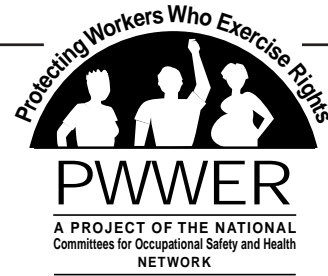

Temp and Contract Workers Have Rights Too!



FACTSHEET OF THE "PROTECTING WORKERS WHO EXERCISE RIGHTS" PROJECT OF THE NATIONAL COSH NETWORK

Have You Heard of OSHA?

The Occupational Safety and Health Administration — OSHA — is the federal agency established to ensure workers are protected from hazards in the workplace. If your workplace is unsafe you can contact OSHA. OSHA can require that the boss at the place you work correct the hazard.

It's against the law for either your employer (temp agency or subcontractor) or the employer at the site where you are working to punish or fire you for raising a health and safety concern or for calling OSHA. But she or he may try to retaliate against you anyway.

That's why you need to know your rights and how to use them. And you need to know what to do to protect yourself if you're punished or fired.

Read this fact sheet before using your OSHA rights!

Work Shouldn't Hurt

Your boss is required by OSHA to provide a workplace that is free of recognized hazards. A hazard is anything that can hurt you or make you sick. Some typical hazards are:

- chemicals that can burn or make your skin blister or itch
- chemical vapors, fumes or gases that make you cough, feel sick or dizzy
- machinery that doesn't have proper guarding so your hands or fingers can get caught or smashed
- equipment that is so loud that it's damaging your hearing
- computer keyboards that are making your wrists ache

But I'm a Temp Worker. How Do I Fit In?

Under OSHA you have the same rights as permanent workers. This is true even for workers who are employed by temp agencies, sub-contractors and other types of contingent work arrangements. If you have been assigned to a job where hazards may injure you or make you sick, your OSHA rights allow you to:

- request an OSHA inspection by filing a complaint
- request and get information at work from your boss, such as Material Data Safety Sheets (MSDS's), that tell you what you're being exposed to
- request and receive information and training about precautions to take when working with hazardous materials or equipment (some training may be provided by the agency or subcontractor that employs you and other training by the employer at the site where you are working).

- talk to an OSHA inspector during an inspection of your worksite
- have an employee representative walk around with an inspector during an OSHA inspection.

Who Do I Complain To?

If you are exposed to a hazard, want an MSDS (material safety data sheet) on a chemical you're using or want training on a hazardous operation, you would probably want to speak to the boss at the place where you're actually working. But be aware that your boss may contact your temp agency employer and say that you're a "trouble-maker."

If you're afraid the boss will contact your temp agency to get you removed from your job, you may want to go directly to OSHA. You can call your OSHA office, but it would be better to send them a letter. Better yet, ask them to send you an OSHA-7 complaint form. You can ask a family member or, if you have a union, a union representative to sign and send the complaint. If you sign the complaint, you can ask OSHA to keep your name confidential.



The purpose of your complaint is to get an OSHA inspector to come into your workplace. You can increase the chances of an inspection if you tell OSHA about clear violations of OSHA standards such as:

- no training on hazards like chemicals or infectious diseases
- no or bad ventilation or personal protective equipment (gloves, clothing, respirators) when working with chemicals that make you sick
- blocked fire exits, wet and slippery floors, exceptionally loud noise and no access to hearing protection

Do's and Don'ts when Using Your OSHA Rights

- **DON'T** get in your boss's face when making a safety and health request.
- **DO** be cool. Think ahead. Prepare yourself for a hostile response.
- **DON'T** go it alone.
- **DO** talk to your co-workers. Get one or more to go with you when you ask the boss to give you information about a hazard or to correct a hazard. There's strength in numbers — avoid looking like a lone "troublemaker."
- **DON'T** forget to involve the union if you have one, or if there's a union that represents the permanent workers at the place you're working.
- **DON'T** complain directly to your boss if she or he is likely to punish you.
- **DO** protect yourself. Go to your union if you have one, or contact OSHA directly. Talk to and involve co-workers.
- **DON'T** wing it.

- **DO** chart your course carefully. If you talk to the boss about a safety concern, keep notes of the date and what the boss said. Write down the names of any witnesses. Take your notes home with you to save them. Your written records will be important if the boss punishes you or asks your temp agency employer to remove you from your job.
- **DO** file a complaint under Section 11(c) of the Occupational Safety and Health Act with OSHA if you think a boss has punished you or has asked the temp agency to take you off the job after you used your OSHA rights. File it within 30 days of the day you first became aware that your boss punished you.
- **DON'T** miss deadlines.

Your boss or temp agency employer can't legally punish or fire you for using your rights!

Can I Be Punished for Using My OSHA Rights?

Not legally. It's against the law for a boss to punish you for asking for information, to correct a hazard, or for contacting OSHA. But your boss (either the temp agency boss or worksite boss) may try to break the law. Your boss may do things like change your shift, lower your pay or discipline you after you complain. Your temp agency may try to transfer you or even fire you.

If you think the boss or the temp agency punished or fired you for using your rights, here's what you can do:

- File a discrimination complaint with OSHA (it's called an 11(c) complaint).
- File the complaint by contacting OSHA — you can call them but it's safer to also send a letter by certified mail.
- You need to tell OSHA what rights you used before your boss or your temp agency employer punished or fired you.
- You must file your 11(c) complaint within 30 days of when you were punished or fired.
- You can authorize your union representative (if you belong to a union), a family member, or a local worker rights' organization (like your area Council on Occupational Safety and Health — COSH group) to file for you.
- If OSHA agrees that your rights were violated, an investigator will interview you and your witnesses. Your boss will also be interviewed/
- The boss or temp agency may try to prove that you were punished for being a poor employee. Or, your temp agency may say that you were taken off the job because your services were no longer needed. You can fight back by showing OSHA your written notes, showing when you complained, what you complained about and who your witnesses were.
- If OSHA agrees that you were punished for using your rights, they will try to settle the case with your boss or temp agency. OSHA can ask that you get back any lost wages or fringe benefits as well as reinstatement in your old job.
- In certain cases, OSHA may be able to help win "punitive damages." In one case, two illegally fired workers were able to win three times their lost wages!
- You may have additional rights under other federal or state laws.

Violators Can Be Punished!

There's always a risk that the boss at your worksite will punish you for using your rights. The boss may call your temp agency and tell them that they no longer need you. That's the bad news. The good news is that the boss and temp agency can be punished for violating your rights and endangering your health.

Here's what happened in Milwaukee:

OSHA issued a fine of \$450,000 against a Milwaukee hospital and two temp firms that supplied housekeeping workers to the hospital. OSHA cited the hospital for failing to protect workers from infectious hazards and hazardous chemicals.

Temp workers were assigned to the ER, operating rooms and trauma units without any apparent training on specific hazards. Six temps had needlesticks — a source of infection for Hepatitis B and AIDS. These workers were not tested for infection (nor treated if found to be infected) as required under OSHA's Bloodborne Pathogens (BBP) standard.

Besides citing the hospital, OSHA cited two temp agencies. Staffworks Inc., was fined \$119,000 for a willful violation of OSHA's BBP standard and its Right to Know standard. The other agency, Accustaff, was fined \$129,000 for failure to follow the BBP standard.

If you need help exercising an OSHA right or filing a complaint for retaliation, contact:

- 📞 **Your local union** — (if you have one) — or the union's national headquarters. If there is no union for you to contact, your options include calling:
- 📞 **A Committee on Occupational Safety and Health (COSH)**
There are COSH groups in more than 25 U.S. cities. If you can't locate one near you, call 212-627-3900.
- 📞 **The Government Accountability Project**
Telephone 202-408-0034; e-mail gap@erols.com
- 📞 **OSHA (toll-free)** — contact the nearest OSHA office by dialing 800-321-OSHA. You will be prompted to press "1" to file a complaint. You will be prompted to press the ZIP code of your location. You will be connected to the local OSHA office.

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