

May 19, 2020

To: Governor Gavin Newsom

CC: Speaker Rendon, President pro Tempore Atkins, Labor Secretary Su, DIR Director Hagen, Cal/OSHA Chief Parker, Labor Commissioner Garcia-Brower, CDPH Director Angell, EDD Director Hilliard, Standards Board Executive Officer Shupe, Special Budget [Subcommittee](#) on COVID-19 Response, Special [Committee](#) on Pandemic Emergency Response, Senate Labor, Public Employment, and Retirement [Committee](#), Assembly Labor and Employment [Committee](#), Assembly [Committee](#) on Public Safety, Joint Legislative Budget [Committee](#)

Re: Worker Health and Safety - Urgent Priorities

The undersigned labor and community organizations dedicated to advancing civil, human, and workers' rights, urge you to take action on the following occupational safety and health (OSH) priorities. These priorities are rooted in the experience of workers facing the threat of COVID-19 in workplaces that fail to promote their health, safety, and wellbeing.

Through your leadership and the commitment of the workers' rights movement over the last decade, California has taken important steps to protect workers' dignity, safety, and health. But even before the pandemic struck, California had a long way to go to ensure we live up to our ideals through full and timely enforcement of our laws. Now, the challenges are even more stark. The lack of enforcement resources leaves workers vulnerable in this crisis. Many workers have fallen ill to COVID-19, with the death toll rising. Many more are forced to choose between their health and a paycheck. These challenges are further exacerbated for undocumented workers.

Now as businesses and workers are transitioning to return to work, California needs to ensure that worker health and safety is prioritized, state agencies responsible for worker protection and enforcement are well-resourced, and workers' rights are safe-guarded. We believe this crisis requires an unprecedented level of partnership and focus, and we would like to work with you and the many ethical employers in California to ensure that our recovery is just.

It is in this spirit of partnership that we offer the following framework to ensure justice and safety for workers as we move through this time of danger and tackle the challenge of a recovery for all. The current crisis and the challenge ahead demand that California take immediate steps:

I. Create a Worker Protection Response Team of State Agencies and Worker Organizations

Create a Worker Protection Response Team to address COVID-19 and any future crisis to revise standards and partner on joint enforcement efforts. The Team should be composed of: worker organizations (both unions and worker centers), worker advocacy organizations, the Division of Occupational Safety and Health (Cal/OSHA), the Cal/OSHA Standards Board, the Division of Labor Standards Enforcement (DLSE), the California Department of Public Health, and County Departments of Public Health. The Team needs to create proactive plans and guidelines that would take immediate action in the advent of a crisis. Urgent issues include:

- **Partner with Labor**
Work with worker organizations including unions, worker centers, and worker health and safety advocacy organizations to ensure workers' rights are protected.
- **Support the Labor Commissioner**
The Labor Commissioner must (1) expedite and triage emergency paid sick leave violations, and immigrant-based and OSH-related retaliation violations; (2) institute a public and protected whistleblower process specifically for COVID-19 issues; and (3) increase resources for state enforcement of whistleblower rights and anti-retaliation protections.
- **Strengthen Cal/OSHA Enforcement**
Cal/OSHA has been hard to reach and physically absent amidst workplace concerns and complaints. Workers desperately need open lines of communication between Cal/OSHA, workers, and advocates, and there must be worker-centered alternatives if physical inspections are not conducted (e.g. phone interviews with workers, video inspections).
- **Strengthen Cal/OSHA Complaint Investigation**
Cal/OSHA must (1) immediately respond to and inspect COVID-19 related complaints for workers who are *directly* exposed to the virus or positively confirmed COVID-19 individuals; (2) definitively state that Cal/OSHA will enforce their COVID-19 Guidances through the Injury and Illness Prevention Program (IIPP) Standard; and (3) apply a presumption of serious or willful violations where the employer has not followed COVID-19 Cal/OSHA and public health guidelines.
- **Coordinate with Departments of Public Health**
There should be interagency cooperation between county Departments of Public Health and Cal/OSHA to investigate, and possibly immediately shut down, violating facilities. The agencies must coordinate and enforce strict record-keeping and anti-retaliation protection to prevent under-reporting and worker retaliation.

II. Worker Oversight of Workplace Conditions

Worker input and authority is the most reliable way to address occupational health and safety risks. Workers' ability to come together and communicate about workplace issues and conditions is essential to ensuring that their rights are protected. We demand the following protections:

- **Establish Worker Health and Safety Committees**
All workplaces with at least five non-supervisory employees at a single location should be required to establish a Health and Safety Standards Committee composed of non-supervisory workers elected by their peers and management representatives. Committee members should be allotted time to meet on at least a monthly basis to discuss ways to improve health and safety, voice and raise concerns about employer compliance with workplace safety requirements, educate the workforce, and address problems.
- **Establish Community Partnerships to Address Complaints of OSH Violations and Retaliation**
Establish procedures to certify and authorize worker organizations, in cooperation with the DLSE and Cal/OSHA, to conduct outreach, education, and training on new and existing safety standards. If there is a health and safety violation or retaliation complaint filed, worker

organization representatives would be able to inspect the workplace and interview and educate workers in response.

- **Establish Recovery Task Forces**

Develop industry-specific task forces that draw together state agency staff, small businesses, OSH professionals, and worker organizations to develop guidelines to facilitate resumed operations in full compliance with health-and-safety and wage-and-hour laws.

III. Strong Paid Sick Leave and Employee Benefits

Workers and their families are exposed to health hazards, with inadequate access to paid sick leave and other health-related benefits of employment. We reiterate the demands brought forth by the California Work and Family Coalition in their March 26, 2020 letter and additionally demand:

- **Permanently Expand Paid Sick Days**

COVID-19 has demonstrated the need to put protections in place for future health crises. Minimum permanent paid sick leave needs to be increased to at least 10 paid days (80 hours), accrued at 1 hour of paid sick leave for every 25 hours worked.

- **Mandate Health Coverage**

Mandate all employers of essential businesses that employ farmworkers and that have provided health coverage to continue to provide health coverage or cover the costs of medical expenses during this time for employees.

- **Protect Worker Retention and Right to Return to Work**

Workers who have been laid off as part of a mass layoff or business location closure must have the right to return to their job once the location resumes operations. Workers who have been laid off due to lack of work must have the first right to return to work once re-hiring commences. Enact a worker retention policy to protect workers' jobs in the event of subcontracting, bankruptcy, or a change in ownership that occurs during a public health crisis.

- **Avoid Cuts or "Pauses" to Minimum Wage at the State or Local Levels**

Planned boosts to the state and local minimum wages will lift up more than one-third of the California workforce. A majority of these workers are women, workers of color, and immigrants employed in sectors including retail, garment, home care and health care, janitorial, child-care, transit, and grocery. These workers provide essential services for all Californians. Given the stagnation of incomes and wages for the bottom 20 percent of California workers and the state's soaring cost of living, the State and local jurisdictions should not consider pausing or delaying these scheduled minimum wage increases and should ensure that all workers are paid at least an hourly minimum wage.

IV. On the Job Protective Measures

The pandemic has resulted in a tenuous working environment for those who have to continue to work. These workers face possible exposure to the coronavirus due to poor employer response. The following are essential to ensuring that workers' health and safety are prioritized at this time:

- **Include Domestic Workers and Day Laborers in Worker Protections**
Support efforts to protect historically excluded workers. SB 1257, the Health and Safety for All Workers Act, would remove the household domestic service exclusion from the state Labor Code which currently results in the exclusion of domestic workers and day laborers working in private homes from Cal/OSHA protection. At present, Cal/OSHA cannot even issue emergency standards to protect these workers.

- **Apply and Enforce Strong Workplace Protections**
Workers need a more robust set of protections, including both new legal requirements and the stepped up enforcement of existing ones. This includes but is not limited to:
 - **Close and Clean:** Following a suspected or confirmed case of COVID-19 in the workplace, employers must follow CDC guidelines and close off affected areas, up to and including the whole facility, for 24 hours before beginning enhanced cleaning and disinfecting, and employers must pay employees for any resulting lost work time and provide employees paid time off, sick leave, or alternative work arrangements to workers who must be quarantined because of recent exposure to a confirmed COVID-19 CASE.
 - **Ease Workload and Ensure Hygiene Practices:** Permit all employees to wash their hands every 30 minutes and additionally as needed. Time taken for handwashing, cleaning and sanitizing work areas, and other preventative measures must not be counted against performance targets and must be fully compensated. Suspend quantified performance quotas, as they impede workers' ability to follow COVID-19 safety rules and add to physical and mental stress.
 - **Employ the Most Effective Hazard Controls:** Ensure that all employers utilize the hierarchy of controls to prioritize engineering controls such as shielding and ventilation, and administrative controls to maintain social distancing and reduce contact.
 - **Protection from Workplace Violence:** Protect workers from violence all across the spectrum of workplace violence.
 - **Provide Personal Protective Equipment (PPE):** Ensure all employers provide appropriate PPE to prevent the spread of COVID-19 in the workplace.
 - **Illness and Injury Prevention Plan (IIPP):** Mandate all employers to revise their IIPP to include a COVID-19 prevention program that allows workers to report COVID-19 related health and safety concerns and violations without fear of retaliation.

- **Achieve Full Staffing of Cal/OSHA**
Cal/OSHA is severely under-resourced making it impossible to respond to hundreds of COVID-19 complaints. Their current response via letter inspection leaves many workers vulnerable. Their inspector vacancy rate as of March 2020 is 20.5 percent. We demand Cal/OSHA achieve full staffing immediately. In the interim, Cal/OSHA should work with city and county health inspectors and deputize labor advocates to respond to the complaints.

- **Increase and Strengthen Citations Against Offending Employers**
There are hundreds of Cal/OSHA complaints about employers' failure to implement the proper safety protocols for COVID-19. Offending employers who fail to comply with Cal/OSHA, State, County, and City COVID-19 guidances for Employers needs to be cited. Also, increase and strengthen the Bureau of Field Enforcement's citation powers along the entirety of supply chains for workers experiencing violations of minimum wage and overtime laws, especially of concern at this time as long shifts and piece rate or quota systems can impede workers ability to follow safety protocols.
- **Expand the Aerosol Transmissible Disease (ATD) Standard**
In the current pandemic, the entire workforce is potentially exposed to a deadly transmissible disease. The ATD Standard only applies to healthcare workplaces. We demand that Cal/OSHA keep all workers safe by expanding the ATD Standard to all industries, mandating workable and enforceable safeguards, practices, and protections for all.
- **Protect the Right to Refuse**
Clearly state and enforce a worker's right to refuse unsafe work that exposes them directly to the coronavirus without the proper safety protocols and protections.

Respectfully submitted,

Amalgamated Transit Union, Local 1605
 Amalgamated Transit Union, Local 1756
 Amalgamated Transit Union, Local 192
 Asian Pacific American Labor Alliance Alameda County (APALA)
 ATU Local 265
 Bet Tzedek Legal Services
 BreastfeedLA
 California Alliance for Retired Americans
 California Immigrant Policy Center
 California Labor Federation
 California Teamsters Public Affairs Council
 California Work & Family Coalition
 Center for Workers' Rights
 Center on Policy Initiatives
 Central Valley Partnership
 Centro Laboral de Graton/Graton Day Labor Center
 Centro Legal de la Raza
 Chinese Progressive Association
 CLEAN Carwash Campaign
 Clergy and Laity United for Economic Justice
 Council on American-Islamic Relations, San Francisco Bay Area
 CRLA Foundation
 Day Worker Center of Mountain View
 East Bay Alliance for a Sustainable Economy
 Faith in the Valley
 Friends Committee on Legislation of California
 Garment Worker Center

Gig Workers Rising
Hmong Innovating Politics
Inland Empire Labor Council, AFL-CIO
Instituto de Educación Popular del Sur de California
Instituto Laboral de la Raza
Jakara Movement
Jobs to Move America
Just Transition Alliance
La Raza Centro Legal
League of Women Voters of Los Angeles
Legal Aid at Work
Los Angeles Alliance for a New Economy
Los Angeles Black Worker Center
Los Angeles Worker Center Network
Maintenance Cooperation Trust Fund (MCTF)
Ms. (Lola Smallwood)
National Council for Occupational Safety and Health (National COSH)
National Day Laborer Organizing Network
National Employment Law Project
North Bay Jobs with Justice
Orange County Equality Coalition
Organización en California de Líderes Campesinas, Inc.
Partnership for Working Families
Physicians for Social Responsibility - Los Angeles
Pilipino Workers Center
Public Advocates Inc.
Restaurant Opportunities Center Los Angeles
Restaurant Opportunities Center of the Bay (ROC the Bay)
Rise Together
San Diego Volunteer Lawyer Program, Inc.
Santa Clara County Wage Theft Coalition
Street Level Health Project
UAW Local 509
UC Merced Community and Labor Center
UCLA Labor Center
UNITE HERE Local 2850 (Wei-Ling Huber, President)
United for Respect
Warehouse Worker Resource Center
Women's Employment Rights Clinic
Women's Voices for the Earth
Workers United-Western States Regional Joint Board SEIU
Working Partnerships USA
Worksafe