

YOUR RIGHT TO A HEALTHY AND SAFE WORKPLACE

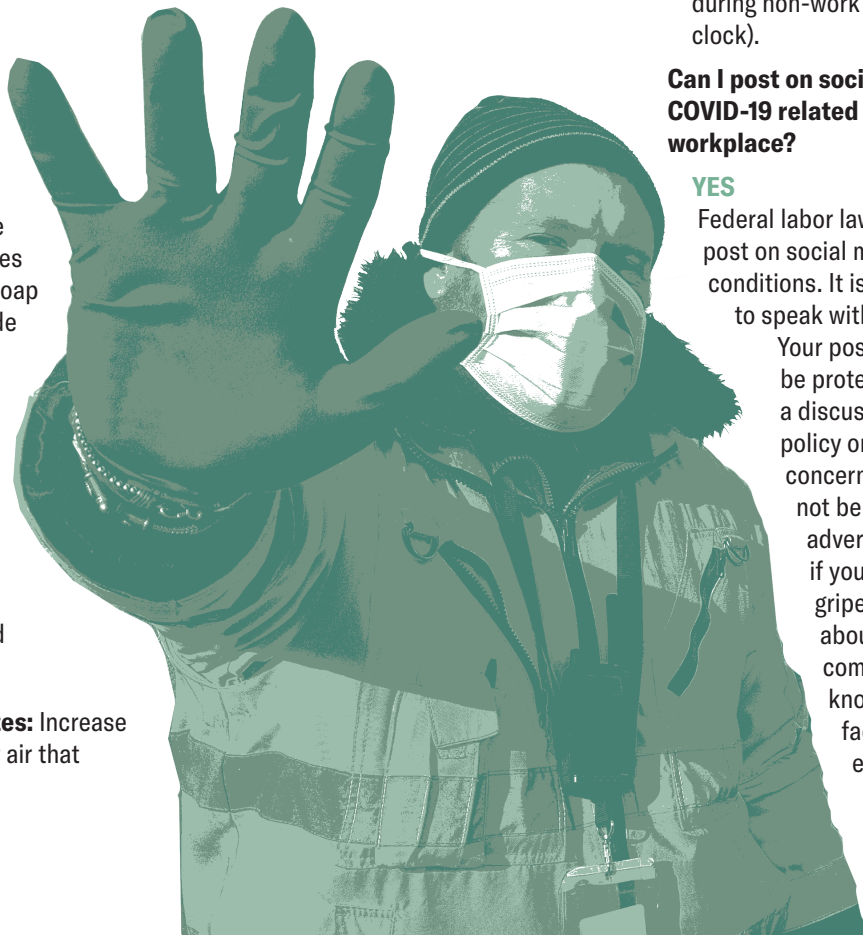
KNOW YOUR RIGHTS

You have the right to a healthy and safe workplace with adequate protections against infection and the spread of COVID-19. Guidance has been issued by federal, state and local agencies including the Occupational Health and Safety and Health Administration (OSHA), the Center for Disease Control (CDC), the New York State Department of Health (DOH) and local health departments.

Under current guidelines, employers should institute the following protocols:

- **Social Distancing:** Maintain six feet or more of distance between all individuals in the worksite.
- **Face Masks:** Provide double layer cotton face masks to employees.
- **Hand Sanitizer, Hand Washing, and Gloves:** Provide hand sanitizers that are readily available in multiple locations in the workplace. Allow employees to wash their hands with soap and water regularly. Provide gloves to employees who request them.
- **Regular Disinfection:** Clean and disinfect regularly all frequently touched surfaces in the workplace, such as workstations, keyboards, telephones, handrails, and doorknobs.
- **Increase Ventilation Rates:** Increase the percentage of outdoor air that circulates.

- **Notification of Employees:** Inform employees of their possible exposure to COVID-19 if a fellow employee is confirmed to have COVID-19, providing meaningful details about potential exposure while maintaining confidentiality as required by the Americans with Disabilities Act (ADA).
- **Deep Cleaning After Confirmed Cases:** If an employee is suspected or confirmed to have COVID-19, the employer shall close off the workplace areas visited by the ill person, ensure increased air circulation in the area, and then wait 24 hours or as long as practical to conduct deep cleaning and disinfection as directed by CDC.



YOUR RIGHT TO PROTEST AND ORGANIZE

One key way to secure health and safety precautions against infection and the spread of COVID-19 in your workplace is to speak out and organize with your co-workers and be free from retaliation when you do. These types of actions are protected as concerted activity under federal and/or state labor law.

Can I discuss my concerns related to COVID-19 with my co-workers?

YES

You have the right to talk to your co-workers and collectively advocate for better working conditions—as long as it is during non-work time (i.e., you are off the clock).

Can I post on social media about COVID-19 related problems in my workplace?

YES

Federal labor law protects your right to post on social media about workplace conditions. It is similar to your right to speak with your co-workers.

Your posts are more likely to be protected if they are part of a discussion involving general policy or multiple co-workers' concerns. However, you may not be legally protected from adverse employment action if you post about personal gripes, reveal private details about co-workers or the company's operations, or knowingly misrepresent the facts — lines that are very easy to cross on social media.

Can I speak to the media about COVID-19 related issues in my workplace?

YES

If you and your co-workers are working together to improve conditions in your workplace, you have the right to speak publicly about your campaign and concerns under federal labor law. This extends to your right to speak out in the media about your collective action and concern. However, if what you say veers into knowingly false accusations or company or coworkers' private information, your speech may no longer be protected. It is a good idea to collaborate with your co-workers about talking to press, as that will ensure your actions are considered to be concerted activity.

Can my co-workers and I refuse to work or go on strike to protest unsafe conditions?

YES

If you and your co-workers collectively refuse to work because of concerns that you are not safe under current working conditions, you are protected from adverse employment action under federal labor law. The right to strike does not extend to a right to be paid during the strike period, however. *You should always seek legal advice as soon as possible if you are considering taking individual or collective action.*

Can my employer fire or otherwise retaliate against me for raising safety concerns, taking collective action, or filing a complaint?

NO

Federal labor law protects workers who engage in concerted activity from employer retaliation. Complaints can be filed with the National Labor Relations Board. NLRB contact information is listed at the end of this document. NOTE: farmworkers, who are not protected under federal law, are protected under New York state labor law for this type of activity.

NY State Labor Law also protects the rights of workers to be free from retaliation. Your employer may not discharge, suspend, demote, or take other adverse action against you because you raised concerns to your supervisor or have taken action to file a complaint with the New York Department of Labor or the New York Attorney General about unsafe workplace conditions. Contact information is listed at the end of this document.

The Occupational Safety and Health Act (OSHA) also contains protections against retaliatory action and accepts complaints. Contact information is listed at the end of this document. NOTE: You must file your complaint with OSHA within 30 days of the retaliatory action.

If your employer retaliates against you for raising safety concerns, you should also consult with an attorney about filing a claim.

YOUR RIGHT TO PAID SICK AND FAMILY LEAVE

Both the federal and state governments have passed emergency legislation guaranteeing job protection and wage replacement to employees for illness and quarantine absences resulting from COVID-19.

Can I get paid sick or quarantine leave if I am absent from my job due to COVID-19?

YES

All employees in New York State are now entitled to COVID-19 paid sick and family leave if they are subject to a government-order of mandatory quarantine or isolation.

COVID-19 paid sick and family leave is *in addition* to other paid leave provided by your employer (i.e., vacation leave, PTO, etc.)

The size of your employer will determine how the benefits are paid and how many days you receive.

- Large employers (100 or more employees): Employers must provide at least 14 paid sick days.
- Mid-sized employers (11-99 employees) and small employers with net incomes of over \$1 million: Employers must provide at least five paid sick days.
- Small employers (1-10 employees): Employers must provide, but are not required to fund, five sick days. Wage replacement payments will be paid through a combination of New York State paid family leave and disability benefits.

How can I prove I am subject to a government order of mandatory quarantine or isolation?

Your local health department is responsible for issuing these individualized orders. The "New York State On PAUSE" order requiring the closure of all non-essential businesses, sheltering in place, and social distancing is *not* a mandatory order of quarantine or isolation.

You can obtain the necessary documentation from a licensed medical provider who has treated you and attests that you qualify for the order. <https://paidfamilyleave.ny.gov/new-york-paid-family-leave-covid-19-faqs>.

You must follow up with your local health department and submit the required order as soon as it becomes available.

What if I need more sick days than my employer is required to provide?

Once you exhaust your COVID-19 sick days, you may be eligible to receive your weekly wages through a combination of existing New York paid family leave and disability benefits. Contact information for the NY State Department of Labor is listed at the end of this document.



Can I get paid sick or quarantine leave to take time off to care for a family member who has contracted COVID-19?

YES

- If you must care for a minor dependent child because they are sick or quarantined due to COVID-19, you are entitled to paid sick and quarantine leave for the duration of the quarantine or isolation if you submit the government-issued order of quarantine as described above.
- If you need to take time off to care for a dependent because of the school closures in effect and you are unable to work from home, you may be eligible for paid family leave under the federal Families First Coronavirus Response Act. Contact information for the US Department of Labor is listed at the end of this document.
- If you need to take time off to care for a family member other than a dependent child, you may be eligible for the New York non-COVID-19 paid family leave that has been in effect since 2018 because COVID-19 is considered a “serious health condition” under the state law.

Am I entitled to COVID-19 paid sick and family leave if I am a part-time employee?

YES

Hourly, part-time, commissions salespeople, and other employees who are not paid a fixed wage are eligible for COVID-19 paid leave.

Do I have to submit proof of my immigration status to receive COVID-19 paid sick and family leave?

NO

Citizenship or immigration status is not a factor in eligibility for paid sick and family under the New York law. Because these programs are paid for through the existing employment relationship, no additional documentation should be required and your employer should not re-verify your employment authorization.

Can my employer refuse to give me paid leave, force me to work when I am sick, fire me, or take other actions against me if I exercise or am attempting to exercise these rights?

NO

Even if you are an essential worker, federal and state law prohibits your employer from taking action against you for attempting to take, or taking, paid sick or quarantine leave or paid family leave.

When you return to work, you must be restored to the position you held prior to taking leave.

Any quarantine, sick or family leave may not be counted as an absence that leads to or results in discipline, discharge, demotion, suspension, or any other adverse action.

WHERE TO FILE A COMPLAINT IF YOUR RIGHTS ARE VIOLATED

Health and Safety

Your Local Health Department.
For a directory by county, visit
https://health.ny.gov/contact/contact_information/
1-888-364-3065

NYS Department of Labor:
labor.ny.gov/COVIDcomplaint
1-888-469-7365

NYS Department of Health:
<https://coronavirus.health.ny.gov/home>
1-888-364-3065

OSHA:
https://www.osha.gov/workers/file_complaint.html
1-800-321-6742

Right to Organize and Protest

National Labor Relations Board (NLRB):
<https://www.nlr.gov/how-we-work/fillable-forms>
1-866-667-NLRB (6572)

NYS Employment Relations Board (PERB):
<https://perb.ny.gov>
1-518-457-6410

New York Attorney General:
<https://ag.ny.gov/complaint-forms>
1-800-771-7755

Paid Sick and Family Leave

NYS Department of Labor, Worker
Protection Bureau:
[https://labor.ny.gov/workerprotection/
laborstandards/coronavirus-complaints.
shtm](https://labor.ny.gov/workerprotection/laborstandards/coronavirus-complaints.shtm)
1-844-337-6303

US Department of Labor, Wage and Hour
Division:
www.dol.gov/agencies/whd
1-866-487-9243

NYC Office of Labor and Policy Standards:
[https://www1.nyc.gov/site/dca/workers/
workersrights/file-workplace-complaint.
page](https://www1.nyc.gov/site/dca/workers/workersrights/file-workplace-complaint.page)
1-888-469-7365

WHERE TO GET MORE INFORMATION

Make The Road NY
frank.kearl@maketheroadny.org
929-265-7692

New York Civil Liberties Union
<https://www.nyclu.org>
212-607-3300

National Employment Law Project
<https://www.nelp.org/>

