

SOUTHERN WORKERS ASSEMBLY

<http://southernworker.org/>



WORKER'S TOOLKIT

**SAFE JOBS SAVE LIVES!
YOUR RIGHTS AND THE
COVID19 CRISIS**

Sisters and Brothers,

We at the Southern Workers' Assembly hope that you are well and safe. All types of workers, particularly those of us in the southern states, face uncertain economic times and potentially dangerous health hazards. The best response to threat of Covid-19 in the workplace - lack of PPE, little or no testing of workers, reckless and unsafe reopening of businesses - is to **take immediate collective action. Go as a group (never alone) to your employer. Ask that the unsafe condition be immediately corrected AND that your employer meet with you and other workers to discuss and agree on the steps necessary to make the workplace safe for workers and the public.**

Feel free to make use of any or all of the information in this tool kit in support of your collective action, - not as a substitute but as an addition to collective action. If you wish to talk over your situation with other southern workers, please contact the SWA at 252-314-2363.

1. How do I file a complaint with the Occupational Safety and Hazard Administration?

Visit <https://www.osha.gov/pls/osha7/eComplaintForm.html>

An OSHA complaint may serve certain purposes, such as garnering public support, but is unlikely to lead to a remedy since this agency has no enforcement power.

2. What steps must be followed for best legal protection when refusing a dangerous work assignment?

- (1) notify the employer of the danger and asked them to eliminate the danger;
- (2) the worker must be acting in good faith that there is a legitimate danger;
- (3) there must be urgency to the issue and no time for utilizing the regular channels;
- (4) the worker has followed the proper steps of:
 - >asking the employer to fix the problem;
 - >telling the employer that they are refusing the assignment;
 - >remaining at the worksite until they are ordered to leave.

3. What are the OSHA guidelines for the use of respirators at work?

The United States Department of Labor Occupational Health and Safety Administration (OSHA) guidelines for Respiratory Protection, Occupational Safety and Health Standards (Section 1910.134(a)(2)), stipulate, “A respirator shall be provided to each employee when such equipment is necessary to protect the health of such employee. The employer shall provide the respirators which are applicable and suitable for the purpose intended.” Additionally, Section 1910.134(c)(2)(i) states, “An employer may provide respirators at the request of employees or permit employees to use their own respirators, if the employer determines that such respirator use will not in itself create a hazard.”

4. How do I file a complaint about wages with the U.S. Dept. of Labor?

Contact the Wages and Hours Division (WHD) at 1-866-487-9243 or visit www.dol.gov/whd, where you will be directed to the nearest WHD office for assistance. All services are free and confidential, whether you are documented or not. It is illegal for your employer to terminate you or in any other manner discriminate against you for filing a complaint with WHD.

5. Where can I find more information about my legal rights as a worker?

- *U.S. Dept. of Labor Resources page: <https://www.dol.gov/agencies/whd/workers>
- *American Federation of Labor (AFL-CIO): <https://aflcio.org/formaunion>
- *Labor Notes Resources: Organizing in a Pandemic: <https://labornotes.org/coronavirus>
- *UE Covid-19 Information for Workers: <http://ueunion.org/covid19/>

6. How can I help make sure workers have a voice at this critical moment?

—> Join a workers’ organization!

- *Durham Workers Assembly: <https://unions4durham.org/>
- *NC Public Service Workers Union-UE Local 150: <http://ue150.org/>
- *National Domestic Workers Alliance: <https://www.domesticworkers.org/>
- *North Carolina’s People’s Platform for Survival and Beyond: <https://survivalandbeyond.info/>
- *Poor People’s Campaign: <https://www.poorpeoplescampaign.org/>
- *Raise Up / Fight for \$15: <https://fightfor15.org/raiseup/>
- *Raleigh Workers Assembly: raleighworkersassembly@gmail.com
- *Southern Workers Assembly: <http://southernworker.org/>

I am a PRIVATE sector worker. How can I get my employer to fix a problem?

Under the National Labor Relations Act (NLRA), you have certain fundamental legal rights, including rights to: (1) “form, join, or assist labor organizations;” (2) engage in “other concerted activities for the purposes of collective bargaining; or (3) mutual aid or protection.” It is an unfair labor practice under the NLRA for an employer “to interfere with, restrain or coerce employees” in the exercise of these guaranteed rights.

1. Form a group with your co-workers. Don’t act alone.

To be protected under the NLRA, employee activity must be “concerted,” either undertaken together by two or more employees, or by one employee on behalf and under authority of others, or by one employee who is seeking to initiate group action.

—Strive for a “critical mass” of workers who could, conceivably, shut things down or disrupt the business. Your power is your collective ability to shut things down. This power is a bigger threat to your employer than the weak penalties in the NLRA.

—Don’t include anyone who has the power to hire and fire people.

—Get complete contact information for as many coworkers as you can.

—Try to keep the group secret until you are ready to present your demands.

2. Your group should get to know and trust each other and come to agree on these things:

—**Issue:** what exactly is the problem?

—**Demand:** what are you demanding that the boss do to fix the situation?

—**Goal:** What is the goal of this action? How might it feed into a longer-term strategy?

—**Target:** Who has the power to meet your demand?

—**Tactic:** How will you make the target do what you want? What action(s) will you take?

—**Participants:** Who is willing to carry out the action? What role will each person play?

—**Witnesses:** Will other coworkers be there to witness the action? Should you bring in members of other groups (community members, activists, customers, local government, media)?

—**Follow up:** What will you do if your demand is not met? What will you do if the boss retaliates? If someone is fired, will you all walk out?

3. Protected concerted activity can include any action, demand, protest, or inquiry regarding any workplace issue, dispute, or proposed/opposed change in terms and conditions of work, including the following activities:

—Petition the employer to make changes

—Request the employer meet and discuss the issue with employees

—Picket the workplace or boycott the workplace

—Strike or withhold labor in an effort to improve the terms and conditions of employment, or remedy a work-related grievance which the employer can fix.

—Propose improvements in pay, conditions, policies and handbooks

—Wear buttons and other insignia

—Speak to other employees but not disrupt work

—Post and distribute literature but not disrupt work

- Contest unfair or unsafe work orders, but NOT disobey a direct work order from a supervisor
- Complain about working conditions to third parties, including clients and customers
- Express concerns relating to employer compliance with health and safety laws

>Protected concerted activity might NOT include:

- Disparaging the employer or its products or services, unless what you say is true, is related to a dispute over working conditions, and is not intended to harm the business.
- Political advocacy, unless linked to work-related concerns or “mutual aid and protection.”

4. Be honest with each other about the risks. Your boss may be able to get away with violating your rights. Seek support from labor advocates, lawyers and/or union leaders.

I am a PUBLIC sector worker. How can I get my employer to fix a problem?

Most states in the South have statutes or court rulings that prohibit public sector employers from entering into contracts with labor organizations concerning public employee terms and conditions of work and prohibit their employees from striking. Despite these limitations these laws can be circumvented and challenged through actions not expressly prohibited.

1. Private and public sector **UNIONS ARE LEGAL** in the South and everywhere! Under the U.S. constitution, states cannot prohibit individuals from joining or supporting unions, or unions from organizing and operating to obtain new members.

2. Public employees and their representatives **MAY** demand to meet and meet with public employer representatives to discuss the terms and conditions of their work.

3. Public officials **MAY** hold discussions with public employee unions and, if desired, reach oral or written “understandings” even though such understandings may be unenforceable. This is called “meet and confer” and includes such matters as wages and working conditions.

>Collective actions on matters of public concern: All public employers are bound by Supreme Court rulings which hold that speech involves a matter of public concern when: (1) it can be fairly considered as relating to any matter of political, social, or other concern to the community; or (2) it is a subject of legitimate news interest, that is a subject of general interest and of value and concern to the public. If public employee speech meets the public concern test, and does not cause an actual disruption in efficient government operations, it is protected by the First Amendment.

Examples might include public comments addressing government employer mismanagement, financial or other corruption, poor performance in providing services, or operations and practices that present health and safety risks to the general public as well as workers.