

Protect Your Health
and Safety at Work

HERE'S HOW



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and Safety at Work*

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Midstate Council
for Occupational
Safety and Health
Ithaca, NY

Occupational Health
Clinical Center
Syracuse, NY

Tompkins County
Workers' Center
Ithaca, NY

Protect Your Health and Safety at Work
HERE'S HOW

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Introduction

Is your workplace dangerous? Do you work with hazardous chemicals or other materials that put you at risk of getting sick? Are the conditions you face on the job unsafe or unhealthy? And, if there is a threat to your health, what can you do about it?

Often these kinds of questions are seen as scientific or technical requiring specialized expertise to answer. However, history teaches us that working people have time and time again been crucial to recognizing hazardous conditions first, calling attention to them, demanding action to fix them, and offering ideas for effective controls. This handbook provides a tool for working people to use in efforts to figure out if their workplace is unsafe or unhealthy and to eliminate or reduce the hazards they find.

Knowledge is the first step in the prevention of workplace injuries and illnesses. Learning about the hazards of the materials you work with and the conditions you work under is one goal of the handbook. It is important to note that hazardous conditions include not only chemicals, dusts, and gases in a factory, but also injuries from lifting patients in a hospital, and the stress of sexual harassment or bullying in an office. Hazards that threaten health come in various forms and are possible in any workplace.

To be effective in reducing or eliminating workplace hazards, knowledge must be linked with action. In order to take action, workers need to know what their rights are. The handbook outlines the basic health and safety rights workers in New York State have. The Occupational Safety and Health Act of 1970 created a basic legal framework of rights, but other rights including the right to form a union and the right to concerted action are also relevant to addressing workplace health and safety. Knowing these rights and how to use them effectively is key to developing strategies for improving workplace conditions.

Just as important as knowing your rights and how to use them is developing an understanding about the limits to those rights. For example, workplace standards set by the Occupational Safety and Health Administration (OSHA) are often outdated and not protective. In addition many hazards are not even covered by an OSHA regulation. As a consequence, other strategies besides calling on a government agency must be developed to make change at the workplace. The handbook provides some ideas and resources to aid these efforts.

When health and safety conditions are poor, it is likely that there are other problems as well. Effective health and safety campaigns frequently address

other issues including wages, benefits, wage theft, and discrimination, linking efforts to improve overall working conditions with efforts to improve workplace health and safety.

This handbook serves as a starting point for anyone seeking to improve health and safety conditions on their job. Use it to get some ideas but then move beyond it to engage your co-workers, and your union (if you have one), and to access resources that can help in developing a strategy for workplace change.

The handbook is a collaborative effort of the Midstate Council for Occupational Safety and Health and the Occupational Health Clinical Center. We plan to continuously update and improve the handbook in response to changes in law, regulations, and medicine, and to feedback from users.

Michael Lax, MD, MPH
Medical Director
Occupational Health Clinical Center
March 2018



QUICK TAKE

There are many diseases that can arise from your exposure to chemicals and other dangers at work.

Sometimes these diseases don't appear for a long time, sometimes years.

WHY IT MATTERS

Occupational disease sickens and disables many people, and kills more than twice as many people each year as die in car crashes.

occupational DISEASE

Occupational Disease: More Common Than You Think

When we think about workplace injuries we tend to think about incidents like this. You are at work preparing lunch at your job as a cook, and as you move from the prep table over to the refrigerator to get some onions, you slip on the wet floor. Falling down you twist your knee. Diagnosed later at the hospital as a tendon tear, it is easy to see in this case how your injury is work related. It happened suddenly at work with an obvious cause. Getting workers' compensation should be pretty straight forward.

While there are many work-related injuries like this, an illness that you develop as a result of your job may be less obvious. When an illness is the result of being exposed to something in the workplace, the cause isn't always clear. In most cases, in fact, these illnesses or even deaths are not connected by the workers, their families, or even their doctors to work, and most often are not compensated through the workers' compensation system. Yet each year almost 100,000 people die from an illness that they developed as a result of a hazard they were exposed to at work. This means over 250 people die each day from occupational disease, more than double the number of deaths from car crashes and nineteen times more than die each year from a workplace injury.

What is Occupational Disease?

What makes a disease occupational is that it is caused by your work environment or activities related to your work. The work activities or hazardous workplace exposures typically take place over a long period. The illness itself may not be apparent or develop for a long time, sometimes many years down the road, with the cause and effect not immediately obvious. Many cancers are like this. Other examples of occupational illness include, asbestosis, silicosis, work-induced hearing loss, occupational dermatitis, occupational asthma, carpal tunnel syndrome, and many others. Occupational diseases can occur in any part of the body.

EXAMPLE

Exposure to high levels of noise at work without hearing protection can result in hearing loss.

The hazards in your work environment that might result in disease are quite varied. They include:

- physical hazards, like heat, cold, radiation, vibration or noise.
- chemical hazards, like solvents, isocyanates, lead beryllium, disinfectants, gases.
- biological hazards, like blood-borne pathogens, fungus, viruses or bacteria.
- ergonomic hazards, like repetitive motion, heavy lifting, twisting, poor lighting or poor workstation design.
- psychosocial hazards, like stress, bullying or sexual harassment.

The risk of a work-related disease increases the longer and more intense the exposure.

Occupational Cancer

Occupational cancer is cancer that is caused wholly or partly by your exposure to a cancer-causing product or process at work. The most common types of occupational cancer are lung cancer, bladder cancer, and mesothelioma. But many other cancers such as skin cancer, leukemia, sinus or nasal cancer can also be caused by workplace exposures. It is estimated that about ten percent of all new cancer cases are related to work.

Common carcinogens include chemicals like trichloroethylene (used in degreasers), diesel engine exhaust (affecting mechanics), fumes from stripping furniture, solvents used for cleaning and silica dust (from sanding drywall compound); and physical agents like solar radiation (when working outside) and x-rays (in medicine and hospitals). The risk of cancer increases the longer and more intensely you are exposed to a carcinogen, and some specialists feel that there is a risk with any exposure.

Government authorities currently list 131 substances as carcinogenic. These substances can be found in a wide variety of workplaces. Only some of these are regulated by OSHA (Occupational Safety and Health Administration), and even these regulations are often outdated and not protective against the risk of cancer.

The end result is that many workers are currently being exposed to:

- carcinogens yet to be identified.
- carcinogens that have been identified, but are unregulated.
- carcinogens that are regulated but with regulations that are not protective.

A Common Occupational Disease: Noise-Induced Hearing Loss

Millions of workers are exposed to dangerous levels of noise at work—prolonged exposure to 85 decibels will cause permanent hearing loss. Electric hand tools, to give one example, emit about 95 decibels. A good rule of thumb is that if you have to talk loudly or shout to be heard at a normal talking distance from another person, the noise level is high enough to cause hearing loss. Often the affected worker does not realize the problem until the damage has already been done, but by this point the hearing loss is permanent and irreversible. This is why many workers need to wear noise-reducing hearing protection (earplugs or earmuffs) in environments with high noise levels.

A Common Occupational Disease: Dermatitis

Many products we work with can cause a skin problem called “contact dermatitis.” Because it results from direct contact with a substance, it typically affects the skin of the hands or forearms, initially causing an itchy rash and possibly blisters. Common causes of contact dermatitis include cleaning chemicals, soaps, detergents, and wet cement. It can also result from allergic reactions to products including metal working fluids, nickel and chromium, formaldehyde, and some products used in nail salons. At-risk workers include cleaners, hairdressers, cooks, machinists and many others. Gloves can be helpful to reduce exposure and

prevent dermatitis, but certain gloves themselves can cause symptoms for people who are allergic to latex or rubber.

A Common Occupational Disease: Asthma

Asthma inflames and constricts the airways, and typically causes wheezing, coughing, shortness of breath, and chest pressure or tightness. The list of workplace causes of asthma is quite long and continues to grow, but some common ones include dust from flour or grain and chemicals in some cleaning materials, paints, glues or other products. The best way to prevent occupational asthma is to replace the hazardous substance with one that is less harmful. If this is not possible, then better ventilation, job rotation, proper handling procedures, and using a respirator are other options.

Other Occupational Diseases

Virtually any part of the body is a target for specific hazardous exposures.

Besides the diseases described already these can include:

- Musculoskeletal problems of the hands, arms, shoulders and spine from long term job activities involving repetitive motion, forceful motion, awkward postures, or vibration.

- Cardiovascular disease including high blood pressure, heart attack and stroke as a result of exposure to carbon monoxide, carbon disulfide, and workplace stress.
- Reproductive problems such as infertility, miscarriage and birth defects from exposures to certain pesticides or plastics.
- Nervous system damage from exposure to organic solvents or lead.
- Kidney problems from exposure to lead or cadmium.
- Liver damage due to exposure to trichloroethylene or other organic solvents.

How Can I Tell if My Disease or Symptoms Are Work-Related?

Here are some clues that might point to a work-related cause of your symptoms or disease:

- 1) Your symptoms occur at work but get better when you go home after work, over the weekend or on vacation.
- 2) Your symptoms began after a new product or process was introduced in the workplace, or they occur only when you use a certain product or work in a certain area of the workplace.
- 3) Your co-workers are experiencing similar symptoms or disease.

4) If you obtain the Safety Data Sheets (SDS) for hazardous materials you work with and find that the health effects noted on the sheets are similar to those you are experiencing.

If you suspect or are concerned that your symptoms or disease might be work-related you should seek evaluation from a doctor to confirm or rule out your suspicions. While most physicians are good at diagnosing and treating disease, the vast majority are not trained to identify potential workplace exposures that might be causing the problem.

There are physicians, however, whose specialty is Occupational Medicine. The Occupational Health Clinical Center (OHCC) was established by New York State and serves Central New York, the Southern Tier and the North Country. At OHCC, an occupational medicine specialist and his/her team helps workers identify and recover from work-related disease, and coordinates other services for ill workers and their families. You can contact OHCC at 315-432-8899.

ONE THING TO DO

Talk with co-workers.
Share any concerns or ideas about hazards that might effect health and what you can do about them.



How Can I Find Out if My Workplace is Unsafe?

For more information on identifying potentially unsafe products or processes in your workplace, see the other sections of this handbook or contact one of the organizations listed in the Get Help section below.

Get Help

The Occupational Health Clinical Center (OHCC)

www.ohccupstate.org • 315-432-8899

Provides help with medical matters, Workers' Compensation and developing strategies for improving workplace health and safety. OHCC's mission is to provide high quality occupational medicine services, specializing in the diagnosis, treatment and prevention of occupational disease.

Midstate COSH

www.midstatecosh.org • 607-275-9560

Provides professional ergonomic assessments and training to reduce injury risk to you or your employer. This service is grant-funded, so there is no cost to the worker. MCOSH can be contacted at midstatecosh@gmail.com. MCOSH's mission is to provide training, education, advocacy and labor-community organizing to extend and defend every person's right to a safe and healthy workplace.

WHY IT MATTERS

If what is causing your pain is not dealt with early on, it could develop into a full-blown disorder, even a disabling injury.

QUICK TAKE

Many musculoskeletal injuries develop over a long period of time, but start with persistent discomfort or pain when doing certain tasks at work. This is the time to get help, before things get worse.

**INJURIES
DON'T
HAVE TO
HAPPEN:
*here's how***

My Job is Killing Me. I Can't Work Without Taking Pain Killers. Is That Part of the Deal?

Millions of workers depend on pain killers to get them through the day. Eventually they may need surgery for their back problem, carpal tunnel syndrome, rotator cuff pain, tendinitis, thoracic outlet syndrome and so on. After returning to work, the pain may return and require another surgery. Eventually many end up on disability. But it doesn't have to be part of the deal. Solutions can be found through ergonomics.

What is This Ergonomics Anyway?

Jobs and work tasks are often not designed with the worker's safety or comfort in mind. Efficiency, productivity and lower costs often receive higher priority, and workers are expected to fit themselves to the job. Ergonomics is an approach which looks at work tasks with the worker's safety in mind. The job is fit to the worker rather than the other way around. Tools, equipment, workstations and job tasks can be designed to minimize worker injury. For example, is there some way to design work so that you don't have to bend as much, twist as much or work in awkward positions? Often there is. Ergonomics also takes into account the way work is organized, like whether there are adequate breaks, enough workers, or job rotation, as these can also contribute to injuries.

How Do I Know if My Job is Leading Me Down the Injury Road?

There are many ways poor ergonomics can lead to injury, causing a wide variety of musculoskeletal disorders (MSD). They affect our muscles, tendons, nerves, ligaments or joints, often in the hand, arms, shoulder, neck or back, and sometimes in the feet and legs. Being aware of the symptoms MSDs can cause will help you catch the injury early when treatment is most likely to be effective and prevention of further problems most possible.

Here is what to watch out for:

The earliest symptom of a MSD is pain in a muscle, joint, or the spine. When it first appears, the pain will usually be relatively mild, and will only bother you when you are at work or during another activity. At this stage, the pain will tend to disappear altogether when you are not working or when you are resting. This stage may continue for many months, even years. Other symptoms will also occur including numbness and tingling if a nerve is being pinched as in Carpal Tunnel Syndrome, or tenderness to touch, and weakness. It is critical that you do something now before things get worse. Take the symptoms seriously. MSDs are more easily treated or dealt with at this stage.

Over time the symptoms can become more persistent. The intensity of pain and other symptoms may increase, and other problems such as swelling and redness may appear. The symptoms do not disappear completely after work or on weekends. As they become more severe, the symptoms may interfere with work or other activities, like sports or household chores. You may be affected when you drive your car, work in the kitchen, put on makeup or comb your hair, or when dressing your baby.

Left untreated, the symptoms continue to progress and become constant. Sleep is often disturbed. Severe pain, limited mobility, loss of sensation or muscle weakness may make it impossible to perform many job tasks. At this point, having to stop working often is necessary, and it may be very difficult to find effective means to reduce the symptoms.

Tell Me More About the Risk Factors for MSD

A risk factor is something about our work which increases the likelihood that an injury will occur. Not everyone exposed to a risk factor will develop a MSD – we are all different! But the greater the exposure to risk factors, the more likely a problem will develop. And the likelihood of an injury is greatest when there is exposure to more than one risk factor at the same time. It is important to identify the risk factors at work, and then do what is necessary to reduce or eliminate them.

Common risk factors include the following:

Awkward or fixed posture. Sometimes the design of a work station or the nature of the work task, forces us to do a lot of bending, twisting, and reaching or makes us hold the same position for a long time. These are risk factors for MSDs. An example of an ergonomic improvement or a way to lower your risk is to lower the computer monitor so your eyes are angled slightly downward when viewing it. Another example is to rotate tasks or jobs so you are not always doing the same thing.

Prolonged pressure. If a hard object, like a tool, piece of equipment or a part of our work station, is pressed against the skin for a long time, it can result in a MSD. The most vulnerable parts of our body are the sides of our fingers, center and base of the palm, inner elbow and armpit. An example of an ergonomic improvement: putting covers on tool handles to reduce pressure or installing padded wrist or elbow rests at your workstation.

Forceful exertion. The greater the weight of an object, or the greater the strength we have to use to lift, push, pull or grip in order to get the job done, the harder muscles have to work, and the greater the injury risk. An example of an ergonomic change: provide and use hand lifts and carts or get help to move heavier objects.

Repetitive tasks. Doing the same movements over and over stresses the muscles and tendons that perform the

action. Just as machines wear out when they are used over and over again, so does our bodies. An example of an ergonomic change: set up a system of job rotation so the repetitive task is shared or broken up.

Work organization. Aspects of how your work is organized, such as long hours or overtime, working at too fast a pace, inability to take breaks, and inadequate staffing levels can also increase the risk of MSDs. Examples of ergonomic changes: slow the work pace, increase the number of staff, and ensure time for breaks.

Ok, I'm Worried That I Am Developing an Ergonomic Injury. What Do I Do Now?

If you are experiencing symptoms such as those described above and feel they may be related to work there are three things you should consider doing.

1. Get an evaluation from a medical professional, ideally one with experience or understanding of work-related injuries, and who accepts Workers' Compensation. The Occupational Health Clinical Center (OHCC) is affiliated with Upstate Medical University and specializes in these conditions. OHCC accepts Workers' Compensation as well as other health insurance or uses a sliding fee scale for those without health insurance (see Get Help below for contact information).

2. File a Workers' Compensation claim, especially if you have already lost work time or have incurred medical costs as a result of your injury. See the chapter on Workers' Compensation in this handbook for further details on how to do this.

3. Develop a strategy for making ergonomic changes to allow you to continue working without making your injury worse, and to prevent co-workers from developing the same kind of injury.

EXAMPLE

Your neck has been really bothering you during and after work. Do you know that the solution may be as simple as adjusting the setup of your workstation?

The strategy might be different from workplace to workplace, but might include:

a) Reporting to your employer that you have a work-related injury. A note from your physician that documents you have a work-related condition and that makes recommendations for workplace changes to prevent worsening of your condition can be helpful in convincing your employer to take action.

b) Working with co-workers, your union if there is one, and your employer, consider how your job's work practices or equipment could be changed to avoid further injury. Many workplaces have Health and Safety Committees which are established to reduce injuries, so if you have such a committee it would be a natural starting point for reducing or eliminating risk factors for injury. OHCC can provide assistance as can Midstate COSH.

c) Ergonomics training can also be very helpful. Training can include proper tool selection and use, how to set up a computer workstation, safe lifting to minimize injury and other things. Contact Midstate COSH to schedule free training for yourself or others in your workplace.

Get Help

The Occupational Health Clinical Center (OHCC)

www.ohccupstate.org • 315-432-8899

Provides help with medical matters, Workers' Compensation and develops strategies for improving workplace health and safety. OHCC's mission is to provide high quality occupational medicine services, specializing in the diagnosis, treatment and prevention of occupational disease.

Midstate COSH

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ONE THING TO DO

Contact OHCC to get an assessment of how your pain may be related to your work and what can be done about it.

workplace STRESS

QUICK TAKE

Workplace stress is common and there are many possible causes, including too much work being demanded of you, lack of a say in the job, unclear expectations, bullying and harassment.

WHY IT MATTERS

Chronic stress at work takes a toll on our bodies, and can express itself in many ways or cause occupational disease.

Are You Feeling “Stressed Out” at Work?

Many things in our lives can cause us to experience feelings of stress – relationships, social pressures, conflict and racism, and struggling to earn a living wage and support our families. Aspects of our work can also be stressful.

Stress is a Normal Part of Life. What’s the Big Deal?

Stress can become a big deal when it is intense or persistent. When this happens our body’s response to the stress does not have a chance to relax. You might say that our biological response to stress is pressed into overdrive and results in changes in our bodies. The strain on your system produces chemicals like adrenaline to cope. When there are either repeated daily hassles or many instances during the day where we experience high levels of stress, your body reacts to that stress, and may have difficulty relaxing, coping or recovering. Both chronic and excessive stress can result in health problems.

What Symptoms and Long-Term Health Problems Can Stress Cause or Contribute To?

Our bodies respond to excessive or chronic stress in various ways and these responses can vary from one person to another.

Below are some symptoms that stress can cause or contribute to:

Physical Symptoms

Headaches
Upset stomach
Diarrhea or constipation
Sleep disturbances
Teeth grinding
Chronic mild illnesses like colds
Fatigue, aches, pains
Sexual dysfunction

Psychological/Behavioral Symptoms

Anxiety
Depression
Irritability/angry outbursts
Domestic violence
Alcohol/drug use
Overeating
Marital/family problems

While you might think that stress-related symptoms are just everyday annoyances to be dealt with, stress that continues for long periods of time can also contribute to or cause the development of more serious illness. The risk of heart disease, for example, increases as might also the incidence of musculoskeletal disorders, particularly in the back, shoulders and neck.

What Are Some of the Causes of Workplace Stress?

While some people blame themselves or their personality traits for the stress symptoms they experience – for example, they are not “strong enough” – in reality working conditions play the primary role in cause job stress. It is the job itself, not the worker, that causes stress. What is it about someone’s job that can feel and result in stress?

The following have all been shown to contribute to work stress.

1. How the job is designed, including a heavy workload, long hours, infrequent or insufficient breaks, tasks that are too routine or boring, and not enough time to complete tasks.
2. How your boss operates, including giving you little say in decisions, little recognition for a job well done, or having a poor communication style.
3. A poor support system, including inadequate sick, vacation and family support policies; lack of the provision of the appropriate equipment, tools or training to accomplish assigned work; persistent discrimination, bullying or harassment; an unsympathetic supervisor; lack of support from co-workers.
4. Poorly structured work, including conflicting, changing or unclear job expectations; too much

responsibility; or unclear or poorly functioning chain of command.

5. An unrewarding economic picture, including inadequate wage and retirement benefits; lack of opportunity for advancement; or job insecurity.
6. Environmental stresses, including poor air quality, noise, exposure to toxic chemicals, poorly designed or inadequate space.

How Can I Find Out if My Symptoms Are Related to Work?

While your family doctor can treat your medical/psychological symptoms, he/she is less well trained to understand and help you deal with workplace stressors that might be involved in your symptoms or illness. This is an area that is a specialty of physicians that are Board Certified in Occupational Medicine. They are trained in diagnosing medical symptoms and illness, providing medications and other means to treat the symptoms, and in helping you assess the workplace conditions that might be central to the diagnosis. They can also help identify strategies for reducing or eliminating the workplace causes of the problem. Unless you get to the source of the problem your symptoms will only really be masked by the medications, not effectively treated. See Get Help below for information on how to contact the Occupational Health Clinical Center.

How Can Work be Changed to Reduce Stress?

It is common to focus on workplace stress as an individual problem, rather than a workplace problem. This focus suggests that the solution would be to simply teach people how to cope with stress (things like stress management training or employee assistance programs). While these programs are useful and may help reduce your symptoms, the results are often short-lived and don't get at the real causes of the stress in the work environment. A better approach is to seek to identify the stressful aspects of the work and then to design strategies to reduce or eliminate these stressors. Changing the workplace is much more effective at reducing stress than suggesting people manage the stress on their own.

If you have a union at work, your union can work with management as part of the collective bargaining process to identify causes and solutions to work stress and to implement these solutions. Without a union, this will be harder. But you can still talk with co-workers about the problems and then together meet with your management to start a process for implementing changes geared to lowering work stress.

Get Help

The Occupational Health Clinical Center (OHCC)

www.ohccupstate.org • 315-432-8899

Provides help with workplace stress issues, including medical diagnosis, understanding what is causing the stress, and developing strategies for improving the situation. OHCC's mission is to provide high quality occupational medicine services, specializing in the diagnosis, treatment and prevention of occupational disease.

One Thing To Do

Keep a journal to help you understand what is stressful about work and how it is affecting you.

sexual

HARASSMENT

WHY IT MATTERS

Sexual harassment can make it difficult for you to do your job.

QUICK TAKE

Sexual harassment isn't limited to making inappropriate advances or requests. It includes any unwelcome verbal or physical behavior that creates for you an offensive work environment.

What is Sexual Harassment?

Sexual harassment is unwelcome sexual advances or requests, or other verbal or physical conduct of a sexual nature when:

- You feel your submission to or rejection of this conduct may affect whether you keep your job or get a promotion, a good job assignment or some other job benefit; OR
- This behavior unreasonably interferes with your work performance or creates for you an intimidating, hostile or offensive working environment.

The sexual harassment offender can be a man or a woman, a member of the opposite sex or a member of the same sex.

Can You Give Me Some Examples of Sexual Harassment?

Examples of unwanted behavior that may be considered sexual harassment include:

- pressure for sexual favors, like a date, kiss, sexual act etc.
- pornographic material left on your desk or work area.
- touching, “goosing,” patting, hugging, kissing.
- leering, whistling, catcalls or howling.
- using demeaning terms such as “sweetheart,” “babe” or “honey;”

- sexual teasing and jokes.
- posting cartoons, posters or drawings of a sexual or insulting nature.
- asking sexual questions, (such as questions about your sexual history or your sexual orientation).
- making offensive comments about someone’s sexual orientation or gender identity.
- telling lies or spreading rumors about your social or sex life.
- making sexual remarks or gestures and actual or attempted sexual assault.

The harasser’s behavior must be unwelcome for the conduct to be considered harassment.

The harasser can be anyone – same or opposite sex of the victim; a manager, co-worker, client, customer – and the harassment may occur inside or outside the workplace (say at a bar where you are having a drink with the boss and he/she touches or kisses you inappropriately). Nor does a victim have to be personally harassed; the harasser’s behavior can be bad enough that it creates a work environment that is reasonably felt to be hostile or abusive.

EXAMPLE

An offensive comment about someone’s sexual orientation or gender identity.

What Must My Employer Do If I Am Being Sexually Harassed?

Sexual harassment is illegal, and no worker should be forced to tolerate it. Your employer is responsible for investigating sexual harassment complaints made by employees and taking appropriate action to end the harassment. Prevention is the best policy: employers should clearly communicate to employees that sexual harassment will not be tolerated, should have an effective complaint process, and take immediate and appropriate action when an employee complains.

What Should I Do If I Am Being Sexually Harassed?

You are not required to directly inform the harasser that the conduct is unwelcome, but you should make sure that you, your union if you have one, or someone you designate lets management know about your complaint. You should also keep a written record of the harassment incidents, including what was said or done, by who, where and when, and who witnessed it if anyone. Letting a co-worker, friend or family member know what happened can also be helpful down the road if and when you file a complaint and/or seek legal action. Save any physical evidence, such as pornographic images, and avoid keeping your notes or log on a work computer or other device.

If your employer has a complaint procedure, you are required to use it. You should make clear that you want the harassment to stop. If the harassment has been severe and you have suffered emotional distress or lost earnings and job opportunities, you can also seek compensation. You should also keep notes or copies of your complaint and the response.

ONE THING TO DO

Make a written complaint to management, and keep a copy.

I Filed a Complaint With My Employer, But Nothing Happened

Sexual harassment is illegal, and you may file employment discrimination charges with the EEOC (Equal Employment Opportunity Commission) or the NYS Division of Human Rights (DHR). You can do this even before you get a response to your complaint from the employer. EEOC charges must be filed within 300 days, though it's preferable to file within 240 days. DHR charges must be filed within one year. You may file a charge as an individual or as part of a group (known as "class action"). You do not need a lawyer to file an employment discrimination charge with the EEOC or NYS DHR. You can also consult a lawyer and many will not charge for an initial conversation.



Get Help

Sexual harassment is illegal in New York.

The NYS Division of Human Rights

<https://dhr.ny.gov/complaint> • 888-392-3644

Responsible for enforcement. Complaint forms and more information are available online. DHR also has offices throughout the state including in Binghamton (607-721-8467) and Syracuse (315-428-6633).

The Equal Employment Opportunity Commission

www.eeoc.gov • 800-669-4000

The federal agency that enforces national laws against sexual harassment.

The Tompkins County Workers' Center

Ithaca • www.tcworkerscenter.org • 607-269-0409

The Workers' Center of Central NY

Syracuse • www.workerscny.org • 315-218-5708

Both assist with information, assistance and referrals. Both these organizations help workers understand and assert their rights at work.

The Occupational Health Clinical Center

<http://ohccupstate.org> • 315-4322-8899

Provides assistance with medical diagnosis and support from their staff social worker.

workplace BULLYING

QUICK TAKE

Having a boss or a co-worker who is a bully is common. If you are the target of the bully it can feel humiliating and threatening.

WHY IT MATTERS

Bullying can poison the workplace. It can affect your health, your family life and your job performance.

What is Bullying or Harassment?

Workplace bullying is surprisingly common and harmful. It is a type of violence that affects you mentally and emotionally, and can be described as persistent, abusive behavior designed to make the target feel upset, humiliated, or threatened. The harassment can be subtle, but constant. The workplace bully may be a boss who constantly criticizes or shames employees; a supervisor who delights in overworking and exploiting those beneath him; or a co-worker.

Bullying tactics include:

- Unfairly blaming others for errors
- Unjustified criticism and fault-finding of work performance
- Making unreasonable demands or denying needed information and resources
- Yelling, making insults, put-downs or threats of job loss
- Applying rules in an arbitrary manner
- Excluding the target from social gatherings or gossiping about him/her
- Taking credit for another's work

EXAMPLE

Someone you work with is always staring or glaring at you in a nonverbal but intimidating way. He likes to order you around and discounts your ideas ("oh, that's silly").

How Common is Bullying in the Workplace?

As many as one in five workers reports experiencing some form of bullying at work. Women are more likely to be bullied by their boss, whether male or female, but women also can be the bully in the workplace. Some bosses favor bullying, seeing it as a tough and effective management style.

Is Bullying Harmful?

Bullying affects both job performance and health. Stress, anxiety and anger can build up in the bullied worker resulting in stress-related illness, sick time, and a negative impact on family and marriage. Some victims experience depression, anxiety and even symptoms of post-traumatic stress disorder. Bullied employees can end up spending a large amount of their time at work defending themselves, networking for support, thinking about the situation, feeling worn out and unmotivated, and working less efficiently. The workplace feels toxic, and often you are not the only one affected or being bullied, even if you are not aware of it.

Is Bullying Illegal?

Bullying is illegal if it is based on illegal discrimination or if it crosses the line into criminal behavior. It may also be a violation of a union contract that has a “respect and dignity” clause. Illegal discrimination occurs if the bully, say a supervisor, is harassing, discriminating or treating you differently because of your age, race, color, sex, sexual orientation, national origin, creed, religion or disability.

If the bully is targeting you for one or more of these reasons, it may be illegal discrimination. Beyond this, the law does not require your employer, boss or supervisor to be nice to you, to be fair or to be kind. However unpleasant or unfair, it is not illegal to have a tyrant or a bully for a boss.

How Does Bullying Differ From Illegal Discrimination?

Bullying usually is not directed at a person because of their age, race, color, sexual orientation, or another of the characteristics mentioned above. More commonly it is about taking advantage of someone in a vulnerable position. It is more often about the bully’s own inadequacy, insecurity and poor social skills. Since someone competent, dedicated and popular may represent a threat to the bully’s self-image, he/she may seek to attack, harass and control this person. It is an exercise of attempted power by humiliating the target.

Responding to Bullying Behavior

The following are some steps you can take if you are the target of workplace bullying:

- Talk with family and friends to get support.
- Talk with the person who has been bullying you; sometimes they may not realize that what they are doing is hurtful.
- Report the situation to your supervisor if the bully is a co-worker.
- Keep a journal and get statements from witnesses.
- Develop a case against the bully, identifying possible violations of union contract language or internal policies, and identify higher-ups who may be supportive.
- Clarify what you want (a transfer, damages, severance package, or something else).
- Meet with senior management (as high up as possible).
- You might also consider consulting an attorney
- Seek professional help for stress-related health problems as needed.

ONE THING TO DO

Keep a journal,
and get input from co-workers
who witness the bullying behavior.

Get Help

The Tompkins County Workers' Center

Ithaca • www.tcworkerscenter.org • 607-269-0409

The Workers' Center of Central NY

Syracuse • www.workerscny.org • 315 - 218- 5708

Both assist with information or help develop effective strategies for dealing with workplace bullies, or provide a referral for you to file a claim of illegal discrimination.

The Occupational Health Clinical Center

www.ohccupstate.org, 315-432-8899

May also be able to help, especially through the social worker they have on staff.

Workplace Bullying Institute

www.workplacebullying.org



QUICK TAKE

Laws protect our right to be safe at work, and provide ways to get information about the dangers we face in our jobs.

WHY IT MATTERS

Many thousands of workers die, become ill or disabled as a result of work each year. You and your co-workers can make your jobs safer by learning about and using these legal rights.

KNOW YOUR RIGHTS:

*health &
safety on
the job*

You Have a Right to a Safe Job!

Federal and State laws establish the right to a safe and healthy job for workers in New York, and provide various ways to enforce this right. Almost all workers are covered, including temp agency and contractor employees but not some farm workers. In many cases, however, the enforcement of this right is up to you and your co-workers. If you work in the private sector you are covered by the Occupational Safety and Health Administration (OSHA). If you are a public sector worker in New York, you are covered by a State law which is enforced by Public Employee Safety and Health (PESH).

In either case, these laws:

- limit the amount of hazardous chemicals workers can be exposed to.
- require the use of certain safety practices and equipment.
- guarantee you the right to file a complaint and get a government inspection of your workplace.
- require employers to train workers about chemical and other hazards.
- protect workers against retaliation for raising safety concerns.
- require that you be provided with, and trained on, protective gear (e.g. respirators, safety shoes) when a hazard can't be eliminated.

- allow you to refuse, in certain circumstance, having to do unsafe work.

Let's Start With Chemicals. What Information Am I Entitled to About the Chemicals I Work With?

The Hazard Communication Standard (HazCom) is a law, sometimes called the "Right to Know" that says your employer must train you before you work with or are exposed to any hazardous chemical, fume or dust. The training should inform you of the hazards, let you know how you can tell if you are being overexposed, and tell you how you can protect yourself. Employers must also give you access to chemical information sheets, called Safety Data Sheets (SDS). All of these products must be clearly and properly labeled as well.

Am I Entitled to Any Other Health and Safety Information?

Yes, if your employer, a government agency, or someone hired by your employer conducts any workplace monitoring (testing the air for chemicals, testing noise levels, or measuring radiation), you have the right to get the results of such tests upon request. You also have the right to get any of your medical records kept by your employer, including all medical exams, and to receive a copy of the yearly log of all reported work-related injuries and illnesses that employers must maintain (OSHA 300 or SH 900).

Finally, employers must post any citations they receive for violating health/safety law in the workplace. To get any of this information, give your employer a dated, written request (keep a copy). If it is not provided within 15 days, you can file a complaint.

What Should I Do If I am Concerned About a Safety Hazard?

Speak to your supervisor or employer about the situation, and ask them to fix the hazard. If you have a union, contact your union steward. You can also request a government inspector to come to your workplace if you believe hazardous conditions or violations exist. The best way to do this is to file a simple written complaint form with your area OSHA or PESH office identifying the problems and including your name and the name of your employer (see “Get Help” section below). The agency will keep your name confidential if you request them to do so. Your letter should include a detailed list of all of the hazards that you know or think exist at your workplace. This will help the inspector know what to look for and will make the inspection more effective.

It is important to remember, however, that filing a formal complaint may not be the best strategy in your case. This is because not all safety hazards are considered illegal or dangerous by government regulations. For this reason, you should consider first contacting one of the Worker Centers, Midstate COSH

or the Occupational Health Clinical Center to discuss the situation at your workplace and get their input as to the best strategy for correcting the hazards (see contact information below in the Get Help section).

Can My Employer Retaliate Against Me?

You have a right to demand a safe work environment without fear of punishment or retaliation. It is illegal for an employer to punish, discriminate or discipline any worker for raising or reporting health and safety problems, or for participating in safety and health committees or OSHA inspections. Though illegal, it doesn't mean your employer would not seek to punish you. This is why it is always a good idea for you to work or make your complaint together with at least one co-worker, and to keep a journal of your experience and your employer's response. If you feel there has been retaliation, such as loss or change of hours of work, denial of a pay raise, or termination, file a complaint with OSHA or PESH within 30 days from the time of your employer's action. You may also be entitled to file a complaint with the Labor Board (National Labor Relations Board).

Can I Refuse Work That Might Put Me in Serious Danger?

An “imminent danger” is a work situation that presents a real and immediate risk of death or serious physical harm. Examples include an unstable trench, unsafe

scaffolding or an exposed electrical wire that could cause a serious or fatal accident immediately under present conditions. If you believe in good faith that an imminent danger exists in your workplace and there isn't enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels (such as requesting an OSHA inspection or calling the OSHA Imminent Danger Hotline), tell your employer that you won't perform the work unless and until the hazard is corrected. If possible confirm your assessment of the danger with a co-worker. Request to be assigned a different work task. If the employer refuses, remain at the worksite until ordered to leave. If your employer seeks later to punish you for refusing to perform the dangerous work, contact OSHA immediately or in any case within 30 days (contact information below). If you are able to call the National Hotline and OSHA agrees that an imminent danger does exist (such as working on unsafe scaffolding), they will send an inspector to the worksite immediately.

Is My Workplace Safe If We Are Meeting OSHA Standards?

Possibly not. For example, your employer may be meeting OSHA's chemical exposure limits, but many chemicals have been proven to have health effects at or below the legal limits set by OSHA. Also, new chemicals are developed all the time for which no OSHA limits have been set. And OSHA does not cover

all workplace hazards that exist, particularly ergonomic dangers such as back and repetitive strain injuries.

What Can I Do If I Think the Air in My Workplace Is Making Me Sick?

Inadequate or poorly maintained ventilation systems can cause a host of respiratory ailments (like asthma) due to smoke, mold and airborne viruses. Other indoor air quality hazards include asbestos, carbon monoxide, diesel exhaust, ozone and radon gas. Unfortunately, OSHA has few standards covering indoor air quality. It is up to workers, individually and collectively, through their union or otherwise, to attempt to resolve these problems by working with management to eliminate the source of contamination. You should inform your supervisor and union steward if you are concerned about air quality or suspect that you may be suffering from an air quality-related illness. Keep records—good documentation is important should your illness progress to the point where you may be forced out of work and you need to file a workers' compensation claim. And it's always a good idea to consult with a Worker Center, Midstate COSH or OHCC.

I Am an Immigrant Worker. Do I Have the Same Workplace Health and Safety Protections?

Yes! Immigrant workers often face a higher risk of workplace injury and illness. All workers have an equal

right to a safe and healthy workplace no matter what their immigration status is. See chapter on immigrant workers.

Is There a Medical Facility That Can Help Determine If My Injury or Illness is Work-Related?

Yes, the Occupational Health Clinical Center specializes in diagnosing and treating occupational disease, including those that may be related to indoor air quality. See “Get Help” below for contact information.

Get Help

Midstate COSH

www.midstatecosh.org • 607-275-9560

A non-profit with a long history assisting workers and providing training on issues related to OSHA rights. MCOSH can be contacted at midstatecosh@gmail.com. MCOSH’s mission is to provide training, education, advocacy and labor-community organizing to extend and defend every person’s right to a safe and healthy workplace.

ONE THING TO DO

Contact Midstate COSH (above) about attending one of their trainings on workplace safety rights.

The Tompkins County Workers’ Center

Ithaca • www.tcworkerscenter.org • 607-269-0409

The Workers’ Center of Central NY

Syracuse • www.workerscny.org • 315-218-5708

Both assist with information, assistance and referrals. Both these organizations help workers understand and assert their rights at work..

The Occupational Health Clinical Center (OHCC)

www.ohccupstate.org • 315-432-8899

Provide help with medical diagnosis and treatment, Workers’ Compensation and developing strategies for improving workplace health and safety. OHCC’s mission is to provide high quality occupational medicine services, specializing in the diagnosis, treatment and prevention of occupational disease.

Occupational Safety and Health Administration (OSHA)

www.osha.gov • 315-451-0808

OSHA’s regional office is in Syracuse. You can contact this office at 315-451-0808. The OSHA website has more information and access to complaint forms, www.osha.gov/workers.html. The OSHA National Hotline number is 800-321-6742.

NY Public Employee Safety and Health

labor.ny.gov/workerprotection/safetyhealth/faq.shtm

CHEMICAL HAZARDS:

*our right
to know*

QUICK TAKE

Your employer is required to provide training about the chemical hazards in your workplace.

WHY IT MATTERS

Many common products are harmful; some may cause cancer.

What is the Right to Know?

Many of the products we work with or might be exposed to at work may be harmful to our health. For this reason OSHA established the Hazard Communication Standard (HazCom), also known as Right to Know. This law requires employers to make sure you have full information about the chemical hazards in your work area before you are exposed to any of them. These hazards include liquids (like trichloroethylene), gases (like carbon monoxide), fibers (like asbestos), particles (like lead), and droplets (like metal working fluids).

Under the Hazard Communication standard employers must:

- make a Safety Data Sheet (SDS) on each chemical you work with or are exposed to readily available for you to review.
- ensure that proper labels are on all hazardous chemicals.
- train you about the health effects of the chemicals you work with, and ways you can protect yourself.

EXAMPLE

Not all respirators are the same. The SDS tells you which type of respirator you need to protect yourself.

I Work in the Public Sector. Do I Have the Same Protections?

New York has adopted, and strengthened, the federal right to know law for all state, municipal and local public and school employees in the state. One important provision that is strengthened for public employees is training. In the private sector training must be provided when you are first employed or when a new product is introduced in your work area. In the public sector there is annual training and education on toxic substances.

I Have Heard the Term SDS or Safety Data Sheet. What is That?

A Safety Data Sheet (SDS) is a technical factsheet that describes the health effects and safe uses of the toxic products in your workplace. Your employer must have a SDS for each hazardous product or chemical used, stored or produced in your workplace. It is provided to your employer by the manufacturer of the product. In turn, the SDS must be provided to you upon request. If you have concerns about asking your employer for the SDS, write down or take a picture of the information on the product label. If you have the product trade name (as exact as possible) you can then do an internet search and usually find the SDS (or contact one of the sources in the Get Help section below).

How Can I Know if a Product I Work With is Hazardous?

There are three ways to learn about whether or how the products you use or come in contact with are hazardous.

Review the Product Label Containers for hazardous chemicals must be labeled (but your working container does not require a separate label if it remains in your control). OSHA has a standard format for these labels. They must identify the product; provide basic information on the degree and nature of the hazard; and provide standard precautions (such as “do not eat, drink or smoke when using this product”).

Right to Know Training The second way to learn about hazardous products is through the Right-to-Know training your employer must provide.

Review the SDS And the third way is by reviewing the SDS for the product. You can also request that your employer give you a listing of all the hazardous chemicals used, stored or produced in your workplace.

How Does the SDS Help Me Learn About Health Effects of These Products?

There are three important ways the SDS provides information that helps workers protect their health from the effects of chemicals we work with or are exposed to.

Chemical Identity First, the SDS must provide information on the product, including all the hazardous ingredients it might include. This information is very important if you want to do any further research or consult with a medical professional. Related to the chemical identity is the exposure limit which is also listed on the SDS. The permissible exposure limit (PEL) is the maximum amount of the substance legally allowed by OSHA in the workplace air.

Health Effects and First Aid Measures The second useful information on the SDS is the description of health effects and first aid measures (Sections 11 and 4 of the SDS form). This describes how these toxic products get into your body (inhalation, absorption through the skin, or swallowing when they are transferred from workroom air to food, coffee, etc.); what the short-term or long-term harmful effects are, including whether it is known to cause cancer or make existing medical conditions worse; what symptoms you might experience from exposure or signs a doctor might find in examining you following exposure; and, finally, first aid measures that might be appropriate for a harmful exposure.

Prevention of Health Effects The third bit of very useful information is how to prevent bad health effects, and it is contained in Section 8 of the SDS. This describes how you are best protected from harm. The best protection or control method is always to substitute or use a safer chemical for the more dangerous chemical. Beyond this other control measures are also listed. Anything that effectively protects you from inhaling, absorbing or ingesting the product is good.

What Training Must My Employer Provide?

Your employer must provide you with a Right-to-Know (Hazard Communication) training at the beginning of your employment and, then again, whenever at a later time you begin working with, or might be exposed to, a new physical or health hazard. There are additional required trainings for some especially hazardous products, for example if you work with or have any potential exposure to lead or asbestos. In all cases, the requirement is that you learn about potential harmful health effects and how to protect yourself, before you begin working with any hazardous or toxic chemical. Also, this training must be conducted in a language and manner which employees can understand. So, for example, if you are Spanish speaking the training must be in Spanish. As mentioned above, if you work in the public sector in New York, this Right-to-Know training must be provided annually, not only when you first start work.

Any Right-to-Know training must cover the following:

- Location or identification of the hazardous chemicals you might be exposed to;
- Methods for observing or detecting the presence of hazardous chemical exposures, for example, visible smoke, fumes or mists, employee's clothing getting wet from materials, chemical odors;
- Description of the hazards of these exposures – physical, health, asphyxiation, combustibles, etc.;
- Measures that can be taken to protect you from these hazards.

In addition, you must have an opportunity to ask questions to ensure that you understand the information presented about the hazards.

ONE THING TO DO

Contact Midstate COSH to learn whether your company is providing correct safety training.

If you are hired or retained by a temporary agency (such as Manpower or Staffings), it must provide general hazard training and information on the kinds of chemicals you may be exposed to. Your host employer, once you are assigned to a job, would then be responsible for providing additional site-specific hazard training.

Are There Weaknesses With the Right to Know Standard?

The Right to Know Standard is not as strong as many would like to be fully protective of workers.

First, not every hazardous chemical is included. There are thousands of chemicals used in workplaces and new chemicals regularly come into use. But many have not been tested to see how dangerous or toxic they may be. So just because a chemical is not deemed hazardous by OSHA or the manufacturer does not mean it is safe.

Second, OSHA's Permissible Exposure Limit (PEL) is not necessarily a safe exposure. You should be aware that PELs are often too high, because few chemicals have been adequately tested and also because producers and large employers often pressure OSHA to maintain higher PELs. In fact, many PELs have not been updated since the early 1970s.

Third, health information is often incomplete. While the SDS is required to tell you the health effects that can result from exposure to the chemicals listed, that information is not necessarily complete. The SDS often lacks information about long term or chronic health effects including cancer and birth defects. In addition, many products we use are actually mixtures of chemicals, and the possible health effects from these mixtures is often unknown.

Finally, calling the chemical product a trade secret hides the ingredients. Companies sometimes define chemical ingredients as trade secrets, and this allows them to keep the chemical identities hidden on the SDS. This makes it difficult for you to know what symptoms or health problems to look out for.

Using the Right to Know Effectively

Despite the limitations, the Right to Know standard is an important tool for you to use in finding out what hazards you are exposed to on the job and how to protect yourself from those hazards. In order to use the Right to Know effectively you should think of the information you receive from your employer through training and the SDS as a starting point. You may need to go further to get the information you really need. Resources that can help are listed below.

Get Help

The Occupational Health Clinical Center (OHCC)

www.ohccupstate.org • 315-432-8899

Call the OHCC with any questions about chemical hazards or to make an appointment for medical diagnosis or consultation. Their website has many resources that can help you learn about chemical hazards in your workplace – <http://ohccupstate.org/links.cfm>. OHCC is funded by the State of New York. Its mission is to provide high quality occupational medicine services, specializing in the diagnosis, treatment and prevention of occupational diseases.

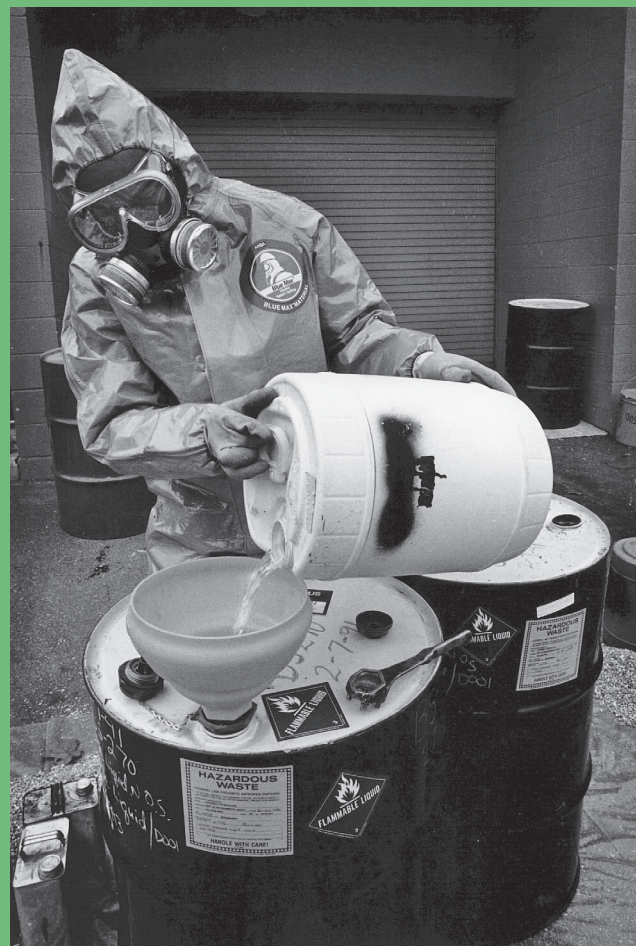
Midstate COSH

www.midstatecosh.org • 607-275-9560

If you have questions or need help getting information or filing a complaint, you can get help from Midstate COSH (Council on Occupational Safety and Health). MCOSH's mission is to provide training, education, advocacy and labor-community organizing to extend and defend every person's right to a safe and healthy workplace. MCOSH can be contacted at midstatecosh@gmail.com.

Right to Know Law

www.osha.gov/html/faq-hazcom.html. (OSHA website)



workers' COMPENSATION

QUICK TAKE

If you have an illness or injury related to your job, your medical bills and lost pay are fully or partially covered by your employer's workers' compensation insurance.

WHY IT MATTERS

No worker should have to take a loss for a work-related injury or illness. But you have to know the procedures to follow since many employers and insurance companies try to avoid their responsibilities.

Workers' compensation is a form of no-fault insurance, paid for by your employer, which entitles you to certain benefits if your work results in an injury or an illness. If a worker is killed on the job, their family is eligible for workers' compensation benefits.

When Am I Entitled to Workers' Compensation?

If you are injured or become ill as a result of your work (or a pre-existing injury or illness becomes worse or flares up because of your work), you may be eligible for workers' compensation benefits. These benefits are paid by your employer's workers' compensation insurance policy. You must, however, file a claim in a timely manner to start your case. You do not have to be a citizen to receive workers' compensation; you can receive it even if you are undocumented.

How Do I Know if My Injury or Illness is Work-Related?

In many cases, such as if you trip while at work, fall off a ladder while painting someone's house for your employer, or if you sprain your back lifting something, the injury is clearly work-related. But for many illnesses or diseases that might be work-related it is not so clear. Many cases of lung disease, for example, are caused by inhaling toxic chemicals at work but symptoms might not develop for a long time, sometimes not even till after you retire. Many musculoskeletal disorders, like carpal tunnel, tendonitis, back problems and shoulder problems, develop over a

long period. Hearing loss is another example.

Here are some things to look for that increase the likelihood your symptoms are work related:

- The symptoms are similar to those described on the Safety Data Sheets for the materials you have been exposed to.
- The symptoms improve when you are away from work, on weekends, and on vacation
- They may have started after you started working with a new material or some other change in the workplace.
- You may notice they are occurring with specific job duties or on certain days.
- Co-workers are experiencing similar symptoms, illnesses or injuries.

In all these cases you will need to see a health care provider to determine what the problem is and whether it is work related.

A workers' compensation case cannot be accepted without medical documentation. It is best to consult with a medical professional trained to diagnose work-related illnesses (see the Get Help section below) as soon as you begin to have symptoms.

What Can I Get From Workers' Compensation?

Workers' compensation provides two main benefits. First, it covers all costs for medical treatment and

rehabilitation, including transportation. There are no out of pocket costs, and it covers you for as long as you have the condition. Second, it provides cash payments for lost wages if you are out for more than one week or if there is a permanent disability. Temporary cash benefits are up to a maximum of 2/3 of your gross wages, or 2/3 of the average weekly wage in New York State, whichever is less. New York's average weekly wage changes each year and as of this writing is \$1,305.92. You pay no taxes on these benefits.

Other benefits include additional money for permanent damage to a limb or for loss of hearing or eyesight; a death benefit; and vocational rehabilitation/retraining. Cash benefits can continue for as long as your disability lasts.

Once you have won a workers' compensation award, you are entitled to prompt payment which is required within a minimum of 18 days after the employer receives notice of the injury. To file a prompt payment claim if your employer does not make a timely payment, fill out the online consumer complaint form found at: <http://www.dfs.ny.gov/insurance/provlhow.htm>.

My Employer Says the Injury is My Fault, and I am Not Entitled to Any Benefits

Workers' compensation is a no-fault system. That means that if working conditions contributed to the injury or illness it is covered. The issue of who was at fault in causing the injury or illness is not considered.

My Employer Says the Injury is Not Covered By Workers' Comp

It is not up to the employer. File a claim. Only a doctor can diagnose a work-related illness or injury, and only the Workers' Compensation Board (WCB) can make a final decision about eligibility for benefits.

I Got Hurt at Work or I Think My Illness Was Caused by My Job. What Do I Do?

The WCB divides health conditions into injuries and occupational diseases. Injuries occur right after an acute event like a fall, sprain, or fracture. Injuries also include conditions like lung damage that occurs immediately following exposure to a toxic gas. Occupational diseases usually occur after a long exposure and often develop symptoms slowly over time. Asbestosis (scarring of the lungs due to asbestos exposure) is an example of an occupational disease as shortness of breath develops slowly, typically at least 15 years after the first exposure. The distinction between injuries and illnesses is important in workers' compensation as there are different time limits for starting a claim.

EXAMPLE

Tom strains his back moving furniture every day and needs chiropractic care.

An injury must be reported as soon as possible to your supervisor or employer. This is best done in writing (keeping a copy for yourself), though a verbal report is also OK. Though you have 30 days to report, it's best to do it before leaving work, so the employer can't claim it happened at home. A co-worker can report it for you. Even if it seems minor, it could get worse, so report it. Make notes about what happened, which supervisor was told, and who witnessed the injury. Remember: it is illegal for your employer to threaten, discipline or harass you for making such a report.

Second, see a doctor as soon as possible, describe what happened and make sure they note that it happened at work. Tell the hospital or doctor's billing staff this is a workers' compensation case and to bill your employer's insurance carrier. Besides notifying your employer and getting medical treatment, you must file a C-3 form with the Workers' Compensation Board to start your case. The C-3 form can be printed from the WCB website: www.wcb.ny.gov. You have two years from the date of injury to file a claim. The longer you wait, however, the more likely the insurance carrier or employer will contest your claim, making it more difficult for you to access benefits.

There is no requirement to report an occupational disease to your employer. You have two years from the time you knew, or should have known, that your condition is work-related to file a claim with the WCB. Practically, that is when a doctor diagnoses the

condition. The process for filing is otherwise the same as that for an injury: see a doctor, file a C-3.

If you miss the two year deadline for filing a claim for either an injury or an occupational disease, there is a *very high likelihood your case will be denied*.

Who Do I Go to for Medical Treatment?

Unless your employer participates in a workers' compensation managed care program, you have the right to go to a doctor of your own choosing for a work-related condition. Before making an appointment, however, you should call the doctor's office and make sure they accept workers' compensation (WC) insurance. If they do not you will have to find another doctor to treat you.

To find a doctor who takes WC here are some suggestions:

- Ask your family doctor if they have any recommendations
- Go to the WCB website and check the list of doctors in each specialty who take WC. This list is being updated in 2018 which hopefully will improve its accuracy.
- If you are a union member ask your union representative if they know of any medical providers in your area that accept WC.

- If you have an occupational illness, the Occupational Health Clinical Center in Syracuse, with a staff specializing in occupational medicine and a lot of experience with workers' compensation, may be able to help.

Whatever physician you go to, make sure you carefully explain exactly how you were hurt or what at work might have caused your problem or illness. Because it is a workers' compensation case, the doctor will send bills to your employer's workers' compensation insurance carrier (same applies to hospital or pharmacy charges, as well as travel costs). If your claim is challenged (controverted) by the insurance carrier, you may need to find a physician who has experience with workers' compensation cases, and is willing to advocate and testify for you if needed. You may also be required to submit to an examination by a doctor contracted by the insurance company (wrongly named an "Independent Medical Examiner") if your case is contested by your employer or their insurance carrier and they request such an examination.

Do I Need A Lawyer?

Bear in mind that workers' compensation rules and regulations are an extremely complex area of the law; anything more than a brief outline is well beyond the scope of this handbook. In general, however, you will need a lawyer if your claim is challenged. If so, it is important to retain an attorney who specializes in

workers' compensation law and who represents injured workers and not insurance carriers and employers.

The Injured Workers' Bar Association (www.injuredworkersbar.org) has a list of attorneys. Local workers' centers and your union (if you have one) can also be good sources for a recommendation. Local attorneys with such expertise also advertise in the Yellow Pages, or you can contact the county bar association or legal aid society for a referral. The lawyer is only paid if you win the case and for an amount approved by the Workers' Compensation Board. If you have any other questions about your case, and do not have a lawyer, you can contact the WCB's Advocate for Injured Workers.

ONE THING TO DO

Report the injury to your supervisor as soon as it happens.



Are Any Other Benefits Available to Injured Workers?

If your compensation claim is contested (controverted or denied) by the insurance carrier, you may be eligible for NYS short-term disability benefits (maximum of \$170/week for 26 weeks) while the issue is decided. Beyond this, if you are disabled for more than a year and are permanently unable to return to work, you may qualify for Social Security Disability benefits. If you think you may qualify for SSD, you should contact the Social Security Administration and, if necessary, consult an attorney who has expertise in Social Security cases.

In the event of low or reduced family income, members of your family may become eligible for Medicaid. In addition, if you are attempting to survive on cash benefits alone, your income may be low enough to qualify for the Supplemental Nutrition Assistance Program (SNAP). Medicaid and SNAP are administered by local social services departments.

If you are injured but cannot return to your regular job and are fired, you may be eligible for unemployment benefits, as long as you are capable of some work.

Get Help

The Tompkins County Workers' Center

Ithaca • www.tcworkerscenter.org • 607-269-0409

The Workers' Center of Central NY

Syracuse • www.workerscny.org • 315-218-5708

If you are dealing with a Worker's Compensation issue and would like assistance contact the either center. Both workers' centers can assist with information, assistance, and referrals if needed.

The New York State Advocate for Injured Workers

advinjwkr@wcb.ny.gov • 877-632-4996

This office provides information to injured workers so they can protect their rights in the workers' compensation system, and also accepts complaints, investigates and attempts to resolve them.

WAGE THEFT:

QUICK TAKE

Employers must follow New York State laws for paying minimum wage, overtime, for providing meal periods, and for not misclassifying workers as contractors.

know
your
rights

WHY IT MATTERS

Every year, thousands of workers are not paid properly, losing millions of dollars in wages.

What is Wage Theft?

Every year, thousands of workers in New York have their hard-earned wages stolen from them. The thieves are not masked intruders silently sneaking through the bedroom window and taking your money from the dresser. The thieves we are talking about are your employers! Wage theft is the practice of employers failing to pay workers the full wages to which they are legally entitled.

This can happen in a number of ways:

- by not paying you the wage that you were promised when hired.
- by paying less than the legal minimum wage.
- by not paying you for all hours worked.
- by not paying the required extra pay for working overtime.
- asking you to complete tasks “off the clock.”
- requiring you to purchase personal protective equipment that the employer should provide.

There are two ways to protect yourself against wage theft. Protection against wage theft comes from knowing your rights (read the following sections) AND from working together with co-workers, your union if you have one, and Worker Centers and the Department of Labor to assert these rights.

What is the Minimum Wage I Must Be Paid?

	2018	2019	2020	2021
General Minimum Wage	\$10.40	\$11.10	\$11.80	\$12.50
Fast Food Minimum Wage	\$11.75	\$12.75	\$13.75	\$14.75*

*\$15 on 7/1

Restaurant and hotel food service workers who earn tips must be paid a minimum of \$7.50/hour (rising to \$7.85 in 2020 and \$8.35 in 2021), plus any amount up to the general minimum wage that the workers don't otherwise earn in tips.

What is Overtime and How Much Must I Be Paid?

If you work over 40 hours in a week, you must be paid 1 ½ times your regular rate for each overtime hour. For example, if your regular rate is \$11/hour, you must be paid \$16.50 for each overtime hour. Certain employees, such as some salaried administrative, managerial and professional employees, are exempt from the overtime pay requirement. Many of these salaried employees, however, are still entitled to overtime pay for working more than 40 hours in a week if they earn less than \$780/week (2019-\$832; 2020-\$885; 2021-\$937.50).

What is “Comp Time”? May My Employer Use It Instead of Paying Me Overtime?

Comp time is paid time off from work that is given instead of paying overtime wages. For most hourly employees working in the private sector, the granting of comp time instead of overtime pay (even at the employee’s request) is illegal. There are exceptions for public employees, subject to certain conditions.

When Must I Be Paid?

Workers must be paid promptly. In most cases, this means every one or two weeks. Your pay must be for all time worked, including activities which employers sometimes claim is “off the clock” like cashing out after your shift ends, setting up machinery, learning jobs, or giving reports to workers on the next shift. Commission salespersons must be paid at least monthly, and not later than the last day of the month following the month in which their commissions were earned.

How Can I Tell If I Am Being Paid What I Was Promised?

New York requires your employer to provide you a written notice of your straight time wage rate, overtime wage rate (if applicable) and regular payday when you are first hired at any new job. You must be given the notice before you start working on the job. You can then check your pay stub to see if you are being paid correctly.

What Can and Cannot Be Deducted From My Paycheck?

Most paychecks have some money deducted, but your employer must give you a written statement that tells you what’s been taken out. Social Security, taxes (an amount based on information you provided the employer on your tax withholding forms), and any wage garnishments (court-ordered payments) like child support, may be deducted. Other payments, for example, health or disability insurance, may be deducted but only if you have authorized this in writing. In some cases (mainly hotels, restaurants and farms), employers may also deduct money from your wages for meals or lodging; however, the amount deducted cannot be so much as to reduce your hourly pay to below the minimum wage.

It is unlawful for your employer to demand kickbacks, to deduct payments for stolen or damaged property, poor work quality or cash register shortages. You cannot be required to pay the cost of buying or cleaning uniforms if doing so lowers your hourly rate below the minimum wage.

EXAMPLE

Your paycheck bounces, and the employer keeps promising to pay as long as you keep working, but never pays the full amount owed.

Equal Pay

An employer may not pay different rates based on sex or gender. Women and men must receive the same rate of pay if they work in the same establishment on jobs that require equal effort, skill, and responsibility. The law does permit different rates of pay based on factors other than gender such as: length of service, quality of work, and quantity of work.

Independent Contractors

Employers sometimes misclassify employees as independent contractors, making them ineligible for overtime pay, workers' compensation, unemployment insurance and available benefits.

As a rule, you are an independent contractor only if you meet all the following qualifications:

- work without regular direction.
- are free to provide similar services to other clients.
- work on a temporary basis.
- are involved in an independent business, profession or occupation.

Can My Boss Make Me Work Weekends and Night Shift?

Yes, you may be required to work hours that are

inconvenient. If you are over 18, there are generally no restrictions on how many hours you may work in a day or week, or which days you may or may not work. Most workers, however, are entitled to at least one day off (24 consecutive hours) each week. Farm workers are excluded from this legal protection of at least one day off, unless they have a separate work agreement with the farm owner that specifies this as a benefit.

What About Breaks and Meal Periods?

There is no requirement that you be given a break or rest period. You must, however, receive an uninterrupted meal period of at least one-half hour if you work a shift of more than six hours. There is no legal requirement for the employer to pay for these meal periods. Where there is a union, the contract often requires that breaks be paid.

How Much Vacation or Sick Leave is Required?

There is no requirement to pay sick days, vacation, personal leave or holidays. Employers may provide these or they may be provided through a union contract. Employers must notify employees in writing, or post the policies regarding these benefits in the workplace.

I Am an Immigrant Worker. Do These Laws and Regulations Apply To Me?

Yes! Immigrant workers, documented or not, are covered by the same laws.

Get Help

The Tompkins County Workers' Center

Ithaca • www.tcworkerscenter.org • 607-269-0409

The Workers' Center of Central NY

Syracuse • www.workerscny.org • 315-218-5708

Both Centers frequently assist workers who have questions or need help dealing with wage theft issues. Contact TCWC at tcwrh@tcworkerscenter.org and WCCNY at rfuentes@workerscentercny.org.

The NYS Department of Labor

Regional offices:

Syracuse 315-428-4057

Binghamton 607-721-8014

They also respond to questions via e-mail at lsask@labor.ny.gov, and provide additional information on their website, <https://labor.ny.gov/workerprotection/laborstandards/faq.shtm>



ONE THING TO DO

Keep your own records
of your hours and pay.

IMMIGRANTS *and* refugees

QUICK TAKE

Many labor and safety laws cover immigrants, whether undocumented or not, in the same way as U.S. born workers.

WHY IT MATTERS

Your employment may be putting you at risk for an injury, illness or even death. Like any worker you have the right to file a complaint with your identity remaining confidential from the boss.

As an Immigrant Worker Do Health and Safety Laws Apply to Me?

Immigrant workers, including undocumented workers, are covered by the same labor laws as any other worker. These laws or standards include the right to file a complaint with OSHA (Occupational Safety and Health Administration), or to complain about safety and health conditions to your employer, to participate in an inspection, to report an injury, and to receive safety records from your employer. Immigrant workers are also eligible to apply for and receive workers' compensation. Immigrant workers also have the right to a minimum wage, overtime pay, breaks and other labor protections.

If you work on a small farm with 10 or fewer employees, however, you should know that OSHA may not conduct any enforcement action there. This means, for example, that even if there is a work-related accident, even a death, OSHA will not be able to investigate the circumstances, enforce any safety violations or respond to complaints. With farm work being one of the most dangerous occupations in the United States, and with as many as 90 percent of all farms having 10 or fewer employees, this is a very serious limitation.

But I Am Undocumented. Do I Run Any Risks If I File a Claim Against My Employer?

Yes. The greatest risk in filing an employment claim as an undocumented worker is that your employer may retaliate against you. Retaliation means that your employer punishes or threatens to punish you in some way. Retaliation can also involve reporting you to Immigration and Customs Enforcement (ICE). That said, retaliation is illegal and an employer who retaliates against you because you complained about their unlawful working conditions is breaking the law a second time.

The risk of retaliation is one faced by all employees, documented and undocumented, who raise a legal complaint against their employer. However, undocumented workers face an even greater risk when their employers retaliate against them by reporting them to ICE. Even if you file a retaliation claim against your employer for reporting you to ICE, you are not protected from ICE, because in general ICE is allowed to follow up on the employer's report. If you are thinking about filing a discrimination, workers' compensation, minimum wage, or health and safety claim against your employer it is a good idea to first contact one of the resources below to speak with a worker advocate.

In thinking about how to proceed with your decision to make a claim you should consider whether or not you have previously received threats from your

employer; whether your employer knows that you are undocumented; whether your employer has ever reported or threatened to report any of your co-workers who enforced their rights or disagreed with the employer; and whether or not you believe that your employer may be angry enough to report you. In any case, you should never discuss your immigration status at work or carry false documents with you. You should also seek legal advice before telling anyone that your documents are false.

Can I Collect Unemployment Insurance?

It depends on your immigration status. A worker who is in the United States legally to work, or who has been lawfully admitted for permanent residence in the United States, is eligible to collect Unemployment Insurance under the same conditions as United States citizens. However, undocumented workers have a problem: to collect unemployment insurance, workers must be both “able to work” and “available for work.” Because undocumented workers are not legally “available for work” they cannot collect unemployment insurance, even if they are eligible.

EXAMPLE

You work on a construction site but the scaffolding is not erected properly. You have the right to file a complaint.

Is it Legal to Be Fired Simply Because English Is Not My First Language?

No, it is illegal for an employer to ask if English is your first language in an interview. Also, it is illegal to be fired later on if an employer discovers that English is not your first language.

My Employer Offers Safety Training, But Not in My First Language.

Federal law for occupational safety and health requires that training be offered in the language the employee understands the best. OSHA estimates that language barriers are a contributing factor in one-quarter of all job-related incidents.

As an Immigrant Worker Can I Join or Organize a Labor Union?

Yes, you have the right to engage in organizing and collective action, including the right to file a complaint against your employer with the National Labor Relations Board (NLRB). Immigration status is not relevant in establishing whether a worker can vote in a union election or belong to a union. However, even though firing any worker for union activity is illegal, undocumented workers who are fired for such activity do not have the right to get their jobs back or receive back pay – two of the most common remedies awarded to other workers when employers violate labor law.



Get Help

The Tompkins County Immigrant Rights Coalition
Carlos Gutierrez • carlos@tcworkerscenter.org

The Workers' Center of Central NY
rfuentes@workerscentercny.org • 315-218-5708

The Tompkins County Workers' Center
tcwrh@tcworkerscenter.org • 607-269-0409

If you need assistance or have questions related to immigrant rights. All of these agencies will provide staff who can talk with you in the language you are most comfortable with.

ONE THING TO DO

If you ever feel that what you are required to do at work is putting your life or health at risk, call OSHA's Hotline, 800-321-6742.

QUICK TAKE

You have a legal right to join together with co-workers to improve working conditions, including the conditions that make the workplace unsafe or unhealthy.

WHY IT MATTERS

OSHA is not given the resources to really protect all workers. We have to take some of that responsibility ourselves.

your right to
**FORM A
UNION**

How Can a Union Help Me?

Working people in all walks of life join together in unions to gain rights, benefits and a voice at work. Unions negotiate and usually obtain better pay, benefits, working conditions, a say in how workers' jobs get done, and stronger health and safety protections. Almost all union contracts, in addition, require that "just cause" be proven before a worker can be legally fired, and that reduces insecurity, stress and fear for workers.

What is a Union Contract?

The members of the union, usually with help from a union staff person, sit down with management to negotiate a legally binding contract. The contract sets the terms and conditions of establishing a formal procedure for resolving complaints or disputes.

How Can a Union Contract Help with Health and Safety?

Laws and regulations alone are not enough to protect workers on the job. They are often not strong enough, don't cover all the safety hazards particular groups of workers face, or are not adequately enforced. OSHA (US Occupational Safety and Health Administration), for example, is a small agency with too few inspectors responsible for the health and safety of 130 million workers at 8 million worksites around the country. Legally binding union contract provisions related to

health and safety can provide important additional protections and resources that the Union can enforce.

Good health and safety contract provisions can help do the following:

- Confirm employer's legal responsibility to maintain a safe and healthy workplace and to follow all applicable laws
- Specify training and information that must be provided workers
- Guarantee provision of the right personal protective equipment
- Require safety testing and medical examinations as needed
- Establish and empower health and safety committees
- Grant workers the right to refuse hazardous work under certain conditions
- Establish protective rules related to any specific hazards, like lifting, violence in the workplace, shiftwork, air quality and ventilation, or stress.

Am I Eligible to Join a Union?

The law guarantees most employees the right to join together with other employees for the purpose of collective bargaining, negotiating the terms and conditions of employment and, working together for mutual aid and protection. This includes the right to organize, join and support a union of your own choosing.

What Are “Concerted Activities?”

The National Labor Relations Act (NLRA) gives workers the right to engage in “concerted activities,” even without the protection of a union. Concerted activities occur anytime two or more workers join together in an effort to improve working conditions. Examples might include two workers speaking to the boss about ways to improve safety in the workplace, or one worker speaking on behalf of him or herself and others about better wages or more vacation time. You and your co-workers can engage in protected concerted activities whether or not you are in a union. It may, however, be useful to first consult with a Workers’ Center before talking to your boss about these issues.

You can also file an unfair labor practice complaint with the National Labor Relations Board (NLRB) if an employer violates your right to concerted activity with or without a union. While any group of workers can engage in concerted activities, forming a union can give you and your fellow workers the full measure of legal protection.

How Do I Go About Forming a Union at My Workplace?

An employer must recognize and bargain with a union chosen by a majority of the employees. There are many labor unions that can help. Many of them focus on a particular kind of industry or type of service, so

contacting someone who understands your workplace is a good start. Contact the Workers’ Center for help on this important first step (see Get Help below).

What If My Employer Opposes Our Effort to Organize a Union?

The law says your employer cannot punish any worker because of union activity. The employer cannot fire, lay off, discipline, transfer or reassign employees because of their union support, nor even threaten to do any of those things. The employer cannot favor employees who don’t support the union over those who do in promotions, job assignments, wages and other working conditions. Nor can the employer lay off employees or take away benefits or privileges employees already have in order to discourage union activity.

EXAMPLE

Ellen is fed up with management ignoring her concerns about safety, and begins to talk with co-workers about unionizing.

You have the right to:

- Attend meetings to discuss joining a union.
- Read, distribute and discuss union literature as long as you do this in non-work areas during non-work times, such as breaks or lunch hours.
- Wear union buttons, T-shirts, stickers, hats or other items on the job at most worksites.
- Sign a card asking your employer to recognize and bargain with the union.
- Sign petitions or file grievances (formal complaints) related to wages, hours, working conditions and other job issues (in the public sector, this activity must be part of an attempt to form a union).
- Ask other employees to support the union, to sign union cards or petitions or to file grievances.

Who Will Help If I Am Discriminated Against for Union Activity?

In spite of your legally-protected right to form a union, some employers go to great lengths to prevent workers from organizing, including acting in clear violation of labor law. If you think your employer has violated your right to join or support a union or to have a voice on the job, you can file charges with the NLRB (National Labor Relations Board) or PERB (New York State—Public Employment Relations Board). Charges with the NLRB must be filed within six months of the illegal

action or conduct against you. To help your case, keep notes of any incidents such as employer threats, harassment or punishment of workers trying to form a union.

Get Help

The Tompkins County Workers' Center

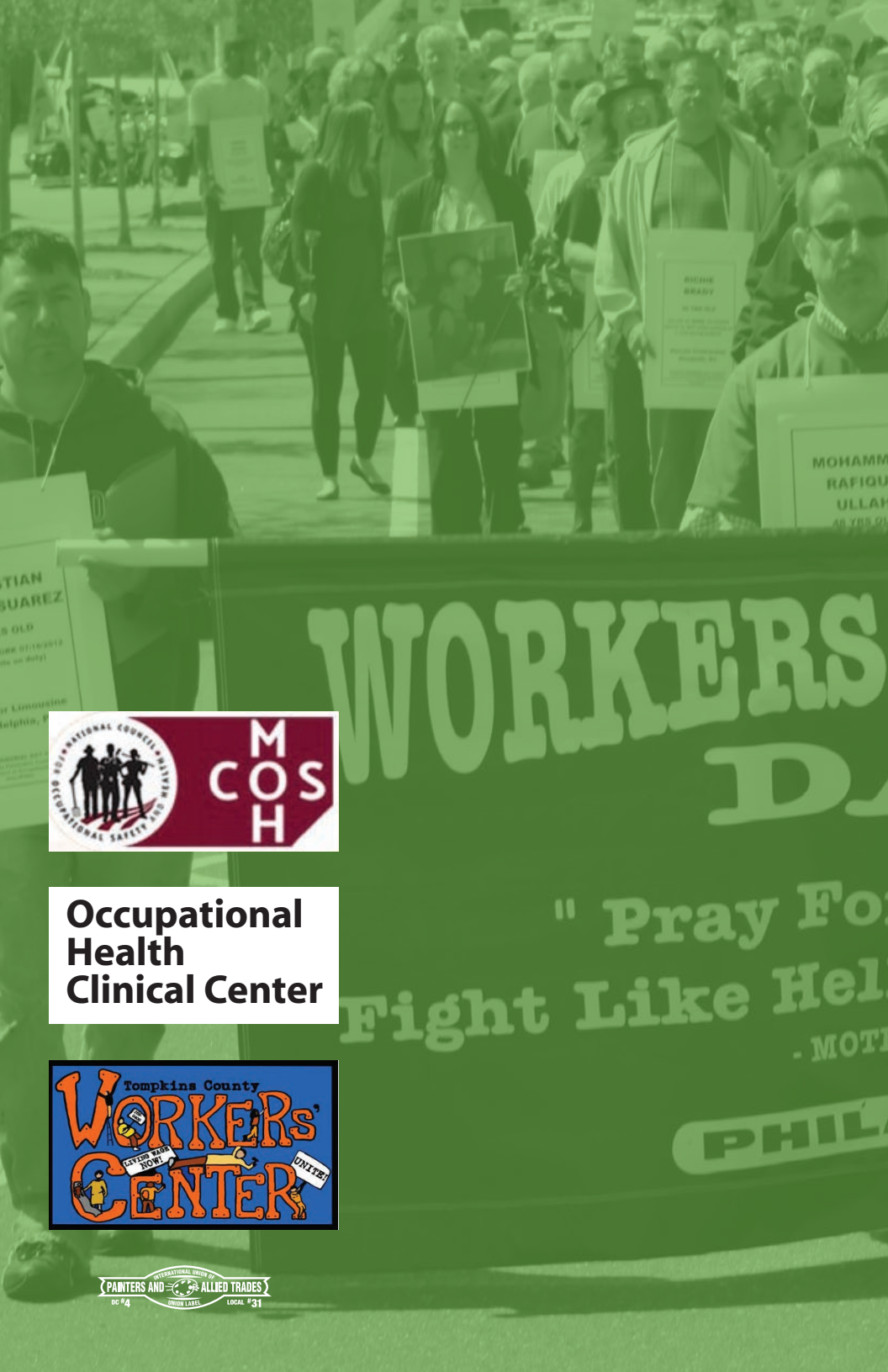
tcworkerscenter.org • 607-269-0409

Questions or requests for assistance related to union rights, including organizing a union at your workplace, can be directed to the Tompkins County Workers' Center (tcworkerscenter.org) at tcwrh@tcworkerscenter.org or 607-269-0409.

ONE THING TO DO

Start by sharing with one co-worker your concerns about working conditions.





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**Occupational
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