



IN-DEPTH INFORMATION FOR WORKERS PROTECTED CONCERTED ACTIVITY AGAINST UNSAFE WORK IN TIME OF COVID-19

CWA

Feeling at risk at work over Coronavirus and you don't have a union to protect you?

You have rights to fight back right now, even without union representation.

You and your co-workers can take actions at work to stay safe.

If you already have a union, you may have other rights and obligations under your contract. Contact your local union leadership to discuss these issues. Everyone else, keep reading.

Introduction to Concerted Action at work during the COVID-19 pandemic

Workers may need to take urgent action to address and improve working conditions as well as workplace health and safety standards during the Coronavirus Pandemic. Many workers have federal "Concerted Activity" legal protections at work -- and may not even know it. This information brief will address the following:

- 1** Your rights to address working conditions under the National Labor Relations Act
- 2** Using the latest CDC, OSHA and AFL-CIO recommendations about workplace safety to stay safe
- 3** Information about workers who are using Protected Concerted Activity to stay safe and address other working conditions
- 4** How forming a union can get you and your co-workers additional protections

1 Your Rights to Address Working Conditions under the NLRA

Congress enacted the National Labor Relations Act ("NLRA") in 1935 to protect the rights of employees and employers, to encourage collective bargaining, and to curtail certain private sector labor and management practices, which can harm the general welfare of workers, businesses and the U.S. economy.

The National Labor Relations Board is an independent federal agency that protects employees, employers and unions from unfair labor practices and protects the right of private sector employees to join together, with or without a union, to improve wages, benefits and working conditions. The NLRB conducts hundreds of workplace elections and investigates thousands of unfair labor practice charges each year. The NLRB enforces the National Labor Relations Act.

If you are a worker covered by the NLRA, you have federally guaranteed legal protections to address health and safety issues in the workplace. Most frontline private sector employees are covered with some exceptions: Excluded from coverage under the Act are public-sector employees (employees of state, federal and local governments), agricultural and domestic workers, independent contractors, workers employed by a parent or spouse, employees of air and rail carriers covered by the Railway Labor Act, and supervisors (although supervisors that have been discriminated against for refusing to violate the NLRA may be covered).

The National Labor Relations Act provides federal legal protections to workers organizing together which is considered "Protected Concerted Activity". You have the right to act with co-workers to address work-related issues in many ways. Examples include: talking with one or more co-workers about your health and safety or other working conditions, circulating a petition asking for better safety protections, **participating in a concerted refusal to work in unsafe conditions**, openly talking about your working conditions, and joining with co-workers to talk directly to your employer or to a government agency about problems in your workplace.

Your employer cannot discharge, discipline, threaten you for or coercively question you about protected concerted activity. A single employee may also engage in protected concerted activity if he or she is acting on the authority of other employees, bringing group complaints to the employer's attention, trying to induce group action, or seeking to prepare for group action.

A word to the wise: you can lose protection by saying or doing something egregiously offensive or knowingly and maliciously false, or by publicly disparaging your employer's products or services without relating your complaints to any labor controversy.

The key to concerted activity is not to act alone. There is safety in numbers. You can practice physical distancing and still organize your workplace through email, text, phone, electronic petitions, social media, twitter, group chat apps, etc. These forms of group action are also protected.

2 Using the Latest CDC, OSHA and AFL-CIO Recommendations about Workplace Safety to stay safe

When your safety -- and that of your co-workers -- is on the line, you should make sure you have the best available information about workplace safety.

[Centers for Disease Control \(CDC\) Interim Recommendations for Employers](#)

[Occupational Safety and Health Administration \(OSHA\) Guidance on Preparing Workplaces for COVID-19](#)

[AFL-CIO COVID-19 Resources for Workers](#)

[AFL-CIO COVID Flier](#)

The above links provide very valuable information on best practices for employers to keep workplaces safe. Employees can use this information to demand safe working conditions through protected concerted activity.

Workers can demand comprehensive workplace plans to identify potential exposure routes, controls to mitigate risk (such as disinfection and physical distancing) and training procedures. You can use concerted activity to demand policies to encourage sick workers to stay at home without the loss of pay, benefits, seniority or other benefits. Workers can demand paid, flexible leave and job security assurances.

3 Information about workers who have already used Protected Concerted Activity to stay safe and address other working conditions

From *Labor Notes* article [Organizing Around the World for PTO \(Pandemic Time Off\)](#):

Declaring that “no person should have to choose between paying their bills and putting the public at risk,” IUE-CWA Local 201 in Lynn, Massachusetts, demanded that union employers including General Electric increase the amount of paid sick leave and not discipline workers for missing work for reasons related to the pandemic.

UFCW Local 400, which represents 30,000 grocery workers from Ohio to D.C., [called for its employers to provide at least 14 paid sick days](#) and negotiate “time and attendance policies, adequate staffing to ensure cleanliness and safety if people call out sick at the last minute, policies for elderly and immune-compromised staff and staff impacted by school closures, as well as contingency plans in the event of staff or hours reductions or temporary closures.”

After New York City refused to close schools, the Movement of Rank-and-File Educators, a caucus within the United Federation of Teachers, began organizing for a mass sickout. MORE demanded that some school buildings be kept open to “distribute food to families who need it and as medical centers or care centers for children of health care workers.”

From *Michigan Public Radio*: [Detroit Bus Drivers walked off the job due to unsafe conditions](#):

[Detroit city bus drivers refused to work](#) and demanded changes because of [concerns about the COVID-19 pandemic](#). Those issues have been resolved and the bus drivers will go back to work Wednesday.

4 How Forming a Union Can Get You and Your Co-Workers Additional Protections

In addition to NLRA concerted activity protections, forming a union can help provide additional protections. Most union contracts have health and safety language as well as paid leave and job security provisions so that employers can't pick and choose who to lay-off.

Union contracts have “just cause” provisions so that people cannot be fired without good reason; just cause gives workers leverage to be able to speak out without fear of retaliation. Unions are pushing to get benefits for all workers including a “People’s Bailout” which helps workers not corporations, national paid leave, extended unemployment benefits and emergency safety protections for all workers (OSHA Emergency Temporary Standards).

If you want help forming a union, [fill out this form on-line and a CWA organizer will contact you about next steps](#).

<https://cwa-union.org/covid-19-in-depth-protected-concerted-activity>