



2023 TGNCNB Employment Report

New York State Department of Labor
Report on Transgender, Gender
Non-conforming, and Non-binary
Persons in The Workforce.

TABLE OF CONTENTS

Welcome	4
Letter from New York State Governor Kathy Hochul	4
Letter from Kiara St. James, Founder, New York Transgender Advocacy Group	5
Executive Summary	6
New York State vs National Legislation	9
New York State: Legislative Leader	9
National Surge in Anti-Trans Legislation	11
The Population Included in this Report	12
Glossary of Terms	14
Methodology	18
Research Findings	22
Quantitative Data	22
Demographics	22
Unemployment	23
Income	26
Education	28
ID/Documentation	30
Qualitative Data	31
Discrimination	33
Additional Barriers for TGNCNB People of Color	40
Compounding Barriers	42
Lack of Cultural Competency Around Gender Identity and Expression	44
Disparate Education and Training Outcomes for TGNCNB Individuals	47
Applying for Jobs	50
Passing as cisgender or being stealth	54
Generational Differences	55
Diversity in Employment Options	57
Being Trans in New York	61
Policy Recommendations	65

Table of Contents

STRENGTHEN Collection of Gender Data at Federal Level 65

Support the TGNCNB Population with Workforce Development Programs 67

 Host job fairs with trans-affirming employers 67

 Expand Funding for workforce Training & Entrepreneurship for TGNCNB Individuals 68

Require Gender Identity and Discrimination Training For All 69

 Bolster GENDA awareness and Enforcement 71

Alleviate Barriers to Legal Documentation 72

Establish New York State as a Model Employer and Service Provider to TGNCNB New Yorkers 74

 Simplify the State Procurement Process 76

Reduce Barriers to Employment Due to Justice Involvement 77

 Ban the Box and Fair Chance Act 77

Acknowledgements 79

Appendices 81

Appendix I: Report Legislation 81

Appendix II: Tools referenced in the report that Ask About Gender 82

 National Academies Report on Measuring Sex, Gender Identity and Sexual Orientation:
 Examples of Two-Step Gender Measures 82

 BRFSS tool 86

Appendix III: 2022 BRFSS Data Set 87

Appendix IV: 2021 Network Needs Assessment TGNC Employment Results Data Set 88

Appendix V: New York State Department of Labor Comment on Adding SOGI Questions to ACS 95

Appendix VI: Works Cited 99

 Literature Review 99

WELCOME

LETTER FROM NEW YORK STATE GOVERNOR KATHY HOCHUL

Dear New Yorkers,

As the birthplace of the LGBTQ+ civil rights movement, New York State has maintained a deep commitment to providing greater respect, stronger protections, and better opportunities for the LGBTQ+ community. Still, our fight for equality is far from over as LGBTQ+ New Yorkers – particularly transgender, gender nonconforming, and non-binary New Yorkers – continue to face challenges in accessing housing, health care, and employment.

In 2022, I signed legislation to help our state better understand the employment experiences of transgender New Yorkers through an effort led by the New York State Department of Labor and the New York State Division on Human Rights. This report is the product of that legislation, and in addition to providing a glimpse into the work lives of TGNCNB New Yorkers, it charts a path forward on addressing the barriers they face.

New York has already made remarkable strides in the fight for progress for TGNCNB New Yorkers and the entire LGBTQ+ community. We have built transformative, affordable homes for LGBTQ+ seniors and formerly homeless young adults. We established the Lorena Borjas Transgender Wellness and Equity Fund to support service providers serving TGNCNB New Yorkers and funded mental health support for LGBTQ+ youth. We expanded the Gender Recognition Act, and last year, I signed legislation to make elections for party positions more inclusive. By better understanding the obstacles that TGNCNB New Yorkers face, which are even more pronounced for TGNCNB people of color, we will do even more to achieve the policy solutions that will help these communities thrive.

I am proud that New York State has taken action to strengthen its role as a model employer and advocate for TGNCNB New Yorkers, and I thank the officials from the New York State Department of Labor, the New York State Division of Human Rights, and the New York State Department of Health who made this report possible. New York remains committed to providing an open and affirming workplace for TGNCNB workers, and my administration will continue to provide the resources and protections that allow all New Yorkers to live free from discrimination as their truest, most authentic selves.

Sincerely,

Governor Kathy Hochul

LETTER FROM KIARA ST. JAMES, FOUNDER, NEW YORK TRANSGENDER ADVOCACY GROUP

Dear New Yorkers,

The New York Transgender Advocacy Group is a Trans-led organization. Our mission is to advocate for more inclusive gender-based policies that benefit Transgender and Gender Non-Conforming/Non-Binary (TGNCNB) individuals through building community leaders, educating practitioners, and influencing policy makers. Our vision is to create an equitable society for TGNCNB people. To achieve this, we work with stakeholders around New York to train and empower the TGNCNB community to become active leaders in shaping the world around them.

In my experience working with the TGNCNB community I have found that TGNCNB individuals often face significant employment barriers, rooted in societal prejudice and discrimination. Circumstances such as being disowned by family has led many TGNCNB individuals to be left unhoused and forced to focus on survival instead of pursuing an education. Discriminatory hiring practices, lack of workplace inclusivity, and hostile work environments contribute to higher rates of unemployment within the transgender community. TGNCNB individuals may encounter workplace challenges such as intentional misgendering, harassment in the form of invasive questions, or unequal opportunities.

I have always known that until data was collected on the TGNCNB community we would not be able to effectively advocate for resources such as affirming healthcare, housing and employment opportunities. Collecting data leads to identifying the needs and priorities of marginalized communities. This is why I advocated for this report, and I am so appreciative of Governor Kathy Hochul for understanding how vital this data is to build a more inclusive space for TGNCNB New Yorkers.

Through my advocacy work I hope to create a future where individuals in the TGNCNB community have access to safer, more diverse and affirming employment spaces. Creating a better understanding of the TGNCNB community is essential in creating a work experience that is enriching not only for TGNCNB individuals but all New York employees alike.

Kiara St. James, Founder & Co Executive Director of Programs NYTAG

EXECUTIVE SUMMARY

On August 10, 2022, Governor Hochul signed legislation tasking the New York State Department of Labor to gather employment metrics on transgender New Yorkers, a community which has long been excluded from data sets. The new law (S.5933-A/A.8133; Chapter 492 of the Laws of 2022), directs the New York State Department of Labor (the Department) to:

1. Conduct a study on the statewide employment rate of transgender individuals in New York (A copy of the full text of the legislation is available in Appendix I).
2. Determine whether employment disparities among transgender individuals in New York exist, and if so, evaluate the factors contributing to those disparities, including discrimination, and recommend proposals to address barriers to equal employment for transgender New Yorkers.
3. Analyze the impact of racial and ethnic intersections that may exacerbate disparities and barriers to employment.

The stories of the TGNCNB (transgender, gender non-conforming and non-binary) community are important to understanding the challenges to employment that these community members experience. This is why the Department focused on those stories through qualitative data. Federal statistics on transgender individuals is limited. The federal surveys used to determine employment rates statewide do not ask gender identity questions, and until they do, an employment rate for TGNCNB individuals will not be possible. For this reason, the Department wrote to support the US Census Bureau's proposal to add questions on sexual orientation and gender identity (SOGI) to the American Community Survey (ACS). See Commissioner Reardon's letter to the Census Bureau in Appendix V.

New York State has been setting an example for the rest of the country by passing laws protecting TGNCNB New Yorkers' rights. In a time when anti-trans sentiment and laws are on the rise nationwide, New York has included gender identity and expression as protected classes under its Human Rights Law since 2019. In May 2022, Governor Hochul announced New Yorkers would have the option to choose "X" as a gender marker on their driver's licenses, learner's permits, or non-driver ID cards. Governor Hochul also signed legislation establishing the Lorena Borjas Transgender and Non-binary Wellness and Equity Fund to support organizations providing critical services in the community, and in June 2023, Governor Hochul signed nation-leading legislation establishing New York as a "safe haven" for trans youth, their families, and healthcare providers.

Significant Employment Barriers Exist for TGNCNB New Yorkers:

Despite legislative efforts, research conducted for this report finds that TGNCNB New Yorkers experience less employment and lower incomes throughout the state than non-TGNCNB New Yorkers. Existing experimental population surveys through the US Census Bureau and Centers

Welcome & Executive Summary

for Disease Control and Prevention (CDC) as well as other targeted surveys of the TGNCNB community point toward significant disparities in employment outcomes for TGNCNB individuals.

Extensive qualitative data was collected from TGNCNB New Yorkers for this report through an online public comment form, focus groups, and interviews to understand these disparities. This rich data revealed ten themes essential to the TGNCNB employment experience in New York:

1. Employment discrimination based on gender identity is pervasive throughout the state and the leading cause of lower incomes and underemployment among TGNCNB New Yorkers. Discrimination presents itself in many ways, including termination, microaggressions, pigeon-holing in particular industries, and harassment.
2. TGNCNB people of color experience greater employment disparities as they also experience racial discrimination. Immigrant TGNCNB New Yorkers face barriers related to documentation in addition to gender-based barriers.
3. There are significant compounding barriers among this population that, in addition to discrimination, make full employment difficult to achieve. These compounding barriers include housing insecurity, justice involvement, disability, and needs related to gender-affirming care.
4. There is a lack of cultural competency statewide regarding gender identity and expression. This includes a lack of knowledge surrounding the protections and gains the TGNCNB community has achieved through legislation in New York State.
5. TGNCNB New Yorkers experience employment challenges related to both under education and over education. For many individuals, discrimination experienced in educational institutions has led them to leave school and not pursue higher education. At the same time, TGNCNB individuals with higher degrees are often unable to obtain jobs that match their credentials.
6. Applying for jobs as a TGNCNB individual is a uniquely difficult experience that can lead some to voluntarily remove themselves from the workforce.
7. There is a genuine fear for safety in the workplace among TGNCNB individuals. This has led many TGNCNB New Yorkers to prefer not to be out as their full selves at work. Some do this by deciding to present as their sex assigned at birth. Other TGNCNB individuals do not get perceived as TGNCNB and are assumed to be cisgender. These individuals may opt to not come out in the workplace, or not disclose their trans experience to others.
8. There is a difference between younger and older TGNCNB New Yorkers. Younger individuals are increasingly identifying outside the binary as gender non-conforming or non-binary, while older TGNCNB individuals continue to primarily identify as trans men or trans women. There is a growing desire among younger TGNCNB people to be out at

Welcome & Executive Summary

work, while older TGNCNB individuals are more likely to prefer not to disclose their trans experience to others.

9. Discrimination and other barriers to employment have led TGNCNB New Yorkers to seek self-employment opportunities including consulting, independent contracting, and in the underground economy.
10. There is a regional difference between the experiences of TGNCNB individuals in New York City, and other large cities, versus those in more rural areas of the state. Large cities offer more resources for the TGNCNB population, but are also more expensive, which presents challenges for a population experiencing lower incomes and higher levels of poverty.

Policy Recommendations:

New York State is committed to supporting TGNCNB individuals, but there is more work to be done. The State can take additional steps by implementing policy changes to address the employment disparities experienced by TGNCNB New Yorkers.

These steps include:

- Advocating for uniform collection of data regarding gender identity by Federal agencies, especially the US Census Bureau.
- Providing workforce development programming targeting the TGNCNB population.
- Providing cultural competency and GENDA training across the State.
- Exploring additional ways the State can reduce barriers to obtaining identity documents that reflect a person's gender identity.
- Modeling best practices for employers when serving TGNCNB New Yorkers.
- Addressing barriers to employment for justice-involved individuals.

The entire state will benefit from greater workforce participation by TGNCNB New Yorkers. Correcting for years of under-employment and low wages will allow new involvement in local economies by TGNCNB individuals. By creating equitable and affirming workplaces, employers will also benefit from greater retention, saving money on recruitment and onboarding. As younger generations increasingly identify as gender diverse, New York is in a critical moment. We must work together with employers and workers to take the necessary steps to ensure all generations of workers have open and supportive employment experiences.

NEW YORK STATE VS NATIONAL LEGISLATION

NEW YORK STATE: LEGISLATIVE LEADER

The New York State Department of Labor (the Department) conducted this study on the employment experiences of Transgender New Yorkers as part of a larger effort over the past five years, in which New York State has taken decisive steps to create a safe and affirming place for transgender, gender non-conforming and non-binary (TGNCNB) residents.¹ These legislative changes have sought to address some of the most significant barriers to employment that TGNCNB community members raised during the Department's research for this report. These barriers include discrimination and harassment, complications from lacking legal identification that matches one's gender identity, and compounding barriers such as justice involvement and mental health care access.

In 2019, the State's Human Rights Law was amended through the Gender Expression Non-Discrimination Act (GENDA) to "explicitly add gender identity and expression as a protected category."

- GENDA prohibits discrimination on the basis of gender identity or expression in employment, housing, public accommodation and non-religious education.²
- Upon the passage of GENDA, the State conducted an educational campaign with members of the TGNCNB community, as well as employers, to spread awareness regarding the new protections under the law.

Naming gender identity and expression as protected categories under the State's Human Rights Law was an essential step in combatting harassment and discrimination against New Yorkers of trans experience. Upon review of their records, as of October 2023, NYS DHR received over 1,200 complaints involving gender identity or expression. Approximately 65% of those complaints are related to employment-based discrimination and approximately 26% are related to public accommodation discrimination.

In 2021, New York took two major steps to reduce employment barriers caused by identification mismatch and the historical criminalization of TGNCNB identities. The State passed the Gender

¹ Governor's Press Office, "Governor Hochul Signs Legislation Aimed at Addressing Economic Inequities Facing Transgender New Yorkers | Governor Kathy Hochul," New York Governor Kathy Hochul, August 2022, <https://www.governor.ny.gov/news/governor-hochul-signs-legislation-aimed-addressing-economic-inequities-facing-transgender-new-yorkers>. Governor's Press Office.

² NYS DHR, "Human Rights Law Protections for Gender Identity & Expression," Division of Human Rights, 2019, <https://dhr.ny.gov/genda>

Recognition Act and repealed a criminal anti-loitering law commonly referred to as the “Walking While Trans” ban.³

The Gender Recognition Act streamlined the name change and gender marker change process in New York State.⁴ The legislation achieved the following gains:

- It removed the requirement for all name changes to be published in the newspaper, protecting the identities and safety of TGNCNB individuals seeking legal transition.
- It introduced the X gender marker on New York State documents, such as a state issued driver’s license and birth certificates.
- It ended the requirement for a doctor’s note to change one’s gender marker on a state issued ID.

In 2022, the Gender Recognition Act was expanded to require all New York State agencies that collect demographic information about gender or sex during interactions with the public to provide individuals the option to select “X” as their sex or gender marker on all relevant forms no later than January 1, 2024.

Having legal identification that is consistent with one’s gender identity is essential when seeking employment as well as housing. It can limit discrimination and harassment. Most importantly, it allows individuals of trans experience to live fully as their authentic selves.

In the same year as the enactment of the Gender Recognition Act, New York also repealed an anti-loitering law, commonly referred to as the “Walking While Trans” ban. Since it was passed in 1976, this anti-loitering law was used to harass and arrest law-abiding trans people under suspicion of prostitution.⁵

In 2022, the State took additional steps to support the TGNCNB community and address disparities in access to important programs and services by establishing the Lorena Borjas Transgender and Non-binary Wellness and Equity Fund (TWEF).⁶ The FY2023 Enacted Budget included \$3 million in funding to support this initiative, including \$2 million through the Department of Health and \$1 million through a program administered by the state legislature. The fund supports organizations that provide critical services to the transgender, gender non-conforming, non-binary, and intersex community (TGNCNBI).

In 2023, Governor Hochul announced an additional \$1 million in youth suicide prevention funding expanding TWEF, as well as an additional \$5 million in funding for gender affirming

³ See, New York State Session Laws, Chapter 23 of the Laws of 2021.

⁴ See New York State Session Laws, Chapter 159 of the Laws of 2021, and Chapter 163 of the Laws of 2022.

⁵ Jaclyn Diaz, “New York Repeals ‘Walking While Trans’ Law,” *NPR*, February 2021, sec. Law, <https://www.npr.org/2021/02/03/963513022/new-york-repeals-walking-while-trans-law>. Diaz.

⁶ Governor’s Press Office, “Governor Hochul Signs Legislation in Honor of LGBTQ+ Pride Month and Empowers New York State Agencies to Provide More Support to LGBTQ+ New Yorkers | Governor Kathy Hochul,” [governor.ny.gov](https://www.governor.ny.gov/news/governor-hochul-signs-legislation-honor-lgbtq-pride-month-and-empowers-new-york-state-agencies), June 2022, <https://www.governor.ny.gov/news/governor-hochul-signs-legislation-honor-lgbtq-pride-month-and-empowers-new-york-state-agencies>.

senior housing projects that support TGNCNB individuals. Funding supportive programs for the TGNCNB community is a straightforward way New York State has demonstrated a commitment to improving the lives of New Yorkers of trans experience.

In June of 2023, Governor Hochul signed a groundbreaking new law that makes New York a "safe haven" for the trans community by ensuring New York will protect trans youth, their parents and their doctors and another law which protects the right of trans youth to receive addiction treatment and rehabilitation.⁷ The safe haven law ensures that trans children will not be separated from parents who help them seek out gender-affirming care and prohibits authorities from assisting other states' investigations into families and healthcare providers seeking such care.⁸ Protecting trans youth is vital for the future of New York State.

Finally, in November of 2023, Governor Hochul took the important step of helping certain justice-involved individuals escape the specter of background checks in employment, housing, banking and education by signing the Clean Slate Act. This law allows certain criminal convictions to be sealed if the person has not committed another crime in the intervening years. For different reasons, some of which will be discussed later in this report, TGNCNB individuals have a higher likelihood of being involved in the justice system than the general population.⁹ The Clean Slate Act has the potential to have an important impact on TGNCNB New Yorkers as they seek employment, as well as housing and financial security.

NATIONAL SURGE IN ANTI-TRANS LEGISLATION

Despite legislative gains in New York State, TGNCNB New Yorkers are not immune to skyrocketing anti-trans rhetoric and sentiments nationwide. TGNCNB individuals nationwide report facing higher rates of unemployment, workplace discrimination, harassment, housing insecurity, and violence.¹⁰ As of May, a record number of anti-LGBTQ+ bills, over 520, have been introduced in state legislatures in 2023. Also record-breaking, over 220 of those state bills specifically target transgender and non-binary people.¹¹ These anti-trans bills seek to impact health care access, student athletics, military service, incarceration, and education.

⁷ See New York State Session Laws, Chapter 143 of the Laws of 2023.

⁸ Giulia Heyward, "NY Designates State a 'Safe Haven' for Trans Youth, Families and Health Providers - Gothamist," News, Gothamist, June 2023, <https://gothamist.com/news/ny-designates-state-a-safe-haven-for-trans-youth-families-and-health-providers>. Heyward.

⁹ Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, "New York State LGBTQ+ Health and Human Services Needs Assessment: 2021 Community Survey" (The New York State Network for LGBTQ Health and Human Services, 2022). Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J.

¹⁰ Caroline Medina and Lindsay Mahowald, "Discrimination and Barriers to Well-Being: The State of the LGBTQI+ Community in 2022," *Center for American Progress* (blog), January 2023, <https://www.americanprogress.org/article/discrimination-and-barriers-to-well-being-the-state-of-the-lgbtqi-community-in-2022>.

¹¹ Cullen Peele, "Roundup of Anti-LGBTQ+ Legislation Advancing In States Across the Country," Human Rights Campaign, May 2023, <https://www.hrc.org/press-releases/roundup-of-anti-lgbtq-legislation-advancing-in-states-across-the-country>.

“My recent experiences (since 2019) have been more positive but I still am forced to decide whether outing myself is safe. At one of my last places of employment, I was specifically warned by two other LGBTQ+ employees to not disclose that I am transgender. In no way did I feel safe with management or security staff. One security staff member listened to anti-trans news reports while at work, including in public spaces.” – Public Comment submitted to NYS DOL from Transgender Man, White, Western New York¹²

These policies are inextricably linked to anti-transgender disinformation and violence.¹³ As anti-trans legislation increases across the United States, this study provides essential information on the reality of employment for TGNCNB New Yorkers, the barriers that exist to *employment*, and the ways in which the state can address employment disparities at a state level.

“As a transgender person who has friends all over the United States. I am constantly hearing the bad news about anti-trans legislation and the circumstances my friend[s] are in related to being trans. I have had friends beaten, fired from jobs, chronically unemployed, denied healthcare, etc. I carry that around with me emotionally. Despite the relatively good conditions here in New York I am afraid of the actions of individuals who are caught up in anti-trans rhetoric...I am worried about both quiet actions like people working to get me fire[d] or tear me down at work along with actual threats of violence” – Public Comment submitted to NYS DOL from Non Binary Woman, White, Finger Lakes

THE POPULATION INCLUDED IN THIS REPORT

The Department was directed to study the employment rate for transgender people in New York State as well as analyze their employment experiences. A transgender person is one whose gender identity is different than the sex they were assigned at birth. Trans is a Latin prefix meaning “on the other side of,” and historically, transgender has been used as an umbrella term for “anyone who is not cis[gender].”¹⁴ The term cisgender is derived from Latin as well; “cis” is a Latin prefix meaning “on this side of.” Gender identity exists beyond the traditional binary. In addition to trans women and trans men, gender minorities include non-binary, agender, gender fluid, and two-spirit individuals. It is important to note the list of gender identities here is not exhaustive **and that all gender identities are valid.**

Gender identity is also evolving and so too are the ways in which individuals are choosing to identify themselves. For example, some individuals might change their gender identity over time. Additionally, some people of transgender experience do not identify as trans, and instead identify simply as a male or female.¹⁵ With the goal of looking at the employment landscape for those experiencing discrimination based on gender and assessing potential recommendations

¹² Public Comment refers to the NYS DOL Online Public Comment form available March 2023 – September 2023. All gender identities and races are self reported. Everyone quoted consented to have their comments included in the report.

¹³ Medina and Mahowald, “Discrimination and Barriers to Well-Being.” Medina and Mahowald.

¹⁴ Andrea Bowen, “Work It, NYC: A Comprehensive Guide to LGBTQI+ Workplace Inclusivity” (NYC Unity Project & NYC Center for Youth Employment, June 2023), https://lgbtqwork.cityofnewyork.us/DOH_Unity_Project_Workforce_Manual.pdf. Bowen.

¹⁵ Meeting with National Center for Transgender Equality, Microsoft Teams, November 2022. Meeting with National Center for Transgender Equality.

to address them, it is clear this report does not focus solely on those that identify explicitly as transgender.

With the goal of looking at the employment landscape for those experiencing discrimination based on gender, the Department studied all gender minorities including, but not limited to, transgender, non-binary, gender non-conforming, gender fluid, agender, and two-spirit.¹⁶ The report will use the acronym TGNCNB (transgender, gender non-conforming, and gender non-binary) to refer to these distinct yet connected communities.¹⁷

¹⁶ Because the gender binary lines up with the understanding of biological sex traits, sex and gender are often conflated. The Intersex or DSD population is a minority population defined by sex traits, not gender. Intersex individuals have sex traits that do not all correspond to a single sex. People with intersex traits face discrimination and mistreatment by medical professionals as well as non-voluntary medical interventions. Society's conflation of sex and gender leads to a frequent confusion between the intersex and transgender population, but the two are distinct and generally unconnected. As this report seeks to concentrate on the impact of gender identity on employment experiences, intersex individuals are not included in the study.

¹⁷ Bowen, "Work It, NYC: A Comprehensive Guide to LGBTQI+ Workplace Inclusivity." Bowen.

GLOSSARY OF TERMS

Below is a list of terms and their definitions often used when discussing the transgender, gender non-conforming and non-binary (TGNCNB) community that will be mentioned throughout this report. Many of these terms' definitions are taken from the NYS Gender Identity Toolkit [Language Primer](#)

AFAB (Assigned Female at Birth): Acronym meaning "assigned female at birth." Sex classification at birth is usually based on physical anatomy, genitalia, and karyotyping (genetic testing).

AGAB (Assigned Gender at Birth): This refers to the gender that the doctor wrote on an individual's birth certificate.¹⁸

Agender: An umbrella term that includes many different genders of people who identify as having no gender or having a gender that they describe as neutral. Many agender people also identify as transgender.

AMAB (Assigned Male at Birth): Acronym meaning "assigned male at birth." Sex classification at birth is usually based on physical anatomy, genitalia, and karyotyping (genetic testing).

Birth Name: A term used by people who have changed their name to reference the name they were given at birth. Many members of the TGNCNB communities do not like to have their birth name referenced and find it to be upsetting and disrespectful for others to do so.

Cis or Cisgender: A term used to describe a person whose gender identity aligns with what is expected of them in their culture based on the sex assigned to them at birth. The prefix cis- means "on this side of" or "not across."

Deadname/Deadnaming: A term used by some people, who have changed their name, to reference the name they were given at birth (see Birth Name). Many members of the TGNCNB communities do not like to have their deadname referenced and find it to be upsetting and disrespectful for others to do so.

Gender: A term referring to the socially constructed system of categorizing people according to a range of characteristics often associated with masculinity or femininity. These characteristics may include social structures, attitudes, feelings, behaviors, and/or appearance. Different cultures and societies have different understandings of gender.

Gender Binary: A system of viewing gender as consisting of two, opposite categories, termed "male and female," in which no other possibilities for gender or anatomy are recognized.

¹⁸ "AGAB / DGAB / IS » The Trans Language Primer," August 2021, <https://translanguageprimer.com/agab/>. "AGAB / DGAB / IS » The Trans Language Primer."

Glossary

Gender Dysphoria: A condition that affects many transgender people before they transition (begin living as their authentic selves). It describes a sense of unease regarding the mismatch between assigned sex and gender identity — and it can occur at any point during life, from childhood to adulthood. Left untreated, gender dysphoria can lead to severe emotional and psychological distress.¹⁹

Gender Expression: External appearance of one's gender identity, usually expressed through behavior, clothing, haircut, and/or voice. It may or may not conform to socially defined behaviors and characteristics typically associated with the sex assigned to an individual at birth.

Gender Fluid: A person whose gender identity and presentation shifts or is not fixed.

Gender Identity: An individual's concept of self as male, female, a blend of both, or neither. One's gender identity can be the same or different from their sex assigned at birth. An individual's gender identity may be consistent for their whole life or may change over time.

Gender Minority: Individuals whose gender identity (man, women, another gender identity) or expression (masculine, feminine, another gender expression) is different from their sex (male, female) assigned at birth. This term is often used in contrast to the gender majority, which are people who identify as the same gender they were assigned at birth (cis men and women).²⁰

Gender Non-Conforming (GNC): A broad term referring to people who do not behave in a way that conforms to traditional or societal expectations of their gender. It also includes people whose gender expression does not fit neatly into any one category. Expectations of gender vary across cultures and have changed over time.

Intersex: People born with a variety of differences in their sex traits and reproductive anatomy. There is a wide variety of difference among intersex variations, including differences in genitalia, chromosomes, gonads, internal sex organs, hormone production, hormone response, and/or secondary sex traits.

LGBTQ+: An acronym commonly used to represent the lesbian, gay, bisexual, transgender, and queer communities. Other variations exist, including LGBT and LGBTQIA (referring to intersex and asexual). They all refer to the communities of people who do not identify as heterosexual, do not identify as cisgender, or do not identify as either.

Misgendering: Attributing a gender to someone that is incorrect or does not align with their gender identity.

Microaggression: A comment or action that subtly and often unconsciously or unintentionally expresses a prejudiced attitude toward a marginalized group member (such as a racial or gender minority).²¹

Non-Binary (NB or Enby): An adjective describing a person who does not identify solely as a man or a woman, but may identify as both, as a combination, and/or as another gender. Many non-binary individuals also identify as transgender, but some do not. Non-binary can also be an umbrella term encompassing identities such as agender, bigender, genderqueer or gender-fluid.

¹⁹ "Glossary of Terms," Human Rights Campaign, n.d., <https://www.hrc.org/resources/glossary-of-terms>; "Transgender and Gender Diverse Pharmacy Resource Guide - HRC Foundation," accessed March 1, 2023, <https://www.thehrcfoundation.org/professional-resources/transgender-pharmacy-guide>.

²⁰ "Terminology | DASH," Centers for Disease Control and Prevention, December 2022, <https://www.cdc.gov/healthyyouth/terminology/sexual-and-gender-identity-terms.htm>. "Terminology | DASH."

²¹ "Microaggression Definition & Meaning - Merriam-Webster," accessed September 8, 2023, <https://www.merriam-webster.com/dictionary/microaggression>. "Microaggression Definition & Meaning - Merriam-Webster."

Glossary

Out: *The status of making one's sexual orientation or gender identity known to others. An individual may choose to be out in some situations (such as among friends), but not others (such as at work).*

Outing: *The act of exposing someone's lesbian, gay, bisexual, or transgender identity to others without their permission.*

Passing: *A term often used to express being seen and treated as cisgender. The term was originally used to talk about Black people who could be perceived and treated as white and continues to be used in both instances today.²²*

Queer: *The term queer can include a variety of sexual orientations and gender identities that are anything except heterosexual and cisgender. In the past, the word queer was used to hurt and insult people. Some people find it offensive, particularly those who remember when the word was used in a painful way. Others use the word with pride to identify themselves. If you are unsure if it is appropriate to use queer to describe a person or a group of persons, ask them what label(s) they use for themselves.*

Sex: *The classification of people as male, female, or intersex, based on physical anatomy, genitalia at birth, and/or karyotyping. One's sex does not determine their gender, gender identity, or gender expression.*

Sex Assigned at Birth: *The sex, male, female, or intersex, that a doctor or midwife uses to describe a child at birth based on their external anatomy.*

Sexual Orientation: *Sexual orientation refers to an individual's attraction to another person romantically, emotionally, and sexually. Common sexual orientations include heterosexual (straight), gay, lesbian, bisexual, and asexual. **Note:** Sexual orientation is different than gender identity. Sexual orientation is about who you want to be with. Gender identity is about who you are. This means that being transgender is not the same thing as being gay, lesbian, or bisexual, although some transgender individuals also identify as gay, lesbian, bisexual, queer, or asexual. Every individual has both a sexual orientation and a gender identity.*

Stealth: *A transgender person choosing to be known (or **Passing**) universally as a cisgender person of their gender. Their transgender status may only be known by a select few in their life.²³*

Trans/Transgender: *An umbrella term for people whose gender identity and/or expression is different from cultural expectations based on their sex classification. Transgender is often abbreviated to trans. Being transgender does not imply any specific sexual orientation. Transgender people may identify as straight, gay, lesbian, bisexual, et cetera.*

Transitioning: *The processes by which an individual changes from one gender to another. There are three general aspects to transitioning: **social** (e.g., name, pronouns, interactions), **medical** (e.g., hormones, surgery), and **legal** (e.g., gender marker, name change). A trans individual may pursue any combination, or none, of these as part of their transition.*

²² "Passing » The Trans Language Primer," August 2021, <https://translanguageprimer.com/passing/>. "Passing » The Trans Language Primer."

²³ "Stealth » The Trans Language Primer," August 2021, <https://translanguageprimer.com/stealth/>. "Stealth » The Trans Language Primer."

Glossary

Two-Spirit: *an intertribal umbrella term that serves as an English-language placeholder for tribally specific gender and sexual orientation identities that are centered in tribal worldviews, practices and knowledges. Tribes have their own specific term for gender statuses. Many go beyond the binary and are part of a holistic view of personhood that encompasses not only gender but also a social and cultural position that shapes and defines all aspects of life. Two Spirit is a way to reference Indigenous identities, practices, and traditions. It is a term that is exclusively used by members of the indigenous community.*²⁴

²⁴ National Academies of Sciences, Engineering, and Medicine, *Measuring Sex, Gender Identity, and Sexual Orientation*, ed. Nancy Bates, Marshall Chin, and Tara Becker (Washington, DC: National Academies Press, 2022), <http://nap.nationalacademies.org/26424>. National Academies of Sciences, Engineering, and Medicine.

METHODOLOGY

The Department acknowledges that the people writing this report are not of trans experience, and thus prioritized listening to, centering, and amplifying TGNCNB voices throughout the report development and writing process. In undertaking this report the Department used a mixed methods approach, incorporating both quantitative data, and qualitative data gained from speaking directly with, and getting feedback from TGNCNB community members.

The law calling for this study directs the Department to report on data that does not exist. The Department tracks national, state and local unemployment rates through the Census Bureau's Current Population Survey. This survey does not ask a respondent's gender identity, only their sex, which means there is no option for a respondent to mark if they are trans, gender non-conforming, non-binary or intersex. As a result, the request to find the employment rate of TGNCNB New Yorkers is not as simple as disaggregating available data. The Census Bureau is now considering adding gender identity to the ACS, another economic indicator survey. Commissioner Reardon wrote a comment to support this effort which can be found in Appendix V.

Methodology

Details on how the employment rate is calculated in the US are available in the box below:

*The primary source to calculate the unemployment rate in the US is the Current Population Survey (CPS). The CPS is a monthly survey conducted jointly by the US Census Bureau and the Bureau of Labor Statistics (BLS). Each month, Census Bureau staff contact about 60,000 households either via phone or in person, and ask questions relating to employment, job-seeking, and non-labor force status (disability status, childcare, etc.).²⁵ This data is collected by **proxy reporting**, where one person in a household is asked about all the people living in their household. In addition to questions about employment, participants are asked their age, race, marital status, educational background, as well as **sex** for themselves and everyone who lives in their household. The criteria for being unemployed are those who satisfy three criteria:*

- 1. Are jobless*
- 2. Are looking for a job*
- 3. Are available for work*

Those with jobs are considered employed. People who have a job but may not be working that week due to vacation, illness, parental leave, taking care of a personal or family matter, are still considered employed. The unemployment rate is the number of unemployed people as a percentage of the entire labor force. These samples are broken down by state and geographic area in order to report out on the unemployment rate for the country, each state, and smaller regions such as cities. Populations not included in the CPS are those living in institutions such as prisons and long-term care facilities.²⁶ Attempts to expand questions on the CPS to include gender identity have been explored. In 2016 the United States Office of Management and Budget (OMB)'s Federal Interagency Workgroup on Measuring Sexual Orientation and Gender Identity (SOGI) released three working papers discussing the lack of SOGI data at the government level. These working papers show a clear need to collect this data, but their recommendations were not acted upon.²⁷

²⁵ "How the Government Measures Unemployment : U.S. Bureau of Labor Statistics," accessed October 5, 2023, https://www.bls.gov/cps/cps_htgm.htm. "How the Government Measures Unemployment."

²⁶ Jessica L Holzberg et al., "Assessing the Feasibility of Asking About Gender Identity in the Current Population Survey: Results from Focus Groups with Members of the Transgender Population" (Washington, DC: Office of Survey Methods Research, U.S. Bureau of Labor Statistics, April 2018), <https://www.census.gov/content/dam/Census/library/working-papers/2018/adrm/rsm2018-05.pdf>. Holzberg et al.

²⁷ "Current Measures of Sexual Orientation and Gender Identity in Federal Surveys," *Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys*, August 2016. "Current Measures of Sexual Orientation and Gender Identity in Federal Surveys."

QUANTITATIVE DATA

To begin researching this report, the Department sought to understand the quantitative data that exists regarding TGNCNB employment experiences to determine if disparities existed between TGNCNB and cisgender New Yorkers.

The [Household Pulse Survey](#) (HPS) conducted by the Census Bureau is a 20-minute online survey, offered for two weeks a month.²⁸ The survey asks about gender identity and employment, but because of the quick turnaround needs of the survey, the response rate is low (especially by Census Bureau-level standards), and it sacrifices much of the statistical framework and significance of larger, more extensive surveys conducted by the Census Bureau.

Another national survey that asks about gender identity and employment is the Center for Disease Control and Prevention's (CDC) [Behavioral Risk Factor Surveillance System](#) (BRFSS) survey.²⁹ BRFSS is an annual telephone survey given throughout the country. Much like HPS, BRFSS asks questions about subjects that can affect a person's health, such as employment, housing, and typical demographic information, including gender. BRFSS is a more robust data source, with a much better response rate than HPS. However, BRFSS still suffers from some of the same statistical significance problems as HPS due to the low response rate among individuals identifying as transgender at the state level.³⁰

For this report, the Department consulted with the State Data Center (the premiere source for Census Bureau information) and New York State's Chief Demographer, to analyze HPS data from December 2022. The 2022 BRFSS was analyzed in conjunction with the NYS Department of Health (NYS DOH)'s Bureau of Chronic Disease Evaluation and Research.

To supplement the experimental data presented by HPS and BRFSS, the Department reviewed the [2021 LGBT Health and Human Services Network's Needs Assessment Survey](#) (The Needs Assessment) and the [2015 US Transgender Survey New York State Report](#) (USTS), which both asked questions regarding gender identity and employment. These targeted population surveys only provide information on the sample that responded, and the results cannot be generalized to the whole population. Still, they provide an opportunity to observe potential patterns and trends.³¹ The Needs Assessment was conducted through a statewide survey, distributed by the New York LGBT Health and Human Services Network (the Network) to its community members, who are part of the LGBTQ+ community. The Network convenes over 60 agencies and organizations that provide services to the LGBTQ+ community including health services, legal services, housing and shelter, safety and violence prevention, and LGBTQ+ community advocacy. The Needs Assessment survey was available online from July through November of

²⁸ Explore more about the Household Pulse Survey here: <https://www.census.gov/data/experimental-data-products/household-pulse-survey.html>

²⁹ Explore more about BRFSS here: <https://www.cdc.gov/brfss/index.html>

³⁰ NYS Department of Health, "2022 New York State Behavioral Risk Factor Surveillance System," Brief (Albany, NY, 2022), https://www.health.ny.gov/statistics/brfss/reports/docs/2022-16_brfss_sogi.pdf.

³¹ Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, "Network Needs Assessment." Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J,.

Methodology

2021.³² The most recent US Transgender Survey with data available at the time of this report's publication was undertaken in the summer of 2015. The USTS provides a detailed look at the experiences of over 27,000 TGNCNB people in all 50 states including 1,779 New Yorkers. The National Center for Transgender Equality conducted another nationwide survey in 2022. A full report is expected by 2024. Visit the [USTS website](#) to receive updates.

QUALITATIVE DATA

While reviewing the limited quantitative data, the Department engaged with TGNCNB stakeholders, including academics in the research field, organizations working in the trans and LGBTQ+ communities, and those who were proponents of the underlying legislation (acknowledgements for stakeholder feedback available at the end of this report). This engagement also provided deeper insight into the lack of reliable quantitative data surrounding TGNCNB employment due to a failure by Federal, State and Local governments to collect information on gender identity. The Department decided to prioritize centering the voices of TGNCNB New Yorkers in its research by committing to collecting robust qualitative data (data that describes qualities, and characteristics, and combines them into themes) for this report.

The Department next undertook a six-month online public comment period from March through September 2023 inviting TGNCNB New Yorkers across the state to share their experiences while seeking employment and while in the workforce. More than 350 TGNCNB New Yorkers shared their stories with the Department. Through these public comments, the Department was able to expand upon the themes gathered through stakeholder engagement. The stories shared by TGNCNB New Yorkers identified the many ways discrimination in the workplace manifests, including through microaggressions, being passed over for promotions, and being denied gender-affirming accommodations. The public comments also illuminated barriers to employment during the job application process and the safety concerns that lead many TGNCNB New Yorkers to be closeted in the workplace.

To obtain a deeper understanding of the employment experiences of TGNCNB New Yorkers, the Department enlisted the help of Zebra Strategies, a consulting firm with experience working with the TGNCNB community and with people of trans experience on their staff. Zebra conducted focus groups and in-depth interviews with TGNCNB New Yorkers. Each focus group centered on a different TGNCNB population: older TGNCNB adults, TGNCNB immigrants, TGNCNB New Yorkers living in rural counties, TGNCNB New Yorkers of color, and TGNCNB New Yorkers living in metropolitan or city centers. Following the focus groups, in-depth interviews (one in each category) took place, also led by Zebra. The Department did not participate in the focus groups or in-depth interviews (IDIs) to ensure participants felt comfortable sharing their experiences without government representatives present. The focus groups and interviews expanded on the intersectional challenges faced by TGNCNB people of color, the importance of cultural competency around gender toward achieving lasting equity, and generational differences within the TGNCNB community.

³² Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, "Network Needs Assessment." "Network Needs Assessment." Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J., "Network Needs Assessment."

RESEARCH FINDINGS

The findings below use quantitative data to establish the existence of employment and income disparities for TGNCNB individuals in New York. These disparities are then analyzed using qualitative research to pinpoint the barriers to employment that persist for TGNCNB New Yorkers.

QUANTITATIVE DATA

DEMOGRAPHICS

The below outlines demographics from the 2022 BRFSS. The estimated number of respondents who identified as cisgender was 98.1%, with 1.2% identifying as transgender. Those classified as transgender by BRFSS described their current gender as different from their sex assigned at birth or chose the category transgender in response to the gender identity question. Of note, only 34.2% of the transgender population in New York identifies as White (non-Hispanic) compared to 53.0% of the cisgender population. The intersection of race and gender will be essential to better understanding the employment experiences of TGNCNB New Yorkers.

A more significant proportion of trans New Yorkers, 66.8%, live in the New York City and Long Island region of the state, compared to 57.1% of cisgender New Yorkers. New York City has the highest cost of living in the state; given the likelihood of lower incomes and lower employment, TGNCNB New Yorkers clustered in the NYC metropolitan area may be even more vulnerable to experiencing poverty. Improving employment outcomes for this population is critical.

Table 1: 2022 BRFSS Survey
New York State Demographics by Gender³³

	Cisgender	Transgender*
Age (years)		
18-24	10.6%	19.5%
25-34	17%	16.7%
35-44	16%	24.2%
45-54	14.7%	14.9%
55-64	17.7%	10.8%
65+	23.8%	14%
Race/ethnicity		
Black, non-Hispanic	13.9%	13.8%
Hispanic	19%	27.6%
Other race or multiracial, non-Hispanic ³⁴	14%	24.4%
White, non-Hispanic	53.0%	34.2%
Region of state		
NYC and Long Island ³⁵	57.1%	66.8%
Rest of regions	42.9%	33.2%

*Note: These data are experimental, and users should take caution using estimates based on subpopulations.

For the full BRFSS memo used for this report, go to Appendix III.

UNEMPLOYMENT

The limited quantitative data that exists regarding employment among TGNCNB individuals in New York and throughout the United States consistently points to a higher frequency of

³³ NYS Department of Health, "NYS BRFSS 2022."

³⁴ Includes respondents identifying as Asian, Pacific Islander, Native American or Multiracial, and non-Hispanic

³⁵ Includes respondents from the 5 boroughs of New York City, Nassau and Suffolk counties

Research Findings

unemployment than that experienced by the general population, but none of the data points below should be considered a true unemployment rate, as all the data sources have limitations. For reference, the official unemployment rate from the census for NYS in December 2022 was 4.3%.³⁶

Table 2 below shows that for December 9 – December 19, 2022, of those who identified as trans on the HPS in New York State, 30.3% lost employment income in the preceding four weeks, compared to 11.9% of the general population at the same time. This data is not statistically sound enough to be thought of as accurate.³⁷ The data presented for the entire United States for same time period is more reliable. Approximately 22.2% of the estimated 1.7 million transgender individuals in the United States who responded to this survey experienced a loss of employment income (either personally or by anyone in their household) in the preceding four weeks, compared to 11.5% of the overall United States population.³⁸

TABLE 2: Week 52 Household Pulse Survey: December 9 - December 19 - 2022
Population 18 Years and Older
New York State and United States

	Total Population	Transgender
NYS % Loss of Employment	11.9%	30.3%*
US % Loss of Employment	11.5%	22.2%

****Note: These data are experimental, and users should take caution using estimates based on subpopulations.***

The 2022 BRFSS asked individuals to identify as employed or self-employed, unemployed, and not in the labor force.³⁹ BRFSS data is more reliable in general than the HPS data, as its response rate is much higher. However, the low response rate among trans individuals means that those percentages may not be statistically sound.⁴⁰

Table 3: 2022 BRFSS Survey

³⁶ "NYS Economy Added 22,100 Private Sector Jobs in December 2022," *New York State Department of Labor*, January 2023, <https://dol.ny.gov/system/files/documents/2023/01/nys-economy-added-22100-private-sector-jobs-in-december-2022.pdf>. "NYS Economy Added 22,100 Private Sector Jobs in December 2022."

³⁷ The Census Bureau considers estimated coefficients of variation (the standard error divided by the estimate) over 30% to indicate serious data quality issues related to sampling error. The estimated coefficient of variation of the transgender population estimate in NYS for week 52 is 63.4%, and the employment loss estimate for the transgender population has an associated coefficient of variation of 96.2%, meaning these estimates are highly unreliable.

³⁸ Since the coefficient of variation is less than 30% for the US number, this is a more reliable statistic.

³⁹ NYS Department of Health, "NYS BRFSS 2022." Albany, NY. 2022.

⁴⁰ Due the small size of the transgender sample, the 95% confidence interval for the transgender population estimates for each data point in this data set is large. Generally, it is a best practice not to meaningfully compare data when a confidence interval for one point is so broad it includes the estimate for the other data set. Readers should use caution when viewing this data.

Research Findings

New York State Employment by Gender⁴¹

	Cisgender	Transgender*
NYS	98.1%	1.2%
Employed/Self-employed	56.4%	48.6%
Unemployed	7%	14.5%
Not in the labor force⁴²	36.6%	36.9%

****Note: These data are experimental, and users should take caution using estimates based on subpopulations. For the full BRFSS memo used for this report, go to Appendix III.***

As seen in Table 3, 56.4% of the cisgender population was employed in 2022 versus 48.6% of the transgender population. The BRFSS data also shows that only 7% of the cisgender population was unemployed versus 14.5% of the transgender population. Similar numbers of cisgender and transgender people were out of the labor force: 36.6% of the cisgender population versus 36.9% of the transgender population.

The Needs Assessment found at all levels, work, health, mental health, income, and education outcomes, were overall worse for TGNCNB respondents than their cis counterparts.⁴³ 21% of trans men, 14% of trans women, and 21% of GNCNB (gender non-conforming and non-binary) people reported being unemployed during the survey period, compared to 6% of cis LGB women and 9% of cis LGB men.⁴⁴ For TGNCNB respondents who were employed, the percentage that had experienced job-related issues was higher than their cisgender counterparts, with 16.2% of trans men, 14.2% of trans women, and 15.4% of GNCNB people experiencing job-related issues compared to 10.9% of cis women and 7.6% of cis men.

Six years before the Network's Needs Assessment, the 2015 USTS found that 18% of TGNCNB respondents identified as unemployed and 37% lived in poverty. For comparison, at the same time, the US unemployment rate was 5%, and the US poverty rate was 12%.⁴⁵

Based on this data from 2015 through 2022, there appears to be a history of unemployment among the TGNCNB population. The data collected by the USTS in 2015 predates the passage

⁴¹ NYS Department of Health, "NYS BRFSS 2022."

⁴² Includes respondents indicating they are homemakers, retired, students or unable to work.

⁴³ Please note that the Needs Assessment data is looked at here divided by gender identity, and not sexual orientation. The Needs Assessment surveys people across the LGBTQ+ spectrum. Most respondents are cisgender, and identify as LGBQ+, so not a sexual orientation that is heterosexual (straight). This is a major difference between the BRFSS and HPS, as most of the general population identified as cisgender in these surveys is assumed to be heterosexual.

⁴⁴ Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, "Network Needs Assessment." Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J,.

⁴⁵ National Center for Transgender Equality, "2015 US Transgender Survey: New York State Report" (Washington, DC: National Center for Transgender Equality, October 2017), [https://transequality.org/sites/default/files/USTS%20NY%20State%20Report%20\(1017\).pdf](https://transequality.org/sites/default/files/USTS%20NY%20State%20Report%20(1017).pdf). National Center for Transgender Equality.

Research Findings

of GENDA, but the Network’s Needs Assessment survey and BRFSS collected New York State data after GENDA was in effect. Despite expanded anti-discrimination protections in the workplace, unemployment among the TGNCNB population continues to exceed unemployment experienced by the general population.

INCOME

In 2015, the USTS found that 37% of the TGNCNB respondents from New York were living in poverty despite the national poverty rate being 12%. The data obtained from the 2022 BRFSS indicates that in the seven intervening years, low incomes are still more prevalent among the trans population in New York than their cis counterparts.

As Table 4 demonstrates, BRFSS data found that 31.9% of the transgender population in New York State had an annual household income of less than \$25,000. In contrast, only 12.9% of the cisgender population had incomes below \$25,000 annually. In addition to having a more significant share of its population experiencing low annual incomes, the transgender population also has a lower percentage of individuals with higher incomes of \$50,000 or more annually. 19.7% of trans respondents had an annual household income of \$50,000 or more, while 41.6% of the cisgender population had incomes of \$50,000 or more.

Table 4: 2022 BRFSS Survey
New York State Annual Household Income by Gender⁴⁶

	Cisgender	Transgender*
<\$25,000	12.9%	31.9%
\$25,000 - \$49,999	17.7%	17.5%
\$50,000 and greater	41.6%	19.7%
Missing	27.7%	31%

**Note: These data are experimental, and users should take caution using estimates based on subpopulations.
For the full BRFSS memo used for this report, go to Appendix III.*

The Network’s Needs Assessment supports the data collected by BRFSS. As shown in Table 5, cisgender male respondents had the lowest percentage of individuals with an annual income between \$1 and \$25,000 at only 13%. In contrast, of those who responded to the survey, 41% of trans women, 33% of trans men, 37% of GNCNB individuals, and 39% of those with multiple or other genders reported incomes between \$1 and \$25,000 annually.⁴⁷ Lower incomes, in

⁴⁶ NYS Department of Health, “NYS BRFSS 2022.”

⁴⁷ Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, “Network Needs Assessment.” Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J,.

Research Findings

addition to lower percentages of employment, are impacting TGNCNB individuals in New York, leaving them vulnerable to experiencing higher rates of poverty.

Table 5: 2021 Network Needs Assessment Community Survey
Annual Household Income by Gender Identity⁴⁸

Income	Cisgender male	Cisgender female	Transman	Transwoman	Genderqueer, gender non-conforming, or non-binary	Multiple or other genders
\$0	3%	3%	19%	4%	12%	17%
\$1-\$25K	13%	21%	33%	41%	37%	39%
\$25K-\$50K	21%	27%	23%	22%	25%	17%
\$50K-\$75K	21%	21%	14%	11%	18%	12%
\$75K-\$100K	15%	14%	5%	13%	5%	7%
\$100K+	27%	13%	6%	8%	3%	7%

For the full Needs Assessment memo used for this data, go to Appendix IV.

⁴⁸ Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, "Network Needs Assessment." "Network Needs Assessment." Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J., "Network Needs Assessment."

EDUCATION

Traditionally, education has been viewed as an important means to achieve higher incomes and better employment. Both BRFSS and the Network’s Needs Assessment indicate that TGNCNB New Yorkers are more likely than cisgender New Yorkers to leave high school before graduating.

As shown in Table 6, based on BRFSS data, only 12.3% of cisgender New Yorkers have less than a high school education. Conversely, 33.1% of transgender New Yorkers did not graduate from high school. Only 19.5% of transgender New Yorkers have a college degree while 35.5% of cisgender New Yorkers graduated from college.

Table 6: 2022 BRFSS Survey
New York State Education Level by Gender⁴⁹

	Cisgender	Transgender*
Less than high school (HS)	12.3%	33.1%
High school or GED	26%	29.5%
Some post-HS	26.2%	18%
College graduate	35.5%	19.5%

**Note: These data are experimental, and users should take caution using estimates based on subpopulations. For the full BRFSS memo used for this report, go to Appendix III.*

⁴⁹ NYS Department of Health, “NYS BRFSS 2022.”

Research Findings

Table 7, based on the Network Needs Assessment survey findings, shows that of those that responded to the community survey, 1% of cisgender men did not graduate high school compared to 12% of trans men. Those identifying as multiple or other genders had the highest number of respondents who did not complete high school at 15%. Interestingly, the Needs Assessment does show the percentage of individuals receiving college degrees is consistent across gender identities. Despite degree attainment, however, TGNCNB respondents indicated lower incomes and employment in the Needs Assessment, implying advanced education may not be enough to help TGNCNB individuals achieve economic stability.

Table 7: 2021 Network Needs Assessment Community Survey
Highest Education Level Achieved by Gender Identity⁵⁰

Education Level	Cisgender male	Cisgender female	Transman	Transwoman	Genderqueer, gender non-conforming, or non-binary	Multiple or other genders
Less than high school	1%	2%	12%	4%	10%	15%
High school	5%	5%	12%	14%	9%	7%
Some college	12%	13%	24%	21%	15%	17%
Associate's or technical degree	7%	10%	10%	15%	6%	7%
Bachelor's degree	36%	33%	18%	27%	32%	30%
Graduate or professional degree	37%	38%	23%	19%	28%	24%

For the full Needs Assessment memo used for this data, go to Appendix IV.

⁵⁰ Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, "Network Needs Assessment."

ID/DOCUMENTATION

Identity documents are an essential part of applying for a job. For members of the TGNCNB community, having identity documents that do not correspond to one's identity can create significant barriers when applying for jobs, and can create additional challenges when employed. In 2015, only 12% of New York respondents to the USTS reported that all their IDs had the name and gender they identified with. 28% of New York respondents who have not changed their legal name, and 24% of those that have not updated the gender on their IDs, reported they could not afford the change (completing a name change through the New York State Court System costs \$210). Over one third of New York respondents, 34%, stated that after showing an ID with a name or gender that did not match their gender presentation, they were verbally harassed, denied benefits or service, asked to leave, or assaulted.⁵¹

Responses to the 2021 Network Needs Assessment indicate that achieving legal identification that aligns with one's gender identity continues to be a challenge for TGNCNB individuals. Of those that responded to the survey, only 19% had tried to change the gender on their birth certificate, while 33% of TGNCNB respondents had not, but would like to change the marker.⁵² The challenges surrounding legal identification can put TGNCNB people at increased risk of employment discrimination, as well as lower employment and income rates. For some TGNCNB individuals, entering the job market without these affirming forms of identification is not worth the risk, and the labor market suffers from their decision not to participate in the labor force.

⁵¹ Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J,."

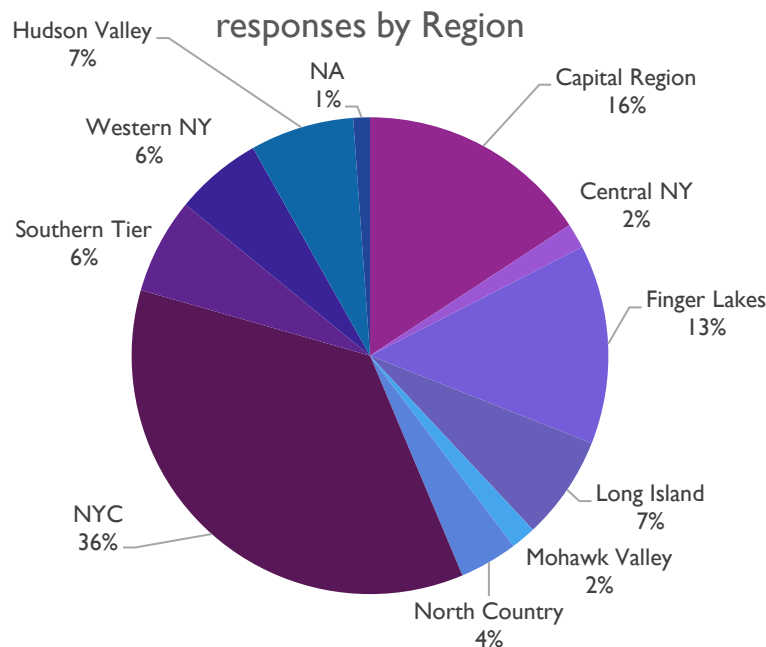
⁵² Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, "Network Needs Assessment."

QUALITATIVE DATA

Numbers “can validate experiences, but experiences should stand for themselves as evidence of a problem.”⁵³

At the heart of understanding the experiences of TGNCNB New Yorkers in the workplace are the individual stories shared with the Department throughout the research process. For illustrative purposes, figures A to C below highlight the distribution by age, race, and regions of the state for respondents to the Department’s call for public comment. These figures do not represent the whole TGNCNB population in New York State.

Figure A: Public Comment Responses by Region



⁵³ Deena Fidas and Liz Cooper, “A Workplace Divided: Understanding the Climate for LGBTQ Workers Nationwide” (Human Rights Campaign Foundation, June 2018), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/files/assets/resources/AWorkplaceDivided-2018.pdf>.

Figure B: Public Comment Responses by Age

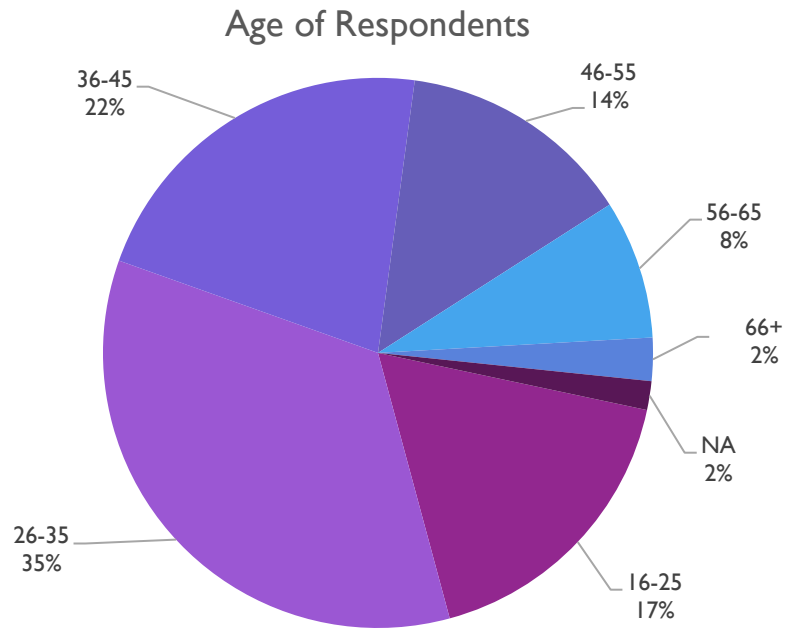
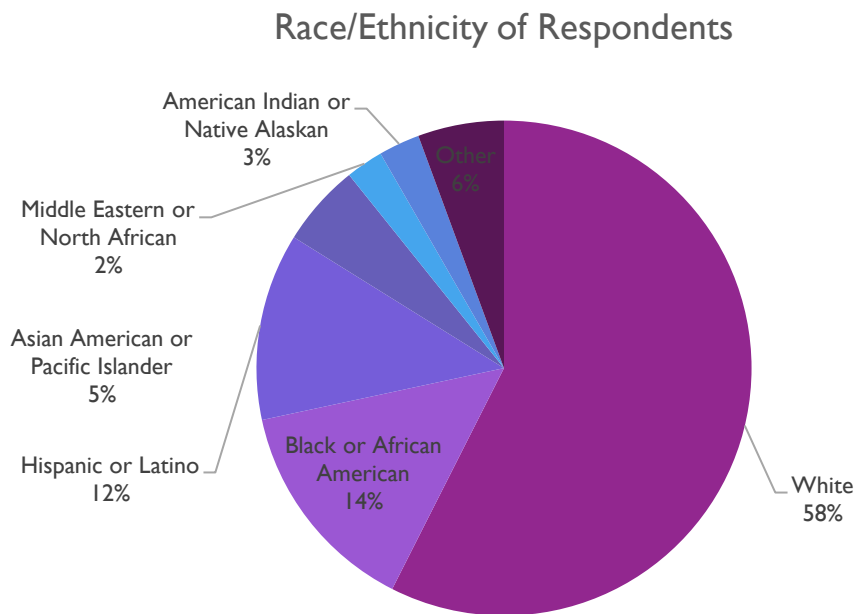


Figure C: Public Comment Response by Race



Research Findings

What follows are descriptions of the most prevalent topics throughout the public comments, focus groups, IDIs, and stakeholder meetings, followed by the comments received from these outlets. While the data does not encompass all TGNCNB New Yorkers' experiences, it does offer a rich understanding of what it means to be employed as a TGNCNB New Yorker and what barriers prevent TGNCNB New Yorkers from experiencing positive employment outcomes.⁵⁴ All the comments quoted below are examples of individual experiences as related by the individual to the Department. The comments have been left unedited, including comments of alleged discrimination and harassment. These comments do not cover every lived experience among TGNCNB New Yorkers but are a snapshot of what respondents shared with the Department.

A Note About Gender Identity in the Qualitative Data

As discussed earlier in this report, gender includes many identities beyond man and woman. The Department's public comment form included an open field for gender to allow people to identify however they wished. There were 114 different gender identities entered. Each person's gender is listed next to their comment as they entered it. This includes people who identify as male and female without any trans signifier but are of trans experience.

DISCRIMINATION

Discrimination in the workplace is felt widely by the TGNCNB population. "Employment discrimination and workforce exclusion narrow pathways to economic security...contributing to elevated rates of poverty, unemployment, use of public benefits and housing instability."⁵⁵ In 2015, the USTS asked several questions regarding employment experiences. In New York State, 15% of respondents reported losing a job at some point in their lifetime due to their gender identity or expression, and 26% reported being fired, denied a promotion, or denied a job they applied for within the last year because of their gender identity or expression. In addition to difficulty finding and keeping a job due to discrimination, respondents faced significant mistreatment in the workplace, making it difficult for TGNCNB individuals to come to work. 24% reported abuse due to gender identity, including being forced to use a restroom that did not match their identity, being told to present as a gender different from their gender identity to keep their job, or having their transgender status disclosed by a boss or coworker without their permission.⁵⁶

Qualitative data collected for this report in 2023 indicates that in the eight years since the USTS was conducted, employment discrimination remains a common experience for TGNCNB New Yorkers. Detailed below are the varied and nuanced ways bias manifests for TGNCNB

⁵⁴ Please note, that all individuals quoted consented to having their comments shared. The race and gender identity included with each quote were self-identified by the individual. In instances where an individual identified as simply male or female, it was clear from their comments that they were of trans experience.

⁵⁵ Medina and Mahowald, "Discrimination and Barriers to Well-Being."

⁵⁶ National Center for Transgender Equality, "USTS NYS Report."

Research Findings

individuals, as conveyed to the Department through public comments, group discussions, and interviews.

PROMOTIONS, TERMINATIONS, AND STAGNANT WAGES

The most recognizable instances of alleged employment discrimination are those that involve being fired, denied a promotion or a raise, or denied a job due to an individual's TGNCNB identity. Formal legal protections specifically for the TGNCNB population against discrimination in the workplace have only been added to New York State law in recent years; as a result, while this behavior is prohibited, years of normalized discrimination may have contributed to a culture that is permissive of such misbehavior.⁵⁷ It can be difficult to prove discrimination based on gender identity and expression, leaving TGNCNB individuals with little recourse when experiencing bad employment outcomes due to their gender identity. Examples of public comments and focus group and IDI remarks alleging discrimination in the workplace include the following:

“I was denied a promotion by a manager who regularly misgendered me, that was instead offered to a cisgender peer with substantially less experience. I was asked to train the person who was promoted. When I asked for an explanation, the reasoning had nothing to do with my productivity or effectiveness at work - my manager claimed I “wasn’t managerial” and didn’t explain what that meant or how to improve.”

– Public Comment submitted to NYS DOL from Nonbinary Individual, White, Capital Region

“I transitioned on the job I have now. I am treated completely differently now. I am denied promotions. Work has been taken away from me. I am not given new opportunities. I am not invited to be on workplace teams. I have been sexually harassed, and my boss and HR departments ignored the issue. This is completely different than how I was treated before I transitioned in this job.”

– Public Comment submitted to NYS DOL from Transgender Female, White, Southern Tier

“I have been outed and was let go from my job. When I tried to find new employment the previous employer lied about why I was let go and made it extremely difficult to find another job. I have had to tolerate queer-phobic work environments and hostile comments from bosses and employees.”

– Public Comment submitted to NYS DOL from Trans Male, White & Hispanic/Latino, Hudson Valley

⁵⁷ Human Rights Foundation, “Dismantling a Culture of Violence: Understanding Violence Against Transgender and Non-Binary People and Ending the Crisis,” HRC Digital Reports, October 2021, https://reports.hrc.org/dismantling-a-culture-of-violence?_ga=2.246870912.541212263.1695849940-1420953436.1677863823. Human Rights Foundation.

Research Findings

“When my last job found out I was transgender, my hours were cut and I was eventually laid off”

– Public Comment submitted to NYS DOL from Transgender Male, Black/African American & Hispanic/Latino, Long Island

“After I went on leave for my [gender affirming] surgery, they did not schedule me for any additional shifts and removed my access from all employee communications and chats, basically firing me without ever contacting me directly. I was never informed that I was let go.”

– Public Comment submitted to NYS DOL from Gender queer and non-binary individual, White & Black/African American, Hudson Valley

“We are misgendered, passed up for promotions, our pay is less than coworkers who do the same job, but [we] work 3x harder than them.”

– Urban Dweller Focus Group conducted on behalf of NYS DOL, Transgender Female, White

HARASSMENT

In addition to experiencing alleged discrimination through the denial of employment or advancement opportunities, TGNCNB individuals reported extensively on harassment they experienced based on their TGNCNB identity. This reported harassment included acts of violence, sexual harassment, invasive questions, jokes, inappropriate touching and other actions that created hostile work environments. While experiencing this harassment, many TGNCNB individuals felt that their employer or human resources division did not adequately address their claims. Those working public-facing jobs in the service industry, or any job that involves interacting with individuals outside the workplace as clients or students, also described facing harassment from the public and a lack of support from their workplaces when this harassment occurred. Examples of public comments and remarks from focus groups and IDIs alleging harassment in the workplace include the following:

“I work in a rural area. The students make it my issue. I have a student who refuses to interact with me and refuses to answer me in any way, shape, or form...I have to be on my best behavior, and if I'm not at least trying to reach out to these students then there are negative consequences for them down the road. So I have to be the best that I can and put on a happy face.”

– Rural Resident Focus Group conducted on behalf of NYS DOL, Transgender Female, White

Research Findings

“In one college in which I taught, I was pushed downstairs, laughed at when I fell and sexually harassed and assaulted. The head of security said it was my fault because of my ‘presentation’.”

- Public Comment submitted to NYS DOL from Transgender Female, White, New York City

“At my last job, my boss pressured me into coming out to him in a one-on-one conversation. Days later, [he] proceeded to start outing me to other people in the office... During that one-one-one conversation, he said I “don’t look trans” and asked if my boyfriend is bisexual. It was deeply uncomfortable. He was the executive director, so I was too afraid to come forward and complain.”

- Public Comment submitted to NYS DOL from Transmasculine Individual, White, Capital Region

“My coworkers are frequently inappropriate, either asking questions about my sex life, identity, planned surgeries etc. Often they feel the need to comment on how much I do or do not pass. I have several coworkers who constantly misgender me despite that they have never known me as my AGAB. My supervisor stands up for me but often makes micro-aggressive comments, calling me pet names (“honey”) like she does my female coworkers but not my male coworkers.”

- Public Comment submitted to NYS DOL from Male (trans), White, Finger Lakes

“I have to avoid public facing jobs, not just because of the employers but the people you may encounter when you are doing that job.”

- Immigrant Focus Group conducted on behalf of NYS DOL, Transgender Female, Middle Eastern/North African

MICROAGGRESSIONS

Microaggressions and other forms of hostility and discrimination are persistent in the employment experiences of TGNCNB New Yorkers. These can be conscious or unconscious acts that leave a TGNCNB employee feeling less supported, isolated, ostracized, or unequal. Misgendering an individual or refusing to use a TGNCNB person’s name and pronouns is a common way this form of discrimination manifests. There are also instances in which an employer refuses to alter a TGNCNB person’s nametag or dress code despite having no legal reason not to. Failing to protect an employee’s gender identity by outing them to coworkers or clients is also a frequent form of discrimination. Examples of public comments and focus group and IDI remarks alleging microaggressions and discrimination include the following:

Research Findings

“I have repeatedly had my legal name, which is different than the name I go by at work, shared on company-wide emails and newsletters, including when I am being recognized for achievement.”

– Public Comment submitted to NYS DOL from Nonbinary/Genderqueer Individual, White & Ashkenazi Jew, Capital Region

“At my most recent previous job, management refused to update my name in the time clock system even when presented with the signed court order stating my name change, in flagrant disobedience of New York State laws regarding legal name changes.”

– Public Comment submitted to NYS DOL from Trans Male, White, Hudson Valley

“Our HR Manager...regularly misgenders me, and tends to do it as a way to throw me while I'm advocating for my coworkers. I also feel a psychic weight because she's one of the few people at the company who knows my deadname, and she doesn't seem to understand why keeping my deadname private is important to me.”

- Public Comment submitted to NYS DOL from Non-binary Individual, White & Middle Eastern/North African, New York City

“I get misgendered and called bro, and laughed and asked "what's wrong with me calling you bro" they find any other way especially around here in little valley to discriminate and not get in trouble.”

- Public Comment submitted to NYS DOL from Fae Transfemme Individual, White & Romani, Western New York

“I was fired from a temp position after two weeks because my boss instituted a "no nicknames" policy and insisted everyone use "the name on their birth certificate." I stayed at that job as long as i could because I'd already been unemployed for months.”

- Public Comment submitted to NYS DOL from Trans Man, Non Binary, White, Capital Region

“At one job, I was told by an older supervisor (I was in my late twenties and my supervisor was in her fifties) that I was ageist toward her because I expected her at 50 something to understand pronouns.”

- Public Comment submitted to NYS DOL from Gender Fluid Individual (They/Them), White, Capital Region

Research Findings

“I came out to the chairman of the company. The first thing he said was ‘Do you suck d*?’ but could I say something? ‘No!’ What could I say? And how could I prove it? And then the same person, a few years later, we were going to a meeting, and he said, ‘You have to call them and tell them you look different, why you look different, and what you’re doing.’”***

– Rural Resident Focus Group conducted on behalf of NYS DOL, Transgender Female, White

“The Dave Chappelle special [where he makes anti-trans remarks] was brought up in a jovial way in staff meetings multiple times. I brought up that it feels violent and [a coworker passed] over me to talk to everyone else about how they felt about it. When I raised this concern, I was told I was being sensitive.”

– Urban Dweller Focus Group conducted on behalf of NYS DOL, Transgender Male, Black

PUBLIC AND CLIENT DISCRIMINATION

Individuals expressed that they found that certain fields and industries are more affirming than others. Workers employed by small businesses, in public facing positions working on behalf of clients, and in traditional “blue collar” physical labor-focused positions found that their industries struggle to provide safe workplaces for TGNCNB New Yorkers. Many TGNCNB individuals seek employment with LGBTQ+-serving organizations or leadership in the hopes of finding affirming experiences. Despite this, the TGNCNB community expressed experiences of discrimination within the larger gay community from LGBQ+ leadership and LGBTQ+ serving organizations. Examples of public comments alleging discrimination in the workplace include the following:

“Previous manager was a gay man and he did offer us to be more open (with pronouns on our pins and pride flags on our pins). But because he was older and set in his ways, getting him to understand being transgender or GNC was difficult to say the least. He seemed to prefer heterosexual-passing people.”

- Public Comment submitted to NYS DOL from Demigirl/NonBinary, Hispanic/Latinx, Long Island

“I was trying to be in the business world. When they saw that I was gay or trans, I wasn’t called back for the job. I had to get the McDonalds and White Castle jobs. The people there were diverse. It was more laid back because they weren’t high school or college graduates. They weren’t that educated, so it was easy to mix with them.”

– People of Color Focus Group conducted on behalf of NYS DOL, Transgender Female, Black

Research Findings

“I have noticed that in a small-business restaurant environment, the amount of coworkers who are blatantly unfriendly or disrespectful towards me increases. In a workplace with more corporate structure, I have found that issues can be handled more easily through an HR department... I often feel that I must work significantly harder than cis employees to be recognized for my efforts. [S]upervisors have been ignorant to the fact that it's rude to have my legal name posted on the wall, and I have had to address it every time I got a new job.”

– Public Comment submitted to NYS DOL from Transgender Woman, White, Finger Lakes

“I feel that sometimes, when you get these jobs, even in the LGBTQ community, there's always some kind of bias. Even in our own community, people feel that trans is not right. We have people who are gay and they just don't see trans people. Even the respect with the pronouns when you get a new job, even in these organizations. There isn't enough education, and people don't want to learn. They think it's something made up.”

– Urban Dweller Focus Group conducted on behalf of NYS DOL, Transgender Female, Black

ANTI-TRANS RHETORIC IN THE WORKPLACE

Several individuals spoke about how they feel unsafe in the workplace due to frequent anti-trans “water cooler” discussions or the prevalence of anti-trans views being projected by leadership directly or indirectly. This anti-trans rhetoric and hate speech manifested itself through “locker room talk,” keeping news stations that espouse anti-trans views on in the workplace, and having coworkers voice anti-trans sentiment to a TGNCNB co-worker who was not out at work. The national anti-trans discourse is creating an increasing feeling of insecurity among TGNCNB workers as well. Examples of public comments alleging anti-trans rhetoric in the workplace include the following:

“At my last job, as a janitor, I was treated like a cis woman. As far as I know, nobody knew I was trans. But it was a constant source of stress...Once I overheard one of the office workers using hateful anti-trans language and that was chilling.”

- Public Comment submitted to NYS DOL from Transgender Woman, White & Hispanic, Capital Region

“Derogatory jokes and comments are usually said in whispers and unfortunately shared with me because people don't realize how I identify. I feel I put myself at risk by telling these people that they're being stupid, but I also know that there are other transgender people in my company and hiding just like me that needs someone to speak up for them”

– Public Comment submitted to NYS DOL from Non-Binary Individual, White, New York City

Research Findings

“At my workplace however, our common area TVs regularly show news promoting anti-trans rhetoric, so it has made me hesitant to discuss the subject or share my discomfort with site leadership”

– Public Comment submitted to NYS DOL from Nonbinary Individual, Hispanic/Latinx, Finger Lakes

“At my previous job my colleagues would often make bathroom jokes, call transgender clients “it”, and laugh and disrupt mandatory training regarding LGBTQ+ topics. The job involved helping children, some of whom were transgender, and those transgender children were always misgendered by colleagues and admin.”

- Public Comment submitted to NYS DOL from Non-binary trans masculine individual, White, Capital Region

ADDITIONAL BARRIERS FOR TGNCNB PEOPLE OF COLOR

The Department’s online public comment form asked generally about employment experiences both while applying for a job and while in the workplace. A few comments offered insight into the deeper challenges facing TGNCNB individuals of color. Those that described racial discrimination in addition to TGNCNB discrimination noted that an atmosphere of both racist and transphobic sentiments prevented them from speaking up regarding discrimination they endured. They also expressed their feeling that the similar roles of racism and gender discrimination in maintaining traditional power structures make it less likely to expect action to prevent discrimination from occurring. Examples of public comments identifying additional barriers in the workplace include the following:

“Going to HR is no comfort, since several members have not only been transphobic but also indulging in openly racist jokes. There’s also been several anti-semitic comments made over the years.”

- Public Comment submitted to NYS DOL from Non-Binary Individual, White, New York City

“Some coworkers especially in management see me as a threat to their positions, and [I am] vocal about what is not okay in the environment, [I’m] willing to have hard conversations, speak up [about] being used instead of value[d]. I call out tokenism, antiblackness, and hierarchies that are harming the workers. I also know that the privileges I have can help open the doors for others like myself. I am not cis passing so that can be challenging to navigate misgendering and people in my work environment not knowing how to approach me.”

- Public Comment submitted to NYS DOL from Trans Woman, Black/African American & Hispanic/Latina, New York City

The impact of race on gender-based discrimination was a topic the Department sought to cover more deeply in focus groups and in-depth interviews. Research consistently finds that trans

Research Findings

women of color experience more significant instances of discrimination, lower employment levels and higher poverty levels compared to white TGNCNB individuals nationwide. A 2021 McKinsey Quarterly report found income differences among TGNCNB individuals to be “exacerbated at the crossroads of intersectionality” across the country.⁵⁸ A 2018 New York City-based survey by the Anti-Violence Project on TGNCNB experiences of systemic employment discrimination found that TGNCNB people of color with a bachelor’s degree experience significantly lower incomes than white TGNCNB individuals with the same degree.⁵⁹ The Biden Administration stated in 2021 that anti-transgender violence disproportionately harms and kills transgender women and girls of color.⁶⁰ A 2021 Nationwide Report by the Human Rights Council found that while all TGNCNB people face “devastating levels of discrimination and harassment in the workplace” there are even higher barriers for “Black transgender people, who have double the unemployment rate of all transgender people, and four times that of the US general population.”⁶¹

Because of this information, and because the law mandating this report called for a deeper analysis of the impact of race and ethnicity on barriers to employment for TGNCNB people, the Department hosted, through a consultant, focus groups dedicated to the experiences of TGNCNB people of color and TGNCNB immigrants. All focus groups, except for the one made up of rural residents, had a majority of participants who identified as people of color. Racial discrimination is an important factor in the lives of the TGNCNB participants from these focus groups, impacting their education, employment, income, and overall wellness.

TGNCNB participants of color in the Department’s focus groups spoke about leaving home at a young age, not finishing school, and experiencing poverty, all of which has an impact on future employment. For some, racial discrimination is more pronounced than discrimination based on their TGNCNB identity because they are perceived by others as cisgender or work in an industry that is accepting of gender diversity, but not racial diversity. Others spoke of a fear of being tokenized as a diversity hire because as a TGNCNB person of color they “check a lot of boxes.” Examples of public comments and focus group remarks identifying additional barriers in the workplace include the following:

⁵⁸ David Baboolall et al., “Being Transgender at Work,” *McKinsey Quarterly*, November 2021, <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/being-transgender-at-work>. Baboolall et al.

⁵⁹ Audacia Ray, Lolan Sevilla, and Teal Inzunza, “Individual Struggles Widespread Justice: Trans and Gender Nonconforming Peoples’ Experiences of Systemic Employment Discrimination in New York City” (Anti-Violence Project, December 2018), <https://avp.org/employment-discrimination/>. Ray, Sevilla, and Inzunza.

⁶⁰ The White House, “Memorializing Transgender Day of Remembrance: A Report from the Interagency Working Group on Safety, Opportunity, and Inclusion for Transgender and Gender Diverse Individuals,” Government (Biden-Harris Administration, November 2021), https://www.whitehouse.gov/wp-content/uploads/2021/11/Report_Memorializing-Transgender-Day-of-Remembrance_FINAL-002.pdf. The White House.

⁶¹ Human Rights Foundation, “Dismantling a Culture of Violence.” Human Rights Foundation.

Research Findings

“When I started to transition, my family threw me out of the house...I’m always only accepted for internship positions.”

– People of Color Focus Group conducted on behalf of NYS DOL, Two-Spirit Individual, American Indian/Alaskan Native

“When I started working [as a room cleaner] as a Black trans woman, it was an issue of respect for me. [They treated me as] someone who could do the job, but someone they had to ‘watch’ like I was trying to have a guy in the bathroom or something. [There was a] lack of respect. [I was] never taken seriously. They knew I could do the job. Could I tone it down? Why do I have to stop being who I am to go full-time? To me, it is always being looked at as being viable without having to compromise themselves. If they can do their jobs by being their authentic selves, why the f can’t I?”***

– Older Adults Focus Group conducted on behalf of NYS DOL, Transgender Female, Black

For TGNCNB immigrants, the challenges of seeking both immigration documentation as well as documentation that reflects their gender identity can be overwhelming and makes it extremely difficult to receive work authorization. One focus group and interview participant is seeking asylum due to her gender identity. She spoke at length about the challenges she has experienced, only just receiving work authorization after 20+ months, and not having access to her original identity documents, having fled her country of origin. For her, any attempt to update her legal documentation with her gender identity feels out of reach. She reported:

“I’m an asylum seeker and I’d like to be able to have access [to jobs], so that I don’t have to do stuff like sex work, which I’ve had to do, or other things I’ve exchanged....Our requirements are not met overnight, and it’s always a struggle.”

– Immigrant Focus Group Conducted on behalf of NYS DOL, Transgender Female, Asian

COMPOUNDING BARRIERS

Much like other people searching for employment, TGNCNB New Yorkers through both the focus groups and public comments described other barriers that make it harder to get employed before they even walk into a job interview. According to the UCLA Williams Institute, 30% of TGNCNB people live in poverty, as compared to 21.6% of cis LGBQ people, and 15.7% of cis straight people.⁶² They obtain less education, with 23% never having finished high school, compared to 12.1% of cis straight women. The 2015 USTS report found that 27% of TGNCNB New Yorkers have experienced homelessness at some point in their lives, and 21% stated they

⁶²Bianca D.M. Wilson et al., “LGBT Poverty in the United States,” Williams Institute, accessed April 1, 2023, <https://williamsinstitute.law.ucla.edu/publications/lgbt-poverty-us/>.

Research Findings

experienced housing discrimination in the past year.⁶³ These barriers only further demonstrate the compounded hardships the trans community faces when attempting to enter the workforce.

“I’m currently unemployed, so I am stretching out what little money I have left, and I have to make difficult decisions about my basic needs – what I can and can’t afford. I am constantly stressed out about how much money I have and whether I’ll be able to pay rent. My car broke down because I can’t afford to do basic maintenance on it, and now I have an \$800 bill I can’t pay. It’s impacting my ability to get anything done, and the fact that I don’t have my basic needs covered is really serious. I would like to know that I have these things covered while I am applying for jobs and doing my best.”

– Rural Resident In-depth Interview conducted on behalf of NYS DOL, Transgender Female, White

Health insurance and healthcare access is an issue for everyone, but TGNCNB individuals face additional barriers to getting good and appropriate care. According to the 2015 USTS, trans people are less likely to have health insurance than the general public, and 26% of respondents in NYS reported experiencing a health insurance-related problem in the past year due to being trans; either for gender-affirming care or simply getting any medical care while being trans.^{64,65} Respondents indicated that finding medical care from a healthcare provider who is trans-affirming is a struggle, particularly in more rural parts of the state. For example:

“Dental, vision, hearing, medical – anything with the chest, just like any other person. Heart conditions, prosthetics, medications – those things are important. It’s the little things that get you. For us, trans surgery is [mandatory]. Medications are really important. Transportation to the doctors – definitely [if someone has to travel for surgery].”

– Person of Color In-depth Interview conducted on behalf of NYS DOL, Transgender Female, Black

“I can’t be sure of what coverage I will get upfront for gender affirming healthcare or maybe in some cases even the baseline of hormone therapy. I’ve had pre-authorization for procedures denied even when the plan specifically offers the care because of these [federal health insurance regulations] being weaker [than New York State’s]. As long as healthcare is tied to employers this will also be an employment issue.”

- Public Comment submitted to NYS DOL from Non-Binary Woman, White, Finger Lakes

Focus group participants and public respondents also described experiencing other types of discrimination not related to their gender identity. Much like the general population, ageism, sexism, and ableism are all factors in the world of work for the TGNCNB community. For example:

⁶³ National Center for Transgender Equality, “USTS NYS Report.” National Center for Transgender Equality.

⁶⁴ US Trans Survey 2015: Full Report. US Center for Trans Equality.
<https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

⁶⁵ National Center for Transgender Equality, “USTS NYS Report.” National Center for Transgender Equality.

Research Findings

“The only negative interactions I’ve had have been typical sexism that’s directed at women. For example, men talking over me, interrupting me, wanting an older man to do the work and not trusting a younger AFAB person, men taking my ideas and presenting them as their own, etc. It frustrates me”

- Public Comment submitted to NYS DOL from Non-binary Individual, White, Southern Tier

“[Employer] fired me after almost a year, a month shy actually, claiming I didn’t work fast enough. I was constantly given impossible tasks, and being autistic I asked for accommodations, I was refused outright and fired a month later.”

- Public Comment submitted to NYS DOL from Fae Transfemme Individual, White and Romani, Western New York

“The DOE and the DOL need to work together, because if we’re talking about older trans folks, maybe it would help them get out of the vicious cycles they’re in. Older folks are worried about ageism and appearance, and not being able to navigate as well as the younger generation can. There has to be another way.”

- Older Adult In-depth Interview conducted on behalf of NYS DOL, Male, White

LACK OF CULTURAL COMPETENCY AROUND GENDER IDENTITY AND EXPRESSION

The interactions many TGNCNB New Yorkers described with work colleagues, supervisors, and members of the public demonstrate a general lack of understanding and education among many New Yorkers regarding gender identity and expression. This lack of knowledge can come from a place of willful ignorance or prejudice, but there are also individuals that struggle because they do not have the experience or cultural competency necessary to respectfully engage with TGNCNB individuals. This lack of understanding leads many TGNCNB individuals to change who they are at work for the comfort of others. It also contributes to a limitation on the impact of New York State’s anti-discrimination legislation. The Department found that in addition to members outside the TGNCNB community lacking knowledge around GENDA, many TGNCNB individuals are not aware of their rights under GENDA and do not use it to file complaints against acts of discrimination. Similarly, this lack of knowledge may extend at times to human resources staff and other individuals in the workplace assigned with protecting workers from discrimination. As a result, those responsible for affirming and defending the rights of TGNCNB employees in the workplace can fail to adequately protect TGNCNB workers from discrimination. For example:

Research Findings

“I have seen coworkers get frustrated when reminded of someone's pronouns. For some reason, some folks don't understand and don't want to understand "they/them" pronouns. It feels like older coworkers (even the nicest, most progressive folks) are fine with people being who they are and treating everyone kindly. But they draw the line at remembering to use that pronoun or thinking it's a big deal.”

– Public Comment submitted to NYS DOL from Trans “man,” FTM, Trans-masc, etc., White, Southern Tier

“As of 2019, New York State has decent laws protecting Trans People, but I've found that many employers don't even know these laws exist, especially in rural parts of the state...I believe that New York State should implement a policy that requires mandatory training on gender identity and GENDA to employers and employees throughout the state, so that both employers and trans people know their rights. Similar to how sexual harassment trainings are mandatory and posted in the workplace.”

– Public Comment submitted to NYS DOL from Nonbinary Trans Person, White, Capital Region

“Many people didn't want to be affirming, but far more just truly didn't know how. As much as training is important, so is baking inclusivity into everyday practices.”

– Public Comment submitted to NYS DOL from Trans Female, White, New York City

“Muy mal trato, en esta ciudad no hay educación de género y si la hay no llega a un gran público.”
Translation: Very bad treatment, there is no gender education in this city and if there is, it does not reach a large audience.”

– Public Comment submitted to NYS DOL from Mujer Trans, Hispanic/Latina, New York City

This lack of knowledge has led many TGNCNB individuals to take on the role of educator in their workplaces. This can be exhausting, providing additional work for a TGNCNB individual with no additional compensation. Reliving past instances of discrimination to educate coworkers can also be retraumatizing. This can lead TGNCNB individuals to feel as though their identity is tokenized and exploited. For example:

“You are deemed as a teacher on the trans stuff and don't get reimbursed. I often feel pigeonholed because my role is tied to my identity, but it doesn't lead to increased responsibility in terms of salary, promotion, title change, etc. -- the tokenizing. The person in the same role will get a promotion because they are not trans.”

– Urban Dweller Focus Group conducted on behalf of NYS DOL, Transgender male, Black

Research Findings

“I am the only TGNC person who works at my job in my department so sometimes I feel a bit tokenized / or like I have to do the labor to teach people and it isn’t my job to.”

– Public Comment submitted to NYS DOL from Non-binary, Transgender Individual, White, New York City

“I often feel tokenized being the only individual who is trans at my place of work yet become easily dismissed since I am a transman...It’s been a double edge sword being visible at work, at times the representation breathes life into those in the community who are struggling to find themselves and their voice and then there’s the exhaustion of being seen as a spokesperson for the experiences of an entire community.”

- Public Comment submitted to NYS DOL from Trans Man, Black/African American and American Indian/Native Alaskan, Capital Region

“I feel like I had to lift the weight implementing gender-inclusive training for staff when my administrators should’ve been more proactive.”

- Public Comment submitted to NYS DOL from Trans Man, White, New York City

Among the Department’s focus group participants, there was unanimous agreement that there should be TGNCNB-specific education in the workplace that goes beyond anti-discrimination and seeks to debunk myths and stereotypes about TGNCNB individuals. Participants in the Department’s focus groups spoke at length on their desires to see better anti-discrimination education in the workplace as well as a comprehensive training on gender identity and expression. Participants felt that until individuals have the words and are comfortable with people of different gender identities, achieving real societal shifts in acceptance for TGNCNB individuals will be difficult. For example:

“At my current job, management tries to be supportive of non-binary associates, but [they] bring too much of a spotlight to them (making sure everyone is actively aware they are non-binary). It’s well intentioned but still feels like being othered and can put people in a potentially dangerous situation.”

– Public Comment submitted to NYS DOL from Non-binary, Fluid Individual, White & Asian American/Pacific Islander, Finger Lakes

Research Findings

“I believe people need to be educated more about trans people. Number one would be treating us with respect. Number two would be conduct. There are times when I go into a store and people look at me a certain way or talk about me in other languages, and it does happen in workplaces. The law should be enforceable for that. Some people just feel like they're above you. If the law is enforced, it would be better.”

– Immigrant In-depth Interview conducted on behalf of NYS DOL, Transgender Female, Asian

“Pronouns. I think they need more education on the lifestyle, period...We do not know unless you ask, and sometimes you don't want to make that person feel uncomfortable, or you don't know how to address stuff.”

– Urban Dweller In-depth Interview conducted on behalf of NYS DOL, Transgender Female, Black

Education is an important first step, but some TGNCNB individuals expressed skepticism that education alone would ensure equitable and affirming workplaces. Many spoke of the need for companies to also adopt inclusive practices. Some participants voiced concerns that education can be insincere. Despite mandated training, individuals have witnessed a lack of compliance or commitment to the directions of the training. For example:

“All the diversity trainings in the world won't help when the people that need them the most don't care and laugh about it afterwards.”

– Public Comment submitted to NYS DOL from Agender Transfeminine Individual, White, Southern Tier

“In the entire history of my being out in the workplace, I have had exactly two people consistently use my correct pronouns, despite having them on my zoom handle, in the signature of my email, on clothing pins, and having LGBTQ+ signage and a non-binary info sheet up in my office...I have also spoken to these same exact people about the LGBTQ+ diversity training mandated by the state, and they have told me that they “don't need it” because they “already understand it.””

- Public Comment submitted to NYS DOL from Genderfluid Individual, White, Capital Region

DISPARATE EDUCATION AND TRAINING OUTCOMES FOR TGNCNB INDIVIDUALS

TGNCNB New Yorkers who wrote in through the Department's public comment form, as well as those included in the Department's focus groups spoke of how members of their community experience less formal education, typically due to discrimination in school settings during their youth. At the same time, several TGNCNB individuals with advanced degrees spoke of how it is difficult to obtain jobs in their chosen fields, often settling for employment in easier to access industries that require fewer credentials. In this way, some TGNCNB New Yorkers included in this report experience employment challenges related to both under-education and over-education.

Research Findings

For some TGNCNB individuals, under-education steps from experiencing discrimination in school settings. As per the feedback received from Department focus groups, several individuals were unable to complete their education beyond high school due to this reason. Nationwide, TGNCNB youth are pushed out of schools due to various types of victimization ranging from bullying to disciplinary policies.⁶⁶ Moreover, some TGNCNB young people are forced to leave their homes because of their families' lack of acceptance towards their gender identities, which further adds to the difficulty in completing their education.⁶⁷ For example:

“I always have a bad experience. I am just a high school graduate. I got pushed out of my house when I was completing high school. I ended up doing sex work. I always have to make up a lie for the gap... For people who don't have the access to get to school [a salaried position is hard to get]. In high school, [I] would be called a 'f*', and I would beat their a**. I would defend myself and get in trouble. I did an alternative program.”***

– People of Color Focus Group conducted on behalf of NYS DOL, Two-Spirit Individual, American Indian/Alaskan Native

“Due to bullying and unfair treatment in school growing up I was unable to graduate and go to college. While I was able to get a GED and an Associate's Degree I have not had the time or financial stability to get any other degrees. Partially due to this I have limited employment options as too many jobs that would provide me with a comfortable income require higher degrees.”

– Public Comment submitted to NYS DOL from Transmasculine individual, White, Capital Region

For many members of the TGNCNB community, higher education is unaffordable and inaccessible due to their already low incomes and job insecurity. Without advanced degrees, these individuals are restricted from pursuing employment in many higher-paying industries or positions with higher salaries. As a result, many resort to low-wage jobs to survive, or enter the informal economy, which can make it challenging to transition to other opportunities. For example:

“I always start by looking for trainee jobs where the expectations are low to start.”

– People of Color Focus Group conducted on behalf of NYS DOL, Transgender Female, Black

⁶⁶ Bowen, “Work It, NYC: A Comprehensive Guide to LGBTQI+ Workplace Inclusivity.” Bowen.

⁶⁷ Human Rights Foundation, “Dismantling a Culture of Violence.”

Research Findings

“[I’d like to have] scholarships and grants more readily available. Historically, we’ve been pushed into non-conventional work. It is through education and financial support [that we can begin to rise].”

– Urban Dwellers Focus Group conducted on behalf of NYS DOL, Transgender Male, Black

“It’s financially draining especially living in NYC. I am fortunate enough to work for an employer who offers education reimbursement. Once you get the education, a lot of people don’t want to open the doors to give you the opportunity.”

– Urban Dwellers Focus Group conducted on behalf of NYS DOL, Transgender Female, Hispanic

On the other hand, TGNCNB individuals who have advanced degrees spoke of how they often struggle to secure employment in their desired fields. Those who choose to transition while on the job have reported being terminated and finding it difficult to secure subsequent employment in the same field. Highly educated individuals may have to settle for entry-level positions, for which they are over-educated and over-qualified, just to get their foot in the door. Some spoke of being forced to seek employment in industries with lower barriers to entry, such as retail and service jobs, due to financial necessity. Even with an advanced education, some TGNCNB individuals discussed their decision to leave their chosen profession due to discrimination, leading to unemployment or seeking employment in different industries. For example:

“I’ve applied to over 100 places from January-June. I have a masters degree, but took on a deli clerk position because I needed a job. I put my pronouns on my resume to avoid working for a place that won’t accept me.”

- Public Comment submitted to NYS DOL from Non-Binary Individual, White, Long Island

“[E]mployers are “tipped off” by demanding “legal name” instead of just name. I have been several levels above education and experience required for a position and yet not even contacted for an interview.”

– Public Comment submitted to NYS DOL from Female, White, Long Island

“When I transitioned I was in my late 40s. Within a few years, after working 30 years for the company. I was let go. Afterwards I couldn’t get a job in my field even at a lower grade job”

– Public Comment submitted to NYS DOL from Transfemale, White, Capital Region

Research Findings

“I have been a certified educator since 2008 and recently gave up my hopes of ever finding a job. Nowadays, I work for a non-profit at the lowest salary point without the slightest probability of advancement... Those who have anything made those gains before transitioning and now watch them eaten away daily due to lower paying jobs, less advancement, or no opportunity at all.”

- Public Comment submitted to NYS DOL from Transgender Woman, White, Capital Region

Several individuals spoke of seeking employment with non-profit organizations that serve the LGBTQ+ community. However, they found that the skills they acquire in these roles are not easily transferable and there are limited opportunities for career growth and increased pay. As a result, TGNCNB individuals may experience career and wage stagnation. For example:

“[I would like to learn] more skills on being a peer. I feel like I won’t be able to survive in a regular job if I’m not working with the LGBTQ community. We might want to work outside the community, but sometimes that doubt is in our heads and we don’t feel like we’ll be able to survive it because of the barriers, the things that we have to go through every day that other people don’t.”

– Urban Dweller In-depth Interview conducted on behalf of NYS DOL, Transgender Female, Black

“There should be a quota, an expectation for TGNCNB people NOT to be in the same position for over 5 years. We still aren’t seen as valuable.”

– Urban Dweller Focus Group conducted on behalf of NYS DOL, Transgender Man, Black

APPLYING FOR JOBS

“When I graduated law school I interviewed at the biggest legal services organization in NYC. In my interview I was dressed very professionally in a suit and was asked to do a “mock bail argument,” which was very standard for public defender interviews. After I performed the bail argument, one of the interviewers asked me “how do you think your clients or jurors are going to react to your gender presentation? Don’t you think it will inhibit your ability to succeed in this position and advocate for clients effectively?” This was an attorney who asked me this question. It made me feel awful, ashamed, and as if I am doing my future clients a disservice by expressing my gender in an authentic way. If attorneys don’t know (or don’t care) that they are asking discriminatory questions in the hiring process, in violation of our Human Rights Law, I can’t imagine what non-attorney employers are doing to transgender candidates in the hiring process.”

- Public Comment submitted to NYS DOL from Gender non-conforming/Genderqueer Individual, Middle Eastern/North African, NYC

Many TGNCNB individuals also report experiencing discrimination during the job application process. Several TGNCNB individuals mentioned similar experiences including going on numerous interviews with no follow-up calls, or a change in response rate based on the presence of pronouns on a resume. These more subtle forms of potential discrimination may be

Research Findings

difficult to detect in brief interactions, but such rejection is a common occurrence for TGNCNB individuals. For example:

“Before my name was changed legally, I was required to list both my birth name and preferred name (when the option was offered) on job applications. This was in spring/summer of 2021...Although I have no proof that it was due to having to state both names, out of the dozens of jobs I'd applied to, only one ever called me for an interview. I was thankfully also hired there, and had no issues during the interview or onboarding process. Still, I had never before in my life had such difficulty in simply getting an interview. I couldn't help but think it might have something to do with me listing both my birth name and preferred name on the applications.”

– Public Comment submitted to NYS DOL from Male, White, Western NY

“I have found success finding part time employment in the past where I feel safe expressing my gender, but for any trade job where I put my pronouns (they/them) on my resume, I do not receive a call back even if I'm qualified for the job.”

- Public Comment submitted to NYS DOL from Non-binary Individual, Hispanic/Latinx, New York City

“I wanted to make sure my identity was respected by putting my pronouns on my resume. I got no interviews until I removed my pronouns on my resume. Interviewing I assume if somebody hires me that they don't have an issue with my gender identity or possibly they don't know. I don't really want to have to explicitly state that I'm transgender in the interview process. I don't know that after I'm hired that somebody else in the company might take issue and make my life hard.”

- Public Comment submitted to NYS DOL from Non-Binary Woman, White, Finger Lakes

Job applications can be an obstacle for TGNCNB New Yorkers. Simply filling in the “name” field can be difficult, especially when there is no option for an individual to mark their chosen name. When only binary gender options are available, gender non-conforming and non-binary individuals are left with limited choices that do not match their gender identity. For example:

“One of the hardest parts of applying to jobs is the question regarding previous names. Discrimination based on gender identity might be illegal, but how can you prove that you've been discriminated against in the case of just filling out the required information on a form?”

- Public Comment submitted to NYS DOL from Transgender Man, White, Western NY

Research Findings

“When I went to an audition they wouldn’t let me into the room unless I picked a gender on their two choice computer program, so I didn’t go in because I didn’t want to lie. The role was not gender specific so it really shouldn’t have mattered.”

- Public Comment submitted to NYS DOL from Non-Binary Individual, White, New York City

The process of applying to jobs while trans can lead people to apply using their sex assigned at birth, out of safety and security. TGNCNB individuals can feel pressure to “contort their appearance or behavior to fit gender norms, expending mental and psychological energy that cisgender job applicants don’t.”⁶⁸ For example:

“I have never felt safe enough to apply to jobs as a trans man after all the negative experiences I’ve had in the workplace in the past. I was sexually harassed in the one workplace where I was out of the closet and it’s traumatized me to the point where I apply for work as a woman.”

- Public Comment submitted to NYS DOL from Transmasculine Individual, White, Capital Region

“I do not have enough money to change my name, so while filling out job applications, I have to input what is on my government ID card. I hate doing this, but I don’t want to give them information that isn’t on my legal ID. And if I get an interview, I’m terrified to bring up the fact that I don’t use my legal name, anymore. I’m just having a hard time with looking for a job because of all this.”

- Public Comment submitted to NYS DOL from Transgender Female, White, Hudson Valley

Trans participants reported that job interviews can also be troubling experiences. The prospective applicant may have a stellar phone screening or email exchange about their credentials, but the conversation shifts when there is an in-person interview. Many spoke of interviewers becoming visibly uncomfortable when they were brought in for a job interview. Some individuals spoke of feeling a prospective employer was making an excuse for why they were not able offer the job, because the employer’s decision-making process was influenced by their gender expression. For example:

“I have found many times when going to interviews there is a sudden shift in mood when they are calling me in the interviewer seems extremely nervous or they seem to have a drop in mood when they find out I am the person they called into an interview, when I notice these things happening I have never gotten a call back from said employers for a job.”

- Public Comment submitted to NYS DOL from Trans Woman, White, Capital Region

⁶⁸ Baboolall et al., “Being Transgender.”

Research Findings

“I’ve become practiced in interview processes and have had some of the best interviews of my life, only to be rejected not due to qualifications...Employers love my resume, love multiple phone interviews, and even fast-track me after interviewing, only to blankly stare at me with their mouths agape once they see me in person or over a teleconference. The rapport built up to this point disappears and based on body language and behavior, I realize the interview is over before it even begins. I’ve been on benefits now for a decade-plus and cannot find a job in my field, at lower levels, or in other fields.”

– Public Comment submitted to NYS DOL from Transgender Female, White, Capital Region

“After transitioning, between 2017 and 2019 while holding a position as a _____ Security Analyst, I applied for a total of 13 jobs between two health care organizations in the area. I had 5 interviews but did not get any of the positions, despite being qualified (and literally already doing the same job in some cases) and didn’t get any of them...The only time I didn’t come out as trans in the interview, I was actually contacted and asked to apply for another analyst job. I interviewed again, and this time came out as trans. Ultimately I was told I didn’t have the experience they thought I had regarding training from _____, which could have easily been managed by sending me to training....I was also asked in this interview if I had any surgeries planned that would take me out of work in the next year (as a direct response to coming out).”

- Public Comment submitted to NYS DOL from Trans Feminine Gender Fae Individual, White, Finger Lakes

This difficulty in finding employment can lead to some TGNCNB individuals to put off applying for jobs until after seeking gender-affirming care or obtaining a legal name change. This may allow them to avoid potential anti-trans bias or discrimination during the hiring process. This issue also arose when discussing background checks, where deadnames might still come up on court cases from years ago, even though the individual has obtained a legal name change. For example:

“I was denied over 20 jobs due to legal name/gender on [driver’s license] not changed yet. It has been a nightmare & haven’t been able to work due to it. Biggest issue is legal name/applications. Applying online with one legal name & one preferred name put me in position to be exposed right away & many companies don’t offer a “preferred” field on applications so I’m rejected I think due to looking like a computer error or typo since name/new name so close. It’s very confusing to employers & raises too many uncomfortable questions every single time.”

- Public Comment submitted to NYS DOL from Transgender Individual, White, Mohawk Valley

“I changed my legal name and gender marker at 23 (I am now 30), so there are records from before I transitioned. I have failed/flagged background checks for jobs in NY state because a different First and Middle name comes up under my SSN. This has forced me to out myself as transgender to two different employers.”

– Public Comment submitted to NYS DOL from Transgender Man, White, Southern Tier

PASSING AS CISGENDER OR BEING STEALTH

Some TGNCNB people talked about preferring to pass as cisgender or being stealth because it can provide protection from potential transphobic bias, harassment, discrimination, and violence. In this way, TGNCNB individuals can avoid potential microaggressions or discrimination from colleagues by keeping their gender identity to themselves. According to a recent McKinsey survey, 53% of TGNCNB people do not feel comfortable being fully out about their identity. 50% said they are not open about their identity with coworkers, and 63% said they are not open with clients and customers. Passing can also be important for personal safety, especially if coworkers or customers express transphobic opinions in the workplace. For example:

“Even with an [Equal Opportunity Clause], there are still so many harms. What’s overlooked is that we need to mask.... [As someone who is] Trans masculine, I feel like I have to overperform. Like having to do all of the heavy lifting and [have to do things like] bringing in the heavy water bottles [all by myself]. [It’s like they are testing me by saying] ‘J— you are a man, you can do this’. As a trans man, you want to be seen that way. With the people pleasing I have to over perform. My job survival has to do with pleasing people skills.”
– Urban Dweller Focus Group conducted on behalf of NYS DOL, Trans Man, Black

Even if passing as cisgender may feel safer, it can still be a lonely way to exist in the workplace. It comes at a cost to TGNCNB individuals who are not able to be their authentic selves at work. Respondents mentioned the increased stress of passing and hearing transphobic comments from other people at work. For example:

“I easily present as my gender and can fly under the radar, not even being suspected of being trans at all. And for me, that’s how I prefer it. This has allowed me to exist within spaces in which people feel comfortable voicing controversial and offensive opinions in my presence that sometimes touch on topics such as gender and sexuality. I have overheard numerous transphobic or homophobic comments from coworkers, in the guise of blunt locker-room talk with the guys. While it affects me, it is never directed at me because no one knows. But it definitely helps me to know who to stay away from and who I don’t want to be friends with, which sadly, is a large portion of them. This can cause an overwhelming feeling of aloneness and otherness in the workplace. I tend to distance myself from them, in fear that I may accidentally befriend someone who, if they knew I was trans, would not accept me. I have been overwhelmingly luckier than most in my experiences. A combination of my preference to not be publicly out as trans, and my ability to physically pass as my gender, has allowed me the ease and privilege of being treated like most other cis-hetero white men.”
– Public Comment submitted to NYS DOL from Trans Man, White, Long Island

Research Findings

“Overall, the majority of the time no one questions my gender identity because I'm super masculine and have been for forever. So, there's a ton of challenges that I don't have to face. What does suck is the invisibility and the forced state of being in the closet that work environments has brought about. I'm just glad I'm finally somewhere good. Being trans is beautiful and amazing and I wouldn't trade it for anything, however, being trans at work is like work [multiplied x3]. I'll never catch up from the exhaustion and sleep lost.”

- Public Comment submitted to NYS DOL from FTM Male-Identified Individual, White, Capital Region

Even if people feel comfortable enough to disclose their gender identity, the fear of a possible negative response when they disclose is still very real. For example:

*“Because I have the privilege of passing, people think I am tricking them, or being dishonest. I have such anxiety about telling people because it has always bit me in the a**. [Telling people I am trans has] never worked out to be a positive experience for me. [People take it] like I'm lying, [like] I am tricking them.”*

– People of Color Focus Group Conducted on behalf of NYS DOL, Male, Hispanic/Latino

GENERATIONAL DIFFERENCES

Participants engaged in this study acknowledged changes to cultural norms and laws around being trans, and viewed such changes as being promising for the future. Amongst the participants and public comments there was some optimism about younger generations today and their understanding of TGNCNB identities.

“I was a role model for my students who were apart of the LGBTQ community. I got to provide input in conversations relating to being disabled and transgender. I felt respected and accommodated whenever needed. I'm currently teaching kids how to swim and everyone at this employment is kind and understanding. The kids ask my name and they say "It's Mr. D_____!" Or while directing them they say "Hang up your towel and walk over to Mr. D_____." It all depends where you work and what work you do. If I didn't work with youth, I would very likely deal with a lot more discrimination. We want to show tolerance to our youth, so that's what I get more than others.”

- Public Comment submitted to NYS DOL from Transmasculine/Non-binary Individual, White, Hudson Valley

In addition to being more accepting of TGNCNB individuals, according to survey respondents, more young people are also identifying as TGNCNB themselves. Broadly speaking, nationwide, nearly one in five people who identify as transgender are between the ages of 13 and 17 according to the Williams Institute⁶⁹ and in New York, 45% of respondents to the Network's Needs Assessment between the ages of 14 and 34 identified as Gender Non-conforming or Non-binary.⁷⁰ With an eye towards the future of work, creating a safe and healthy work

⁶⁹ Jody L Herman, Andrew R Flores, and Kathryn K O'Neill, “How Many Adults and Youth Identify as Transgender in the United States?,” *Williams Institute, UCLA School of Law*, June 2022, <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf>. Herman, Flores, and O'Neill.

⁷⁰ Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, “Network Needs Assessment.”

Research Findings

environment is going to become increasingly relevant as younger generations enter and advance through the workforce.

In stakeholder and community engagement conducted for this report, younger people expressed that they do not want to feel forced to pass as cisgender as much as their trans elders have. Many younger people want to express their authentic selves as much as possible, including at work.⁷¹ Amongst trans youth this translates into not feeling the urgency to pass as much as older generations, but instead wanting to be open about their gender identity as much as possible. Younger people are also more likely to identify outside the binary of male and female.⁷² Trans people outside of the binary face additional stressors. For example:

The assumption of what ‘trans’ looks like. The assumption is assumed trans is always masculine to feminine and she/her [pronouns].” – Urban Dweller Focus Group conducted on behalf of NYS DOL, Transgender Female, White

“I’ve been passed over because I don’t look like how they think a trans person should look. [I] feel stuck because people assume that I am transitioning in a different direction. Or that I am not transitioning [since I am masculine passing].”

– Urban Dweller Focus Group conducted on behalf of NYS DOL, Trans Male, Black

Individuals who identify as non-binary, gender non-conforming, agender, genderqueer, or another gender identity outside of the male or female binary, face unique challenges in addition to those they already experience as trans individuals. Most people and workplaces, regardless of their support for trans individuals, lack the vocabulary to discuss gender outside of the binary. For those who identify as non-binary, this can create even more unfamiliar territory in workplaces that struggle to acknowledge trans individuals. Non-binary individuals have expressed frustration when colleagues do not use their pronouns, such as they/them or zhe/zher. Even within the LGBTQ+ community, trans individuals have acknowledged the need for education on non-binary terms and pronouns, as they recognize their own lack of knowledge on the subject. For example:

“When I worked at another job, I caught myself calling someone who uses they/them ‘she.’ I think education should be all around.”

– Urban Dweller Focus Group conducted on behalf of NYS DOL, Trans Female, Black

⁷¹Kevin Jack, “August 2023 Issue of the Employment in New York State Newsletter,” New York State Department of Labor, August 2023, <https://content.govdelivery.com/accounts/NYS DOL/bulletins/36d2f95>.

⁷² Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, “Network Needs Assessment.” Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J,.

DIVERSITY IN EMPLOYMENT OPTIONS

The qualitative data collected for this report showed a trend of TGNCNB people not being interested in traditional 9-5 office jobs in large corporations. While some individuals still aimed for these positions, others emphasized the need for alternative work arrangements. This included options such as flexible work hours outside of regular business hours, the ability to work from home, and the freedom to choose when and how to interact with customers and co-workers. This shift in work preferences is not a unique phenomenon, especially since the onset of the COVID-19 pandemic. The TGNCNB community shared similar sentiments to the general population's increased preference for alternative work arrangements, but also described other community-specific employment needs that such arrangements can meet.

SELF-EMPLOYMENT

Many TGNCNB focus group participants and survey respondents viewed self-employment as particularly beneficial due to the discrimination and obstacles they face in predominately cisgender work environment. Self-employment allows individuals to work independently, with limited public interaction, and to decide when and how to interact with clients. During the Department's engagement with trans community representatives, many were independent contractors or founded trans-led nonprofits. These founders were trans individuals who were frustrated with being mistreated for their gender identity and struck out on their own to create the affirming work environment they could not find elsewhere. Groups such as Translatinx Network, Adirondack North Country Gender Alliance, Black Trans Nation, and Trans Equality New York were all founded and led by trans women or gender non-conforming individuals. Kiara St James, the founder and Co-Executive Director of New York Transgender Advocacy Group (NYTAG), was a champion of the legislation that called for this report. Many TGNCNB New Yorkers work in the field of LGBTQ+ cultural competency education and research. Their motivation often stems from experiencing disrespect in the world and wanting to create a better workplace for themselves and others like them. Even if they have to interact with the public, self-employed individuals can do so on their own terms. For example:

"I was a pet groomer and I would put pictures up on Facebook, but not photos of myself. Sometimes they'd meet me for the first time and I could tell when I corrected people on pronouns I would either get a look or their tone or body language would change and then I never saw them again."

– Immigrant Focus Group conducted on behalf of NYS DOL, Trans Female, Black

BENEFITS OF REMOTE WORK

Many individuals have found remote work to be more comfortable, especially during the COVID-19 pandemic. This applies to both cisgender and transgender individuals, but for those who struggle to have their identity affirmed in the workplace, working from home can be liberating. For trans individuals, careers that are completely remote, may be particularly appealing. Individuals who wrote public comments, but did not want to be quoted directly, mentioned the benefits of working from home, and were disappointed by the decrease in remote work options

Research Findings

as the pandemic emergency has receded. Working remotely can have a significant impact on the mental and physical health of trans individuals. For example:

“Remote work has been great for being gendered correctly but now that there is a push for return to office, I am misgendered by colleagues, and most hurtfully, by supervisors. I had to out myself to find access to gender neutral bathrooms, and struggle to get key card to get access to them. Overall, return to office procedures have increased feelings of dysphoria and decreased feelings of personal safety. I felt much safer and more productive during remote work.”

- Public Comment submitted to NYS DOL from Transmasculine Individual, White, Hudson Valley

THE UNDERGROUND ECONOMY

Some TGNCNB individuals are involved in underground economies at some point in their lives, including the sex work economy. Sex work can mean exchanging sex for money, food, or other resources; it can be in-person or online; and it can be for survival or by choice.⁷³ Studies have found that TGNCNB people, and especially trans women, are more likely to engage in sex work at some point in their lives than the general public. The 2015 USTS reported that 20% of respondents had participated in the underground economy, and 12% had experience with income-based sex work.⁷⁴

TGNCNB individuals who participated in focus groups or submitted public comments in connection with this report spoke of their decisions to choose sex work over other professions for various reasons. These included the desire for independence, flexible scheduling, and the ability to choose their clients. Additionally, sex work may not require specific education or credentials, and the pay can often be considerably higher than they are able to obtain in the traditional economy. According to a report by the National Center for Transgender Equality on transgender people’s experiences with sex work, for some trans individuals facing discrimination and harassment in their everyday work lives, sex work can be the best option for viable and financially stable employment.⁷⁵ Below are public comments and remarks from the Department’s focus groups and IDIs regarding sex work:

“There are times you have to sleep with someone to get a job, a place to rent, food, clothing, housing, security. It depends on what your needs are and what your position is...Each and every one of us wants to be independent and to have our own careers.”

– Immigrant Focus Group conducted on behalf of NYS DOL, Trans Female, Asian

⁷³If you would like to read more about the sex work economy you can find out more information from the [Sex Workers Outreach Project](#) and the National Center for Transgender Equality’s report [Meaningful Work](#), that discuss the complexities of this issue with greater detail (the [2022 US Trans Survey](#) report when it comes out will also be a great resource).

⁷⁴James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M., “USTS Full Report 2015,” U.S. Transgender Survey (Washington, DC: National Center for Transgender Equality, 2016). James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M.

⁷⁵Erin Fitzgerald et al., “Meaningful Work: Transgender Experiences in the Sex Trade,” *National Center for Transgender Equality*, December 2015. Fitzgerald et al.

Research Findings

“I turned to sex work and was earning \$444 an hour. In my job, I was only making \$13 an hour. Trans female bodies are fetishized. We are only accepted for internships and seasonal jobs, especially in non-profit organizations.”

– People of Color Focus Group conducted on behalf of NYS DOL, Two-Spirit Individual, American Indian/Alaskan Native

“The majority of my money these days comes from camera sex work. I’m on C_____ and other platforms. It’s the easiest way I’ve found to make money on the internet.... The last [Graduate Assistant] job that I finished was 20k annually, which is the highest I’ve been paid at a university. The sex work is comparable, but the dollar is higher per hour.”

– Rural Residents Focus Group conducted on behalf of NYS DOL, Trans Female, White

“I freelance in the adult industry...Married queer men...often initiate covert attempts at infidelity by propositioning me for paid sexual encounters. They often use slurs to describe both themselves and myself in these propositions due to their warped perception of the LGBTQ+ community. It is very difficult to even begin to explain to these individuals what they’re doing wrong since they’re so entrenched in their thinking. I fear any of these men may become obsessed and begin stalking me.

– Public Comment submitted to NYS DOL from Trans Woman, White, Capital Region

“Usually in the workplace I have to “hide” the fact that I’m trans to avoid being treated differently. I’ve witnessed others being mistreated because they’re trans I’ve been misgendered at work and it’s almost like we’re not allowed to be human sometimes. No emotions no feelings no thoughts just do the work. This is one of the reasons many trans women get into and stay in sex work. There are few to no trans people in management few to no trans people making salary...life changing money at that ...money to actually be able to survive without put your body and sometimes life at risk constantly.”

- Public Comment submitted to NYS DOL from Trans Woman, Black, New York City

TIME-OFF, HEALTH BENEFITS AND GENDER-AFFIRMING CARE

The Department’s research found that being able to access gender-affirming medical care can be a priority for some TGNCNB people that influences their decisions about employment. New York State has strong TGNCNB protections for insurance plans regulated by the State, and these insurers, along with New York State Medicaid, are required to cover all medically necessary treatment for “gender dysphoria.” Unfortunately, some private employers use healthcare plans that are based out of state or are self-funded by an employer, which means

Research Findings

that New York State protections don't apply.⁷⁶ Study participants spoke about the need to prioritize Medicaid eligibility and how finding a full-time job could jeopardize their insurance coverage for gender-affirming care. For those that were employed in a full-time position, they faced challenges in being able to take enough time off for gender-affirming procedures without risking their unfriendly employer discovering the reason for their absence. Moreover, if an employee takes medical leave for gender-affirming care, their employer may be informed of the procedure, leading to further complications if the employee is not comfortable sharing their gender identity. For example:

"I don't have to worry about it because if I need any kind of surgery, it's covered because I only work part-time ... but I think it's important to know because what if you do want to get a surgery? Sometimes with the way they pay us, it's not enough for insurance and other basic needs. Some people are just living paycheck to paycheck, day to day."

– Urban Dweller Focus Group conducted on behalf of NYS DOL, Trans Female, Black

*"Getting health care through your employer is the WORST. I've turned down jobs because of the levels of invasiveness/involvement/outing health care processes at some places. Most employers pick the s***** plans possible and finding a doctor within that a) handles trans patients or b) is even willing to CONSIDER seeing a trans patient c) is remotely affordable and d) has any type of hormone coverage that doesn't require hours a month on the phone getting approval is a challenge."*

– Public Comment submitted to NYS DOL from Male FTM Identified Individual, White, Capital Region

"I live in constant fear of not "making it" in the highly competitive fields of the arts and academia because I know it's very unlikely I'd be able to find consistent, gainful employment in most other fields because of the way I present my gender. I am constantly afraid. (And I'm not going to pretend like these fields are perfect, either, but I can deal with casual bigotry as long as I am keeping my hours and getting my paycheck.) When it comes to barriers, my finances are a constant strain. Hormone replacement therapy costs money; the hormones, the appointments, the quarterly bloodwork. It adds up. And when I'm shelling out money I don't have on gender affirming medicine that is keeping me alive, the time and money it takes to travel to things like interviews and work itself can be overwhelming and prohibitive."

- Public Comment submitted to NYS DOL from Transmasculine/GNC Individual, White, Finger Lakes

⁷⁶ NYS Department of Financial Services, "Transgender New Yorkers: What You Need to Know to Get Care," Department of Financial Services, accessed September 19, 2023, https://www.dfs.ny.gov/consumers/health_insurance/transgender_healthcare.

Research Findings

“[My manager] continued scheduling me on days I would have been out for surgery, leading me to quit before getting fired for not showing up to scheduled shifts.”

- Public Comment submitted to NYS DOL from Transgender Male, White & Asian American/Pacific Islander, New York City

“How can I navigate public services? How am I going to secure upper-echelon employment? How does medical transition interplay with employment? What type of insurance coverage is there? The physical aspects of transitions are interconnected with employment. How they are interconnected plays out in the roles that we seek out. It depends where someone is in their transition and whether they have to be ‘on the table’ [getting gender-affirming surgeries]. Maybe more gig work, or working off the books or doing Uber Eats [makes more sense] because in a couple months, they need to get on the table...I have not pursued employment like I want to because of my surgeries.”

– Older Adult Focus Group conducted on behalf of NYS DOL, Male, White

BEING TRANS IN NEW YORK

Many people talked about how thankful they were to live and work in New York versus other parts of the country due to this state’s stronger protections, policies, and resources for TGNCNB individuals. For example:

“I moved back to the Adirondacks last year after a horrific employment experience in WI, where after coming out and transitioning I was gaslighted and a group of employees...and the HR director were actively working together to get rid of me. I fixed that issue for them by finding a way to return to NY and my beloved Lake Placid. I applied for one position...and got an interview... they chose me. I was elated... I can now report that it's exceeded anything I could have imagined. I've been embraced here simply for who I am. My gender identity feels irrelevant (as it should be). I am valued for my work and my contributions, and I've never felt better about who I am or what I'm doing here on Earth...looking out on the political environment across the country, there is almost [no] state I could feel better about being in than NY.”

– Public Comment submitted to NYS DOL from Transgender Woman, White, North Country

However, many people noted that discrimination and hardship are still common occurrences for individuals in the trans community around the state. For example, trans individuals living outside of New York City reported a change in the treatment they experienced in other areas of the state. Those living in rural communities found that there are fewer resources in areas that are farther away from major metropolitan areas. Employment is also harder to find in rural parts of the state, regardless of gender identity. As a result, when a trans person finds a job in a place without a lot of employment opportunities, the stakes can be much higher to keep a job even if it comes at the expense of living their truth.

Research Findings

*“I have lived in New York for over 20 years and I began my transition when I was 17 (before I moved to New York State). Overall, finding/hunting for employment is horrifically stressful... After leaving New York City, it took me over two years to find a health care provider in the Hudson Valley. I was employed in this time period and had to make up secret trips to the city or take vacation days to see doctors down there. I couldn't tell my boss up here...and [they] "laid" me off eventually...Also, between prescriptions, bloodwork, and doctors appointments, it's hard to find any employer that is minimally accommodating to any of these things (I *don't* think that is specific to trans people, just anyone who needs regular care). I do think that since most of the population 10 years ago had never heard of trans people and now, while they might not understand exact what that means, they know we exist that it is getting better and slightly less terrifying being out. I'm just happy I'm in New York.”*

– Public Comment submitted to NYS DOL from Male FTM Identified Individual, White, Capital Region

“I've had to not tell my boss my gender identity because I work in a very conservative area and feel unsafe telling anyone in that specific area that I am nonbinary. I've struggled severely finding jobs around me that are LGBTQ+ friendly and it saddens me because I love who I am and I just want to be who I am.”

– Public Comment submitted to NYS DOL from Non-binary Individual, White, North Country

“It was hard to find a place of work that would respectfully use my pronouns (they/them) and that I felt safe and comfortable working at. Living in small town in the Southern Adirondacks and working in the conservation / outdoor education field, the industry was largely more conservative. In searching for a job, I looked for a place that included pronouns during interview introductions, and had insurance that covered gender affirming care... As of 2019, New York State has decent laws protecting Trans People, but I've found that many employers don't even know these laws exist, especially in rural parts of the state.”

- Public Comment submitted to NYS DOL from Nonbinary Trans Individual, White, Capital Region

While I do feel that I'm safer in New York than most other states due to protections codified under state law, those laws do not stop random acts of harassment or violence...It's terrifying.” - Public Comment submitted to NYS DOL from Transgender Woman, White, Capital Region

With the increasing popularity of remote work, people who live and work in New York may be employed by companies in other states that have anti-TGNCNB laws or weaker protections for TGNCNB individuals. This can leave New Yorkers working remotely for an employer outside New York with little recourse if they experience discrimination or harassment. For example:

Research Findings

“One of the other big concerns I’ve had has been around health insurance. New York State has reasonable legal requirements concerning transgender healthcare as I understand it but many employers offer self-funded insurance plans that are only subject to federal regulations that provide fewer guarantees.”

- Public Comment submitted to NYS DOL from Non-Binary Woman, White, Finger Lakes

“I am very concerned about my health insurance at my company. The policies today do not align with WPATH [The World Professional Association of Transgender Health] Standards of Care Chapter 8. Plus my company is headquartered in Florida, and their health insurance is self-funded (administered by Cigna), so I am worried about the impacts of potential Florida laws (i.e., HB 1421...which could limit private health insurance coverage if passed into law) and if I will lose my gender affirming coverage if such laws are applied in Florida, even though I am a New York State resident, and I live and physically work in New York State... I am concerned about my future with the company, especially with the HQ being in Florida, and if I have a long term future and, my rights will be protected with the laws being passed in these other states.”

– Public Comment submitted to NYS DOL from Transgender Woman, White, Finger Lakes

While New York might be a haven for some trans communities, it is also consistently one of the most expensive places to live in the country. With many trans individuals living at or below the poverty line in the state’s cities, having these resources concentrated in cities is important, but does not promote affirming experiences for TGNCNB individuals in less metropolitan regions of the state.

NYC is a beacon for LGBTQ+ communities. Many people have come to New York City to find a safer place to express their gender identity, find jobs that embrace them, and get services from agencies and nonprofits specifically for TGNCNB people. And yet, trans people living in NYC still experience the alleged employment discrimination and harassment issues described in this report. Unfortunately, there are also numerous acts of violence against TGNCNB individuals every year. Between 2017 and 2020, at least nine trans individuals were murdered in New York City.⁷⁷ Despite the services and safety that trans-friendly laws provide, TGNCNB individuals spoke of how they still experience danger and risk in NYC. For example:

“While I haven’t felt unsafe at work, I have often felt disrespected and harmed. I have countless stories I could share...I am a public defender in NYC and I was in court one day and the Court officer was referring to me and instead of calling me "counsel" or by my name, he called me "he/she." I did file a formal complaint, but nothing came of it. The court officer was not my colleague, but interacting with him is part of my job responsibilities.”

- Public Comment submitted to NYS DOL from Gender non-conforming/Genderqueer Individual, Middle Eastern/North African, New York City

⁷⁷ “Regional Reports - New York,” Transgender Law Center, accessed January 5, 2023, <https://transgenderlawcenter.org/regional-reports-new-york/>.

Research Findings

“There are very [few] spaces willing to hire trans people in New York City.”

– Public Comment submitted to NYS DOL from Transman, Hispanic/Latino, New York City

“I am a trained ballet dancer who moved to NYC to dance at _____ on a full scholarship. Upon arriving the school became aware of my gender and took my scholarship away for not being female. I then auditioned for _____ a drag ballet company but was told I was too feminine to play their comedic repertoire. To survive I fell on working as a make up artist at the largest hair salon in NYC. [I was] their top make up artist I experienced many hostile and discriminatory incidents. The last one being the one that truly led to the decline of my well being. I was verbally attacked in front of a salon full of over 100 people as hateful threats were made to me by someone higher up in the company. The company never apologized my life fell apart to say the least. I have not held a job since then and that was almost 20 years ago. I am just not mentally able to take a job out of fear of not being treated fairly based on my work, my talent or skill. Currently I work 60 hours a week running a community garden as a volunteer and I receive food stamps to survive...I have lived my life thinking people saw me as a person first and my gender and race second but unfortunately the world doesn't view things the same way.”

- Public Comment submitted to NYS DOL from Transgender Individual, Asian American/Pacific Islander New York City

POLICY RECOMMENDATIONS

Throughout the research and analysis for this study, TGNCNB researchers and LGBTQ+-led organizations were the best resource for data on the TGNCNB community, providing essential guidance and information to the Department. Over more than a year of community engagement, the strength and power of the TGNCNB community in New York remained a constant. Despite the hardships in seeking work and navigating environments that are hostile to trans people, TGNCNB people and TGNCNB-led organizations have created and provided systems of community care and have led advocacy on many of the efforts identified in this report. Despite significant structural barriers, TGNCNB New Yorkers have, and continue to show an unending resiliency.

In a time when anti-trans sentiment and laws are on the rise nationwide, New York State has continued setting an example for the rest of the country by passing laws protecting TGNCNB New Yorkers' rights. And while the Department has continued to support this effort by pushing for change, work is still needed.

Working toward this change and finding solutions ensures a vibrant and diverse labor market. In 2021, McKinsey estimated that a “concerted effort to increase employment and wage equity for transgender people could boost annual consumer spending by \$12 billion a year” nationwide.⁸⁰ The policy recommendations below will allow New York State to continue to lead the way in ensuring all New Yorkers have access employment and the ability to participate in their local economies.

STRENGTHEN COLLECTION OF GENDER DATA AT FEDERAL LEVEL

As discussed throughout this report, data on gender is not collected sufficiently at the federal level. As the main resource of employment related data and analyses in New York, the Department recommends the State advocate for the inclusion of gender identity questions on population sample-size surveys to establish a large, statistically sound dataset regarding the TGNCNB population. In June 2022, Executive Order 14075 called for the Chief Statistician of the United States to develop recommendations for Federal agencies on current best practices for the collection of self-reported sexual orientation and gender identity (SOGI) data on Federal statistical surveys. In January 2023, the federal guidance on best practices was released along with a Federal Evidence Agenda on LGBTQI+ Equity that aimed to provide a roadmap for federal agencies as they work to create their own data-driven and measurable SOGI Data Action Plans to help assess, improve, and monitor the health and well-being of LGBTQI+ people over time.⁷⁸ While these are important first steps, a gap in current data still remains. As a result, it remains difficult to gather meaningful population sample-level data that can be disaggregated by gender identity. In addition, the lack of a standardized method by which

⁷⁸ The White House, “Recommendations on the Best Practices for the Collection of Sexual Orientation and Gender Identity Data on Federal Statistical Surveys” (Washington, DC, 2023).

gender identity questions are asked can lead to a lack of data comparability across datasets, making it challenging to analyze and advance research towards effective policy solutions. A national standard on how to collect, analyze, and report data related to gender identity is necessary.⁷⁹

The Department recommends that all surveys conducted by the US Census Bureau should be updated to include questions regarding gender identity. In addition to the decennial census, the US Census Bureau is responsible for annual surveys, including the American Community Survey (ACS) and Current Population Survey (CPS). The US Census Bureau conducts over 130 surveys per year, ranging in topics from business and employer surveys to health surveys to housing. Only eight of these surveys ask about gender identity, and most of those surveys are about health, not economic indicators.⁸⁰ The information from these surveys is essential to understanding employment rates and trends. The Department recommends New York State advocate for the inclusion of gender-based questions in all national population-sample surveys, following consultation with the TGNCNB community regarding preferences and concerns.

Stay Tuned: Testing Sexual Orientation and Gender Identity Questions on the ACS

In September, the United States Office of Management and Budget put out a call for public comment on adding sexual orientation and gender identity (SOGI) questions to the ACS. This is in preparation to test collecting SOGI data on the survey. While the ACS is not used specifically to calculate the employment rate, it is used for other economic indicators, and would be the most robust data set with information on sexual and gender minorities to date. The NYS Department of Labor submitted feedback endorsing the adoption of SOGI data collection. Please see Appendix V for the full comment. If this data collection is accepted into the ACS, hopefully soon the Census Bureau and the Department of Labor will be able to report reliable employment information on TGNCNB people in this country and at the state level.

“Even in New York State, which is a liberal state, they are not comfortable letting the government know that they are trans to receive help. There is no guarantee that any info you give New York State won’t make its way to the federal government or a less tolerant state. And that’s assuming New York and America stay progressive forever.”

– People of Color Focus Group conducted on behalf of NYS DOL, Agender Individual, Hispanic

⁷⁹ National Academies of Sciences, Engineering, and Medicine, *Measuring SOGI*. National Academies of Sciences, Engineering, and Medicine.

⁸⁰ “Current Measures of Sexual Orientation and Gender Identity in Federal Surveys.”

“As paranoid as the idea makes me, I think it’s important to collect that data because I’m currently unemployed and I’ve been searching for a job for 4 months. I know that my public identity as a transgender individual has been hampering that job search and I know that this is not unique.”⁸¹

– Focus Group Participant in 2018 Census Bureau Report on Adding Gender Identity to CPS

In addition to advocating for the national collection of gender identity, there is the opportunity for New York State to expand data collection at its agencies. In November 2023, Governor Hochul signed legislation (A358/S3225; Chapter 674 of the Laws of 2023) to allow New York State agencies to collect demographic data related to sexual orientation and gender identity or expression. The legislation also requires guidance to be issued for state agencies in their compliance with the law. The Department applauds this achievement and encourages state agencies to prioritize the expansion of SOGI data collection using evidence-based research, best practices, and input from the TGNCNB community.

SUPPORT THE TGNCNB POPULATION WITH WORKFORCE DEVELOPMENT PROGRAMS

Barriers to employment, especially discrimination, severely limit the ability of TGNCNB individuals to obtain and keep a job. The most important thing New York State can do is help members of the TGNCNB community find affirming employment.

HOST JOB FAIRS WITH TRANS-AFFIRMING EMPLOYERS

The state of New York can take a step toward addressing the discrimination faced by TGNCNB individuals during job interviews and applications by hosting a job fair with TGNCNB affirming employers. TGNCNB New Yorkers need to feel safe during the application process, which can help reduce the pressure on community members to decide how open they are about their identity during job interviews. Safety and security concerns are also a major issue when working for an employer that is not inclusive of the TGNCNB community. “Limited access to workplaces that are affirming and inclusive puts TGNCNB people at greater risk for poverty, homelessness and criminalized work.”⁸²

The Department regularly hosts career fairs, virtually and in person, during the year. In 2022, the Business Services team at the Department hosted 130 total job fairs, engaging approximately 6,000 businesses and 50,000 job seekers. Through public engagement, the Department heard that the TGNCNB community often keeps informal lists of employers who are trans-inclusive. Working with leading service providers in the TGNCNB community, the

⁸¹ Holzberg et al., “Asking About Gender on CPS.” Holzberg et al.

⁸² Human Rights Foundation, “Dismantling a Culture of Violence.” Human Rights Foundation.

Policy Recommendations

Department will create guidance on best practices for employers that wish to be trans-inclusive and affirming. Members of the TGNCNB community and the Department's Business Services team will then engage with employers to invite those that adopt these best practices to participate in the TGNCNB job fair. Service providers outside the New York City area spoke of the important role SUNY campuses play in offering resources to the TGNCNB community, and the Department recommends working closely with SUNY to recruit both employers and job seekers from the TGNCNB community. With this employer list, the Department proposes its Business Services team will host state-wide virtual career fairs every year targeted at the TGNCNB population. The Department can advertise this job fair through TGNCNB service providers. The job fair will alleviate some of the fears many TGNCNB individuals feel during the job application process and provide opportunities to apply to employers that are more affirming and inclusive of trans employees.

"I think they should have specific ads for the LGBT+ community. If it is labeled that they do not discriminate, it would be so great. It's a huge favor to all of us. Employers won't waste their time interviewing [us], and [we] won't have to go all over the place to find a job."

– Immigrant In-depth Interview conducted on behalf of NYS DOL, Trans Female, Asian

EXPAND FUNDING FOR WORKFORCE TRAINING & ENTREPRENEURSHIP FOR TGNCNB INDIVIDUALS

As a State, New York should provide avenues for TGNCNB individuals to obtain the education, training, and skills they have been denied due to discrimination by dedicating funding for TGNCNB workforce training. The State should also take steps to support those TGNCNB New Yorkers creating their own affirming employment opportunities through entrepreneurship. Although GENDA has been in effect since 2019, TGNCNB New Yorkers continue to feel the impact of years of discrimination leading some to prefer self-employment while others find it difficult to advance in their careers.⁸³

To provide access to workforce training for TGNCNB individuals, and to uplift TGNCNB employers, New York State should consider expanding the Lorena Borjas TWEF to invest in the employment needs of TGNCNB New Yorkers. An additional \$1 million in funding could support TGNCNB-led organizations throughout New York State that provide culturally competent workforce development training for members of the TGNCNB community. This additional funding should be designated for these organizations and the work they are already doing. This funding should also be made available to assist TGNCNB entrepreneurs in need of skill-based trainings or community building to achieve successful self-employment. Supporting these

⁸³ New Pride Agenda and Strength in Numbers, "The State of GENDA: How New York Is Enforcing the Gender Expression Non-Discrimination Act," December 2023, https://drive.google.com/file/d/1fDJqEnxcnaYahKcpEaS9qwtluwCJgJar/view?usp=share_link&usp=embed_facebook. New Pride Agenda and Strength in Numbers.

Policy Recommendations

TGNCNB-led organizations and businesses is a commitment to improving economic outcomes for TGNCNB New Yorkers.

Because of the level of misunderstanding and discrimination many in the TGNCNB community experience, workforce development and entrepreneurial training that can provide networking and community relationships with other TGNCNB participants, as well as affirming employers, are essential to finding successful employment.⁸⁴ A workforce development training program aimed at the TGNCNB population should include additional training beyond the standard skills-based education and soft skills training on interviewing and resume writing. Incorporating education on GENDA and gender discrimination protections, as well as skills around navigating a hostile workplace or moving on from underground economic activities is essential to this population. Building community relationships in addition to skill development are key to shifting TGNCNB individuals toward economic security.⁸⁵

“What gave me a lot of courage -- I always was a sex worker -- but there was this cohort for trans people only, and they gave me a lot of strength and education on how to represent [myself] and how to deal with certain situations. It was a work-readiness cohort just for trans people. They taught me how to write a resume, how to present myself at interviews, and how to handle a situation when someone isn't being affirming towards me.”

– Urban Dweller Focus Group Conducted on behalf of NYS DOL, Trans Female, Black

PROVIDE GENDER IDENTITY AND DISCRIMINATION TRAINING FOR ALL

A lack of cultural competency around gender identity and expression contributes to the employment barriers experienced by TGNCNB individuals. New York State should take steps to address this through trainings in the workplace. In 2018, New York State enacted nation leading legislation to prevent sexual harassment at work. One aspect of New York's sexual harassment legislation that made it groundbreaking was the requirement for all employers, regardless of size, to adopt a sexual harassment prevention policy and host an annual training for all employees.⁸⁶ An annual training and policy are essential to employees knowing their rights and understanding the rights of their coworkers.

A major hurdle to the success of GENDA is a lack of awareness and education regarding the rights GENDA affords to TGNCNB individuals. When the burden is on the employee to know

⁸⁴ Ray, Sevilla, and Inzunza, “TGNC Employment Discrimination in NYC.” Ray, Sevilla, and Inzunza.

⁸⁵ Ray, Sevilla, and Inzunza, “TGNC Employment Discrimination in NYC.” Ray, Sevilla, and Inzunza.

⁸⁶ New York State, “Combating Sexual Harassment in the Workplace,” NY.Gov Programs: Combatting Sexual Harassment, accessed October 4, 2023, <https://www.ny.gov/programs/combating-sexual-harassment-workplace>. New York State.

Policy Recommendations

their rights and file a discrimination complaint, this puts them at risk for illegal firings or retaliation. Robust awareness efforts must be made to lessen this burden.⁸⁷

“[These laws are] great because it gives a precedent, but there’s no funding, no lawyers, etc. to go the next step other than ‘Great, this is job discrimination, let’s find a different job for you.’ It’s just a pretty piece of paper.”

– Urban Dweller Focus Group conducted on behalf of NYS DOL, Trans Male, Black

More broadly, hostile anti-trans rhetoric thrives when education and understanding is lacking. Even well-meaning employers and co-workers may be unfamiliar with appropriate cultural competency regarding gender identity and expression. Proactive education that increases public understanding about gender can help. A shared vocabulary in the workplace is crucial to creating open and affirming employment experiences. There is potential to erase or overlook the negative experiences of TGNCNB co-workers because some do not have the words to talk about it or are “afraid they’ll cause offense by getting the words they don’t know wrong.”⁸⁸

“There were many points where I knew what was happening was illegal discrimination but didn’t feel like I had the power to do anything about it”

- Public Comment submitted to NYS DOL from Trans Man/NonBinary Individual, White, Capital Region

The most popular proposed policy recommendation among the Department’s focus groups was gender identity education in the workplace. While education is not a cure-all, there was a sentiment from the focus groups that there will be no improvement in TGNCNB employment experiences until society respects transgender people. For that reason, the Department will be developing a model gender identity and discrimination training for all employers to adopt. The training will be a standalone course separate from the currently mandated sexual harassment training, as the Department recommends this training move beyond the anti-discrimination protections provided by GENDA and include information regarding gender identity and expression more broadly. Cultural competency is essential to creating a workplace where TGNCNB individuals feel safe. In the future, the State should consider mandating this training.

Similar to the sexual harassment model training provided by the State, the gender identity cultural competency training will be aimed at employers that do not have their own gender identity training. This will be essential for smaller businesses that do not have access to human resource professionals for such work. The Department also recommends that individuals with trans experience be consulted in developing such training. Representation is important and

⁸⁷ Aurelia Glass, Sharita Gruberg, and Caroline Medina, “New Opportunities for the Biden-Harris Administration To Create Good Jobs for LGBTQI+ Workers,” Center for American Progress, April 2022, <https://www.americanprogress.org/article/new-opportunities-for-the-biden-harris-administration-to-create-good-jobs-for-lgbtqi-workers/>. Glass, Gruberg, and Medina.

⁸⁸ Baboolall et al., “Being Transgender.” Baboolall et al.

members of the TGNCNB community are best able to speak to what is needed to achieve better cultural competency around gender.

BOLSTER GENDA AWARENESS AND ENFORCEMENT

Enforcement of GENDA remains a concern in the TGNCNB community. Discrimination based on gender identity can be difficult to prove, and knowledge around the protections GENDA offers is often limited. For GENDA to reach its full potential, it must be understood and accessible to those it is meant to protect. Alerting all New Yorkers to the protections under GENDA and the consequences for violating the law could lead to an increase in the number of GENDA-related complaints filed with DHR and, in turn, an increased enforcement impact, including through potential financial awards and policy changes in cases where discrimination is found.⁸⁹

To work toward increased awareness regarding GENDA, the Department recommends the development of an employer awareness campaign and distribution of educational materials regarding gender identity and GENDA to all employers in New York State. These materials should be designed to be shared with all employees, especially human resources staff. Materials should also outline types of discrimination prohibited under GENDA as well as how an individual may enforce their rights under GENDA.^{90, 91}

“For me, the issue is that I don’t have enough money. My jobs don’t pay a lot of money. I barely have enough to scrape by. It’s not going to help me if I have these legal protections if I know my employer is just going to fire me at will the next day and I don’t have enough money to pay rent. Even if I cite the law, it’s not going to help me at all.”

– Rural Residents In-depth Interview conducted on behalf of NYS DOL, Transgender Female, White

Additionally, the State should explore increasing civil penalties for violating the New York State Human Rights Law. Since 2009, NYS DHR has had the authority to assess civil penalties against employers who commit unlawful discrimination but the caps on these fines have not been increased since the law passed almost 15 years ago. Enhancing penalties for discrimination can serve as a deterrent for employers and encourage employers to educate themselves on gender identity competency. It will also demonstrate a commitment by the State

⁸⁹ New Pride Agenda and Strength in Numbers, “The State of GENDA.” New Pride Agenda and Strength in Numbers.

⁹⁰ An individual can hire an attorney and sue in court, or they may file a complaint with NYS DHR. Filing a complaint with NYS DHR is easy, available completely online and does not require retaining an attorney. Individuals do not need an attorney to make a claim through NYS DHR. The agency will investigate, prosecute, and adjudicate claims free of charge. In the future, if increased awareness has the desired impact on encouraging GENDA-related complaints, this may result in the need for additional funding.

⁹¹ Please visit the NYS DHR website at <https://dhr.ny.gov/complaint> to learn more about how to file a discrimination claim.

to creating a just and equitable experience for all New Yorkers. Due to past harms, vulnerable populations, including the TGNCNB community, do not always trust that contact with government agencies will be positive.⁹² Enhancing penalties for violations to the State's Human Rights Law will take steps toward strengthening the State's commitment to protecting these communities.

ALLEVIATE BARRIERS TO LEGAL DOCUMENTATION

Making it easier to change one's legal name and gender marker helps ensure a diverse and inclusive workforce. Not having legal identification that matches one's gender identity is a critical barrier to employment experienced by TGNCNB individuals. Identification that reflects one's gender identity can play an important role in reducing workplace discrimination and violence.⁹³ It also allows TGNCNB individuals the freedom to decide whether to share their trans experience in the workplace. A lack of appropriate identity documents is a deterrent for many people from applying for jobs, school, and certification programs.⁹⁴

With the recent enactment of the Gender Recognition Act, legally changing one's name and gender marker in the State is easier. An individual born in New York State and living in the state can correct the gender marker on their state issued identity documents, such as their driver's license and birth certificate with self-attestation rather than a court order or doctor's note. At the same time legal name changes no longer require a publication requirement. Still, those seeking to change their name and gender marker must separately visit each state agency individually and request a change, such as the NYS DMV for driver's licenses or NYS DOH for birth certificates. Keeping track of the different processes for legal transitions can be intimidating, and the State should explore the possibility of streamlining the process across agencies.⁹⁵

There are additional potential steps for New York State to take to continue its leadership in eliminating obstacles to legal transitions. The Department recommends a multi-agency partnership to develop an education campaign regarding the important gains obtained through the Gender Recognition Act. Through engagement with service providers and members of the community through focus groups, the Department found a lack of cohesive knowledge regarding these gains. Awareness around the new simplicity surrounding paperwork for New York State issued IDs can go a long way in alleviating potential fear as well as the cost. For those that feel they need to hire a lawyer to help with updating identity documents, a plain language guide can make clear that legal counsel is not required to complete the required state paperwork.

⁹² New Pride Agenda and Strength in Numbers, "The State of GENDA." New Pride Agenda and Strength in Numbers, "The State of GENDA."

⁹³ Ray, Sevilla, and Inzunza, "TGNC Employment Discrimination in NYC." Ray, Sevilla, and Inzunza.

⁹⁴ Transgender Legal Defense & Education Fund, "Name Change Project - Transgender Legal Defense And Education Fund, Inc.," accessed March 16, 2023, <https://transgenderlegal.org/our-work/name-change-project/>.

⁹⁵ New York State Unified Court System, "Name/Sex Designation Change Forms," NYCourts.Gov, accessed March 13, 2023, <https://www.nycourts.gov/courthelp/namechange/forms.shtml>. New York State Unified Court System.

“I went to law school and even with my knowledge, education and ability to research policy & procedures it was very difficult to navigate...Now all my documentation is in order: SS CARD name, birth certificate, passport, medical records, drivers license, retirement, credit cards, etc... but it took ALOT of time, \$ and stress to get it all done. But Now when I apply for a job - if I have to do a background check - I get OUTED as a trans man since the forms ask if I've ever used another name.”

- Public Comment submitted to NYS DOL from Trans Man, White, Hudson Valley

Anecdotal data gained through research for this report suggests understanding of gender identity and expression, as well as the new requirements under the Gender Recognition Act, are lacking among New York State employees. Cultural competency is essential to ensuring any individual of trans experience seeking a name or gender marker change is not discouraged due to potential poor treatment by the state. In addition to a state-wide education campaign aimed at TGNCNB individuals and service providers regarding the gains under the Gender Recognition Act, the Department also recommends mandatory training on the requirements under the Gender Recognition Act for state workers who interact with TGNCNB people during the legal transition process.

“Another example that I have found very challenging to experience is being frequently misgendered by Judges, court officers, and prosecutors. I have also witnessed many of my trans colleagues experience the same thing. Even when the intention is not a malicious one, over time it really takes a toll on you.”

- Public Comment submitted to NYS DOL from Gender Non-Conforming, Gender Queer Individual, Middle Eastern/North African, New York City

Cost remains one of the greatest barriers to pursuing a legal transition, with application fees as high as \$210 for a name change alone.⁹⁶ Many courts do provide the opportunity for a fee waiver for name change applications, but this is not the case for those seeking to change their driver's license or birth certificate; those applications come with additional fees.⁹⁷ Understanding the higher probability of poverty among the TGNCNB community, as discussed earlier in this study, it must be acknowledged that any cost for a legal transition might prove prohibitive for some members of the TGNCNB community. For that reason, New York State should explore ways to reduce fees regarding gender affirming name and gender marker changes.

“Tell the courts to begin to waive some of these fees. There are funds. If you have someone who doesn't know the lay of the land at all, that's a problem.”

– Older Adult In-depth Interview conducted on behalf of NYS DOL, Trans Man, White

⁹⁶ New York State Unified Court System, "Name/Sex Designation Change Forms."

⁹⁷ Holly New, "How to Change Information on DMV Documents," Text, New York DMV, July 2015, <https://dmv.ny.gov/address-change/how-change-information-dmv-documents>.

“I do not have enough money to change my name, so while filling out job applications, I have to input what is on my government ID card. I hate doing this, but I don't want to give them information that isn't on my legal ID. And if I get an interview, I'm terrified to bring up the fact that I don't use my legal name, anymore.”

- Public Comment submitted to NYS DOL from Transgender Female, White, Hudson Valley

Additional barriers to achieving affirming legal identification, such as distrust of the court system due to past harm,⁹⁸ housing insecurity (as applications require a permanent address), and potential lack of documentation (such as proof of birth due to asylum status) persist despite the gains of the Gender Recognition Act. Currently, anti-trans legislation in other states has focused on legal identification. For Example, both Tennessee and Florida have passed legislation prohibiting anyone from updating their birth certificate for any reason, a way to prevent TGNCNB individuals born in these states from completing their legal transition. The Department recommends continued TGNCNB stakeholder engagement with this community for the purpose of exploring potential solutions to address these challenges.

ESTABLISH NEW YORK STATE AS A MODEL EMPLOYER AND SERVICE PROVIDER TO TGNCNB NEW YORKERS

New York State is one of the largest employers in the state and has already taken steps to strengthen inclusion and equity for TGNCNB employees. In 2020, New York State rolled out the [Gender Identity Toolkit](#), which is a training resource that all State employees are required to review. The toolkit outlines existing protections for TGNCNB individuals and best practices for supporting TGNCNB employees in the workplace. Also in 2020, New York State enacted legislation requiring that all single-occupancy bathrooms in state-owned or operated buildings be designated as gender neutral. In 2021, New York State issued guidance to State agencies about drafting measures without the use of gender specific language, such as gender specific pronouns and nouns. Building on this guidance, earlier this year Governor Hochul signed legislation requiring state agencies to avoid the use of gender-specific language on website content created after the effective date and to issue guidance to state agencies on complying with these requirements. Just this month, Governor Hochul announced further actions to strengthen New York State as a model employer for TGNCNB employees, including releasing an email pronoun guide and guidance directing agencies to utilize a new standard sign for single occupancy, gender-neutral bathrooms in state-owned or -operated facilities.

New York State can continue to strengthen its work in this area to ensure it is a model employer to the TGNCNB community and an example for other employers throughout the state. The Department recommends that New York State consider taking the following steps.

⁹⁸ Bowen, “Work It, NYC: A Comprehensive Guide to LGBTQI+ Workplace Inclusivity.” Bowen.

Policy Recommendations

- Expand training and education opportunities for State staff about gender identity concepts, protections, and best practices.
- Ensure that agencies integrate best practices on avoiding unnecessary gender specific language into training for customer service staff.
 - When providing services to the public, agencies can and should assess opportunities for customers to indicate a chosen name and/or pronouns when relevant and possible during customer service interactions and agency forms. When collecting information on gender identity from both clients and employees, the state must be as clear as possible as to the reason behind collecting the information.
- State employees can already utilize a chosen name in their work email address, business cards, and other areas. However, there are many other employment-related systems that employees use. The Department recommends New York State review employment-related systems and processes that require name and gender information and look for opportunities to expand the number of systems in which employees can utilize a chosen name, rather than a legal name. Agencies should also assess hiring and onboarding processes to:
 - Ensure that TGNCNB employees do not face unnecessary barriers concerning deadnames.
 - Better integrate an employee's chosen name during orientation and account setup wherever possible, rather than assuming from a job application how someone wants to be addressed.
 - Ensure employees and clients know where to access the gender-neutral restrooms that are available in agency buildings.
- All state agencies must post their non-discrimination policies in a prominent location and share with employees annually.
- The New York State Gender Identity Toolkit includes information and guidance to agencies on supporting a TGNCNB employee who is transitioning in the workplace. State agencies should ensure that employees, particularly HR professionals, understand the requirements of the Toolkit and know how to assist a TGNCNB employee with needs they may have related to their transition, such as updating employment systems and requesting leave for gender-affirming care. As outlined in the Gender Identity Toolkit, agencies should emphasize that information about an employee's gender identity, expression, sex assigned at birth, medical information, and transgender identity constitutes confidential medical information that is protected under various state and federal laws and cannot be shared without the TGNCNB employee's consent.
- Provide information regarding the legal name change and gender marker process in all agency spaces available to the public.

Policy Recommendations

- New York State agencies provide health benefit plans that cover gender-affirming or transition-related care. Agencies should ensure that employees know about these benefits and how to access them and assess how benefits impact employees with diverse family structures.

“As a trans person who is still in the process of receiving a legal name change order, I find that navigating the job search and onboarding process is made more difficult by the lack of ability in some areas to declare a preferred name. I think it is important for employers to have a preferred name and pronoun/gender policy and how to refer properly to prospective employees should be established very quickly. Legal information should be confined for trans people in these situations exclusively to HR’s records or wherever else it is necessary.”

-- Public Comment submitted to NYS DOL from Trans Woman (MTF), White, Long Island

SIMPLIFY THE STATE PROCUREMENT PROCESS

The state procurement process is complicated and smaller organizations describe facing barriers to applying or receiving contracts. As has been described in this report many TGNCNB workers decide to work for themselves in various industries, to avoid discrimination and microaggressions in predominately cisgender- work environments.

The Department recommends the state consider steps to make this process easier for TGNCNB business owners, as well as any small company without a large legal team or contract expertise, who would like to do business with the state:

- Adopting plain language in bid materials and application forms, where feasible.
- Providing better guidance during the application completion process, including plain language responses to questions.
- Re-evaluating insurance requirements for certain contracts to reduce costs for small businesses.
- Expand opportunities to submit documents virtually, rather than by mail.
- Conduct outreach targeting small business owners about the State’s MWBE certification program to diversify the state’s contract awardees, including information about State partners that provide technical assistance to applicants.

REDUCE BARRIERS TO EMPLOYMENT DUE TO JUSTICE INVOLVEMENT

BAN THE BOX AND FAIR CHANCE ACT

TGN CNB individuals have a higher likelihood of being involved in the justice system than the general population.⁹⁹ If someone has an arrest or criminal record, it becomes that much harder to get employed due to restrictions of employment, and discrimination by employers.

“Engagement in sex work and the current criminal status of sex work are intricately tied to the epidemic of violence that impacts transgender and non-binary people.”¹⁰⁰

“We need to alleviate a lot of things that are on our background checks. I don’t believe that sex work should be on our records.”

– Urban Dweller In-depth Interview conducted on behalf of NYS DOL, Trans Female, Black

In the past approximately ten years, “Ban the Box” (BTB) laws have become a popular piece of legislation in states and municipalities across the US as an additional way to address employment barriers experienced by justice-involved individuals. BTB laws prevent employers from making candidates disclose arrests or convictions on job applications. This can help prevent employers from pre-judging applicants based on their past criminal record and allows candidates to disclose—at their discretion—their past arrests or convictions.

The BTB laws are enforced differently in different jurisdictions, but such laws generally only allow employers to see an applicant’s criminal or arrest record after making a conditional offer to the candidate. For the BTB law in NYC, called the Fair Chance Act and passed in 2015¹⁰¹ if a conviction is relevant to the line of work the applicant is applying to, the employer may reject the candidate, but they must also notify the candidate of the reason they were rejected and give them five days to respond. These laws emphasize the relevance of the setting and situation surrounding the crime and possible rehabilitation.

New York State is among 37 other states, and over 150 cities and counties, where policymakers have embraced BTB legislation for public government jobs.¹⁰² In 2019, with the Fair Chance to Compete for Jobs Act, the federal government passed the same law for federal public employees and contractors. However, BTB laws for private employers have not made the same progress. Only 15 states and 22 municipalities, including NYC, have passed BTB laws for

⁹⁹ Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, “Network Needs Assessment.”

¹⁰⁰ Human Rights Foundation, “Dismantling a Culture of Violence.” Human Rights Foundation.

¹⁰¹ “Fair Chance Act,” NYC Commission on Human Rights, accessed September 1, 2023, <https://www.nyc.gov/site/cchr/law/fair-chance-law.page>. “Fair Chance Act.”

¹⁰² “Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies,” National Employment Law Project, accessed October 6, 2023, <https://www.nelp.org/publication/ban-the-box-fair-chance-hiring-state-and-local-guide/>. “Ban the Box.”

Policy Recommendations

private employers. Expanding BTB laws to the private sector in NYS could help remove one more barrier to employment for justice-involved TGNCNB people.

More importantly, by signing the Clean Slate Act in November 2023, Governor Hochul has taken an essential step in eliminating potential employment barriers experienced by TGNCNB New Yorkers. Clean Slate requires the sealing of certain criminal records following an individual's release from any incarceration: eligible misdemeanor convictions will be sealed three years after release, and eligible felony convictions will be sealed eight years after release – on the condition that the individual convicted of the offense has not committed an additional crime in the intervening period.

People who have been to prison lose an average of \$484,400 in income over their lifetime, to say nothing of the disproportionate number of people of color who have served time. TGNCNB New Yorkers with these types of convictions will benefit from this reform. The presence of criminal records enhances the already trying process of background checks for people of trans experience.

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APPENDICES

APPENDIX I: REPORT LEGISLATION

STATE OF NEW YORK

5933--A

2021-2022 Regular Sessions

IN SENATE

March 23, 2021

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT directing the department of labor to conduct a study on the employment rate of transgender persons in New York state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. 1. The department of labor, in consultation with the divi-
2 sion of human rights, is hereby authorized and directed to conduct a
3 study on the employment rate of transgender persons in New York state.
4 The purpose of such study shall be:

5 (a) to provide current data on the employment rate of transgender
6 persons in the state and additionally in each county and in the city of
7 New York;

8 (b) to determine whether a disparity exists between the employment
9 rate for transgender persons and the employment rate for other persons
10 in the state, and if so, the factors contributing to such disparity;

11 (c) to determine whether and to what extent discrimination and other
12 barriers affect the employment rate for transgender persons; and

13 (d) to determine what changes, if any, should be made to state poli-
14 cies affecting the employment rate for transgender persons, and recom-
15 mend any legislation, rules or regulations it deems necessary to improve
16 the employment rate and expand employment opportunities for such
17 persons; and

18 (e) to provide specific data and analysis on the findings from para-
19 graphs (a) through (d) of this section as such findings relate to racial
20 and ethnic characteristics, including but not limited to Black and
21 Latinx transgender persons.

22 2. The department of labor shall issue a report of its findings and
23 recommendations to the governor, the speaker of the assembly and the
24 temporary president of the senate and shall publish such report on its
25 website within one year after the effective date of this act.

26 § 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD10307-03-1

APPENDIX II: TOOLS REFERENCED IN THE REPORT THAT ASK ABOUT GENDER

NATIONAL ACADEMIES REPORT ON MEASURING SEX, GENDER IDENTITY AND SEXUAL ORIENTATION: EXAMPLES OF TWO-STEP GENDER MEASURES

**ANNEX:
EXAMPLES OF TWO-STEP GENDER MEASURES**

Table 6A-1 details examples of two-step gender measures in national and international surveys.

TABLE 6A-1 Examples of Two-Step Gender Measures in National and International Surveys

First Item Stem	First Item Response Options	Second Item Stem	Second Item Response Options	Source(s)
What is your gender?	<input type="radio"/> Male <input type="radio"/> Female <input type="radio"/> Other, specify	What sex were you assigned at birth, on your original birth certificate?	<input type="radio"/> Male <input type="radio"/> Female	Add Health (Wave V)
What was your biological sex assigned at birth?	<input type="radio"/> Female <input type="radio"/> Male <input type="radio"/> Intersex <input type="radio"/> None of these	What terms best express how you describe your gender identity? (Check all that apply)	<input type="checkbox"/> Woman <input type="checkbox"/> Man <input type="checkbox"/> Non-binary <input type="checkbox"/> Transgender <input type="checkbox"/> Another term	All of Us Program
Do you think of yourself as:	<input type="radio"/> Male <input type="radio"/> Female <input type="radio"/> Transgender man/trans man/female-to-male (FTM) <input type="radio"/> Transgender women/ trans woman/male-to-female (MTF) <input type="radio"/> Genderqueer, gender nonconforming, neither exclusively male or female <input type="radio"/> Additional gender category (or other), please specify	What sex was originally listed on your birth certificate?	<input type="radio"/> Male <input type="radio"/> Female	CDC Recommendations (2020)

TABLE 6A-1 Continued

First Item Stem	First Item Response Options	Second Item Stem	Second Item Response Options	Source(s)
What sex were you assigned at birth? (For example, on your birth certificate.)	<input type="radio"/> Female <input type="radio"/> Male <input type="radio"/> Intersex	What is your current gender?	<input type="radio"/> Woman <input type="radio"/> Man <input type="radio"/> Transgender <input type="radio"/> A gender not listed here [free text]	GSS (2018)
What sex were you assigned at birth, on your original birth certificate?	<input type="radio"/> Male <input type="radio"/> Female	What is your current gender identity? (Check all that apply)	<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Trans male/trans man <input type="checkbox"/> Trans female/trans woman <input type="checkbox"/> Genderqueer/gender nonconforming <input type="checkbox"/> Different identity (please state)	The GenIUSS Group (2014, Promising GI measure)
What sex were you assigned at birth (what the doctor put on your birth certificate)? (select one)	<input type="radio"/> Male <input type="radio"/> Female	What is your gender? Your gender is how you feel inside and can be the same or different than your biological or birth sex. (check all that apply)	<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Transgender male-to-female <input type="checkbox"/> Transgender female-to-male <input type="checkbox"/> Genderqueer or gender nonconforming, or some other gender <input type="checkbox"/> You are not sure	HSLs:09 (2016 follow-up)
What sex were you at birth?	<input type="radio"/> Male <input type="radio"/> Female	Do you currently consider yourself to be:	<input type="radio"/> Male <input type="radio"/> Female	NATS
What sex were you assigned at birth, on your original birth certificate?	<input type="radio"/> Male <input type="radio"/> Female	Do you currently describe yourself as...?	<input type="radio"/> Male <input type="radio"/> Female <input type="radio"/> Transgender <input type="radio"/> None of these	NCVS, U.S. Census Pulse Survey
What was your sex at birth?	<input type="radio"/> Male <input type="radio"/> Female <input type="radio"/> Intersex/ambiguous	Do you consider yourself to be:	<input type="radio"/> Male <input type="radio"/> Female <input type="radio"/> Transgender	NHIVBS

continued

TABLE 6A-1 Continued

First Item Stem	First Item Response Options	Second Item Stem	Second Item Response Options	Source(s)
First, I'd like to confirm your gender. What sex were you assigned at birth, on your original birth certificate?	<input type="radio"/> Male <input type="radio"/> Female [If needed: We have to know your sex in order to direct you to the right questions.]	How do you describe your gender identity?	<input type="radio"/> Male <input type="radio"/> Female <input type="radio"/> Male-to-female transgender (MTF) <input type="radio"/> Female-to-male transgender (FTM) <input type="radio"/> Other gender identity, specify	NISVS
What sex were you assigned at birth, on your original birth certificate?	<input type="radio"/> Female <input type="radio"/> Male	How do you describe yourself?	<input type="radio"/> Female <input type="radio"/> Male <input type="radio"/> Transgender <input type="radio"/> Do not identify as female, male, or transgender	NORC recommendations for CMS (2017)
What sex were you assigned at birth, on your original birth certificate?	<input type="radio"/> Male <input type="radio"/> Female	How do you currently describe your gender? (Check the ONE that best applies to you)	<input type="radio"/> Male <input type="radio"/> Female <input type="radio"/> Genderqueer/ gender nonconforming <input type="radio"/> Transgender female-to-male <input type="radio"/> Transgender male-to-female <input type="radio"/> Something else, please specify	START
Is the person:	<input type="radio"/> Male <input type="radio"/> Female <input type="radio"/> Non-binary sex	How [do/does] [you/Person's name/they] describe [your/their] gender? Gender refers to current gender, which may be different to sex recorded at birth and may be different to what is indicated on legal documents. Please [tick/mark/select] one box	<input type="radio"/> Man or male <input type="radio"/> Woman or Female <input type="radio"/> Non-binary <input type="radio"/> [I/They] use a different term (please specify) <input type="radio"/> Prefer not to answer	Australia Sex: Census (2021) Gender identity: Recommendations (January 2021)

TABLE 6A-1 Continued

First Item Stem	First Item Response Options	Second Item Stem	Second Item Response Options	Source(s)
What was this person's sex at birth? Sex refers to sex assigned at birth.	<input type="radio"/> Male <input type="radio"/> Female	What is this person's gender? Refers to current gender which may be different from sex assigned at birth and may be different from what is indicated on legal documents.	<input type="radio"/> Male <input type="radio"/> Female <input type="radio"/> Or please specify this person's gender	Canada Census (2021)
What is your sex? A question about gender identity will follow later on in the questionnaire.	<input type="radio"/> Female <input type="radio"/> Male	Is the gender you identify with the same as your sex registered at birth?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> [if no] Enter gender identity	England and Wales Census (2021)
What was your sex at birth? (for example what was recorded on your birth certificate)	<input type="radio"/> Male <input type="radio"/> Female	What is your gender?	<input type="radio"/> Male <input type="radio"/> Female <input type="radio"/> Another gender (Please state)	New Zealand Recommendations (April 2021)
What is your sex?	<input type="radio"/> Female <input type="radio"/> Male	Do you consider yourself to be trans, or have a trans history?	<input type="radio"/> No <input type="radio"/> Yes <input type="radio"/> [if yes] Please describe your trans status (for example, non-binary, trans man, trans woman)	Scotland Census (2021)

BRFSS TOOL

Module 25: Sex at Birth

Question Number	Question text	Variable names	Responses (DO NOT READ UNLESS OTHERWISE NOTED)	SKIP INFO/ CATI Note	Interviewer Note (s)	Column(s)
MSAB.01	What was your sex at birth? Was it male or female?	BIRTHSEX	1 Male 2 Female 7 Don't know/Not sure 9 Refused		This question refers to the original birth certificate of the respondent. It does not refer to amended birth certificates.	

Module 26: Sexual Orientation and Gender Identity (SOGI)

Question Number	Question text	Variable names	Responses (DO NOT READ UNLESS OTHERWISE NOTED)	SKIP INFO/ CATI Note	Interviewer Note (s)	Column(s)
MSOGI.02	Do you consider yourself to be transgender?	TRNSGNDR	1 Yes, Transgender, male-to-female 2 Yes, Transgender, female to male 3 Yes, Transgender, gender nonconforming 4 No 7 Don't know/not sure 9 Refused		Read if necessary: Some people describe themselves as transgender when they experience a different gender identity from their sex at birth. For example, a person born into a male body, but who feels female or lives as a woman would be transgender.	553

APPENDIX III: 2022 BRFSS DATA SET

2022 BRFSS transgender: DOL request

Data request for NYS Department of Labor, September 14 2023

	Cis-gender			Estimated (weighted) number of people	Transgender			Estimated (weighted) number of people
	Percent (%)	95% CI			Percent (%)	95% CI		
NYS	98.1	97.8	- 98.4	14,305,564	1.2	0.9	- 1.5	174,004
Age (years)								
18-24	10.6	9.8	- 11.3	1,466,147	19.5	10.9	- 28.1	33,639
25-34	17.3	16.4	- 18.2	2,406,743	16.7	8.3	- 25.1	28,824
35-44	16.0	15.2	- 16.8	2,228,733	24.2	14.3	- 34.2	41,871
45-54	14.7	13.9	- 15.5	2,042,627	14.9	7.3	- 22.4	25,665
55-64	17.7	16.8	- 18.5	2,455,843	10.8	5.5	- 16.0	18,596
65+	23.8	22.9	- 24.7	3,305,149	14.0	3.2	- 24.8	24,158
Race/ethnicity								
Black, non-Hispanic	13.9	13.1	- 14.8	1,913,621	13.8	5.3	- 22.2	22,940
Hispanic	19.0	18.2	- 19.9	2,614,756	27.6	18.2	- 37.0	45,994
Other race or multiracial, non-Hispanic ¹	14.0	13.1	- 15.0	1,928,831	24.4	11.4	- 37.4	40,642
White, non-Hispanic	53.0	51.9	- 54.1	7,272,448	34.2	23.9	- 44.5	56,917
Educational attainment								
Less than high school (HS)	12.3	11.5	- 13.2	1,753,885	33.1	20.8	- 45.3	57,056
High school or GED	26.0	24.9	- 27.0	3,688,869	29.5	19.3	- 39.7	50,836
Some post-HS	26.2	25.2	- 27.2	3,723,660	18.0	10.0	- 26.0	31,107
College graduate	35.5	34.5	- 36.5	5,046,128	19.5	11.8	- 27.1	33,566
Annual household income								
<\$25,000	12.9	12.2	- 13.7	1,851,482	31.9	19.9	- 43.8	55,455
\$25,000 - \$49,999	17.7	16.8	- 18.6	2,532,400	17.5	9.0	- 26.0	30,375
\$50,000 and greater	41.6	40.6	- 42.7	5,956,762	19.7	12.2	- 27.2	34,277
Missing	27.7	26.7	- 28.7	3,964,921	31.0	20.7	- 41.3	53,897
Employment status								
Employed/Self-employed	56.4	55.3	- 57.6	7,697,379	48.6	36.6	- 60.6	75,570
Unemployed	7.0	6.4	- 7.6	953,867	14.5	5.9	- 23.1	22,574
Not in labor force ²	36.6	35.5	- 37.7	4,988,303	36.9	24.5	- 49.2	57,354
Region of state								
NYC and Long Island ³	57.1	56.3	- 57.8	8,164,586	66.8	56.4	- 77.2	116,193
Rest of regions	42.9	42.2	- 43.7	6,140,978	33.2	22.8	- 43.6	57,811

Note:

1 Includes respondents identifying as Asian, Pacific Islander, Native American or Multiracial, and non-Hispanic

2 Includes respondents indicating they are homemakers, retired, students or unable to work

3 Includes respondents from the 5 boroughs of New York City, Nassau and Suffolk counties

Classification of cis gender and transgender respondents

Transgender status included respondents who described their current gender as different from their sex assigned at birth or chose the category transgender in response to the gender identity question. Cis gender included respondents who described their current gender identity as being the same as their sex assigned at birth.

APPENDIX IV: 2021 NETWORK NEEDS ASSESSMENT TGNC EMPLOYMENT RESULTS DATA SET

Table 1a. Gender (n=2,314)

	Frequency	Percent
Cisgender male	638	28%
Cisgender female	812	35%
Transman	100	4%
Transwoman	114	5%
Genderqueer, gender non-conforming, or non-binary	350	15%
Multiple or other genders	300	13%
Total	2,314	100%

Table 1b. Gender, collapsed (n=2,314)

	Frequency	Percent
Cisgender male or female	1,450	63%
Transgender (male and female)	214	9%

Gender non-conforming, non-binary, and other genders 650 28%

Total 2,314 100%

Table 2. Respondents in school at time of survey (n=2,288) ***

	No	Yes	Total
Cisgender male	91%	9%	100%
Cisgender female	86%	14%	100%
Transman	63%	37%	100%
Transwoman	79%	21%	100%
Genderqueer, gender non-conforming, or non-binary	68%	32%	100%
Multiple or other genders	68%	32%	100%
Total	81%	19%	100%

Table 3. Highest level of education achieved (n=2,294) ***

	Less than high school	High school	Some college	Associate's or technical degree	Bachelor's degree	Graduate or professional degree	Total
Cisgender male	1%	5%	12%	7%	36%	37%	100%
Cisgender female	2%	5%	13%	10%	33%	38%	100%
Transman	12%	12%	24%	10%	18%	23%	100%
Transwoman	4%	14%	21%	15%	27%	19%	100%
Genderqueer, gender non-conforming, or non-binary	10%	9%	15%	6%	32%	28%	100%
Multiple or other genders	15%	7%	17%	7%	30%	24%	100%
Total	5%	7%	14%	9%	32%	33%	100%

Table 4. Employment (n=2,264) ***

	No, and I'm not looking for work	No, but I want to work	No, I'm too young to work	No, I am retired	Yes, I work part-time	Yes, I work full-time	Total
Cisgender male	3%	9%	0%	15%	10%	62%	100%
Cisgender female	3%	6%	1%	11%	12%	69%	100%
Transman	4%	21%	4%	3%	15%	52%	100%
Transwoman	7%	14%	0%	18%	18%	43%	100%
Genderqueer, gender non-conforming, or non-binary	6%	16%	4%	5%	20%	49%	100%
Multiple or other genders	7%	21%	4%	2%	21%	44%	100%
Total	4%	11%	2%	10%	14%	59%	100%

Table 5. Income level (n=2,175) ***

	\$0	\$1-\$25K	\$25K-\$50K	\$50K-\$75	\$75K-\$100K	\$100K +	Total
Cisgender male	3%	13%	21%	21%	15%	27%	100%
Cisgender female	3%	21%	27%	21%	14%	13%	100%
Transman	19%	33%	23%	14%	5%	6%	100%
Transwoman	4%	41%	22%	11%	13%	8%	100%
Genderqueer, gender non-conforming, or non-binary	12%	37%	25%	18%	5%	3%	100%
Multiple or other genders	17%	39%	17%	12%	7%	7%	100%
Total	7%	25%	23%	19%	12%	14%	100%

Table 6. Self-rated Health (n=2,309) ***

Question: Would you say that in general your health is:	Poor + Fair	Poor	Fair	Good	Very Good	Excellent	Total
Cisgender male (n=636)	12%	1%	11%	32%	41%	14%	100%
Cisgender female (n=810)	17%	2%	15%	37%	36%	11%	100%
Transman (n=100)	25%	6%	19%	30%	32%	13%	100%
Transwoman (n=114)	25%	5%	19%	32%	35%	9%	100%
Genderqueer, gender non-conforming, or non-binary (n=349)	30%	7%	23%	35%	29%	6%	100%
Multiple or other genders (n=300)	29%	7%	21%	35%	31%	5%	100%
Total (n=2,309)	20%	4%	16%	34%	36%	10%	100%

Table 7. Self-rated Quality of Life (n=2,310) ***

Question: How would you rate your quality of life?	Poor + Fair	Poor	Fair	Good	Very Good	Excellent	Total
Cisgender male (n=636)	8%	2%	7%	26%	48%	17%	100%
Cisgender female (n=810)	10%	1%	9%	25%	49%	16%	100%
Transman (n=100)	13%	1%	12%	34%	43%	10%	100%
Transwoman (n=114)	23%	4%	19%	36%	29%	12%	100%
Genderqueer, gender non-conforming, or non-binary (n=349)	21%	2%	19%	33%	38%	8%	100%
Multiple or other genders (n=300)	22%	3%	19%	39%	32%	7%	100%
Total (n=2,310)	14%	2%	12%	29%	44%	14%	100%

Table 8a. Mental Health, Chronic Conditions, and Major Health Events, by Gender

		% Of respondents affected by the condition	% Affected who sought care for the condition	% Who sought care for chronic conditions and received it	% Who sought care for the chronic conditions but did not receive care	% Affected by the condition who did not receive care, whether they sought care or not
Mental Health*** (n=2,273)						
	Cisgender male	62.1%	67.9%	91.6%	8.4%	37.8%
	Cisgender female	76.6%	75.3%	91.6%	8.4%	31.1%
	Transgender male	76.3%	85.1%	90.5%	9.5%	23.0%
	Transgender female	80.2%	83.1%	91.9%	8.1%	23.6%
	Genderqueer, gender nonconforming, or non-binary	93.6%	80.7%	92.3%	7.7%	25.5%
	Multiple or other genders	93.3%	83.0%	86.1%	13.9%	28.5%
Total		77.5%	76.7%	90.7%	9.3%	30.4%
Chronic Conditions*** (n=2,253)						
	Cisgender male	39.6%	95.9%	96.6%	3.4%	7.3%
	Cisgender female	45.0%	92.5%	93.4%	6.6%	13.6%
	Transgender male	42.7%	87.8%	97.2%	2.8%	14.6%
	Transgender female	43.6%	87.5%	97.6%	2.4%	14.6%
	Genderqueer, gender nonconforming, or non-binary	42.6%	81.7%	94.8%	5.2%	22.5%
	Multiple or other genders	38.5%	83.9%	89.4%	10.6%	25.0%
Total		42.2%	90.3%	94.4%	5.6%	14.7%
Major Health Events (n=2,248)						
	Cisgender male	23.3%	86.2%	92.8%	7.2%	20.0%
	Cisgender female	18.1%	88.8%	95.3%	4.7%	15.4%
	Transgender male	18.8%	72.2%	92.3%	7.7%	33.3%
	Transgender female	24.5%	81.5%	86.4%	13.6%	29.6%
	Genderqueer, gender nonconforming, or non-binary	19.2%	84.6%	94.5%	5.5%	20.0%
	Multiple or other genders	20.8%	85.0%	86.3%	13.7%	26.7%
Total		20.4%	85.8%	92.6%	7.4%	20.5%

Table 8b. Reproductive Health, Job-related Issues, and Environmental Health, by Gender
 % Who sought care for the

	% Of respondents affected by the condition	% Affected who sought care for the condition	% Who sought care for chronic conditions and received it	% Who sought care for the chronic conditions but did not receive care	% Affected by the condition who did not receive care, whether they sought care or not
Reproductive Health*** (n=2,268)					
Cisgender male	2.9%	88.9%	100.0%	0.0%	11.1%
Cisgender female	33.0%	85.7%	93.4%	6.6%	20.0%
Transgender male	18.2%	83.3%	80.0%	20.0%	33.3%
Transgender female	12.6%	78.6%	100.0%	0.0%	21.4%
Genderqueer, gender nonconforming, or non-binary	27.2%	75.3%	90.0%	10.0%	32.3%
Multiple or other genders	25.8%	73.3%	85.5%	14.5%	37.3%
Total	21.3%	81.6%	91.6%	8.4%	25.3%

Job-related Issues** (2,243)					
Cisgender male	7.6%	53.2%	52.0%	48.0%	72.3%
Cisgender female	10.9%	64.7%	80.0%	20.0%	48.2%
Transgender male	16.2%	62.5%	50.0%	50.0%	68.8%
Transgender female	14.2%	60.0%	66.7%	33.3%	60.0%
Genderqueer, gender nonconforming, or non-binary	15.4%	61.5%	68.8%	31.3%	57.7%
Multiple or other genders	13.4%	53.8%	52.4%	47.6%	71.8%
Total	11.4%	59.8%	66.4%	33.6%	60.2%

Environmental Health*** (2,281)					
Cisgender male	7.9%	60.0%	73.3%	26.7%	56.0%
Cisgender female	15.0%	66.1%	85.0%	15.0%	43.8%
Transgender male	21.2%	71.4%	73.3%	26.7%	47.6%
Transgender female	15.2%	76.5%	76.9%	23.1%	41.2%
Genderqueer, gender nonconforming, or non-binary	22.4%	59.2%	71.1%	28.9%	57.9%
Multiple or other genders	21.7%	60.9%	76.9%	23.1%	53.1%
Total	15.3%	63.6%	77.9%	22.1%	50.4%

Table 8c. Abuse in Relationships or the Family and Substance

	% Of respondents affected by the condition	% Affected who sought care for the condition	% Who sought care for chronic conditions and received it	% Who sought care for the chronic conditions but did not receive care	% Affected by the condition who did not receive care, whether they sought care or not
Abuse in Relationships or the Family***					
(n=2,257)					
Cisgender male	4.0%	40.0%	80.0%	20.0%	68.0%
Cisgender female	7.8%	45.2%	82.1%	17.9%	62.9%
Transgender male	11.5%	54.5%	66.7%	33.3%	63.6%
Transgender female	11.9%	53.8%	57.1%	42.9%	69.2%
Genderqueer, gender nonconforming, or non-binary	16.2%	61.1%	81.8%	18.2%	50.0%
Multiple or other genders	15.9%	58.7%	59.3%	40.7%	65.2%
Total	9.3%	52.6%	73.9%	26.1%	61.1%
Substance Use** (n=2,244)					
Cisgender male	11.3%	45.7%	87.5%	12.5%	60.0%
Cisgender female	6.3%	42.0%	100.0%	0.0%	58.0%
Transgender male	14.4%	35.7%	60.0%	40.0%	78.6%
Transgender female	13.0%	35.7%	100.0%	0.0%	64.3%
Genderqueer, gender nonconforming, or non-binary	10.7%	25.0%	77.8%	22.2%	80.6%
Multiple or other genders	7.9%	26.1%	100.0%	0.0%	73.9%
Total	9.2%	37.7%	89.7%	10.3%	66.2%

Appendices

Respondents who reported that they were affected by job-related issues in the past 12 months were asked why types of services they sought. Of 2,342 respondents, 147 sought the following services for job-related issues.

Table 9. Services sought by respondents reporting job-related issues or concerns (n=147)

	Cisgender male or female (n=80)	Transgender male or transgender female (n=19)	Gender nonconforming and other non-binary identities (n=53)	Total % (out of 152)
Medical, non-ER	48.8%	42.1%	43.4%	46.1%
Legal Services	25.0%	36.8%	39.6%	31.6%
Counseling or Mental Health Services	13.8%	0.0%	13.2%	11.8%
Medical, ER	12.5%	10.5%	7.5%	10.5%
Human resources or harassment complaints	5.0%	15.8%	7.5%	7.2%
Social Services	5.0%	0.0%	3.8%	3.9%
Disabilities or other workplace accommodations	2.5%	5.3%	1.9%	2.6%
Regulatory compliance	2.5%	0.0%	0.0%	1.3%
Ethical	0.0%	0.0%	1.9%	0.7%
Union Representation / began unionizing	0.0%	0.0%	1.9%	0.7%

Table 10. Respondents who sought unemployment benefits**

	No	Yes	Total
Cisgender male or female	1,167 (84%)	220 (16%)	1,387 (100%)
Transgender male or transgender female	176 (86%)	29 (14%)	205 (100%)
Gender non-conforming and other non-binary identities	481 (78%)	132 (22%)	613 (100%)
Total	1,824 (83%)	381 (17%)	2,205 (100%)

Table 11. Respondents who received unemployment benefits when they sought the benefits

	No	Yes	Total
Cisgender male or female	35 (16%)	185 (84%)	220 (100%)
Transgender male or transgender female	4 (14%)	25 (86%)	29 (100%)
Gender non-conforming and other non-binary identities	26 (20%)	106 (80%)	132 (100%)
Total	1,824 (17%)	381 (83%)	2,205 (100%)

APPENDIX V: NEW YORK STATE DEPARTMENT OF LABOR COMMENT ON ADDING SOGI QUESTIONS TO ACS

WE ARE YOUR DOL



Kathy Hochul, Governor

Roberta Reardon, Commissioner

November 15, 2023

Ms. Elizabeth Poehler
Assistance Division Chief for Survey Methods
American Community Survey
US Census Bureau
4600 Silver Hill Road
Washington, DC 20233

Re: Docket No. USBC-2023-007
American Community Survey SOGI Test

Dear Ms. Poehler:

The New York State Department of Labor (NYSDOL) appreciates the opportunity to respond to the Census Bureau's request for public comment on the proposed revision of the American Community Survey (ACS) Methods Panel Tests to include questions regarding sexual orientation and gender identity (SOGI). NYSDOL is the primary source of labor market information in New York State (NYS), administering and producing data for various federal statistical programs in cooperation with the U.S. Bureau of Labor Statistics and the Census Bureau. NYSDOL staff analyzes information from the ACS and Current Population Survey (CPS) to provide data on current economic trends, labor supply, and wages to fellow state agencies, organizations, universities, and the public. Necessity of information collection.

NYSDOL strongly supports collecting sexual orientation and gender identity data on the ACS. Collecting data on different populations allows policy development to address disparities between different groups. The National Academies of Sciences, Engineering, and Medicine's (NASEM) 2022 report on SOGI data collection found that the lack of data collected on sexual orientation and the transgender, gender non-conforming, and non-binary (TGNCNB) population has led to shortcomings in policy making.¹ The report included recommendations to improve the quality of data collection efforts and make advancements in research and policy. Those recommendations include questions for data collection on sexual orientation, gender identity, and non-binary individuals.

¹ National Academies of Sciences, Engineering, and Medicine, *Measuring Sex, Gender Identity, and Sexual Orientation*, ed. Nancy Bates, Marshall Chin, and Tara Becker (Washington, DC: National Academies Press, 2022).

Appendices

Recent state legislation required NYSDOL to conduct a study on the employment rate of transgender individuals in New York.² As a result of the limited availability of government-backed data sources inclusive of gender identity, NYSDOL was limited to reporting on the experimental data from the Household Pulse Survey (HPS), and the CDC's Behavioral Risk Factor Surveillance System (BRFSS) survey, which is not statistically comparable to other economic indicator surveys. To better fulfill the spirit of the legislation, if not the explicit directive, NYSDOL also leaned on data gathered from the TGNCNB community itself via focus groups, in-depth interviews, and a request for public comment, as well as two TGNCNB-targeted population surveys (the 2015 U.S. Trans Survey from the National Center for Transgender Equality, and the 2021 NYS LGBT Health & Human Services Network's Needs Assessment). Our research found TGNCNB individuals do not have the same employment opportunities or resources as their cis-gender counterparts.^{3,4}

Adding SOGI questions to the ACS would provide the most robust dataset available regarding employment statistics, needs, and trends within LGBTQ+ communities.

NYSDOL supports testing SOGI questions on the ACS to ensure valid and consistent quantitative data is available for the creation of meaningful policy development at the national and state level.

Enhance the quality, utility, and clarity of the information to be collected.

NYSDOL supports the two-question approach to asking about gender identity and believes it is currently the best method for accurately capturing data on TGNCNB individuals. The proposed test questions regarding sexual orientation are in line with NASEM's recommendations, and NYSDOL supports NASEM's findings. Our recent

research concentrated on gender identity as was mandated by the state legislature. The agency's expertise in the challenges created by the lack of SOGI data collection is therefore concentrated in gender identity.

NYSDOL recognizes the inherent challenges with collecting data on sexual orientation and gender identity. Any list of specific identities will be reductive and fail to encompass all potential sexualities and genders. NYSDOL also recognizes the sensitivity around asking an individual of trans experience their assigned sex at birth. Researchers, such as those at NASEM, have found such questions can invalidate and harm a person of trans experience's affirmed identity.⁵ Based on research for NYSDOL's report on TGNCNB New Yorker's Employment Experiences, data quality depends on building trust with survey respondents. NYSDOL recommends the ACS test questions regarding

² Governor's Press Office, "Governor Hochul Signs Legislation Aimed at Addressing Economic Inequities Facing Transgender New Yorkers | Governor Kathy Hochul," New York Governor Kathy Hochul, August 2022, <https://www.governor.ny.gov/news/governor-hochul-signs-legislation-aimed-addressing-economic-inequities-facing-transgender-new>.

³ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M., "USTS Full Report 2015," U.S. Transgender Survey (Washington, DC: National Center for Transgender Equality, 2016).

⁴ Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, "New York State LGBTQ+ Health and Human Services Needs Assessment: 2021 Community Survey" (The New York State Network for LGBTQ Health and Human Services, 2022).

⁵ National Academies of Sciences, Engineering, and Medicine, *Measuring Sex, Gender Identity, and Sexual Orientation*, ed. Nancy Bates, Marshall Chin, and Tara Becker (Washington, DC: National Academies Press, 2022), <http://nap.nationalacademies.org/26424>.

Appendices

assigned sex at birth and current gender identity be prefaced with a description of why the questions are being asked, how the information gathered will be used, and an acknowledgement that the list of potential gender identities is not exhaustive.⁶

NYSDOL also supports the addition of “non-binary” as an option in the Census Bureau’s proposal. A 2021 Needs Assessment conducted by the New York State LGBT Health and Human Services Network found that LGBTQ+ people under the age of 35 in New York are increasingly identifying as non-binary and gender non-conforming.⁷ I recommend expanding the non-binary test answer to include gender non-conforming to more accurately capture those outside the binary. As young, gender diverse individuals continue to age into the workforce, gender diversity will only become more relevant in labor and other statistics produced. NYSDOL supports NASEM’s recommendation to re-evaluate questions on gender identity frequently as social understanding of gender is constantly evolving.⁸ Should it adopt SOGI questions on the ACS, I recommend the Census Bureau annually review and update the terms included as responses to the gender identity question. Minimize the reporting burden.

NYSDOL supports the proposed use of flashcards for in-person interviews and numbered response categories for in-person or telephone interviews. I believe it is essential to allow individuals to answer accurately without having to audibly disclose their sexual orientation or gender identity to others in the room. Depending on family or co-living dynamics, individuals may not be comfortable being out in their household.

NYSDOL acknowledges that proxy reporting can present challenges and create a reporting burden on survey respondents. Accurate proxy reporting of gender identity and sexual orientation related questions requires individuals be able to speak to another’s identity and so it might be reported incorrectly.⁹ NYSDOL recommends adding an acknowledgement of these challenges upfront to respondents to establish trust and encourage truthful responses.

Finally, to further reduce the burden on the respondents, NYSDOL recommends any SOGI question be voluntary. There has been a significant rise in anti-LGBTQ+ legislation in states across the U.S. in the past five years.¹⁰ The qualitative research conducted by NYSDOL with the TGNCNB community found that uncertainty around future leadership at the federal executive level leaves some LGBTQ+ individuals feeling unsafe sharing gender identity and sexual orientation information with the government.

⁶ Jessica L Holzberg et al., “Assessing the Feasibility of Asking About Gender Identity in the Current Population Survey: Results from Focus Groups with Members of the Transgender Population” (Washington, DC: Office of Survey Methods Research, U.S. Bureau of Labor Statistics, April 2018), <https://www.census.gov/content/dam/Census/library/working-papers/2018/adrm/rsm2018-05.pdf>.

⁷ Guidry JA, Hou EP, Lopez M, and Hatch M, Otting J, “Network Needs Assessment.”

⁸ National Academies of Sciences, Engineering, and Medicine, *Measuring Sex, Gender Identity, and Sexual Orientation*.

⁹ Holzberg et al., “Asking About Gender on CPS.”

¹⁰ Trans Legislation Tracker, “2023 Anti-Trans Bills: Trans Legislation Tracker,” Trans Legislation Tracker, <https://translegislation.com>.

Appendices

As the main resource of employment related data and analyses in New York State, NYSDOL reiterates the need for access to a large, statistically sound dataset regarding the LGBTQ+ and TGNCNB population. As conversations about adding SOGI questions to federal surveys continues, I believe it is extremely important to talk to and work with the LGBTQ+ community to produce data that is relevant, correct, and culturally competent. Testing SOGI questions in the 2024 ACS is a step in the right direction toward adding sexual orientation and gender identity questions to all federal population- representative surveys so all states can, in earnest, measure the employment statistics and the realities of LGBTQ+ and TGNCNB communities.

Thank you for the opportunity to submit a public comment on the proposed revision of the American Community Survey (ACS) Methods Panel Tests to include questions regarding sexual orientation and gender identity (SOGI).

Sincerely,

A handwritten signature in blue ink that reads "Roberta Reardon". The signature is fluid and cursive, with the first name "Roberta" being more prominent than the last name "Reardon".

Roberta Reardon Commissioner
RR/lis

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Appendices

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