



**NEW YORK CITY DEPARTMENT OF HEALTH AND
MENTAL HYGIENE**

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Letter Grading for Sanitary Inspections

What It Means for Restaurants and Consumers

Starting in July 2010, New York City is requiring certain food service establishments to post letter grades that correspond to their sanitary inspection scores. These questions and answers summarize the grading program.

OVERVIEW

Why is the Health Department issuing letter grades to restaurants?

The Health Department is issuing restaurant letter grades to help consumers make informed choices about where to eat out. Consumer awareness creates a powerful new incentive for restaurants to maintain the highest food safety standards.

Which establishments are graded?

Some food service establishments that require Health Department permits will receive and post letter grades that correspond to their sanitary inspection scores. These establishments include most restaurants, coffee shops, bars, nightclubs, cafeterias, retail bakeries, and fixed-site food stands. This document uses the term “restaurants” to refer to all these establishments.

Which establishments are not graded?

Letter grades are *not* being issued to mobile food vending units, temporary food service establishments, food service establishments operated by primary or secondary schools, hospital-operated cafeterias, correctional facilities, charitable organizations (including soup kitchens or other prepared food distribution programs), or food service establishments operated by not-for-profit membership organizations, which serve food only to their members.

What are the grades, and what do they mean?

Grades reflect how well a restaurant complies with the food safety requirements of the New York City Health Code and the State Sanitary Code. When inspectors examine a restaurant’s sanitary conditions and practices, they assign numerical points for different violations of the Health Code. Different violations carry different numbers of points, depending on their nature and severity. The total number of violation points provides a measure of the restaurant’s general condition. Under the new system, the Health Department will use the scores from certain inspections to generate letter grades that are easier to interpret. Here are the grades:

- **Grade A.** 0 to 13 points for sanitary violations.
- **Grade B.** 14 to 27 points for sanitary violations.
- **Grade C.** 28 or more points for sanitary violations.

- **Grade Pending.** A restaurant's B or C grade is not final until the restaurant has had the opportunity to go before the Office of Administrative Trials and Hearings Health Tribunal to contest the violations cited against it. Until then, the restaurant has the option to post either the preliminary grade or a card that says "Grade Pending." Once the grade is final, the restaurant must immediately post the letter grade card and take down the Grade Pending card.

How should consumers interpret grades of B or C?

In the first year or so of grading, we expect that most restaurants will earn a B grade. Restaurants with B or C grades should improve their overall food safety practices, but the Health Department immediately closes restaurants with conditions that may be hazardous to public health.

Where can I search for restaurants or learn more about a restaurant's inspection history?

Visit nyc.gov/health/restaurants to see inspection details and to search for restaurants by grade, neighborhood, cuisine and more.

Will all restaurants have a grade when letter grading begins in July 2010?

No. It will take a little over a year to grade all of the city's existing restaurants. New restaurants are not graded until they have been open for a few weeks.

How did the Health Department respond to comments from the restaurant industry and consumers when designing the grading initiative?

Hundreds of New Yorkers offered comments while the grading initiative was being developed. The general public was overwhelmingly supportive, but some restaurant operators opposed the grading system. Industry representatives stressed the need to ensure that grades would be assigned fairly, that restaurants would have opportunities to improve their grades, and that grades would reflect only those conditions relevant to food safety. The Health Department addressed these concerns by designing a program that gives restaurants an automatic second chance to improve their scores after an initial inspection, as well as an opportunity for outside review of the inspection results. The agency also updated the inspection violation list so that restaurants are graded only for violations that affect food safety. These changes are intended to make the system as fair as possible for restaurant operators while protecting restaurant customers.

Has the inspection process changed with grading?

No, the Health Department has not changed the way it conducts inspections. The inspector still examines the establishment's sanitary conditions and then gives the operator a printed report listing the violations observed, the points for each violation, and the total number of points.

Have there been any changes made to the violations?

Yes, the Health Department has made some changes. The updated violation list defines the violations that letter grades are based on, and it specifies the number of points assigned to each violation depending on the extent or severity of the condition cited. A guide to "condition levels" describes the severity of each violation and provides examples. A description of the changes made to the checklist and condition levels is set out in the final rule. Documents are available at nyc.gov/health or by calling 311.

THE INSPECTION

Which inspections result in a grade?

The Health Department conducts several types of inspections to monitor sanitary conditions. Only some of these inspections result in a grade.

- **Inspection of New Restaurants.** The inspection conducted before a restaurant opens for the Health Department to determine whether to issue a permit is not graded. Once a restaurant is permitted to open, and shortly after it has begun operating, the Health Department will conduct graded inspections.
- **Initial Inspection.** Every restaurant is scheduled for an unannounced inspection at least once a year. A restaurant that scores 0 to 13 violation points on this inspection, called the “initial inspection,” receives an A grade.
- **Re-inspection.** A restaurant that does not receive an A on its initial inspection does not receive a grade until it receives a re-inspection. The re-inspection will occur at least a week after the initial inspection, giving the restaurant a chance to improve its sanitary conditions. At the end of the re-inspection the restaurant will receive a grade card. If the grade is an A, the card must be posted immediately. If the grade is a B or C, the restaurant will also receive a card that says “Grade Pending.” The restaurant has the choice of immediately posting either the grade card or the Grade Pending card until it has a chance to be heard at the Health Tribunal.
- **Complaint-based Inspection.** If the Health Department conducts an inspection after receiving a complaint, it may choose to make that complaint inspection an initial or re-inspection and therefore subject to grading.
- **Compliance Inspection.** A restaurant that receives 28 or more points on a re-inspection will receive a “compliance inspection” roughly 30 days after the re-inspection. The Department will continue to conduct compliance inspections roughly every 30 days until the restaurant scores under 28 points or is closed by the Department. The compliance inspections will not be graded.

Once the final grade is posted, when is a restaurant’s next chance for a new grade?

How often a restaurant will be inspected and how soon it will be re-graded depend on the restaurant’s sanitary score. Higher-scoring restaurants are inspected more frequently than lower-scoring restaurants.

- A restaurant that scores 0-13 points on its initial inspection receives an A and will not be inspected again for about a year.
- A restaurant that scores 14-27 points on either its initial or re-inspection, but not more than 28 points, receives its next initial inspection about 5 to 7 months after the re-inspection.
- A restaurant that scores 28 or more points on its initial or re-inspection receives its next initial inspection about 3 to 5 months after its inspection cycle ends. The inspection cycle ends when the restaurant scores below 28 points on a compliance inspection.

POSTING THE GRADE CARDS

Where does the restaurant have to post the grade card?

The grade (or grade pending) card must be posted on a front window, door or outside wall where it is easily seen by people passing by. The card must be within 5 feet of the entrance and from 4 to 6 feet off the ground or floor.

Is there a penalty for not posting a current grade card?

Yes. The Health Department will issue a notice of violation to any restaurant that fails to post the required grade or Grade Pending card, or fails to post it in the required location. These may result in substantial fines.

What happens if a grade card is lost or damaged?

Once a grade card (or grade pending card) must be posted, the restaurant must display it at all times. If a grade card is damaged or lost, the restaurant operator can pick up a replacement card at the Health Department's Bureau of Food Safety and Community Sanitation, 253 Broadway, 4th floor, in Manhattan.

Does the Health Department track each grade card?

Yes. The Health Department carefully tracks each grade card. A serial number printed on the card is traceable to the restaurant and the inspector who assigns it. Posting an incorrect grade card – whether the wrong grade or a card assigned to another restaurant – is a serious violation that may result in penalties and suspension of a restaurant's permit.

What should the restaurant do with its out-of-date grade card or Grade Pending card?

A card that is no longer current must be destroyed.

CLOSURES

Does grading change the procedures for closing restaurants?

No. The Health Department continues to close establishments if it finds serious and persistent violations or an uncorrected public health hazard.

What happens to a grade if the Health Department closes the restaurant?

If the Health Department closes a restaurant, it removes the grade card and posts a closure sign. If the closure occurs on an initial inspection, the restaurant has to post a Grade Pending card once it's authorized to re-open. If the closure occurs on a re-inspection, the restaurant has the choice of posting its re-inspection grade or Grade Pending card when it re-opens. If the closing occurs on a compliance inspection, once it's authorized to re-open, the restaurant has to re-post the grade card that had been posted before the restaurant was closed.

OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS HEALTH TRIBUNAL

Can restaurants contest violations at the Health Tribunal?

Yes, a restaurant can contest violations cited on a notice of violation at the Health Tribunal. The Health Department automatically schedules a Tribunal hearing date at the end of each inspection where a notice of violation is issued and notifies the restaurant of the hearing date.

If the Tribunal hearing examiner dismisses a violation does the restaurant's grade change?

If the hearing examiner dismisses a violation, the inspection score is recalculated. If the new score corresponds to a different grade, the restaurant will receive a new grade card, which must be posted immediately. If the re-calculated score does not change the grade, the establishment must immediately post the grade card it received at the re-inspection.

If the Tribunal decision changes a restaurant's grade, does it change the inspection schedule?

No.

What if the restaurant can't attend the hearing, or wants the inspector present for the hearing?

If the restaurant postpones its first hearing date (asks for an "adjournment") or requests the inspector's attendance and the Health Department is unable to accommodate the request, a second hearing date is set. While waiting for the second hearing, the restaurant can post either the grade card or the Grade Pending card.

What if the restaurant can't attend the second hearing date?

If a restaurant's operator or representative does not attend the hearing on the second date, or at the second hearing date asks for the first time for the inspector to be present, the hearing may be rescheduled. But the restaurant can no longer post the Grade Pending card. It must immediately post the grade card it received at the re-inspection and discard the Grade Pending card. If the Health Department or hearing examiner, rather than the restaurant, adjourns a hearing date for any reason (including to request the inspector's testimony), then that adjournment will not count as one of the restaurant's two opportunities for a hearing before having to post its grade card.

When does the restaurant post its grade card if the hearing examiner's decision is sent by mail?

In certain circumstances, the restaurant will receive the hearing examiner's decision by mail. If the mailed decision results in a new grade, a new grade card will be included with the decision and the restaurant must post it immediately after receiving it. If the decision does not result in a new grade, immediately after receiving the decision, the restaurant must post the grade card it received at the re-inspection.

Does a restaurant have to appear at the automatically scheduled hearing at the Health Tribunal?

No. The Tribunal now offers restaurants the opportunity to settle and pay a discount on the fines for notices of violation. Settlement can be done online, by mail, or at the Tribunal. Information about settlement is included with the notice of violation.

When does the restaurant post its grade card if it settles the notice of violation?

If a restaurant settles the notice of violation, it must immediately post the grade card issued during the re-inspection.

IMPROVING THE GRADE

How can a restaurant improve its grade?

Here are some steps that restaurants can take:

- Correct violations cited during an inspection.
- Train supervisors to regularly evaluate the establishment's condition and employee practices.
- Make sure food workers are supervised by someone with a Food Protection Certificate.
- Train all employees who handle food in food protection. Employees can study the Health Department's food protection course at no cost by visiting nyc.gov/health. They can also enroll in the food protection course, or the more advanced Quality Improvement Food Protection Course, offered by the agency's Health Academy.
- Read food protection fact sheets and booklets available free of charge and in several languages at nyc.gov/health.
- Use the Self-Inspection Worksheet, similar to the violation list used by inspectors, to conduct weekly self-inspections and uncover areas in need of improvement. The Worksheet is available at no cost at nyc.gov/health.
- To avoid lapses in safe food handling, review the Guide to Condition Levels, available at nyc.gov/health. It includes examples of how violations are cited.

Which violations are the most commonly cited?

Nearly two-thirds of all violations occur from the list below. Managing a restaurant to avoid these violations will improve a restaurant's grade and help prevent food-borne illnesses.

Most Common Violations (and Violation Codes)	How to Prevent
Facility not vermin proof, harborage or other conditions conducive to a pest infestation present. (8A)	<ul style="list-style-type: none">• Seal all cracks, crevices and holes in walls, cabinets and doors through which rodents, cockroaches and flies can enter• Install rodent proof door sweeps on external doors to prevent rodent entry• Clean grease, oil and food particles from all surfaces• Clean equipment and the floor under and around equipment• Keep range hoods free of grease• Clean and maintain grease traps
Non-food contact surface improperly constructed, unacceptable material used. Non-food contact surface or equipment improperly maintained (6C and 10F)	<ul style="list-style-type: none">• Review Department and Health Code rules on acceptable materials for food preparation and kitchen surfaces• Make sure all surfaces are smooth and

Most Common Violations (and Violation Codes)	How to Prevent
	cleanable <ul style="list-style-type: none"> • Keep all surfaces clean
Evidence of mice, cockroaches or flying insects in facility's food and/or non-food areas (4M, 4N, 4O)	<ul style="list-style-type: none"> • Follow good integrated pest management practices • Maintain a contract with a well-qualified pest control professional licensed to work in restaurants • Maintain an environment free from harborage and vermin proof the restaurant • Make sure all surfaces are clean, dry and free of debris • Store food and garbage in vermin proof containers • (See suggestions for harborage violations)
Improper temperature holding of food (2B and 2G)	<ul style="list-style-type: none"> • Review Department and Health Code rules for proper temperature holding procedures • Track food removed from hot or cold storage and record how long it has been out • Monitor the temperature of food in cold and hot storage • Make sure cold and hot holding equipment is functioning properly and able to maintain food at correct temperature
Plumbing maintenance, backflow, sewage and drainage problems (10B)	<ul style="list-style-type: none"> • Monitor condition of all plumbing fixtures and make immediate repairs • Make sure plumbing is equipped with an approved backflow prevention device (examples: check valves, anti-siphonage device, vacuum breaker) • Clean and maintain grease traps
Food surfaces not properly maintained (6D)	<ul style="list-style-type: none"> • Maintain all cutting surfaces so that they can be properly sanitized • Repair or replace pitted or deeply grooved cutting boards • Repair chipped or broken surfaces that come into contact with food • Regularly clean and sanitize all food preparation surfaces after each use, making sure they are free of caked on food
Food not protected from contamination during storage, preparation, transportation or display (6C)	<ul style="list-style-type: none"> • Cover and protect food at all times prior to serving it

Most Common Violations (and Violation Codes)	How to Prevent
	<ul style="list-style-type: none"> • Segregate food by temperature and type • Avoid cross-contamination by making sure that potentially hazardous food (such as raw poultry) is not stored over or adjacent to ready-to-eat food (such as salad ingredients)
<p>Food protection certificate not held by a supervisor during food operation (4A)</p>	<ul style="list-style-type: none"> • Have more than one supervisor with a food protection certificate on staff so there is <u>always</u> a supervisor present during hours of operation (whenever food is being prepared or served or when the restaurant is open to the public)

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