NEW YORK STATE DEPARTMENT OF LABOR, LABOR STATISTICS
www.labor.ny.gov
2. “Analysis of New York State’s 2012-2022 Occupational Projections by Education Level”

WORKFORCE PROFESSIONALS TRAINING INSTITUTE
www.workforceprofessionals.org
Getting the RAP Down
ENDNOTES


4. J. Austin and M. Jacobson, (2013) How New York City Reduced Mass Incarceration: A model for change? While the authors make the point that New York City reduced the number of individuals it sent to prison on felony charges, it is important to note that at the same time NYC increased the number of individuals who received misdemeanor criminal convictions as part of its “broken windows” policy; Also see Bernstein, D. & Dworakowski, K. (2014). Under Custody Report: Profile of Inmate Population Under Custody. State of New York Department of Corrections & Community Supervision, available at http://www.doccs.ny.gov/Research/Reports/2014/UnderCustody_Report_2014.pdf


7. In 2006, the Office of the Mayor created the Center for Economic Opportunity to work with City agencies and the federal government to implement successful anti-poverty initiatives in New York and partner cities across the United States. The Department of Probation integrated employment and education service programs to provide those in the probation system with community-based services. See http://www.nyc.gov/html/ceo/html/about/about.shtml Also, programs like Hudson Link for Higher Education and The Bard Prison Initiative offer incarcerated men and women the opportunity to earn a college degree while in prison.


12. New York State law defines crimes as misdemeanors and felonies, which have classifications that determine the level of seriousness of the offense and the severity of the penalty. Misdemeanors may be classified as A or B and have sentences that can be a fine, less than a year of incarceration and/or community supervision with up to 3 years on probation. Felonies range from E to A with E being the lesser offense. Felony convictions may have a sentence of 6 months of incarceration and community supervision of up to 5 years on probation or a year or more in a state or federal penitentiary. Community supervision for individuals released from a state prison system is managed by the division of parole. Individuals with federal convictions are supervised in the community by federal probation.

14. Employer concerns about hiring workers with criminal records have been addressed in numerous research reports but also noted in a comment by Beth Milito, senior executive counsel for the National Federation of Independent Business in Smith, R. (2014, Aug. 18). Employer Concerns About Liability Loom as Push for Ban the Box Spreads. Bloomberg BNA. Available at http://www.bna.com/employer-concerns-liability-n17179893943/


23. New York Criminal Procedure Law § 160.50
24. New York Penal Law § 10.00(3)
25. New York Criminal Procedure Law § 160.58
26. New York Criminal Procedure Law § 440.10(1)(i)
27. New York Criminal Procedure Law § 720.35
29. NYS G.B.L. 380-j.
32. New York State Department of Labor, Work Opportunity Tax Credit. Available at https://www.labor.ny.gov/businessservices/edsu%20wotc.shtm
33. New York Executive Law § 296(15).


38. Education Portal, Commercial Truck Driver: Job Description, Duties and Requirements, last viewed on January 20, 2015, at 2:04 p.m., [http://education-portal.com/articles/Commercial_Truck_Driver_Job_Description_Duties_and_Requirements.html](http://education-portal.com/articles/Commercial_Truck_Driver_Job_Description_Duties_and_Requirements.html).

39. 49 CFR Parts 300-399.


43. Rules of the City of New §56-04 (d).

44. N.Y. VAT. LAW § 509-cc for disqualifications of drivers of school buses.


© 2016 Legal Action Center.

Written permission requested to quote more than brief passages in critical articles or reviews.