

PART ONE

WHAT WORKERS AND UNIONS CAN DO

This part of the booklet will help workers get started on what they, their co-workers and their union, if they have one, can do to achieve safe and healthy jobs.

1. Know Legal Rights

There are important health and safety laws that help to protect most workers. One of the most important is the Occupational Safety and Health Act (OSH Act) and its equivalent for New Jersey public employees, the Public Employees Occupational Safety and Health Act (NJPEOSH Act) – pronounced “Pee-osh.”

It is critical to know workers’ legal rights to determine if employers are obeying the law. Keep in mind, these rights are limited – and they’re not always easy to enforce. In fact, they are the minimum legal requirements and need to be supplemented by a complete workplace health and safety program. It is also important to know that there can be a risk of retaliation when using these rights.



The good news is that collective action, especially when backed by a strong union, makes sounding the alarm about hazardous conditions less risky. But it is very important to work with others – and with the union, if there is one.

Workers have important but limited rights under the OSHA/NJPEOSH laws to:

- A workplace that complies with OSHA/NJPEOSH standards and is free of known dangers not covered by standards.
- File a complaint with OSHA/NJPEOSH about unsafe or unhealthy conditions.
- Receive copies of records of medical tests and tests that monitor the work environment for exposures to chemicals, noise, radiation, mold, etc.
- Obtain information about injuries and illnesses that occur in the workplace.
- Know about chemical hazards in the workplace and how to use protective measures.
- Receive training about some types of hazards.
- Protection against discrimination (firing, demotion, etc.) for reporting hazards to the employer or OSHA/NJPEOSH.

Workers also have other important rights under several other laws:

- The New Jersey workers' compensation law: the right to get medical and monetary benefits from their employer if they are hurt or made ill by their job.
- The Conscientious Employees Protection Act (CEPA): the right not to be discriminated against (fired, given a worse job, etc.) for reporting safety and health hazards.
- The National Labor Relations Act (NLRA) and its equivalent for New Jersey public employees, the New Jersey Employer-Employees Relations Act: the right to act together with co-workers for better working conditions.

Note: The Railway Labor Act covers airline and railroad employees. Federal employees, with the exception of U.S. Postal Service employees who are covered by the NLRA, are covered by the Federal Labor Relations Act. These laws have provisions similar to those in the NLRA.

HELPFUL HINT



PART TWO, Section 1 contains more information about protection from discrimination.

THE RIGHT TO REFUSE DANGEROUS WORK

If an employer asks employees to do something they believe will seriously hurt or kill them, they have a right to refuse to do that work. *Workers must tell a supervisor about the hazard and make it clear that they believe there is an "imminent danger" that can reasonably be expected to cause death or serious physical harm.* Workers may well meet employer resistance. A refusal is more effective if everyone refuses, so workers should be sure to involve other affected workers.

Workers should do the following things to increase the chances of success if refusing dangerous work:

- Ask immediately for a union representative, if there is one.
- Ask that an OSHA/NJPEOSH inspector be summoned at once.
- Stay near the job location at a safe place unless ordered to leave by the employer.
- Tell the supervisor they will do the job if it is made safe to do.
- Offer to do other work that is not dangerous.
- Keep good records. Keep dated notes with names of witnesses, what the worker says and does and what others, especially employer representatives, say and do.

If someone is fired or otherwise disciplined for refusing a dangerous assignment, there are several strategies to win reinstatement:

- If there is a union, the grievance procedure can be used, arguing that the employer did not have “just cause” to discharge or discipline.
- An OSHA/NJPEOSH discrimination complaint can be filed within 30 days under Section 11(c) of the OSH Act or N.J.S.A. 34:6A-45 under the NJPEOSH Act.
- An unfair labor practice charge can be filed within six months under the labor law that applies.

PUBLICATIONS WITH MORE INFORMATION



How to Protect Yourself from Retaliation If You Need To Complain about a Dangerous Job

www.coshnetwork.org/PWWR11cshort.pdf

OSHA: Employee Workplace Rights. OSHA Publication 3021, 2003

Phone: 202-693-1888, OSHA Publications Office

www.osha.gov/Publications/osha3021.pdf

Your Rights Under the NJ Public Employees Occupational Safety and Health Act

Phone: 609-695-7100, New Jersey Work Environment Council

www.njwec.org

