



A SAFE AND JUST RETURN TO WORK

NATIONAL COUNCIL FOR OCCUPATIONAL SAFETY AND HEALTH

ABOUT NATIONAL COSH

The National Council for Occupational Safety and Health (National COSH) is dedicated to promoting safe and healthy conditions for all working people through education, training, organizing and advocacy. We are a federation of twenty-two local affiliates, and the convenor of the Protecting Workers Alliance, a network of over 3000 worker safety and health organizers, trainers, industrial hygienists and public health, legal and research professionals. National COSH coordinated the writing of this report.

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EXECUTIVE SUMMARY

The devastating, catastrophic coronavirus pandemic has ravaged communities across the country while revealing longstanding, widespread harm and injustice. This situation serves as a wake-up call, amplifying the need for a measured, evidence-based response that will minimize the loss of life and make improvements to our preparedness in the future. As states make plans for re-opening workplaces, this report presents recommendations that maximize the safety, health and financial well-being of workers and the public.

This report presents recommendations for safe working conditions for essential workers who are still on the job during the COVID-19 pandemic, and also for those who may return to work in the coming weeks and months.

Safe working conditions to protect against the spread of infectious disease are vital not only for those directly affected, but also for family members, neighbors and the public at large who may be exposed if the spread of a deadly virus is not controlled in essential and other workplaces. Safety in all workplaces is crucial for all of us, since we all depend on a safe and stable supply of health care, food, sanitation, transportation and other goods and services.

A Safe and Just Return to Work was prepared by a task force of experts convened by the National Council for Occupational Safety and Health. Writers and contributors include certified industrial hygienists, academicians, attorneys, physicians and leaders of non-governmental and nonprofit organizations. (See page 19-20 for a list of contributors.)

Key Recommendations for A Safe, Just Return to Work:

A safe, just return to work – now and into the future – requires, at a minimum, the following elements:

1. ***Effective and stringent health and safety protections***, informed by science, backed by robust enforcement, and designed with meaningful input by workers, worker center/COSH groups, unions and employers;
2. ***A planned, detailed and meaningful system*** of screening, testing, contact tracing, proper isolation and epidemiological surveillance;
3. ***Guaranteed job protection*** and just compensation for those working, and for those who can't;
4. ***Inclusion of and respect for meaningful worker and union involvement*** in all planning, protocols and decision-making regarding safety in the workplace and return-to-work;
5. ***Measures to ensure equity, inclusion and a path to end health and economic disparities.***

INTRODUCTION

A return to work must ensure that reopening the economy will not bring about another wave of this virus. Workers and the community need to be assured that safety and health is the first priority for all.

As of the release of this report, the United States is far from being ready to open for business without putting not only workers but entire communities at grave risk of illness and death. Only the most essential businesses should be open, and even those must only be allowed to operate if critical safety measures are in place - that are monitored and enforced.

This guidance document outlines measures that state and local governments -- including governors, county and municipal officials, state and local public health and labor departments, and occupational safety and health officials -- can enact in the immediate and longer term to protect the health and well-being of all residents. These efforts will help bring about a more inclusive and equitable economy and an end to health, social and economic disparities.

PROTECTING WORKERS WHO BEAR THE BRUNT OF THIS PANDEMIC

While some argue that the virus doesn't discriminate, this country's history of institutional racism and discriminatory policies has had a huge impact on who lives and who dies in this pandemic. The threat posed by the virus has a greater impact on workers of color, on immigrants, on women, and on the poor. These workers are disproportionately represented in many of what are now recognized as "essential jobs": caring for our

families and providing us with our food and other critical needs. Many of these jobs are among the lowest paid, with little or no access to quality health care, have low rates of unionization and are among the most dangerous. They have now become even more deadly during this pandemic.

Latinx and African-American workers are disproportionately represented in jobs with historically poor conditions, made worse during a pandemic. They are disproportionately represented in meatpacking, seafood processing, logistics and warehouse work, and lower level health care professions - all designated as essential and occupations with high rates of transmission (See Appendix A, p. 14). African-Americans and Latinx in the COVID-19 hotbed of New York City, are twice as likely and 1.5 times as likely, respectively, to die from COVID-19 than whites. Similar trends are seen in cities, towns and states across the United States.

Women are also disproportionately impacted: most of the health care jobs, including those with the lowest wages and fewest benefits, are held by women. Women make up nearly 90% of nurses and nursing assistants and 80% of home health aides. These front-line workers are daily exposed to those who are known or suspected of having COVID-19; due to inadequate protections, too many have themselves become victims.

NEED FOR DEMOCRACY AND INCLUSION

When workers live in fear of going into unsafe workplaces or face an alternative of becoming homeless, and when workers are retaliated against by employers for seeking protective equipment and protections, the health and well-being of workers, their families and entire communities are put at risk.

Workers in every workplace that is currently operating, or has plans to be operating, are on the front-lines of the battle against this deadly virus. Workers know what it takes to get their jobs done and have critical information for how effective workplace health and safety can be implemented. Their acute need for a voice is evidenced by the unprecedented number and scale of walk-outs, sick-outs and social media outcries. These workers must be empowered to raise their voices and be heard regarding if, when and how work can be done in ways that will save both lives and livelihoods.

URGENT MEASURES ARE NEEDED IMMEDIATELY

The federal government has failed to enact the necessary measures to protect the safety and health of the nation's workforce. The US Occupational Safety and Health Administration (OSHA) has refused to issue a standard to protect workers from exposure to COVID-19 and implemented a minimal enforcement policy to respond to worker and referral complaints.

US Senators and House members are stepping in to try to correct this situation. COVID-19 Every Worker Protection Act (H6559, introduced by Senators Sherrod Brown (D-OH), Patty Murray (D-WA), Tammy Baldwin (D-WI) and Tammy Duckworth (D-Ill) and Rep. Bobby Scott (D-VA), and the Essential Worker Bill of Rights, introduced by Sen. Elizabeth Warren (D-MA) and Rep. Ro Khanna (D-CA), would mandate needed safeguards and fill a critical void of federal government leadership to protect the health and well-being of the nation's workforce.

Much of the coordination and guarantee of worker protection rests at the state level, with Governors' plans and mandates together with

state and municipal authorities and agencies. These plans must assure an unprecedented partnership between public health and occupational safety and health experts and authorities, and involve unions and worker organizations to support the most effective workplace protection initiatives.

Specific protections in the workplace are indispensable to protect public health and reverse the deadly toll the virus continues to take. It is important to carefully phase-in the reopening of the economy so it will not result in continuing and increasing COVID-19 death and disease. Each phase of economic reopening must involve the ideas and experience of workers, worker centers/COSH groups and unions to maximize the safety, health and financial well-being of all.

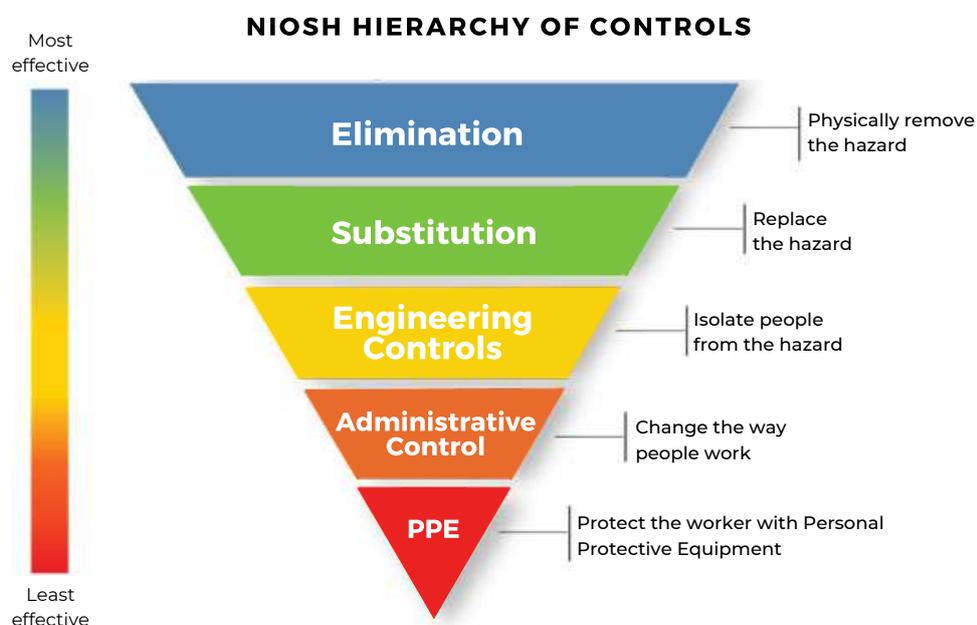
In addition to protective measures that must be in place now for all "essential" workers and workplaces, bold measures must be enacted to address the underlying disparities and injustices that were laid bare by the pandemic.

RECOMMENDATIONS FOR A SAFE, JUST RETURN TO WORK

1

EFFECTIVE AND STRINGENT HEALTH AND SAFETY PROTECTIONS, INFORMED BY SCIENCE, BACKED BY ROBUST ENFORCEMENT, AND DESIGNED WITH MEANINGFUL INPUT BY WORKERS, WORKER CENTER/COSH GROUPS AND UNIONS AND EMPLOYERS.

- Enact measures to ensure that the health and safety of workers currently engaged in “essential” work are in place, as we prepare for more businesses and services to open in coming weeks and months. Safety protections must align with the “hierarchy of controls” that favors more protective elimination, substitution and engineering controls over less protective administrative controls and personal protective equipment.



To protect workers from SARS-CoV-2 (the virus that causes COVID-19), administrative controls and personal protective equipment (PPE) will also be needed. Appropriate types and amounts of personal protective equipment (PPE) are essential to protect workers who may be exposed to the virus, and must be made available.

Controls must address the three primary ways transmission of the virus occurs:

- via large droplets expelled by infected persons who cough, sneeze, etc.;

- via virus particles that can collect on surfaces that are then touched;
- via airborne aerosol micro-droplets that float for distances in the air and are transmitted via breathing, talking, singing, sneezing or coughing.

Ensure that health and safety training is an integral part of any prevention plan, including topics such as basic rights on the job, proper fit-testing for PPE and addressing increased workplace violence related to new restrictions. Devote state funds to supporting such safety and health training in the languages of the workforce.

Resources:

- [Safety First: Working People's Plan for Re-opening the Economy the Right Way, AFL-CIO](#)
 - [Protecting Workers' Safety and Health in the COVID crisis, National Employment Law Project \(NELP\);](#)
 - [Model Worker Health and Safety Demands for Essential Workers, National COSH](#)
 - [AFL-CIO COVID-19 Resources](#)
 - [Commentary: COVID-19 transmission messages should hinge on science, Lisa Brosseau, ScD](#)
- Enact (or expand) state Infectious Disease Preparedness, Response and Control Plan for all workplaces, covering all jobs and workers. This would require employers to have a written plan to eliminate or reduce worker exposure to infectious disease hazards, developed in collaboration with workers, worker center/COSH groups and unions, along with requirements to implement and evaluate the plan. Each state would enforce this measure. Require that for all novel infectious agents (like SARS-Co V-2), airborne transmission is a default assumption.

Resources:

- [CalOSHA Aerosol Transmissible Disease Standards](#) (This must be expanded beyond health care to all industries and workplaces)
 - [Protecting Workers' Safety and Health in the COVID crisis, NELP, p. 6-8](#)
- Enact strong whistleblower protections to protect and encourage workers' ability to report hazardous conditions and non-compliance. Ensure vigorous protection and defense of whistleblowers who report dangerous workplace conditions to state or local authorities or their employer that threaten to expose, infect, make ill, or cause death from exposure to SARS Co V-2. Enact vigorous protection against employers who retaliate based on immigration status.

Resource:

- [Protecting Workers' Safety and Health in the COVID crisis, NELP, p. 9-10](#); Detailed recommendations for whistleblower measures - Appendix B, p.15
- Strengthen workers' rights to refuse dangerous work when adequate safety protections are not provided, with no loss of pay.

Resource:

- [Protecting Workers' Safety and Health/NELP, p. 10 and 16](#)
- Require employer documentation of COVID-19 infections and investigation of the cases to determine the cause(s) leading to the infections and the controls that need to be implemented/improved to prevent future occurrences.
- Prohibit employers from enacting or continuing incentives or bonuses for not using sick time, for reporting to work for a certain number of days or weeks in a row, or related policies that discourage workers from being absent from work and from utilizing sick time.

Resource:

- [Strategies to reduce COVID-19 transmission at the Smithfield Foods, CDC report, p2-3](#)
- Mandate that employers discontinue production and service quotas, as they prevent work from being performed safely, so as to avoid viral transmission. Rules that limit worker's time for handwashing and proper sanitation should be eliminated.

Resources:

- [Unsafe at These Speeds, Southern Poverty Law Center](#)
- [Guidance for Food and Meat Processing Facilities, Illinois Department of Public Health](#)
- Direct resources to, and expand capacity of, state enforcement agencies to inspect and vigorously enforce the above safety and health measures.
- Ensure that employers who fail to implement appropriate protective measures and egregiously expose workers to the risk of COVID-19 are not shielded from civil or criminal liability.

Resource:

- [New York A10728: Crimes involving death or injury of a worker](#)

2

INCLUSION OF AND RESPECT FOR MEANINGFUL WORKER AND UNION INVOLVEMENT IN ALL PLANNING, PROTOCOLS AND DECISION-MAKING REGARDING SAFETY IN THE WORKPLACE AND RETURN-TO-WORK

- Ensure that labor organization representatives serve on task forces, commissions and advisory boards that will be developing plans for opening up the economy to ensure the health and well-being of workers and communities. These representatives would include union health and safety representatives, occupational health experts recommended by labor and worker center representatives.

Resource:

- [Boston advisory panel is just the first step, Boston Globe](#)
- [New York Forward Advisory Board](#)

- Prohibit public sector employers from using this public health emergency to nullify or make unilateral changes to collective bargaining agreements

[Example of problematic executive order Louisville, Kentucky Executive Order.](#)

- Ensure that workers at workplaces without a collective bargaining agreement may authorize a person affiliated with a union or a community organization to act as their “personal representative,” as well as act on their behalf as a “walk-around” representative for any state or local health or safety inspection.

Resource:

- [Letter of OSHA interpretation regarding whether a person who is affiliated with a union a community organization to act as their representative.](#)

3

GUARANTEED JOB PROTECTION AND JUST COMPENSATION FOR THOSE WORKING, AND FOR THOSE WHO CAN'T

- Right to paid, job-protected sick and family leave during a public health crisis: Workers who cannot work because of the COVID-19 crisis must receive paid leave during the time they are not working. This includes all public and private sector workers including independent contractors, persons hired to work in a private home, persons performing work for an employer through a temporary services or staffing agency, and undocumented workers.

All workers who have been exposed should have a right to quarantine with pay for 14 days.

Workers who have quit their jobs to protect themselves or were fired for refusing to work under dangerous conditions should be granted “just cause”, and deemed eligible for unemployment insurance (UI)

Furthermore, such “good cause quits” under UI should include a worker’s need to quit to care for quarantined or sick family or household members.

Resources:

- [Model Law: Establishing public health emergency leave covering gaps in the federal Families First Coronavirus Response Act, A Better Balance](#)
 - [Model Law: Establishing a permanent right to paid sick and safe time with additional leave for a public health emergency., A Better Balance](#)
 - [“Public Health Emergency Leave Act”, New York State](#) (applies to all employers regardless of number of employees)
 - [MA proposed legislation, HD 5039: An Act Relative to Emergency Paid Sick Time Protecting Workers’ Safety and Health/NELP, p11](#)
- Mandate Workers’ Compensation benefits for all workers who become infected with COVID-19 after a workplace exposure.

Resource:

- [Protecting Workers’ Safety and Health/NELP, p13](#)
 - Model Workers Compensation language, Appendix C, p.17
- Ensure health care benefits for all, including free mental health services, for workers not provided these benefits by employers; those on sick, family or related leave who are not receiving health care benefits; and those who are unemployed and not receiving health benefits - with the inclusion of undocumented workers.

Resources:

- [How medicare for all would fix both public health and the economy, Labor Notes](#)
 - [New York emergency regulation requiring insurance companies to waive cost-sharing for telehealth visits](#)
 - [New York emergency regulation waiving costs for mental health services for essential workers](#)
- Ensure workers’ rights to job retention and protected right to return to work: For those workers who have been laid off due to pandemic-related business location closure, ensure that these workers have the right to return to their job once the business or location resumes operations. In the case of a layoff due to lack of work resulting from the pandemic, such workers should be given priority to return to their position once re-hiring commences. Worker retention policies must include the protection of workers’ jobs in the event of subcontracting, bankruptcy, or a change in ownership that occurs as a result of the pandemic.
 - Expand anti-discrimination, disability and accommodation protection for workers who have recovered but have sustained health impairments, for pregnant workers, and those who are in high risk categories (older workers, workers with underlying conditions, workers with impaired immune systems).

Resources:

- [State pregnant worker fairness laws, A Better Balance](#)
- [COVID-19 Shows Us We Need Me Too Now More Than Ever](#)
- [COVID-19 and ADA Rehabilitation Act](#)

**4****A PLANNED AND DETAILED SYSTEM OF SCREENING, TESTING, CONTACT TRACING, PROPER ISOLATION AND EPIDEMIOLOGICAL SURVEILLANCE**

- Ensure that workers have access to free, accessible, reliable and rapid COVID-19 testing to take place on paid time and provided by local, county or state public health authorities. If a worker is found to have COVID-19, local public health authorities and/or the employer should ensure that all worker contacts be tested and quarantined.
- Investigate outbreaks or clusters of COVID-19 in workplaces to assure that interventions to prevent or reduce exposures are implemented. Seek input from affected workers and union representatives. Public health and labor departments that share responsibility for worker and community health and safety should coordinate these efforts. Establish procedures for closing workplaces due to COVID-19 infections and outbreaks.

Resource:

- [New Bedford, MA Board of Health Industrial Facility Order](#)

- Fund and coordinate community-based, multi-lingual public health contact tracing to identify and quarantine co-workers who have been in close contact with infected workers to reduce spread of disease. Contact tracing will also allow for earlier identification of workplace outbreaks. Design contact tracing protocols to protect the confidentiality of infected workers.
- Incorporate collection of information about occupation, industry, and employment at the time of disease onset as well as race and ethnicity in the public health surveillance system for COVID-19. Routinely report on patterns of COVID-19 by occupation and industry to identify high risk worker groups.
- Prevent stigma and discrimination by ensuring that determinations of risk are not based on race or country of origin, and that the confidentiality of those with confirmed COVID-19 is maintained.

Resource:

- [CDC Guidance](#)

Resources:

- [State pregnant worker fairness laws, A Better Balance](#)
- [COVID-19 Shows Us We Need Me Too Now More Than Ever](#)
- [COVID-19 and ADA Rehabilitation Act](#)

5

PRIORITIZE EQUITY, INCLUSION AND A PATH TO END HEALTH AND ECONOMIC DISPARITIES

- Mandate and enforce a state-based “living, saving wage” for all workers to sustain a healthy, non-precarious standard of living for individuals and families.

Resource:

- [Policy and Tools: Living Wage, Working Families](#)

- Invest funding in establishing emergency child care for children of essential workers and provide supports for families and child care providers.

Resource:

- [State child care assistance programs immediate considerations, CLASP](#)
- [Improving and expanding child care assistance, National Women’s Law Center \(NWLC\).](#)

- Target critical state financial assistance to small businesses owned by people who have had difficulty obtaining such loans, particularly people of color, immigrants and women. Due to existing and structural inequities, many of these small business owners are not considered a priority for most banks, as they are less likely to be an existing bank client or are asking for larger loans.

Small business owners who are ineligible for the Federal Paycheck Protection Program due to an arrest or conviction in the past should also be prioritized. Many of these small business owners have turned their lives around, are employing others and are contributing valued services that keep our commercial districts accessible – especially in low-income neighborhoods.

Resource:

- [Small Business Support Must Extend to Businesses of Color, Center for Responsible Lending.](#)

- Stop worker misclassification: Enact strong provisions and robust enforcement for employers who attempt to separate themselves from their employees by misclassifying them as independent contractors and therefore depriving them of employee rights and benefits such as worker compensation, wage and health and safety protections.

Resource:

- [Advisory from the Massachusetts Attorney General on Misclassification law, 2008; AB 5 - California Legislative Information](#) reclassifying gig economy or independent contractors as employees (2019)
- Amend State labor laws to address inequities in rights and protections afforded to workers who have been left out of many labor protections:

Domestic Workers – Enact domestic worker bill of rights**Resources:**

- [California Domestic Worker Bill of Rights](#)
- [California Domestic worker health and safety protections](#)
- [Seattle Domestic Worker Ordinance](#)
- [Massachusetts Domestic Worker Bill of Rights legislation; Summary](#)

*Agricultural workers***Resources:**

- [Wisconsin Executive Order - Migrant Labor Camps](#)
- [New York Farmworker Fair Labor Practices Act](#)
- [California Labor Relations Act, Amended 2012](#)

Restaurant workers – Eliminating the tipped wage system which relies on customers for their earnings resulting in undercounting of wages, and mandate a living, saving wage for all workers.

Resources:

- [One Fair Wage National Fact Sheet](#)
- [State of Tipped Restaurant Workers in the United States, January 1, 2019, Restaurant Opportunities Center](#)
- [One fair wage women fair better, NWLC](#)
- Given that the re-opening during COVID-19 will result in changes in schedules, fair scheduling requirements must be enacted that allows workers predictable schedules to balance family life with work or other commitments. Requirements must include posting of schedules at least 14 days in advance, being able to decline unscheduled hours or request changes in schedule without fear of retaliation.

Resources:

- [Fair Work Schedules Resources, A Better Balance](#)
- [California Fair Scheduling Act of 2015](#)
- [State and local laws advancing fair schedules, NWLC](#)
- Provide job opportunities and workforce development training for workers who come from communities most hard hit by COVID-19, regardless of immigration status, including newly created jobs in public health and pandemic preparedness (e.g. contact surveillance, testing, monitoring) as we open up the economy.

OTHER KEY WORKER EMPOWERMENT AND EQUITY PROVISIONS FOR LEGISLATIVE ACTION:

- Enact “Just Cause” rights for workers not covered by collective bargaining agreements that prohibit employers from discharging workers without sufficient cause. Require that employers engage in “progressive discipline” practices that provide a graduated range of reasonable responses should a worker be accused of failing to perform job duties. Provide workers with a private right of action to seek immediate reinstatement for any discharge not supported by just cause.

Resources:

- [New York City Council Bill No. 1923](#)
- [Clean Slate for Worker Power, Harvard Law School, Labor and Work Life Program, p48](#)

- Eliminate so-called “Right to Work” status where it exists to preserve collective bargaining and union rights that are important to worker protection during this pandemic.

Resource:

- [HR2474: Protecting the Right to Organize](#)

- Give workers a meaningful voice in the corporate boardroom. Corporate decisions have an enormous impact on workers’ lives. While federal measures are needed to eliminate the shareholder primacy, at a minimum, requiring that workers serve on corporate boards is a start

Resources:

- [Accountable Capitalism Act, Sen. Elizabeth Warren](#)
- [Clean Slate for Worker Power, Harvard Law School, Labor and Work Life Program, p71](#)

- Adopt strong day labor and temporary worker protection laws that reduce the incentive of employers to hire temporary intermediaries, and keep workers insecure and underpaid. Measures such as equal pay for equal work, written job notification for all employees, transportation to and from job sites, and placing temporary workers into permanent positions when they become available will raise the bar for all workers.

Resources:

- [New Jersey Temporary Worker Protections](#)
- [Illinois Day Labor and Temporary Services Protection Act, Amended, 10/27/18 Massachusetts Temporary Worker Right to Know](#)

APPENDIX A

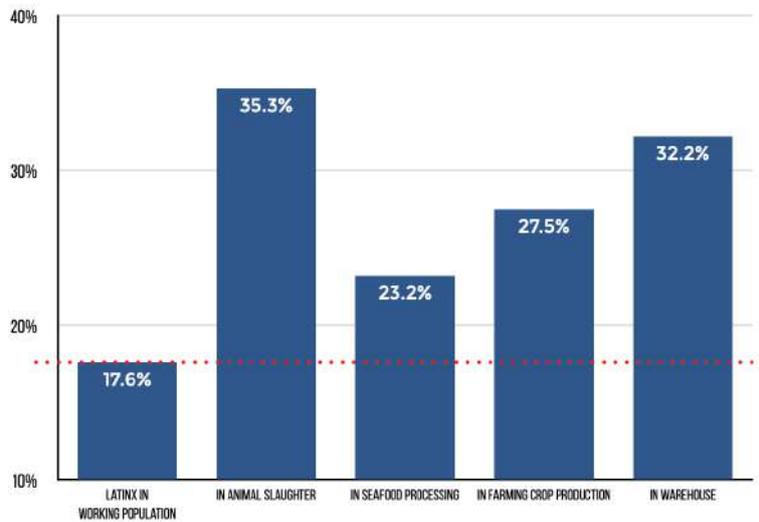
AFRICAN AMERICANS AND LATINXS ARE OVERREPRESENTED IN HIGH-RISK ESSENTIAL OCCUPATIONS

Latinx and African-American workers are disproportionately represented in essential jobs that historically have poor conditions, made worse during a pandemic.

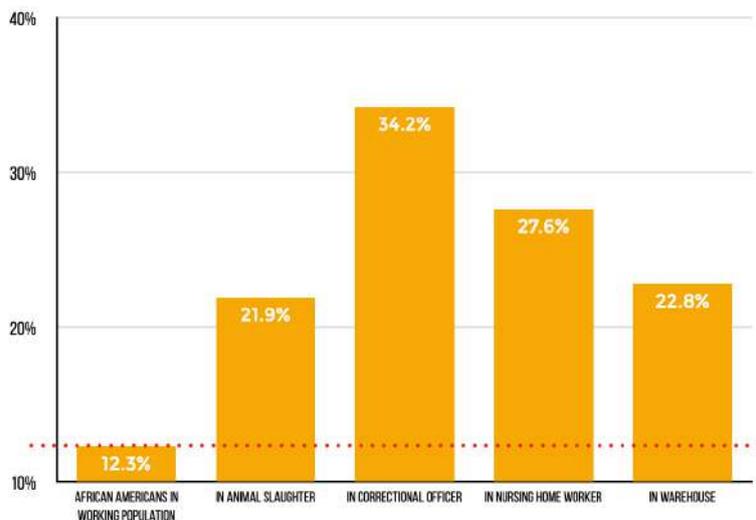
While Latinx represent 17.6% of the working population, they are disproportionately represented in low wage, hazardous essential jobs, making up over 35% of animal slaughtering workers, 23.2% of seafood processing workers, and 27.5% of farming crop production.

African Americans make up 12.3% of the total employed population but represent 22% of animal slaughtering workers, 34.2% of correctional officers, and 27.6% of nursing home workers.

LATINXS ARE OVERREPRESENTED IN HIGH-RISK ESSENTIAL INDUSTRIES



AFRICAN AMERICANS ARE OVERREPRESENTED IN HIGH-RISK ESSENTIAL INDUSTRIES



APPENDIX B

MODEL WHISTLEBLOWER PROTECTIONS LANGUAGE

Workers who report hazardous conditions must be guaranteed job security.

I. WORKERS WHO FACE RETALIATION MUST BE PROTECTED.

Workers must have the following rights:

- To file complaints regarding retaliation with an administrative agency that has full adjudicatory authority, or to file a civil action, or to file initially with the administrative agency and then take the case into civil court, at the worker's choice, with a minimum of a two year statute of limitations
- To be entitled to immediate reinstatement of all rights if the complaint brought is deemed not frivolous at the time of filing by the administrative agency or by the court
- To have legal representation provided on any complaint found to be meritorious that is brought and adjudicated before the administrative agency
- To prove the case based upon a showing that a retaliatory motive contributed to the adverse action.
- To be entitled to the following presumption: Any adverse action taken by an employer against any employee (or subcontractor or independent contractor on the premises) who raises safety concerns should be presumed to be retaliatory if taken within 90 days of the worker having raised his/her concern. The employer may rebut this presumption only if there is clear and convincing evidence that the adverse action was taken for a reason unrelated to the raising of the safety concern.
- Definition of adverse action: Adverse action includes: requiring any worker to agree not to disclose information related to safety hazards to anyone; discipline, discharge or lay off, reassignment by duties or by place, demotion, changes in pay or hours or duties, denying overtime or promotion, denying benefits, failure to hire or rehire, intimidation, making threats, blacklisting, reassignment to a less desirable position or actions affecting prospects for promotion, as well as more subtle actions, such as isolating an employee, or any other change that adversely affects the employee
- Definition of protected activity: Any of the following shall be considered protected activity: raising safety concerns to the company, to the workers' employer who is not the employer on site (e.g. temp agency), to any governmental agency (federal, state or local), to the media, and through print, online, social, or any other media.
- Remedy: Any employee who prevails in an action before either an administrative agency or a civil court shall be entitled to full damages, including back pay and reinstatement of all benefits, attorney's fees, compensatory and punitive damages. Any employer who is found to have retaliated shall be required to post the results of the case in a prominent place visible to other employees.

APPENDIX B CONTINUED

Workers who report hazardous conditions must be guaranteed job security.

II. EMPLOYERS SHOULD BE REQUIRED TO ESTABLISH PROTOCOLS FOR RECEIVING AND RESPONDING TO WORKERS' CONCERNS THAT PROTECT WORKERS FROM RETALIATION. THIS REQUIREMENT SHOULD BE ENFORCEABLE AND EMPLOYERS THAT FAIL TO COMPLY SHOULD FACE PENALTIES/FINES.

Employers must be required to establish protocols that include:

- Consultation / negotiation with workers, workers' representatives and collective bargaining agents regarding all aspects of an anti-retaliation protocol, as permitted under the NLRA §8(a)(2) and § 8(a)(5).
- Implementation of an independent, objective response system for workers' concerns that protects confidentiality, is transparent, responds quickly to any concerns involving on-the-job hazards.
- A process for allowing workers to raise their concerns about safety or about retaliation to anyone within the company with no requirement that the complaint be voiced through the 'usual chain of command.'
- A prohibition on disciplining workers who bring any concerns about COVID-19 to anyone outside the company, including government (federal, state or local), community organizations or the media.
- Involvement of affected workers and their representatives/collective bargaining agents in evaluating and addressing any safety risks brought forward by any worker
- Training for all workers and managers in whistleblower rights and the employer's obligation not to retaliate.
- Record keeping - of all complaints and responses to all concerns, to be made available to all workers and their representatives. Elimination of any incentives that discourage reporting (sometimes these are called "safety bingo").
- Independent auditing to ensure the program's effectiveness.
- Accountability of leadership of the workplace, up through the owners, CEOs and boards of directors.
- Direct communication of all of these matters to any subcontractors or staffing/temp agencies or franchisees with workers who are involved.
- Prohibition on requiring any worker to sign a contract or other agreement that would limit or prevent the worker from disclosing information about workplace health and safety. practices or hazards [related to COVID-19], or to otherwise abide by a workplace policy that would limit or prevent such disclosures.

APPENDIX C

MODEL WORKERS' COMPENSATION LANGUAGE

Workers exposed at work to COVID-19 deserve workers' compensation for lost wages, health care related to the virus, and any permanent disability that may result from exposure.

Any worker who is diagnosed with COVID-19 who works within a health care or nursing facility where COVID-19 is present, or a morgue or mortuary that handles the bodies of Covid-19 victims, or is a first responder (including firefighters, police, EMTs, paramedics), and any workers who work where there is a cluster of COVID-19 cases is entitled to a conclusive presumption that the disease is an occupational disease arising out of and in the course of employment.

Definition of workers includes:

- Full and part-time workers who are physically present in the workplace.
- Workers who are independent contractors, employees of subcontractors, staffing agencies and temp agencies as long as they perform their work within the facility where COVID-19 cases have been identified.

Definition of a cluster for purposes of triggering the presumption: three or more cases of COVID-19 in a workplace, including cases involving workers, patients, prisoners in jails or prisons, immigrants in detention centers, clients, independent contractors and workers employed by staff or temporary agencies or by subcontractors, or any other people who are regularly physically present in the workplace in question.

Diagnosis of the disease must be made by a health care provider, by a presumptive positive COVID-19 test result, or by a laboratory-confirmed COVID-19 diagnosis.

Workers who are exposed to COVID-19 at work and are advised by their employer or by a health care provider to quarantine shall be eligible for workers' compensation to cover the period of the quarantine during which they are away from work, irrespective of whether they have actually contracted the disease.

Health care for COVID-19 should include testing for the virus, testing for antibodies, and any treatment required for the disease, as well as treatment of any sequelae that become known in the future.

Temporary total disability benefits should be paid for any period of quarantine from a workplace at which COVID-19 cases have been reported, as well as any period of disease and the post-disease period, if any, during which they are unable to work because of the effects of the disease.

Permanent disability benefits should be available for long term impairment and sequelae of COVID-19 as these are identified in the scientific and medical literature or by the claimant's treating physician.

APPENDIX C CONTINUED

Return to work should not be required until the worker no longer requires quarantine or the worker has fully recovered from the disease.

Workers who are off work due to COVID-19 exposure or illness may not be terminated during the time of their absence or discriminated against during or after their COVID-19 related absence.

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