



**NATIONAL
WOMEN'S
LAW CENTER**

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MAY 2020 | FACT SHEET

WORKPLACE JUSTICE

Securing Workers' Rights and Employer Accountability During COVID-19 and Beyond

The COVID-19 crisis has exposed and exacerbated deep inequities in our economy. Caregiving and service sector jobs performed largely by women, disproportionately women of color, have long left millions living paycheck to paycheck or working multiple jobs to survive—even as corporations raked in record profits. And working people who challenge exploitative working conditions, including harassment and discrimination, far too often have been met with brutal retaliation from employers and insufficient legal remedies.

Now, as the pandemic sends us into a deep recession, women are on the front lines of the crisis, in jobs that leave them unprotected and underpaid. [One in three jobs held by women have been designated essential.](#) Women make up [75% of hospital workers, 93% of child care workers, 63% of fast food and counter workers, and two-thirds of cashiers](#) and retail people in grocery stores. Far too many [employers are failing to provide these workers](#) with adequate protective measures, wages, benefits, or [paid time off](#)—forcing them to make impossible choices between their jobs and their health. And [millions more women who struggled to make ends meet before the crisis](#) have now [lost their jobs](#) and have to rely on an [unemployment insurance system](#) that too often penalizes them for low and sporadic earnings.

Policymakers must do more to both protect workers from immediate threats to their health and well-being, and rebuild an economy that shifts power to working people. While two major federal relief packages, the Families First Coronavirus Response Act (FFRCA) and the CARES Act, provide important short-term relief to many workers, they fall far short of the measures necessary to address this crisis—and some of their shortcomings threaten to deepen existing inequality.

A Response to the COVID-19 Pandemic that Puts Working People First Must:

ENSURE SAFE AND HEALTHY WORKPLACES

Far too many people doing essential work have already fallen ill or died because of a lack of adequate protection from COVID-19. We must do more to protect essential workers, their families, and their communities from the virus immediately—and to secure safe and healthy workplaces for everyone as our economy recovers.

- Take additional [measures to protect the health](#) and safety of essential workers, including health care workers, first responders, child care workers, grocery and warehouse workers, transportation providers, and others facing heightened risk of exposure to COVID-19, by making investments to ensure access to regular testing, personal protective equipment and other essential supplies, and to ensure facilities can be appropriately cleaned and that employers are able to institute social distancing.
- Require the Occupational Safety and Health Administration to enforce its existing mandates, engage in monitoring and inspection of unsafe worksites, and [issue an enforceable Emergency Temporary Standard](#) on infectious diseases to help employers achieve the safest possible conditions for essential workers.
- Require companies to provide premium pay to essential workers to better reflect the value of their work in this time of crisis.
- Ensure that workers who contract COVID-19 while on the job are eligible to receive workers' compensation.
- Require the Equal Employment Opportunity Commission and the Department of Labor to issue emergency guidance making clear that employers must provide reasonable workplace accommodations for those employees who are especially vulnerable to COVID-19 as a result of pregnancy or disability.
- Clarify that workers who quit because their employer is forcing them to engage in an unsafe activity; because their age, medical condition, or pregnancy exposes them to heightened danger of infection at work; or because of domestic or sexual violence (which poses particular risks during the pandemic), are separating for "good cause" and therefore are eligible for unemployment insurance.

- [Expand the emergency paid sick time and family and medical leave protections](#) in the FFRCA and CARES Act to protect all working people, and establish permanent structures to ensure universal access to these protections.

GUARANTEE CORPORATE ACCOUNTABILITY AND TRANSPARENCY

In this moment of crisis, Congress has allocated billions to attempt to avoid economic catastrophe—but providing financial relief alone is not enough. Without robust oversight and strong anticorruption protections, these relief packages threaten to deepen existing inequality. Policymakers must structure relief to ensure that all working people, not just corporate executives and shareholders, benefit from FFRCA, the CARES Act, and other financial relief, and that short-term relief contemplates and lays the groundwork for a just recovery.

- Ensure the Trump Administration, corporations receiving financial relief, banks lending aid, and other regulated parties fully cooperate with existing oversight structures created through the CARES Act, including complying with requests for information and hearing participation, subpoenas and timely reporting.
- Strengthen the [Congressional Oversight Commission](#), a five-member congressional commission created by the CARES Act to conduct oversight, including by increasing its jurisdiction and affording it subpoena power.
- Require transparent, publicly available reporting regarding disbursement of federal financial relief to businesses, including demographic data on the leadership of businesses receiving relief as well as including the mean, median, and minimum wages of all non-executive employees; the number of workers before and after the receipt of assistance; and the salaries of executives, including bonuses and capital distributions.
- Build in structures to ensure that financial relief programs correct, rather than entrench, inequities in access to capital, including mechanisms to promote support for small businesses run by women and people of color and those operating in lower-income communities.
- Create new avenues for workers, worker organizations and unions to participate in oversight of relief funds for business, including by requiring worker representation on corporate boards for corporations receiving bailouts.

- Strengthen conditions on any corporate bailouts to strictly prohibit stock buybacks, executive bonuses, shareholder dividends and other giveaways for corporations in receipt of taxpayer dollars and instead ensure that employers use relief funds to benefit their workers, including by maintaining payroll and benefits for workers, paying for legitimate operational costs, implementing appropriate safety mechanisms for workers, requiring employers who receive funds to pay no less than \$15 per hour to their workers, and to bring tipped worker pay in line with other hourly workers.
- Enact robust whistleblower protections for those who report workplace violations and abuses—including unsafe work conditions, corruption and malfeasance related to use of federal financial relief dollars, or other public or private employer misconduct in connection with COVID-19 response.
- Ensure that companies are not shielded from liability for failing to protect their workers or the public during the pandemic.
- Safeguard access to justice during national, state and local emergency periods by [tolling deadlines during the emergency period and extending filing deadlines](#) for labor, employment and civil rights charges, complaints, and suits.
- Ensure that [workers' rights to organize](#) are protected and strengthened during and beyond the current crisis, including requiring employer neutrality in union organizing drives and increasing penalties for employers who illegally retaliate against their workers for taking action against poor workplace conditions.
- Extend workplace rights to independent contractors, domestic workers, farmworkers and others often left out of labor and employment protections and who are particularly vulnerable in the current crisis.
- Ensure working people are not deprived of their rights by passing laws clarifying the legal test for assessing whether an individual is an employee or independent contractor, and implementing a test for establishing joint employment that is not overly narrow or unduly burdensome

BUILD POWER FOR WORKING PEOPLE

To counteract the disproportionate negative effects of this pandemic on women and people of color, we must support working people in enforcing their rights to organize, to be free of harassment and discrimination at work, and to receive equal and fair pay. Crises often leave working people especially vulnerable to discrimination and harassment, and as the recession deepens, unscrupulous employers may capitalize on people's economic insecurity to abuse workers even further. Government oversight mechanisms should ensure that employers are providing jobs that are paid fairly, safe, dignified, and free of harassment and discrimination.

- Ensure robust enforcement of existing labor and workplace antidiscrimination protections, including those against retaliation, and discrimination on the basis of race, national origin, disability, age and sex (including sexual orientation; gender identity; and pregnancy, childbirth, and related conditions).
- Maintain, and prohibit the temporary waiver of, affirmative action obligations for government contractors and other civil rights and labor rights protections during national, state and local emergency periods.

- Strengthen antidiscrimination, employment and labor law by passing key legislation such as the BE HEARD Act, Pregnant Workers Fairness Act, Schedules that Work Act, Raise the Wage Act, Paycheck Fairness Act, Part-Time Worker Bill of Rights, FAMILY Act, Healthy Families Act, Protecting the Right to Organize Act, and the Public Service Freedom to Negotiate Act.

Working people deserve an economy that works for them. As the recession deepens, policymakers should support workers and rebuild our economy to center the women and people of color doing undervalued work who were struggling long before COVID-19.