

Activity 3: Problem-Solving for COVID-19

Purpose

To increase our knowledge of worker's rights and begin the process of solving specific COVID-19 and or other workplace health and safety problems.

Funding for the COVID-19 Workplace Health and Safety Training Program was provided by the Coronavirus Relief Fund through a grant from the New Jersey Department of Labor. The curriculum was developed by the Rutgers Occupational Training and Education Consortium (OTEC) and the New Jersey Work Environment Council in partnership with the Protect New Jersey Workers Coalition.

This curriculum was revised and updated in July, 2021. The information contained is reflective of the most recent information available as of that date. For the latest information see CDC guidelines, OSHA.gov, and the NJDOL website.

This material was produced under grant SH99008SH0 from the Occupational Safety and Health Administration, U.S. Department of Labor. It does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

The small group activity method

Basic Structure

The Small Group Activity Method* is based on a series of problem-solving activities. An activity can take from 45 minutes to an hour. Each activity has a common basic structure:

- **Small Group Tasks**
- **Report-Back**
- **Summary**

1. Small Group Tasks: The training always begins with groups working together at their tables. Each activity has a task, or set of tasks, for the groups to work on. The task asks that the groups use their experience and the factsheets to solve problems and make judgements on key issues.

2. Report-Back: For each task, the group selects a scribe that takes notes on the small group discussion and reports back to the class as a whole. During the report-back, the scribe informs the entire class as to how his or her group solved the particular problem. The trainer records each scribe's report-back on large pads of paper in front of the class so that everyone can refer to them.

3. Summary: Before the discussion drifts too far, the trainer needs to bring it all together during the summary. Here, the trainer highlights the key points of the activity and brings up any problems or points that may have been overlooked during the report-back

(continued)

The small group activity method (*continued*)

Three Basic Learning Exchanges

The Small Group Activity Method (SGAM) is based on the idea that every training is a place where learning is shared. With SGAM, learning is not a one-way street that runs from trainer to worker. Rather SGAM is a structured procedure that allows us to share information. It is based on three learning exchanges:

- **Worker-to-Worker**
- **Worker-to-Trainer**
- **Trainer-to-Worker**

Worker-to-Worker: Most of us learn best from each other. SGAM is set up in such a way as to make the worker-to-worker exchange a key element of the training. The worker-to-worker exchange allows participants to learn from each other by solving problems in their small groups.

Worker-to-Trainer: Lecture-style training assumes that the trainer knows all the answers. With SGAM it is understood that the trainers also have a lot to learn and this is the purpose of the worker-to-trainer exchange. It occurs during the report-back and it is designed to give the trainer an opportunity to learn from the participants.

Trainer-to-Worker: This is the trainer's opportunity to clear up any confusion and make points they think are key. By waiting until the summary section, trainers know better what people need to know

***The Small Group Activity Method (SGAM) is based on a training procedure developed by England's Trades Union Congress (TUC) in the 1970s. The Labor Institute and Oil, Chemical, and Atomic Workers Union (now part of the United Steelworkers) used a similar method around economic and health and safety issues for workers and further developed the procedure into SGAM. The New Jersey Work Environment Council has used SGAM since 1986.**

The fact sheet reading method

The process described below focuses everyone on the important information in the factsheets.

The process is as follows:

First, select a scribe for this Task.

Each of you will be assigned a small number of factsheets to read. You will then share the factsheet information with your table.

Your trainer will assign your individual factsheets this way:

Starting with the scribe and moving to the left, count out loud from 1 to 8. Keep going around the table until all numbers (factsheets) are distributed. The assigned numbers correspond to Factsheets 1 through 8 on the following pages.

Once everyone has read their assigned factsheets individually, your scribe will go around the table and ask each of you to explain to the group what you have learned. Factsheets should be explained in the order assigned (e.g., 1 through 8), since the factsheets build on the previous one. In this way, we all start at the same place and with the same information.

Task 1

How does your workplace experience compare with effective health and safety practices? Review Fact Sheets 1 – 5, on pages 7-11, they describe effective workplace health and safety practices, your employer’s legal responsibilities and your rights.

The table below lists health and safety practices required by federal and NJ laws and regulations (including key COVID-19 protections). Working together, (in one large group or in smaller breakout groups) review each practice/regulation and record the number of participants that **have employers who follow these requirements**.

Key work practices and requirements for COVID-19 and other risks	How many in your group have employers that follow these requirements?
Indoor ventilation to promote circulation of outside air	
Workers informed of COVID-19 outbreaks at work	
Sick employees excluded from workplace and paid for time away	
Workers have access to employer’s written COVID-19 response plan	
Training to reduce the risk of COVID-19 infection and other worksite risks	
Workers know the COVID-19 plan and make suggestions	
Workers participate in a health and safety committee that meets regularly	
My employer observes OSHA’s “General Duty” to provide a safe and healthy workplace	
My employer respects a worker’s right to refuse dangerous work	
My employer respects a worker’s right to discuss health and safety issues	
My employer listens when I raise concerns about safety and health	

Task 2

Some employers respect their health and safety obligations and workers' health and safety rights under state and federal law. Others clearly do not. *If our employers are not protecting us and respecting our rights – we need to know what to do!*

Fact Sheets 6 – 11 examine steps that workers can take to resolve health and safety threats including:

- Discussing health and safety issues with coworkers
- Talking to our employers and demanding compliance with health and safety requirements
- Filing OSHA Complaints. (Note that this can be done anonymously, in the name of a worker or by a worker representative to protect workers from employer retaliation – e.g., by a worker center or union.
- Reaching out to unions or worker centers for advice and support

In your groups, review fact sheets 6-11 on pages 13-20. Then, choose one of the health and safety requirements not being followed from the table in Task 1 or identify another current health and safety problem from one of your workplaces and answer the following:

- 1. Describe the health and safety problem:**
2. What steps would you take to effectively solve the problem? (Note: List the fact sheets you used to help you think through the problem.)
3. If you decided to file a complaint, would you sign individually, with a group of workers or seek an organization to represent you in the complaint process?

1. How can I be sure that my workplace is safe during COVID?

Initially, health experts thought that COVID-19 could spread by touching contaminated surfaces – which led to a lot of attention on cleaning and disinfecting every possible surface.

We now know that COVID is typically spread when an infected person breathes, talks, coughs, or sneezes, and virus containing droplets and small virus fragments are inhaled. Smaller droplets can linger in the air for several hours in a poorly ventilated space.

If your employer is spending a lot of time on cleaning surfaces and failing to deal with the air you are breathing—then you are not safe. **Key factors** in your safety *include*:

- ventilation (using the HVAC system or opening windows to bring in more outside air)
- properly worn face masks that cover the mouth and nose and fit snugly to the face without gapping
- notifying coworkers when there is a COVID outbreak and encouraging people to stay home while they are sick

More about face masks

On May 16, 2021, the CDC announced that people who have been fully vaccinated for two weeks do not have to wear masks or social distance outdoors or indoors except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business requirements. (Health care settings and buses, trains, planes and airports) are still excluded from this requirement.

Employers have the right to develop their own guidelines and if you feel unsafe at work you should continue to wear a mask for your own protection whether or not mask wearing is a requirement. COVID-19 continues to be a highly contagious airborne virus that can cause serious illness and death.

Source: <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/sars-cov-2-transmission.html>

2. How should your employer respond to a COVID outbreak?

New COVID cases in the workplace should be taken very seriously by the employer and workers.

- The identity of the affected individual should be kept confidential.
- If the employer acknowledges that the worker got infected by workplace exposures, then the employer must report it on their OSHA 300 log, which is accessible to employees. Many employers are not doing this and instead blaming positive cases on “community spread.”
- Positive cases should trigger an investigation to determine the reason for the infection. This information can be used to increase protections and prevent other worker's from getting infected.
- The Workplace COVID-19 Prevention Plan should then be revised to increase the level of protections for all workers and the public.

Often, many employers have withheld information about positive cases. This means that steps to prevent additional infections aren't taken.

It also prevents effective contact tracing which is an important public health measure to contain the spread of infectious disease. For information on NJ's contact tracing program, see: <https://covid19.nj.gov/faqs/nj-information/slowing-the-spread/what-is-contact-tracing-how-does-it-stop-the-spread-of-covid-19>

3. What else should I know about effective workplace COVID protections?

Many of us are employed at facilities where management makes all the decisions with little or no input from workers. This isn't the way it is supposed to work! Involving workers and getting their buy-in to safety measures is the only way to achieve a healthy and safe workplace – whether the issue is COVID-19 or chemical exposures or slips, trips and falls! As you and your co-workers analyze your safety and health protections at your worksite, consider the following questions:

- Is there a **comprehensive written plan** to evaluate, eliminate or reduce worker exposure to COVID 19 that is available to workers for review?
- **Are workers involved in the development and implementation** of a COVID-19 protection plan?
- Has the employer **evaluated all the jobs to determine the risk level** for exposure to COVID-19?
- Has the employer **trained and provided necessary information** to workers related to the hazards and prevention methods for COVID-19?
- Is there a **process to improve the protective measures** currently in place?
- Is there a **health and safety committee** with equal worker representation (chosen by workers, not management) that can follow-up on worker complaints/suggestions?
- Are workers entitled to **benefits** that are adequate to increase the likelihood that they will stay at home if they have symptoms? These may include but are not limited to paid sick time; employer-paid testing and treatment, elimination of attendance incentive programs.)

If you answered “no” to any of these questions, you should consider discussing these issues with your co-workers. Next, come up with a plan to document problems and convey them to management. The employer's lack of attention to health and safety should also be used to talk with co-workers about improvements needed in your workplace.

4. What are my employer's responsibilities?

Your employer has a legal responsibility to protect you from getting sick at work based on both federal and state requirements.

Federal Requirements

Under the federal Occupational Safety and Health Act (OSH Act) your employer has the legal responsibility to provide a safe and healthy workplace. This "**general duty clause**" requires the employer to protect workers from *all known hazards*, including infectious disease such as COVID-19. (See: <https://www.osha.gov/laws-regs/oshact/section5-duties>)

The Occupational Safety and Health Administration (OSHA) updated the agency's **Guidance on COVID 19**. It instructs employers to:

- Evaluate all worker exposures to determine the level of risk to COVID-19.
- Develop a written plan to describe how workers will be protected from the virus. This plan should include the following:
 - Prioritizing the *most effective* control measures
 - Providing paid training and necessary, effective PPE at no cost to workers.

On March 12, 2021, OSHA has created a new one-year **COVID 19 National Emphasis Program (NEP)** to ensure that employees in high-hazard industries or work tasks are protected from COVID-19. The goal of the NEP is to increase inspections with priority given to workplaces with reported COVID-19 *fatalities* and those from which have filed OSHA *complaints*.

OSHA is focusing inspections on industries which have been heavily affected by COVID 19 including (but not limited to):

- Healthcare and medical settings
- Grocery stores
- Restaurants
- Warehousing and storage
- Meat and poultry processing
- Certain manufacturing facilities.

The NEP seeks to ensure that workers are protected from retaliation for voicing concerns about COVID-19 hazards in the workplace.

Sources: https://nationalcosh.org/COVID_Rights_and_Strategies-Employer_Responsibilities;
<https://www.osha.gov>; <https://www.osha.gov/coronavirus>;

(continued)

5. COVID-19 Healthcare Emergency Temporary Standard

The Subpart U — COVID-19 Emergency Temporary Standard for healthcare becomes effective on July 21, 2021 (30 days after publication).

Who is covered: Healthcare workplaces [including hospitals, nursing homes, assisted living facilities, emergency responders, home healthcare; and ambulatory care facilities where suspected or confirmed COVID-19 patients are treated]? Healthcare facilities in non-healthcare settings (for example a walk-in clinic in a retail setting; a medical clinic in a manufacturing setting), but only for the embedded healthcare setting).

The employer must develop and implement a COVID-19 plan for each workplace. If the employer has multiple workplaces that are substantially similar, its COVID-19 plan may be developed by workplace type rather than by individual workplace so long as all required site-specific information is included in the plan.

The full OSHA rule is available on OSHA's website:

<https://www.osha.gov/sites/default/files/covid-19-healthcare-ets-reg-text.pdf>

Exemptions: Certain hospital and non-hospital ambulatory settings where non-employees are screened and those with suspected or confirmed COVID-19 are not permitted or are not present. Home healthcare settings where all employees are vaccinated, non-employees are screened before they enter and no one with suspected or confirmed COVID-19 is present.

Additional OSHA documents related to the rule can be found here:

<https://www.osha.gov/coronavirus/ets>

Source: <https://www.osha.gov/sites/default/files/covid-19-healthcare-ets-reg-text.pdf>

6. What are my health and safety rights?

Our health and safety rights include:

- A healthy and safe workplace (OSHA Act)
- To refuse extremely dangerous work (OSHA Act and the National Labor Relations Act)
- To engage with other employees in activities for our mutual aid and protection, for example, to discuss health and safety problems with co-workers and even to form a worker health and safety committee (National Labor Relations Act)
- To file a complaint about health and safety conditions and request an OSHA investigation
- Protection from retaliation when you exercise your rights under OSHA. **Federal law** protects employees from **retaliation** when employees complain about workplace discrimination or harassment to their employer or to an outside body like the Equal Employment Opportunity Commission (EEOC).

OSHA requirements apply to all workers regardless of immigration status. If you are represented by a union, you may have additional rights spelled out in your union contract.

(continued)

More about the right to refuse dangerous work:

Workers have a right to refuse dangerous work under the OSHA Act. Your right to refuse is protected if all of the following conditions are met:

- Where possible, you have asked the employer to eliminate the danger, and the employer failed to do so; *and*
- You refused to work in “good faith.” This means that you must genuinely believe that an imminent danger exists; *and*
- A reasonable person would agree that there is a real danger of death or serious injury; *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.

Complaints related to retaliation from the employer have to be filed within 30 days of the reprisal.

The National Labor Relations Act , applies to most private sector workers and agrees that “participating in a concerted refusal to work in unsafe conditions” is protected.

Sources: <https://www.nj.gov/labor/wageandhour/>; <https://www.osha.gov/workers>;
<https://www.nj.gov/labor/worker-protections/myworkrights/><https://www.osha.gov/right-to-refuse.html>;

7. What are the barriers to exercising my rights?

Workers and their advocates have struggled for generations for stronger health and safety protections and unions, worker centers and community-based organizations continue to fight to improve worker protections during this pandemic.

The key issue with exercising these rights is that there have never been sufficient resources to effectively enforce them. Many employers ignore their legal obligations and the fact that workers have crucial health and safety rights under federal and state law. They do this because:

- Some small employers may know very little about health and safety and their legal obligations
- Employers often prioritize profits or so-called “productivity” over safety
- There is little chance of being caught, and
- Most workers are afraid to complain because they can’t afford to lose their job and COVID -19 is just one more example.

8. How do we organize ourselves to demand improved protection?

The good news is that we do not have to wait for public agencies to take the first step! You have the right to a healthy workplace. Even if you don't have a union there are other worker organizations ready to support you!

Bringing together as many of your co-workers as possible can help you understand risks and discuss how to move forward.

How?

- *Talk to your co-workers...* form a committee or a small work group to develop a plan and schedule regular meetings.
- Gather contact information from all workers you can: think about folks outside of your department too!
- Choose a way to communicate outside of work: create a group in Signal, Slack, WhatsApp, or Facebook. Make sure to make it private so workers can strategize without management interference.

What to discuss:

- **The facts about COVID-19:** It's much easier to take action when we have a shared understanding of the problem. What is COVID-19? How can someone get infected? What are prevention measures being used?
- **Your workplace risks:** Where are the risks in the different spaces? Where do people work in close proximity? (For example, the entrance, front of the house, back of the house, breakroom, administrative offices). Do people *consistently* wear well-fitting masks covering both mouth and nose? Is there good ventilation with outside air circulating?
- **What has happened so far:** Unjust employers will likely want to say "The workers caught COVID-19 elsewhere." Have workers gotten sick? How many? When? Maintain a timeline that records everything that has happened.
- **Rank/vulnerability within your team:** Who is most afraid (and likely) to be fired if management retaliates? Who in management has power to make decisions? Who influences them? What leverage do workers have to challenge the boss? What does management need from workers? How do workers line up for or against supporting challenges to management?

- **Decide together how to best achieve your goals** based on your analysis of all of these factors. Options include:
 - **Meeting with your employer**, explaining what is needed to reduce the spread of COVID infections and the employer's legal obligations, and demanding that the employer implement these measures.
If your employer is resistant, further pressure may be needed. This may require organizing strategies that help you recruit build support from your co-workers and external allies including unions, worker centers and community groups. This can put more pressure on the employer to do the right thing.
 - **Filing a complaint** with OSHA.
 - **Reaching out to allies** including your worker center or union, and community groups for advice and support in filing a formal complaint and/or putting pressure on your employer.

These options are not a matter of choosing one goal or approach over another – in fact your committee or working group may want to involve your union or worker center as you begin to analyze your situation. They can offer training, expertise about COVID-19 and other health and safety issues, and help you decide how to move forward.

Source: https://nationalcosh.org/COVID-19_Rights_and_Strategies#two

9. How do I talk to my coworkers?

The COVID pandemic has exposed how vulnerable workers are to dangerous and life-threatening conditions. There are many lessons to discuss with your coworkers!

Talking points about COVID-19

- Workers are being required to perform jobs necessary for community survival without being provided with adequate protections for themselves and family members.
- Employers are responsible to protect workers from the virus, but workers need to stand up for our own health and safety rights to get the necessary protections for survival.
- COVID-19 is a highly infectious disease that ranges from no symptoms to deadly ones. Although an individual's health history is an important factor, we don't always know who will get severely sick.
- COVID-19 is transmitted through breathing infected particles (through your nose or mouth). You can get others sick even if you don't have symptoms. In the months since the COVID-19 pandemic began, we have learned a great deal about how it is transmitted and how it can be controlled.
- If we become sick at work, we can bring the virus home to our families and neighbors – work health **IS** public health when it comes to infectious diseases like COVID 19!
- **Get the vaccine!** Vaccinations are 80 – 95% effective in preventing moderate to severe COVID-19 infections and crucial to protecting our co-workers, families and communities. COVID protective strategies are still important to protect workers and the public in indoor environments, but the vaccine greatly reduces the risks to individual workers.
- Knowledge can be powerful. The more that we know about the latest information about the virus, the better we can protect ourselves and our co-workers.

(continued)

Talking points about working together to achieve better protections:

- With support from worker centers, unions, and other worker advocacy groups we can and must work together to reduce risks and stop the spread of this deadly virus. When we stick together, workers can win significant demands and improvements in pay and working conditions.
- Communication networks and strategies are key to mobilizing workers to fight for improvements.
- The public is very supportive right now of workers who are taking daily risks to support others in our community. This can help us win important protections when we come up with a plan to stand up for our rights.
- All of us have a responsibility to protect one another. Our employer has a legal obligation to keep us safe, but because employers often prioritize profits or so-called “productivity” over safety, workers must act together to make sure our jobs are as safe as possible.

Source: https://nationalcosh.org/COVID-19_Rights_andStrategies#two

10. How does a workplace health and safety committee relate to COVID protection?

Health and safety committees should be the cornerstone of every workplace health and safety program.

- Committees need to have significant participation from workers and worker representatives. Worker representatives should be selected by workers themselves, not tapped by management.
- Some states have required health and safety committees and most union contracts have health and safety committees specified. Many employers have committees set up with worker volunteers.
- Health and safety committees should monitor the workplace COVID-19 Protection Plan.
- Any reports from workers that indicate lapses in the plan's implementation should be investigated by the committee and recommendations should be implemented.
- Visit nationalcosh.org for more information on forming and using health and safety committees.

11. How do I file an OSHA Complaint?

The Occupational Health and Safety Administration (OSHA)

With the COVID-19 National Emphasis program, OSHA is committing resources to investigation worksites based on both targeted industries that are at high risk for COVID 19 and based on complaints received from workers or their representatives. It is important that workers who are not being protected from COVID-19 reach out through the OSHA complaint system.

How to File a Safety and Health Complaint

You (or your representative) have the right to file a confidential safety and health complaint and request an OSHA inspection of your workplace if you believe there is a serious hazard or if you think your employer is not following OSHA standards. The complaint should be filed as soon as possible after noticing the hazard. A signed complaint is more likely to result in an onsite inspection.

Online - Use the Online Complaint Form

Submit your complaint online to OSHA.

Fax/Mail/Email - Complete the OSHA Complaint Form [En Español], or Send a Letter Describing Your Complaint

Complete the complaint form or letter, and then fax, mail, or email it back to your local OSHA office.

Telephone - Call Your Local OSHA Office or 800-321-6742 (OSHA)

OSHA staff can discuss your complaint with you and respond to any questions you may have.

In Person - Visit Your Local OSHA Office

OSHA staff can discuss your complaint with you and respond to any questions you may have.

Source: <https://www.osha.gov/workers/file-complaint>

Summary

1. COVID-19 spreads an infected person breaths, talks, coughs, or sneezes. Virus containing droplets and small virus fragments are propelled through the air where they can be inhaled or land on mucus membranes. Precautions are important, especially in indoor workspaces. These include ventilation, social distancing, face masks or PPE, paid sick leave and notifying workers when a co-worker develops COVID-19. The Center for Disease control recently updated its mask policy raising important health and safety questions for workers and their employers.

2. Elements of effective worksite safety measures include: a written plan to evaluate worker risks of COVID-19 infection; training and information; a process for improving protective measures and employee participation in the plan and implementation. These elements should be part of the conversation with your co-workers

3. It is important that employers take immediate steps when there are new COVID cases in the workplace including: keeping the name of the infected individual confidential; reporting the illness on their OSHA 300 log (if the infection was acquired at work; conducting an investigation to determine how the infection spread and taking steps to increase protections; revising their written COVID-19 Prevention Plan.

4. Under the federal Occupational Safety and Health Act (OSH Act) your employer has the legal responsibility to provide a safe and healthy workplace. This “*general duty clause*” requires the employer to protect workers from *all known hazards*, including infectious disease such as COVID- On March 12, 2021, OSHA has created a new COVID 19 National Emphasis Program (NEP) to increase enforcement in high hazard worksites. You also have the right to refuse extremely dangerous work. But this can be hard to prove and requires careful adherence to the specific criteria for refusal. **No job is worth dying for! Tomorrow is another day, your family needs you, and there will be other jobs.**

5. Under OSHA Subpart U, COVID-19 Emergency Temporary Standard for healthcare employer must develop and implement a COVID-19 plan for each workplace. If the employer has multiple workplaces that are substantially similar, its COVID-19 plan may be developed by workplace type rather than by individual workplace so long as all required site-specific information is included in the plan.

6. *The good news is that we do not have to wait for public agencies to take the first step!* Bringing together trusted co-workers to discuss risks and how to

move forward may be a good first step. You may want to consider meeting with your employer to discuss the problem and/or filing a complaint with OSHA. You may also want to form a health and safety committee to monitor conditions.

7. To prepare for conversations with your co-workers, review and prepare talking points that include both the risks of COVID-19 infection, whether your employer has implemented COVID-19 measures that are consistent with state and federal requirements, and the value of coming together to express your concerns to your employer.

8. Workplace health and safety committees can be a highly effective tool for improving conditions of the job. Sometimes management will form a committee and invite workers to participate. These committees are called joint labor and management committees. However, workers can form their own independent health and safety committee and engage management to create safer workplaces. This activity is protected under the National Labor Relations Act's concerted activity rule.

9. Filing a complaint with OSHA (online or by phone) is an easy process. It is important that workers who are not being protected from COVID-19 reach out through the OSHA complaint system. *If you and your co-workers want to remain anonymous*, reach out to a workers advocacy group. They can file the complaint on your behalf and communicate with OSHA and your employer to solve the problem. Your employer will not know that you initiated the complaint.