

FEW OPTIONS, MANY RISKS

Low-Wage Asian and Latinx Workers in the COVID-19 Pandemic

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EXECUTIVE SUMMARY

Asian Americans Advancing Justice — Asian Law Caucus (ALC) partnered with the Labor Occupational Health Program (LOHP) at the University of California, Berkeley, to study the impact of the COVID-19 pandemic on workers in California. The study included two components: a 28-question survey of 636 workers in November and December 2020 and in-depth interviews with 8 workers in February and March 2021 to better understand the stories behind the data. To be eligible to participate in the survey, workers had to be 18 years of age or older, employed in a non-managerial position, and had to have worked at least 5 days since May 2020. Fight for \$15, Chinese Progressive Association, Filipino Community Center, and Lao Family Community Development, Inc. played an essential role in distributing surveys and conducting outreach to workers.

The survey captured the experience of **primarily low-wage Asian and Latinx workers in California working in the restaurant, domestic/home health care, and janitorial/hospitality industries.** Forty-one percent of respondents identify as Asian and 40% identify as Latinx. Almost one in five (17%) respondents report being paid less than the state minimum wage, a form of wage theft that can sometimes be an indication that violations of other workplace laws may be at play, such as employer retaliation or inadequate safety protections. The main findings from the report are summarized as follows:

Workers have significant health and economic concerns about COVID-19. One in five respondents have concerns about their own medical conditions, which put them at greater risk if infected with COVID-19. A quarter of respondents have concerns about the health and vulnerability of someone with whom they have regular contact who is either over the age of 60 or has underlying medical conditions. Half of the respondents are concerned that they will be unable to financially support themselves or their families if they get sick.

Workers who are paid less than minimum wage are less likely to have received information from their employer about COVID-19 protections, compared to those receiving higher wages. Almost one in five of all survey respondents report that they did not receive any information at all from their employer about COVID-19 worker protections, even though employers are required by law to provide information and training to workers about workplace hazards. Notably, more than two-thirds of respondents paid below minimum wage received no information on what to do if sick or exposed to COVID-19.

Too many workers lack adequate COVID-19 protections and those in lower-wage industries are disproportionately impacted. A third of respondents – and 59% of restaurant workers surveyed – are unable to physically distance most of the time at work. For respondents who said that physical barriers are potentially protective at their worksite, sixty-two percent reported non-existent or ineffective physical barriers at work. Forty-six percent of respondents lack access to hand sanitizer and 66% do not have access to disinfectants. Twelve percent of those surveyed do not regularly receive face coverings or personal protective equipment from their employer; this percentage was higher (22%) for workers paid less than minimum wage.

Having to enforce COVID-19 guidelines puts workers at risk of workplace conflict and even workplace violence. Workers who are responsible for enforcing compliance with COVID-19 guidelines may face resistance from co-workers, customers, or others. Almost one-third of respondents – and 49% of those who are restaurant workers – had a negative interaction with a co-worker, customer, or client who were not following COVID-19 guidelines. Two restaurant workers report that a person physically assaulted them or a co-worker.

Workers are not raising concerns about COVID-19 protections with their employer because of a fear of retaliation or a lack of confidence that the employer will address the problem. For some who do speak up, that fear and skepticism are borne out. Among workers who did not report their concerns about COVID-19, 61% of these workers explained that they thought nothing would change, 30% were concerned that the employer would retaliate against or punish them for speaking up, and 19% worried that their or their family member's immigration status placed them at greater risk of reprisal. Among those respondents who report that either they or a co-worker *did* speak up about COVID-19 concerns, 44% of respondents report that the employer either did not address the problem at all or only partly addressed the problem. Among those respondents who report that they or a co-worker spoke up about concerns, 15% report that they or others in their workplace had been retaliated against by their employer for asking for COVID-19 protections.

Workers are not getting adequate information about paid sick leave. Three-fifths of respondents either received no information from employers about their right to use paid sick leave for COVID-19, may have received misleading or incomplete information, or are unsure whether they can use paid sick leave.

Summary of Recommendations

While unsafe working conditions, wage theft, lack of paid sick leave, employer retaliation, and even workplace violence are not new threats to Asian and Latinx workers in low-wage industries, the pandemic has intensified and brought new urgency to the need to address these workplace abuses. The findings from this survey support the following recommendations:

1. Expand protections and benefits to workers, including ensuring equitable access to COVID-19 vaccines, expanding health and safety protections to all workers, expanding paid sick leave benefits so workers can stay home when sick, strengthening and enforcing anti-retaliation laws, providing a pathway to citizenship and expanding safety net benefits to workers regardless of immigration status or employee status, and expanding access to health coverage.
2. Increase the capacity of state agencies to enforce labor laws including increasing staffing/resources for state and local agencies, promoting strategic enforcement and partnerships, increasing accountability for violations, and providing incentives for compliance.
3. Improve education and support to workers including ensuring materials are accessible to diverse populations, engaging trusted community allies in providing information and resources, and providing accessible training for employers.
4. Strengthen worker representation in the workplace through unions, health and safety committees, public health councils, and other ways of amplifying workers' voices.



INTRO/BACKGROUND

The COVID-19 pandemic has magnified the health risks, economic struggles, and disparities that workers of color, low-wage workers, and women workers were already experiencing long before the pandemic. This study by Asian Americans Advancing Justice — Asian Law Caucus (ALC), in partnership with the Labor Occupational Health Program (LOHP) at the University of California, Berkeley, sheds light on how the COVID-19 crisis is impacting low-wage Asian and Latinx workers in California.

In the past year, researchers in academic, labor, and community settings have been struggling to capture and describe the experiences of workers during the pandemic as they are happening. The results are sobering but perhaps unsurprising to those who are familiar with working conditions of low wage workers. A national survey of 3,100 workers conducted by the Color Of Change and its partners paints a broad picture of growing racial, gender, and economic disparities during the pandemic.¹ It revealed that nearly half of Latinx and Black workers have lost income, Black workers are experiencing wage theft at higher rates, women are disproportionately balancing unpaid family caregiving with paid work, and 42% of households

are experiencing difficulty in paying household bills. Zeroing in on whistleblowing in the workplace, these researchers found that one-third of Black workers and one-quarter of Latinx workers fear their employer will retaliate against them for speaking up about COVID-19 working conditions, compared to one-fifth of white workers.²

Several studies have looked at the service industry, and restaurant workers, in particular. In One Fair Wage's survey of 1,675 food service workers in five states, more than one-third of workers reported not having been trained on COVID-19 safety protocols and two-thirds reported that their employer was not following protocols.³ An alarming three-quarters of

1 Rakeen Mabud, Amity Paye, Maya Pinto, and Sanjay Pinto, Foundations for a Just and Inclusive Recovery: Economic Security, Health and Safety, and Agency and Voice in the COVID-19 Era, February 2021, bit.ly/justrecoverysurvey.

2 Ibid.

3 One Fair Wage, Take off your mask so I know how much to tip you: Service Workers' Experience of Health & Harassment During COVID-19, December 2020, https://onefairwage.site/wp-content/uploads/2020/12/OFW_COVID_WorkerExp-1.pdf.

workers reported experiencing or witnessing hostile behavior from customers when trying to enforce COVID-19 safety protocols, with many reporting increased sexual harassment.⁴ A different survey, focusing specifically on 4,000 McDonald's workers, conducted by the Service Employees International Union, revealed similar patterns: two-thirds of workers reported that physical distancing was difficult, 44% reported being verbally or physically threatened or abused by customers who were not following COVID-19 guidelines, and three-quarters reported their store does not offer paid sick leave.⁵

Workers in the agricultural industry report comparable experiences. In a study by the California Institute for Rural Studies, farmworkers expressed frustration that their concerns about workplace safety during the pandemic were ignored or even mocked.⁶ Farmworkers reported that the provision of masks was inconsistent across different types of employers, with only 45% to 71% of employers providing masks.⁷

Nail salon workers have faced a difficult situation as most businesses have been closed during much of the pandemic. In April and May 2020, the California Healthy Nail Salon Collaborative and the UCLA Labor Center conducted an online survey of 636 nail salon workers and 90 owners in Vietnamese and English. The study found that three-quarters of workers were concerned about being able to afford food and other necessities in the next month. Over 90% of workers applied for unemployment benefits, with almost half needing support to apply for and obtain such aid.⁸

Unlike other studies during this time period, ALC's study focuses on Asian and Latinx workers across several low-wage industries, and therefore expands our

understanding of how COVID-19 has impacted immigrant communities and communities of color in low-wage sectors in California. While ALC's study focuses on COVID-19 and the workplace, it is impossible to forget that the global health pandemic has unfolded during a period of: escalating economic and financial distress for people and institutions, including massive unemployment; attacks on immigrant communities including family separations and denial of public benefits to undocumented people; anti-Asian sentiment and violence stemming from a xenophobic framing of the origin of COVID-19; hardships for workers due to natural disasters and events precipitated by climate change (including flooding, wildfires, hurricanes, and storms); racialized violence, including extreme police brutality directed against Black and brown communities; and a polarizing presidential election cycle marked by emboldened white supremacist ideology, all adding to the intensity and trauma of a punishing year.

While ALC's study does not explicitly address all of these issues, this is the backdrop faced by workers as they navigate even more challenges within their workplaces: wage theft; health and safety violations; discrimination, harassment and violence; surveillance by employers; excessive workload and work pace; retaliation, harassment and firing of workers who take collective action; job insecurity; and lack of access to unemployment or disability benefits, health insurance, paid sick leave, unpaid family leave, workers' compensation, and benefits such as paid vacation and retirement. The weight of the COVID-19 pandemic strains an already precarious structure and further threatens the health and livelihood of low-wage Asian and Latinx workers.

4 Ibid.

5 Service Employees International Union. "PandeMc: How McDonald's is Failing to Keep Its Workers Safe from COVID-19." July 16, 2020. Available at: <https://s3.us-east-1.amazonaws.com/protectallworkers.org-assets/pdfs/PandeMc.pdf>.

6 Bade, Bonnie, Sarah Ramirez, and Dvera I. Saxton. 2021. *Always Essential, Perpetually Disposable: California Farmworkers and the COVID-19 Pandemic*. COFS Phase 2 Preliminary Report. California Institute of Rural Studies, <http://covid19farmworkerstudy.org/data>.

7 Ibid.

8 UCLA Labor Center and California Healthy Nail Salon Collaborative, *A Survey of Nail Salon Workers and Owners in California During COVID-19*, June 2020, <https://www.labor.ucla.edu/publication/a-survey-of-nail-salon-workers-and-owners-in-california-during-covid-19>.

About the Study

Given this backdrop, Asian Americans Advancing Justice — Asian Law Caucus (ALC) partnered with the Labor Occupational Health Program (LOHP) at the University of California, Berkeley to study the impact of the COVID-19 pandemic on workers in California. The study included two components: a 28-question survey of 636 workers and 8 interviews with workers to better understand the stories behind the data.

In early November 2020, ALC and LOHP finalized the 28 survey questions with input from the Chinese Progressive Association, the Filipino Community Center, and Lao Family Community Development. The survey was translated from English into Spanish and Chinese. Survey questions were transferred to SurveyMonkey, with three separate electronic surveys created in English, Spanish, and Chinese.

Surveys were conducted between November and December 2020.⁹ The Chinese Progressive Association, Filipino Community Center, Lao Family Community Development, Inc., Fight for \$15 and other community or worker organizations disseminated the survey to members and to their networks, via email, WeChat, text messaging, or by phone. By nature of the community and union partners involved in distributing the survey, this study reached a large number of Asian and Latinx workers and workers in particular low-wage industries in which these partners provide services (more on these industries below).

To be eligible to participate in the study, participants had to be 18 years or older, an employee¹⁰, and have worked five days or more in the same industry in California since May 2020. As an incentive to participate, respondents were eligible to enter a sweepstakes to potentially win one of five \$100 gift cards.

A total of 636 electronic and paper surveys were completed,¹¹ 29% in English, 35% in Chinese, and 36% in Spanish.

In addition to worker surveys, 8 worker interviews were conducted in February and March 2021. Some interviewees were selected based on their survey responses and some were identified by Fight for \$15. ALC then conducted interviews in Spanish, Mandarin, and Cantonese. Each individual interview was about one hour in length and conducted by ALC staff members over the phone. ALC also provided an incentive to participate, providing each interviewee with a \$35 stipend.

9 For context, the Cal/OSHA emergency temporary standards on COVID-19 infection prevention went into effect on November 30, 2020. These standards clarified employer responsibilities for protecting workers against COVID-19. California Division of Occupational Safety and Health (Cal/OSHA), COVID-19 Emergency Temporary Standards Frequently Asked Questions, January 2021, <https://www.dir.ca.gov/dosh/coronavirus/COVID19FAQs.html#effDate>.

10 Managers, employers, or business owners were not considered employees. Gig workers and ride-share drivers were considered employees.

11 Surveys were considered completed if respondents finished questions to assess eligibility and answered at least one substantive question about COVID protections at work.

FINDINGS

Respondents were primarily low-wage Asian and Latinx workers in California working in the restaurant, domestic/home health care, and janitorial/hospitality industries.

Among the 636 workers who completed the survey, **41% identify as Asian and 40% identify as Latinx.** Almost two-thirds (65%) of survey participants are women, with a higher percentage of restaurant workers (74%) and domestic and home health care workers (80%) identifying as female. Geographically, respondents are concentrated in the San Francisco Bay Area (65%) and Los Angeles (11%). Most respondents (42%) are aged 36 to 50 years.

The majority of workers (56%) report being paid \$15 per hour or below, with a significant number of workers (17%) paid less than the state-mandated minimum wage of \$12 per hour (2020 minimum wage rate for employers with 25 employees or less).¹²

Survey respondents work in a variety of low-wage industries. **The most highly represented industries include: restaurants (31%); domestic work and home health care (15%; this category includes some workers who are employed by In-Home Supportive Services); janitorial and hospitality (10%); and day labor and landscaping (9%).** Only a third (33%) of all surveyed workers are represented by a union.

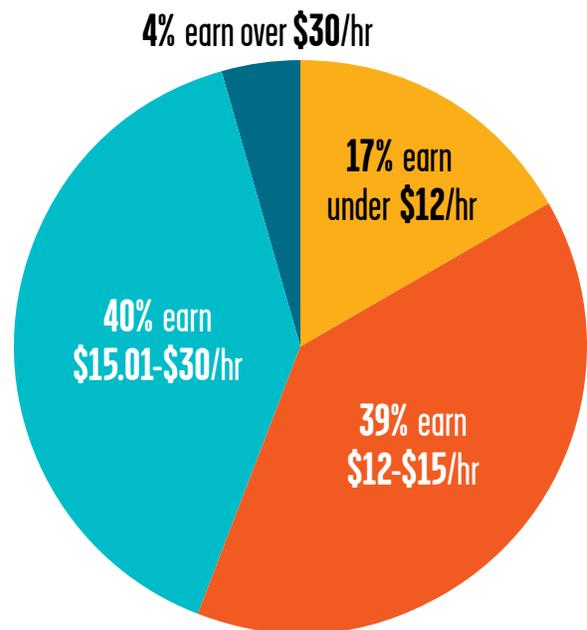


Figure 1. Average pay of survey respondents

¹² Note that the state minimum wage at the time of the survey was \$12 per hour for employers with 25 employees or less and \$13 per hour for employers with 26 employees or more. These rates each increased by \$1 per hour on January 1, 2021. California Labor Commissioner, Minimum Wage, December 2020, https://www.dir.ca.gov/dlse/faq_minimumwage.htm.



“It’s easy to find someone to take over my job...”

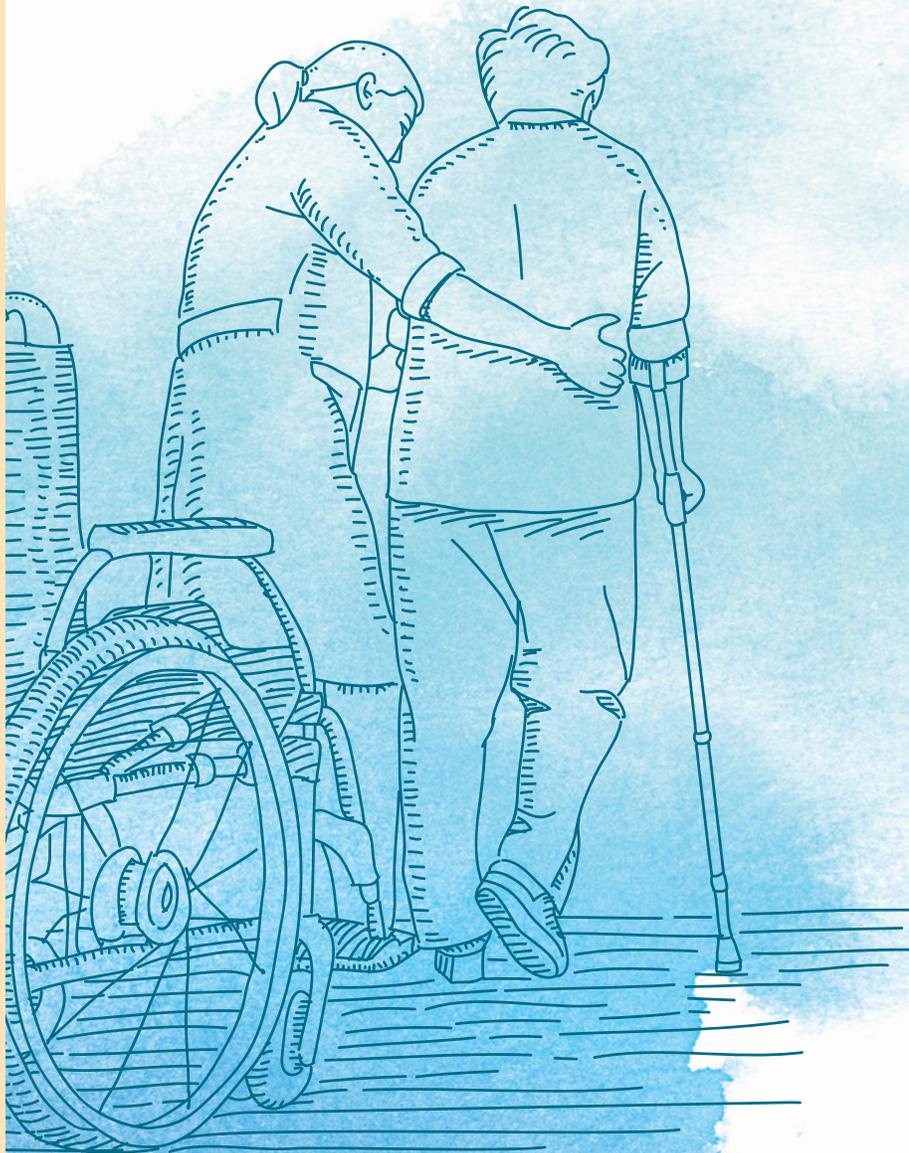
A CAREGIVER WORRIES ABOUT COVID-19 AND KEEPING HER JOB, ALL WHILE JUGGLING CHILDCARE NEEDS

Zhao (name has been changed) is a caregiver paid by a government program to care for an elderly person in San Francisco. The client does not wear a mask, even though Zhao is in close contact, giving the client medicine, helping her shower, and changing bedsheets. Initially, Zhao was not provided masks or gloves by her employer. When Zhao finally received a mask, she was told to re-use it 25 times. She says she began to buy her own masks: “I haven’t asked the employer to reimburse me. I worry that if I ask... I’m worried at being at odds. I’m afraid of losing my job.”

Zhao was not told about the right to take paid sick leave or job-protected leave. In the past, when her son was sick and she had to miss work, she was not paid. Zhao is a single mother supporting two children. She feels torn between needing to be home to help her five year old and being at work. In one instance, she was told not to pick up the phone when her daughter called at work: “I feel like if I can be split into two, that would be good.”

Zhao reflects, “Even though I am working, I worry about my job. Personally, I feel a lot of stress and my mental health is negative...If I say any concern, the employer might feel that I can’t work and will find someone else to do the job...It’s easy to find someone to take over my job.”

She concludes, “I think caregivers are essential workers. There needs to be more health and safety for workers. Basic things like masks aren’t even given. We’re worried about getting COVID...I think the government...should provide the PPE.”



Workers have significant health and economic concerns about COVID-19.

The vast majority of respondents (80%) report having at least one concern related to COVID-19. This overall snapshot was consistent regardless of income, race, gender, or union representation.

Many respondents report health-related concerns about COVID-19. **One in five surveyed workers (19%) have concerns about their own medical conditions, which put them at greater risk if infected with COVID-19.** Workers without health insurance are more than twice as likely (32%) to be concerned about their own medical condition, compared to those with health insurance. About one quarter of all respondents (24%) are concerned about the health of *another person*, someone with whom they have regular contact and is either over the age of 60 or has underlying medical conditions.

In addition to these health-related fears, many respondents are concerned about the economic impact of COVID-19 exposure and job insecurity. **For example, 49% of the respondents across all income levels worry that they will not be able to support themselves or their families if they contract COVID-19. One in five respondents (20%) are concerned they might not get their job back if they have to take time off to quarantine,** a concern that could result in workers working while sick and transmitting COVID-19. School closures due to the pandemic are also a source of unease: A fifth of all workers (19%) express anxiety that they cannot perform their job duties if they are also responsible for childcare. Hospitality/janitorial workers (27%) are more likely to be concerned about not being able to work due to childcare, compared to other workers.

49% worry that they will not be able to support themselves or their families if they contract COVID-19.

20% are concerned they might not get their job back if they have to take time off to quarantine.

Income levels influenced whether workers are more concerned about health versus economic impacts related to COVID-19. Unsurprisingly, a larger proportion of lower-wage earners have economic concerns compared to higher-wage earners. **For workers earning less than the state minimum wage, 37% worry that they will not be able to support themselves or their families if they contract COVID-19,** while only 13% report having health concerns due to regular interaction with someone at risk of serious COVID-19 disease. **Similarly, for workers in the second-lowest income tier earning between \$12-15 per hour, 59% are concerned about economic support to their families,** while only 24% have health concerns due to regular interaction with high-risk persons. In contrast, for workers earning more than \$30 per hour, 33% express concern about not being able to support their families if they contracted COVID-19, while almost twice as many (63%) have health concerns due to having regular interaction with someone at high risk outside of work.

Workers who are paid less than minimum wage are less likely to have received information from their employer about COVID-19 protections, compared to those receiving higher wages.

19%

of respondents did not receive any information about COVID-19 worker protections from their employer.

2/3

of those paid below minimum wage received NO information on what to do if sick or exposed to COVID-19.

Although it is the employer's responsibility to provide workplace health and safety information and training, **almost one in five (19%) of all survey respondents report that they did not receive any information at all from their employer about COVID-19 worker protections.** Notably, an overwhelming 95% of respondents who did not receive information from their employers have health and/or economic concerns about COVID-19.

Employer failure to provide information about COVID-19 protections is more pronounced for low-wage earners and in particular industries. Respondents in the two lower income tiers are twice as likely (24%) as those in the two higher income tiers (12%) to report that their employer did not provide any information about COVID-19 protections. Workers in some low-wage industries fared the worst: 27% of restaurant workers and 26% of day laborers and landscaping workers did not receive information about COVID-19 protections from their employer.

More than half of all surveyed workers (57%) report that their employer did not provide information on what to do if they experience COVID-19 symptoms or exposure. Again, this plays out differently depending on income level. **Strikingly, more than two-thirds (68%) of those paid below minimum wage report that they were not told what to do if they experience symptoms or exposure,** compared to 30% of the highest-tier wage earners.

When asked what sources they turn to for information about worker protections (respondents were allowed to make multiple selections), 52% of respondents turn to TV or radio, 34% of respondents identify worker organizations or community organizations as a source of information, 33% perform online searches, 33% turn to family or friends, 32% look to their employer, 32% use mobile texting platforms, 29% look to social media, and 11% refer to print newspaper.

Too many workers lack adequate COVID-19 protections and those in lower wage industries are disproportionately impacted.

As the pandemic began, employers needed to quickly assess what protections were necessary to prevent COVID-19 transmission in the workplace. To that end, there was new federal guidance around COVID-19 protections and there were also state laws already in effect governing workplace protections.

To minimize COVID-19 exposure, the Centers for Disease Control and Prevention (CDC) recommended early in the pandemic that employers use a combination of prevention measures including, but not limited to, physical or social distancing, physical barriers separating people, frequent handwashing, disinfection of surfaces, face coverings, and personal protective equipment (such as masks, gloves, and eye protection, where appropriate).¹³

In California, employers were already required to have in place an effective Illness and Injury Prevention Program addressing all recognized hazards.¹⁴ As the pandemic progressed, during the late Spring and Summer of 2020, the California Division of Occupational Safety and Health (Cal/OSHA) and the California Department of Public Health jointly published industry-specific guidance documents to protect workers performing in-person work.¹⁵ On November 30, 2020, just as this survey was being conducted, Cal/OSHA's COVID-19 Prevention Emergency Temporary Standard went into effect.¹⁶ The COVID-19 Prevention Emergency Temporary Standard and the guidance documents focus on fundamental work

33% of respondents are unable to physically distance most of the time at work.

62% of workers reporting that physical barriers are potentially protective at their worksite report non-existent or ineffective physical barriers at work.

place protections including physical distancing, ventilation, universal use of face coverings, appropriate use of personal protective equipment, frequent hand washing, and environmental cleaning. The standard and guidance documents also address preventive policies and procedures, worker information and training, identification and management of COVID-19 cases and exposed workers, recordkeeping, addressing outbreaks, and protections for employer-provided transportation and housing. Although agencies were continually refining their guidelines throughout the pandemic, employers should have been well aware of the basic protective measures needed to reduce COVID-19 exposure; the survey inquired into these basic protections.

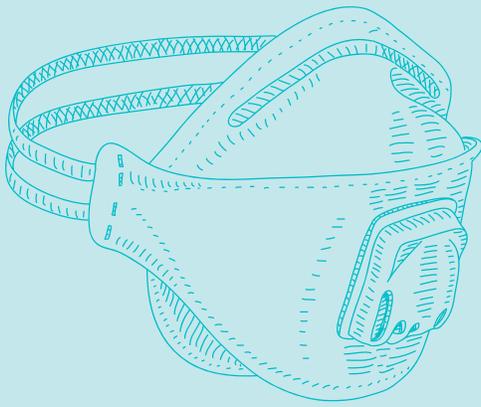
Physical distancing is an important way of preventing the spread of COVID-19 and employers are tasked with reorganizing the workplace and schedules, or installing barriers, to create distance. In this study,

13 See Centers for Disease Control and Prevention, Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19), January 4, 2021, <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>. The California Division of Occupational Safety and Health (Cal/OSHA) took further steps by adopting emergency temporary standards to prevent COVID-19 transmission in workplaces. California Division of Occupational Safety and Health (Cal/OSHA), COVID-19 Prevention Emergency Safety Standards - Fact Sheets, Model Written Program and Other Resources, January 2021, <https://www.dir.ca.gov/dosh/coronavirus/ETS.html>.

14 Title 8 Code of California Regulations §3203.

15 See California Division of Occupational Safety and Health, Cal/OSHA and Statewide Industry Guidance on COVID-19, <https://www.dir.ca.gov/dosh/coronavirus/Guidance-by-Industry.html>.

16 Title 8 Code of California Regulations §3205 Covid-19 Prevention Standard, §3205.1 Multiple Covid-19 Infections and Covid-19 Outbreaks, §3205.2 Major Covid-19 Outbreaks, §3205.3 Prevention in Employer-Provided Housing, and §3205.4 Prevention in Employer-Provided Transportation. <https://www.dir.ca.gov/dosh/coronavirus/ETS.html>



*“There’s no point
in voicing my
concerns...”*

A CAREGIVER STRUGGLES TO GET MASKS

The sole breadwinner in her family, Chang (name has been changed) is a caregiver paid by a government program to care for an 86-year old woman in San Francisco. Chang recalls that, between March and May 2020, the agency did not provide personal protective equipment (PPE) and she was afraid to ask for an N95 respirator because she was worried the agency would retaliate against her and cut her hours. Chang explains: “There’s no point in voicing my concerns because it’s just me...an individual...I was really worried at the time that if the government can’t [get PPE], then how can small citizens like me do anything?” When masks were finally given out in June, the straps were ill-fitting. It wasn’t until Chang complained on a WeChat forum for other care providers that agency staff saw the complaint and was able to provide different masks. Chang also worries that if she takes paid sick leave, she will lose her job. Her plea: “We might request things for our safety, understand us; we’re essential workers, we’re putting our lives on the line.”

a third of respondents (33%) are unable to physically distance most of the time at work. Workers in the lower-wage tiers (38%) are more likely to be unable to physically distance than those in higher wage tiers (27%).

Compared with other sectors captured by this study, restaurant workers are the most unlikely to be able to stay 6 feet apart from others: **59% of restaurant workers report being unable to physically distance most of the time at work.** By comparison, only 21% of janitorial/hospitality workers, who typically have less interaction with customers or clients, report being unable to physically distance at work.

When physical distancing is not possible, employers can install physical barriers or partitions (e.g., Plexiglas or acrylic sheets) to reduce COVID-19 exposure. **For workers reporting that physical barriers are potentially protective at their worksite, sixty-two percent of workers report non-existent or ineffective physical barriers at work.** Not only are restaurant workers often unable to physically distance, many do not have effective physical barriers at work: 66% of restaurant workers report nonexistent or ineffective physical barriers.

Employer policies that require frequent handwashing, and disinfection can also reduce the risk of exposure. The great majority of workers (84%) are able to wash their hands with soap and water at work two or more times during their shift, which may or may not be enough depending on workers’ potential exposure. This result was fairly consistent across industries, though only 67% of day laborer/landscaping workers are able to handwash two or more times at work. **Forty-six percent of all respondents lack access to hand sanitizers and 66% do not have access to disinfectants.** It is important to note, however, that workers with sufficient access to soap and water may not need hand sanitizers and not all workers may need access to disinfectants.

Finally, face coverings and personal protective equipment (PPE) play an important role in reducing COVID-19 transmission. Face coverings such as cloth masks, while helpful, are *not* considered PPE because their effectiveness varies, unlike a properly fitted and

tested N95 respirator. Eighty-six percent of workers indicated regularly receiving *some* form of face covering or PPE from their employer. Although many workers report getting some sort of face covering or PPE, this study did not pinpoint how frequently face coverings or PPE were distributed or whether they were adequate for specific job tasks.

The flip side of the above finding is that **12% of those surveyed do not regularly receive face coverings or PPE from their employer.** Again, this finding is qualified by the limitations of the study, as the study did not identify which PPE is appropriate for which job tasks. **Fewer workers at lower income levels regularly receive face coverings or PPE from their employer,** compared to those at higher income levels. Over a fifth of workers (22%) paid below the minimum wage do not regularly receive face coverings or PPE. For those workers who do not regularly receive face coverings or PPE, 88% have health and/or economic concerns about COVID-19.

Seventy-four percent of all workers report that they regularly receive some form of face mask or face

covering from their employer. Only 14% regularly receive N95 respirators, which provide a high degree of protection from exposure to COVID-19; however, this study did not look into when N95 respirators would have been recommended or appropriate. Fifty-four percent of workers regularly receive disposable paper masks and 26% regularly receive cloth face coverings, which provide less protection from COVID-19.¹⁷

It is outside the scope of this study to comment on which type of PPE is required in which workplace settings and for which specific job tasks. However, it is worth noting that home health care workers, many of whom work in close contact with patients and may perform health care-related tasks, may be in need of N-95 respirators which provide a much higher level of protection than disposable masks and cloth face coverings. **In this study, only 12% of domestic workers and home health care workers are regularly provided with N-95 respirators. Forty-one percent of domestic workers and home health care workers report that they do not regularly receive any face masks or face coverings of any kind.**

Having to enforce COVID-19 guidelines can put workers at risk of workplace conflict and even workplace violence.

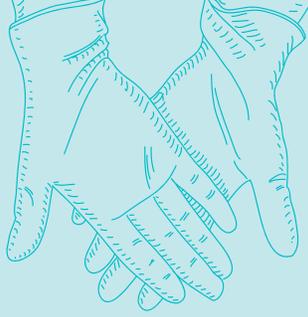
In the era of COVID-19, it is necessary for employers, managers, and supervisors to monitor the use of masks and face coverings by workers as well as customers and others entering the worksite. **In this study, less than half of workers (48%) report that the employer checks more than once a day whether co-workers, customers, or others who enter the worksite are wearing masks or face coverings.**

Workers are sometimes responsible for enforcing

29% of workers had a negative interaction with a co-worker, customer, or client who was not following COVID-19 guidelines.

compliance with COVID-19 guidelines in the workplace. This can place workers in direct conflict with customers, clients, students, patients, and others who do not want to or cannot follow guidelines. **Overall,**

¹⁷ When survey participants were asked whether their employer regularly provides PPE, participants were allowed to select more than one type of face mask or face covering. Some participants report receiving more than one type of face mask or face covering.



*“Be quiet and
don’t tell anyone...”*

A FAST FOOD WORKER FALLS ILL AND IS RETALIATED AGAINST

Sophia (name has been changed) is a Spanish-speaking worker at a fast food chain in Los Angeles County where seventeen workers have had COVID-19. Her employer didn’t want workers to say they got sick at work, telling them: “Nobody got sick in here...Be quiet and don’t tell anyone.” The employer also didn’t notify workers about possible exposures: “You don’t need to know who got sick.” When she refused to do deep cleaning after a COVID-19 case, her hours were cut. She had refused because she was scared to get sick, especially since she has a medical condition that led to her hospitalization a few years ago.

Sophia became sick with COVID-19 in November 2020, along with eight members of her family, including her husband, daughter, and grandchildren. Her manager told her to stay home and not come back to work until she tested negative. The employer told her that she did not qualify for paid leave and that the restaurant did not have to pay her if she took time off. She contacted her union, which intervened and was able to get her paid time for two of the four weeks she was out sick and also caring for her asthmatic grandchildren who were also sick with COVID-19.

The employer later put a note in the crew room indicating that workers would no longer get paid sick leave because it expired in December 2020. Sophia wanted to support a strike for better conditions, but the employer threatened her and other workers saying that if they did strike, their hours would be cut and that unemployment claims would be denied if they applied. Her hours were cut to only 23 a week, which she sees as retaliation for speaking out.

Sophia describes that many of her co-workers also face the challenge of being undocumented, such as the single mother who tells her, “You have papers, you can get unemployment or another job, but not me.” Sophia’s husband is also undocumented and is finding it difficult to get a job during the pandemic: “I am the one working to support this house. I really love my job. I have been working there eleven years. I have to do it for my house. For my family.”

almost one-third of workers (29%) had a negative interaction with a co-worker, customer, or client who was not following COVID-19 guidelines. Women (32%) were more likely than men (22%) to report negative interactions. Workers in the two bottom income tiers (33%) were more likely than workers in the two top income tiers (23%) to report negative interactions.

Respondents working in restaurants are about four times more likely to encounter conflict compared to surveyed workers in other industries, with half of restaurant workers (49%) reporting a negative interaction with a co-worker, customer, or client who was not following COVID-19 guidelines. Among restaurant workers who experienced a negative interaction, 31% report that the person yelled at them or a co-worker. **Two restaurant workers report that the person physically assaulted them or a co-worker.**

Workers are not raising concerns about COVID-19 protections with their employer because of a fear of retaliation or a lack of confidence that the employer will address the problem. For some who do speak up, that fear and skepticism are borne out.

When workers can freely communicate with supervisors about hazards in the workplace, employers can quickly identify new hazards and work collaboratively with workers to resolve them. Unfortunately, in many workplaces, particularly in low-wage settings, employers do not respond in a constructive way and may even retaliate against workers. Workers may decide not to raise a concern due to the fear of retaliation or a lack of trust in the employer.

Workers who raised a concern about COVID-19 protections

Fifty-five percent of all respondents report that they or their co-workers raised a concern about COVID-19 safety in the workplace with their employer, as shown in the following chart (Fig. 2).

Women (66%) were more likely to report that they or their co-workers raised a concern, compared to men (54%). More workers represented by a union (72%) reported that they or their co-workers raised a concern than unrepresented workers (61%). The data appear to show that a relatively high proportion of people are speaking up about concerns in the workplace. It is important to note that this study took a broad view on what it means to “raise a concern” about COVID-19 protections; the study did not inquire, for example, into the seriousness or formality of the complaint. The survey was also framed in such a way that workers were reporting whether they *or their co-workers* raised a concern, and therefore casts a broad net.

Among the 354 respondents who report that either they or a co-worker spoke up about COVID-19 concerns, 44% of workers report that the employer either did not address the problem at all or only partly addressed the problem. Specifically, 13% of workers who spoke up about concerns report that the employer did not address the problem at all and 31% of

Among the 354 respondents who report that either they or a co-worker spoke up about COVID-19 concerns...

44% of workers report that the employer either did not address the problem at all or only partly addressed the problem.

Among those workers speaking up about COVID-19 protections or leave related to COVID-19...

15% reported that they or others in their workplace had been retaliated against by their employer for asking.

workers who spoke up about concerns report that the employer only partly addressed the problem.

These numbers are higher in the restaurant industry, with 53% of restaurant workers reporting that the employer either did not address the problem at all (21%) or only partly addressed the problem (32%).

Even worse, among those workers speaking up about COVID-19 protections or leave related to COVID-19, 15% reported that they or others in their workplace had been retaliated against by their employer for asking for COVID-19 protections, as shown in the following chart (Fig. 3).

Response to workers who raised a concern about COVID-19 workplace safety

31%	Neither I nor my coworkers have raised concerns about COVID-19 safety with my employer
31%	I or my coworkers raised a concern and Employer fixed the problem
17%	I or my coworkers raised a concern and Employer only partly addressed the problem
7%	I or my coworkers raised a concern and Employer did not address the problem
4%	N/A
9%	Missing response

Fig. 2: (n=636)

Incidence of retaliation among workers who raised a concern about COVID-19 protections

57%	No retaliation
15%	Retaliation
20%	I don't know
8%	N/A

Fig. 3: (n=353)

This result was worse for restaurant workers: among those restaurant workers speaking up about COVID-19 protections or leave, 20% reported that they or others in their workplace had been retaliated against by their employer. Taking a closer look at those workers who raised concerns that were either not addressed or only partly addressed by their employer: over a quarter of these workers (28%) reported retaliation by their employer. This could imply that those employers who are less likely to respond to workers concerns are also more likely to retaliate against workers.

Workers who did not raise a concern about COVID-19 protections

Forty-one percent of all surveyed workers report that they had a COVID-19 concern but did not raise the concern with their employer. When these workers were asked why they had not approached their employer,¹⁸ 61% of these workers responded that they thought nothing would change, 30% were concerned that the employer would retaliate against or punish them for speaking up, and 19% worried that their or their family member's immigration status placed them at greater risk of reprisal. Only 15% responded that they did not raise a concern because they did not think it was a serious issue. These results are shown in the following figures (Fig 4 and 5).

Workers who did not speak up about COVID-19 protections provide an explanation



Fig. 4: (n=260); Respondents were allowed to make more than one selection.

¹⁸ Survey participants were allowed to select more than one answer.

Reasons provided for not speaking up about COVID-19 concerns	GENDER		RACE		UNION MEMBERSHIP	
	Female	Male	Asian	Latinx	No Union	Union
I thought nothing would change.	77%	20%	61%	29%	70%	12%
I was concerned my employer might retaliate against me for speaking up (punish me or treat me worse).	73%	18%	25%	54%	63%	20%
I worry about speaking up because of my immigration status or the status of someone in my family.	80%	20%	12%	84%	80%	8%
I didn't think it was a serious issue.	61%	37%	34%	42%	66%	16%

Fig. 5: Respondents were allowed to make more than one selection.

A lack of confidence that employers will improve COVID-19 worker protections is a barrier to workers speaking up. As noted above, **61% of workers who did not speak up about concerns believed that if they were to report a concern, nothing would change in the workplace.** Among these 159 workers, 77% are female. Again, among this same group of 159 workers, 61% are Asian and 29% are Latinx. Unrepresented workers are also more likely to lack confidence in employer action: among those 159 workers, 70% are not represented by a union.

The fear of retaliation can also be a significant barrier to workers speaking up. As indicated above, **30% of workers did not speak up about COVID-19 protections due to a fear of retaliation.** Among these 79 workers, 73% are female, 54% are Latinx, 25% are Asian, 8% are Black, and 63% are not represented by a union.

Retaliation can sometimes take the form of immigration-related threats. Nineteen percent of workers who did not speak up about COVID-19 concerns feared that immigration status could be used against themselves or their family members. Among these 49 workers, 84% are Latinx workers, 80% are women, and 80% are not represented by a union.

1/3

of all surveyed workers are not comfortable reporting COVID-19 symptoms to their employer.

Reporting COVID-19 symptoms

Finally, one-third of all surveyed workers are not comfortable reporting COVID-19 symptoms to their employer, with 12% reporting they would be somewhat uncomfortable and 20% reporting that they would be very uncomfortable reporting symptoms to their employer. This result has implications for the spread of COVID-19 (if workers do not report symptoms, they may show up at work and infect others) and underscores a lack of worker trust in employers. This result was more pronounced for those who had been retaliated against: 62% of workers who have been retaliated against were uncomfortable with telling their employer about possible exposure compared to 30% who have not been retaliated against.

Workers are not getting adequate information about paid sick leave.

15%

workers received no information from their employer about the use of sick leave for COVID-19.

20%

received information that could have been misleading or incomplete.

23%

received information that was unclear.

Given the earlier finding that many workers are not receiving information from employers about COVID-19 protections, it is unsurprising that many workers are also not receiving adequate information about paid sick leave as it relates to COVID-19.¹⁹ In fact, only 32% of workers have been told by their employer that they can use paid sick leave for COVID-19 symptoms or exposure. **This leaves almost three-fifths of workers receiving either no information (15%) or information that could have been misleading or incomplete (20%) or unclear information (23%) from their employer about the use of paid sick leave for COVID-19.**

Fifteen percent of workers were not given information from their employer about using paid sick leave for COVID-19 symptoms or exposure, with those at the two lower income levels (18%) faring worse than those at the two higher income levels (12%). Breaking this down by industry, 23% of restaurant workers and 18% of janitorial and hospitality workers report not

¹⁹ California requires that employers provide paid sick leave to employees who meet basic eligibility requirements. The federal Families First Coronavirus Response Act also required employers to provide paid COVID-related leave during the period April to December 2020.

receiving information from their employer about paid sick leave.

Forty-three percent of all workers report that either they may have received misleading or incomplete information by their employer that they do not have access to paid sick leave (20%) or are unsure if their employer provides paid sick leave (23%). This result is more significantly pronounced at lower income levels, with 52% in the two lower income levels receiving potentially misleading or incomplete information or being unsure, compared to higher income levels (33%). Looking at specific industries, 51% of restaurant workers, 44% of domestic and home health care workers, 35% of janitorial and hospitality workers, and 54% of day laborer and landscaping workers either received potentially misleading or incomplete information or were unsure whether they have access to paid sick leave.



“My boss didn’t care about me...”

A JANITOR FACES RETALIATION

Liu (name has been changed) is a Chinese-speaking janitor who worked at a private school in San Francisco. At the beginning of the pandemic, the manager refused to provide personal protective equipment and told Liu to buy his own masks. Liu was also forced to make do with old gloves that ripped easily and were the wrong size. Liu was not told what to do if others didn’t follow COVID-19 guidelines, or whether he could take paid time off to quarantine if needed. He worried about infecting his two sons and his elderly parents.

When his co-worker Jenny (name has been changed) was exposed to COVID-19 through her husband, their manager told Liu and Jenny not to tell anyone at the school about the exposure. Liu recalls, “I know that this wasn’t right, but I was worried about losing my job.” Though his employer did not say anything to him about taking a test or quarantining, Liu decided to do it himself: “If I was sick, then the whole school would be sick.”

Liu quarantined himself for five days and was not paid during those days. When he returned from leave, Liu’s manager was verbally aggressive and cut Liu’s hours, which Liu perceived as retaliation. Liu concludes: “I don’t feel I’ve been respected as a worker during the pandemic. I didn’t even get gloves and masks at work. How could I protect others? They didn’t speak my language. They looked down on my work--didn’t think janitorial work is important....My boss didn’t care about me.”

Liu reported the retaliation to a government agency but the employer faced no consequences.



RECOMMENDATIONS

Unsafe working conditions, wage theft, lack of or limited paid sick leave, employer retaliation, and even workplace violence are not new threats to Asian and Latinx workers in low-wage industries. What is new, however, is the heightened urgency that comes with the COVID-19 pandemic and the way in which the pandemic magnifies the difficult choices that workers are forced to make: workers who must work to support themselves and/or their families may be risking their health or the health of those they love; workers who ask their employer for effective protections may be putting their job at risk; and workers who ask a customer to follow guidelines may be risking verbal or physical confrontation. This study sheds light on

the pressures faced by low-wage Asian and Latinx workers in California and underscores the degree to which the health and economic well-being of workers hinges upon employer action or inaction.

The following is a set of recommendations for improving working conditions and benefits for workers in California given the disparities exposed by the COVID-19 pandemic. A few of these recommendations are specific to the pandemic context, while others address systemic challenges that have long been a threat to workers of all kinds, but particularly low-wage workers and immigrant workers.

1. Expand protections and benefits to workers.

A. Ensure equitable access to COVID-19 vaccines.

In the short term, there is an urgent need to continue to vaccinate essential workers and ensure equitable access to vaccines. For workers in high-risk environments with few employer protections in place, vaccination may be their only meaningful protection against COVID-19. As of this writing, Californians age 16 and older are eligible for vaccines,²⁰ though vaccine supply is not yet able to meet demand. State and county agencies should continue their promising partnership with community organizations to conduct outreach to the most vulnerable communities, allay any fears about vaccination, and provide information on how to access paid leave if they need to miss work due to side effects from vaccination.

20 California Department of Public Health, Vaccines, April 2021, <https://covid19.ca.gov/vaccines>.

B. Expand health and safety protections to all workers.

All workers should be entitled to health and safety protections at work. Unfortunately, federal and state health and safety laws continue to exclude independent contractors and privately paid domestic workers from coverage, leaving them vulnerable to illness and injury, with little recourse. These exclusions must be remedied.²¹

C. Expand paid sick leave benefits so workers can stay home when sick.

There is a patchwork of federal and state laws related to sick, family, and medical leave, including the now-expired federal Families First Coronavirus Response Act and the recently passed California COVID-19 Supplemental Paid Sick Leave Law. In addition, some cities and counties have passed ordinances to provide COVID-specific leave. In California, strengthening paid leave protection is essential because California's standard paid sick leave law only provides up to 24 hours or 3 days a year of paid sick leave for workers. A number of policy changes could support workers in staying home when sick: increasing the amount of available paid sick leave days or paid family leave;²² extending these benefits to all workers no matter the size of their employer or work relationship; expanding eligibility to include workers in the informal economy and those with non-traditional employment relationships such as day laborers and domestic workers or gig workers; renewing the COVID-specific supplemental paid sick leave under the federal Families First Response Act which expired at the end of 2020; enforcing the Cal/OSHA standard that requires pay when workers are excluded from work if they are exposed but not sick; improving access to workers' compensation benefits when workers fall ill; and protecting workers from retaliation when they request or take leave.

D. Strengthen and enforce anti-retaliation laws.

A dramatic change is needed to create an environment in which workers can safely bring up concerns and stand up for their rights. There is a need to strengthen the anti-retaliation laws that protect workers who blow the whistle on labor violations and step up enforcement of those laws. Policy recommendations include: creating a presumption of retaliation if an adverse action happens within a certain time after a worker engages in protected activity; expanding the types of activities that are considered protected; expanding actionable adverse actions to include threats of retaliation; reorienting labor enforcement agencies to see their work as not just assessing whether retaliation can be legally proven after the fact, but proactively and timely intervening when reported retaliation starts to help educate and de-escalate before further retaliation occurs; increasing civil penalties for employers who violate anti-retaliation statutes; increasing the time period by which workers have to file a retaliation complaint; reducing backlogs in the processing of complaints; and making the complaint process as accessible as possible.

E. Provide a pathway to citizenship and expand safety net benefits to workers regardless of immigration status or employee status.

Without a pathway to citizenship, undocumented workers are limited in the jobs that they can access, which leaves them with little leverage when facing labor violations. While many labor laws apply to all workers

21 During California's 2021 legislative cycle, Senator Maria Elena Durazo introduced a bill (SB 321) to eliminate the exclusion of privately paid "household domestic service" employees from California's Occupational Safety and Health Act.

22 During California's 2021 legislative cycle, Assemblymember Lorena Gonzalez introduced a bill (AB 123) to increase the wage replacement rate for workers receiving Paid Family Leave EDD benefits.

regardless of immigration status, many workers are unaware of this or are not confident they will be protected. Many employers capitalize on this lack of knowledge and fear. Furthermore, undocumented workers do not have access to unemployment benefits and have been excluded from state and federal COVID-19 relief packages.²³ The lack of any economic safety net in the event of retaliation can understandably be a dispositive reason for many undocumented workers to stay silent about ongoing abuses in the workplace. This example underscores the need for advocates to engage in expansive coalition-building across issue areas including comprehensive immigration reform. The potential availability of Pandemic Unemployment Assistance benefits for unemployed workers who do not otherwise qualify for unemployment benefits, including independent contractors, also provided an important safety net for workers who might otherwise be more fearful of reporting health and safety violations at work.

F. Expand access to health coverage.

The pandemic has also exposed the gaps where health care meets employment. Our employer-based health insurance system creates a lose-lose situation in which some workers who lose their job, as many have during the pandemic, may also lose their health insurance.²⁴ Moving towards universal health coverage would transform access to health care, but even small steps could make a difference, such as loosening the eligibility requirements for Medi-Cal (for example, raising the income limit and expanding coverage to include undocumented individuals²⁵) and simplifying the enrollment process.

2. Increase the capacity of state agencies to enforce labor laws

A. Increase staffing/resources for the state and local agencies enforcing labor law protections

There needs to be sufficient funding and resources to enable state and local labor agencies, and even public health agencies, to fully enforce labor and employment laws including the new COVID-19 Prevention Emergency Temporary Standards, public health orders, anti-retaliation statutes, minimum wage and overtime laws, paid sick leave laws, workplace safety laws, workers' compensation laws, anti-harassment and anti-discrimination laws, and many other protections. State and local agencies need to increase their presence in the field so that public health and labor law violations can be identified and then remedied quickly and effectively. With adequate resources, agencies could shift from a complaint-driven model that relies on workers to take the risky step of filing a complaint to a more proactive model of conducting in-person inspections in priority industries.

23 Although the state of California has stepped in to provide financial assistance to undocumented immigrants during the pandemic, this one-time disaster relief (\$500) is of a very limited nature and is not nearly sufficient to support individuals and families who are genuinely struggling. See California Department of Social Services, Coronavirus (COVID-19) Disaster Relief Assistance for Immigrants, <https://www.cdss.ca.gov/inforesources/immigration/covid-19-drai>. For California's 2021 legislative cycle, Assemblymember Miguel Santiago (D-Los Angeles) introduced a bill (AB 1515) which would provide access to additional relief.

24 See Laurel Lucia, Kevin Lee, Ken Jacobs and Gerald F. Kominski, Health coverage of California workers most at risk of job loss due to COVID-19, May 8, 2020, <https://laborcenter.berkeley.edu/health-coverage-ca-workers-at-risk-of-job-loss-covid-19>.

25 For California's 2021 legislative cycle, Senator Maria Elena Durazo (D-Los Angeles) and Assembly member Joaquin Arambula (D-Fresno) have introduced a bill package AB 4/SB 56 (Arambula/Durazo) which would remove the exclusion of undocumented adults/seniors from MediCal.

Cal/OSHA, in particular, is in need of resources so that it can adequately enforce workplace protections, including the newest COVID-19 standard but also basic requirements such as the Illness and Injury Prevention Plan. While funding and resources are both needed at Cal/OSHA, it is also important to address the barriers that prevent Cal/OSHA from filling the many staff positions that have long been vacant.

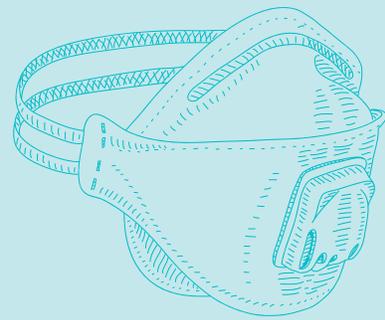
B. Promote strategic enforcement and partnerships

This study suggests that the lowest paid workers have the fewest workplace protections against COVID-19. Although some resources are already in place at the state level to prioritize low-wage industries for labor law enforcement, better communication and collaboration protocols between state labor agencies could streamline enforcement, as inadequate health and safety protections could also signal wage theft or other concerns. In addition to having more of a presence in workplaces, outreach staff for agencies could also develop relationships in impacted communities so that they are able to communicate with workers in safe settings.

Strategic partnerships with worker and community organizations can extend agencies' reach, as these groups have earned the trust of, and developed the linguistic and cultural competency to deeply connect with, hard-to-reach populations. These strategic partnerships can also ensure that agencies are responsive to worker concerns and priorities. One helpful model is the four-year partnership between the Division of Labor Standards Enforcement and a coalition of worker organizations coordinated by the National Employment Law Project and supported by the Irvine Foundation.

C. Increase accountability for violations, and provide incentives for compliance

To increase compliance, enforcement needs to have "teeth" and agencies need to have tools at



“I feel like I have been respected...”

A RESTAURANT WORKER APPRECIATES HER EMPLOYER'S PROTECTIVE MEASURES

A single mother, Yang (name has been changed) is a dim sum chef in Oakland's Chinatown. In the spring of 2020, Yang and her coworkers requested that the restaurant temporarily shut down and the employer agreed. The employer safely reopened the restaurant in July 2020 by installing some physical barriers and mandating the use of masks. In a couple of cases, customers refusing to wear a mask were escorted out by the employer. Yang says that, before the pandemic, her employer did not tell her about paid sick leave or provide it: "In Oakland Chinatown, we don't have these rights. All businesses are like that."

However, since the pandemic began, she says she and her co-workers now have access to paid sick leave. She says her "employer is ok... During COVID, the employer listened to what workers requested... I feel like I have been respected and my work is valued during the pandemic."

their disposal to hold employers accountable.²⁶ “Upstream” employers or franchisors with control over working conditions should share accountability for the health and safety violations of their franchisees or subcontractors.²⁷ Penalties for violations, especially serious and repeated ones, should be significant. To both warn other employers in the industry and to send a reassuring message to workers, agencies should widely publicize successful cases in as impactful a way as possible, using various types of media, including ethnic media. At the same time, high-road businesses that comply with labor laws and make positive contributions to the economy and society could be highlighted and given incentives. A report published in March 2021 by the California Future of Work Commission recommended targeted interventions to improve working conditions in particular sectors through policy or through state and private sector initiatives.²⁸

3. Improve education and support to workers

The findings from this study underscore an urgent need for better education and support to workers about their rights and employers’ responsibilities to protect them from COVID-19.

A. Ensure materials are accessible to diverse populations

Although some significant efforts are already underway, the state labor agencies should institutionalize a concerted effort to bring clear, accessible, multilingual, and culturally appropriate information, training, and support to the most hard-to-reach workers, including low-wage workers, workers of color, limited-English-proficient workers, temporary workers, and workers in the underground economy.

A culturally appropriate, multilingual hotline with extended hours operated by trained staff and monitored by state labor agencies could help field basic questions about COVID-19 protections, refer workers to organizations and resources, and assist workers in filing complaints, if appropriate.

B. Engage trusted community allies in providing information and resources

Community groups and legal service organizations that workers know and trust already play an important role in providing information to workers about labor laws and options available to them and supporting workers in resolving workplace problems in various ways, including intervening directly with the employer and filing claims with government agencies. The current Workplace Outreach Campaign by California’s Labor and Workforce Development Agency which will conclude in the summer of 2021 is a step in the right direction. Continued funding and resources would allow these groups to sustain their work and to play an even greater role. The state could fund these trusted community groups to bring critical COVID-19-related information to workplaces, paving the way, post-pandemic, for longer-term training, outreach, and support on pressing issues.

26 State Senator Lena Gonzalez introduced SB 606 which would increase employer accountability for workplace health and safety violations and prevent retaliation.

27 During California’s 2021 legislative cycle, Assemblywoman Lorena Gonzalez introduced the FAST Recovery Act (AB 257) which seeks in part to hold major fast food corporations accountable for health and safety conditions in their franchise restaurants.

28 Institute for the Future (ITF) for the California Future of Work Commission, A New Social Compact for Work and Workers, March 2021, <https://www.labor.ca.gov/wp-content/uploads/sites/338/2021/02/ca-future-of-work-report.pdf>.

C. Provide accessible training for employers

A similar approach is needed for employers, particularly small business owners, sub-contractors and their client companies, and staffing agencies, who also would benefit from clear, accessible, multilingual information and training on a multitude of topics such as Cal/OSHA standards, anti-retaliation laws, wage and hour protections, paid sick leave laws, and workers' compensation. The free Cal/OSHA Consultation program should be enhanced to better meet the needs of business owners, especially small businesses owners, around Cal/OSHA standards.²⁹ The Consultation program could take a more active and visible role in advising employers as they continue to adjust to the needs of the pandemic. The Consultation program could even be expanded to cover a broader set of labor laws beyond workplace safety.

4. Strengthen worker representation in the workplace

Ultimately, the biggest game changer is workers having a collective voice in the workplace, whether through a union, health and safety committee, public health council, or other approach. Unionization remains the most direct and effective way to improve wages and working conditions. Federal and state agencies, such as the National Labor Relations Board and the California Agricultural Labor Relations Board, should vigorously enforce the right to collective action and conduct outreach to workers who may not be aware of the role that these agencies play, may not understand their right to engage in concerted activity (even absent a union), or may not know how to file a charge.

²⁹ California Division of Occupational Safety and Health, Cal/OSHA Consultation Services Branch, <https://www.dir.ca.gov/dosh/consultation.html>.



“We need a seat at the table to be heard...”

A FAST FOOD WORKER SPEAKS UP, IS FIRED, AND HER CO-WORKERS THREATENED

Roberta (name has been changed) worked at a Los Angeles fast food restaurant where workers had to “beg for masks.” Workers were eventually given disposable masks and gloves and told to re-use them for several days: “After we washed our hands, we put on the same gloves.” Roberta had constant face-to-face contact with customers, the majority of whom did not wear masks. One time, Roberta reported to the manager that there was a visibly sick customer who was sneezing, had a runny nose, and was not wearing a mask. The manager said, “Oh yeah, we saw him, but you have to deliver the food.” Management refused to ask customers to wear masks citing the possible loss of customers. Roberta remembers, “I wanted to cry because I felt helpless by their decision [to prioritize] profits.”

When several workers at the restaurant tested positive for COVID-19, the management hid the cases from workers, claimed the workers were out because they were in Mexico, and did not tell exposed workers to quarantine. The employer refused to tell Roberta if she had been exposed, but Roberta discovered she had worked in close contact with an infected co-worker. The employer said Roberta could take time off but would not be paid, so Roberta kept working: “I have not missed any work day since the pandemic started, even if I am scared. Missing one day is one day less for my check, so I imagine, if I lose two weeks, how will I take care of my family?”

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For months, Roberta wore a mask at home, even when she was sleeping, and slept on the floor to protect her husband. She recalls, "It affected a lot... My five year old son would ask, 'You don't want me anymore?' He would extend his arms for me to hug him, but I would say 'I don't feel safe, I might have the virus.'"

In June, Roberta made a video saying her company was not ensuring distancing or providing masks. Her store manager told her, "You have no right to say anything" and retaliated by cutting her hours, making her work more time alone in the drive-through, demanding that she work impossibly fast, and telling other workers not to help her. Her manager threatened other workers with the same punishment if they talked to Roberta. "[The manager] started yelling more. She would say I was no good, various things to make me feel bad, but I knew I was a great worker. All my life I've worked for (this company)." Roberta eventually got fired for speaking up and found a job at the same company but at a different location.

Roberta sees the positive impact of her actions: "My coworkers say, 'Thank you for being a leader, you push our manager to take better care of us.'" However, Roberta is still concerned about her livelihood, especially because her husband lost his job during the pandemic. "I am scared to get sick, because if [my company doesn't] want to pay [for sick leave], how will we survive? It's a fear I carry. I have to go to work." She concludes, "The voices of workers are important...we need a seat at the table to be heard."

Health and safety committees and public health councils provide a different pathway to worker representation in the workplace. Both these structures are built on the idea that workers are most knowledgeable about issues that come up during the course of the workday and can therefore propose the most effective solutions. Workers are also the ones who will be tasked with implementing policies and confronting unplanned situations. Health and safety committees, which are composed of both workers and managers, can play a critical role in identifying, evaluating, and controlling workplace hazards and, in particular, elevating health and safety as a priority in the workplace.³⁰ Employers can take an active role in encouraging the formation of these health and safety committees and state agencies may be able to find creative ways to encourage employers to develop these committees. As one example of this, Cal/OSHA requires that employers develop an Injury and Illness Prevention Program and allows the use of health and safety committees as a method of complying with communication requirements.³¹

The public health council is a new concept being implemented in Los Angeles County to expand the capacity of the Department of Public Health to increase compliance with COVID-19 orders.³² Under this approach, workers, who are explicitly protected from retaliation, can form public safety councils to monitor worksites for compliance with public health orders and report back to the county. This model could be expanded to other regions and could also be expanded to include other public health orders beyond those pertaining to COVID-19.

30 Labor Occupational Health Program, School Action for Safety and Health (SASH) Materials (National), Factsheet L: Health & Safety Committees, <https://lohp.berkeley.edu/national-sash-materials/>.

31 Title 8 California Code of Regulations § 3203.

32 For an analysis of public health councils, see Ken Jacobs, Tia Koonse, and Jennifer Ray, Workers as Health Monitors: An Assessment of LA County's Workplace Public Health Council Proposal, July 21, 2020, <https://laborcenter.berkeley.edu/workers-as-health-monitors-an-assessment-of-la-countys-workplace-public-health-council-proposal/>. Also see Coalition for Public Health Councils in LA, <https://publichealthcouncils.org/>.

Even without the formal structure of a union or committees, there are ways for state agencies to play a role in amplifying workers' voices. For example, Cal/OSHA's recent COVID-19 Prevention Emergency Temporary Standards state that "the employer shall allow for employee and authorized employee representative participation in the identification and evaluation of COVID-19 hazards."³³ This approach does not require a formal structure and reinforces the importance of employers incorporating worker input.

Last but not least, a growing network of highly committed grassroots and worker organizations deliberately create safe spaces for unrepresented workers, particularly immigrant workers and workers of color in low-wage industries. As mentioned above, these trusted organizations provide critical services to workers and many have a strong track record in serving as a bridge between workers and government agencies. State and local agencies and foundations can look for ways to fund and create innovative partnerships so that grassroots and worker organizations can continue to center worker voices.

Although the COVID-19 pandemic has magnified the health risks, economic struggles, and racial and gender disparities in the workplace in devastating ways, there is an opportunity now to address what has made work, and particularly, low-wage work, so precarious for the people performing it. The above recommendations would help transform systems and structures, and pave the way for better working conditions for all workers.

33 Title 8 California Code of Regulations § 3205(c)(2).



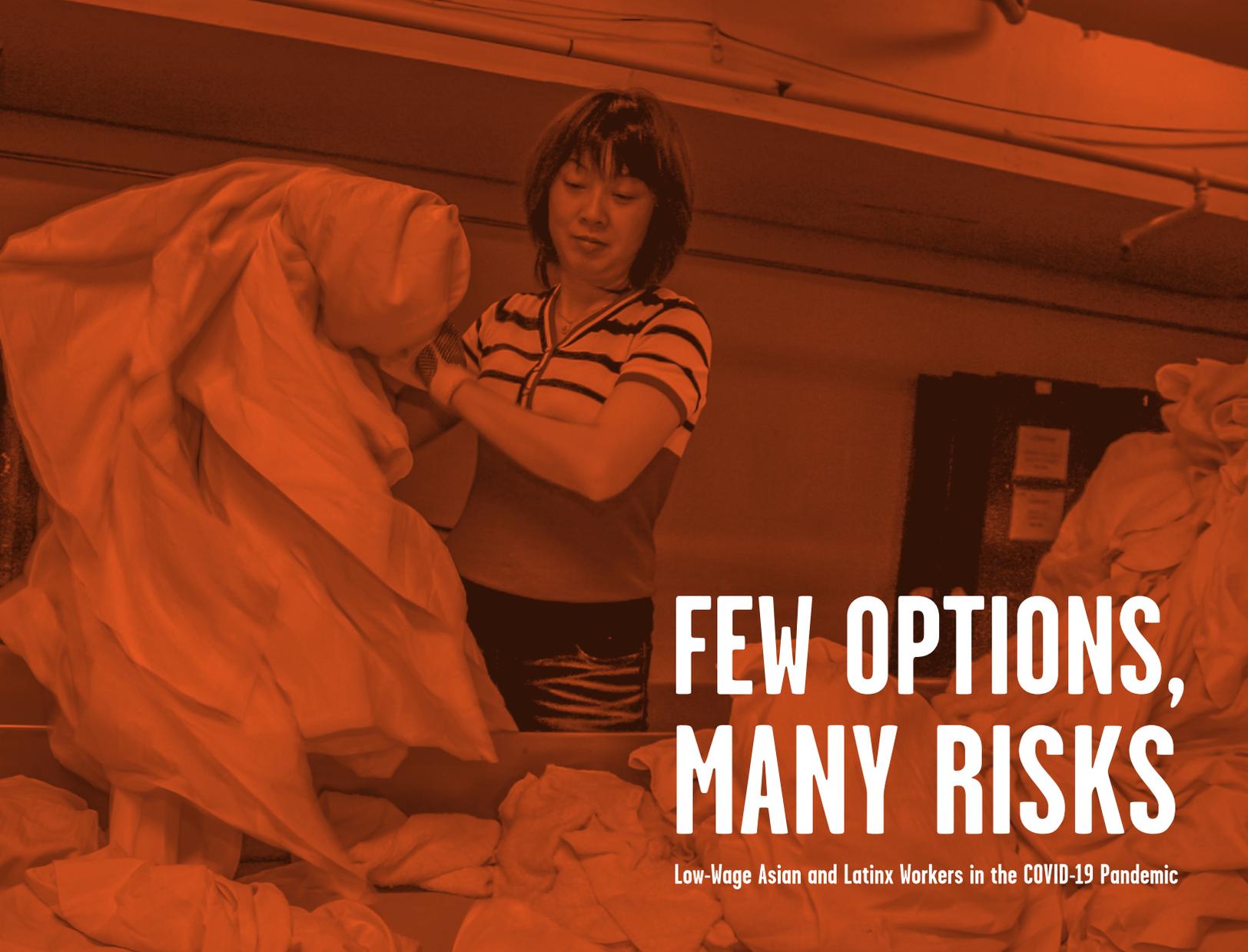
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FEW OPTIONS, MANY RISKS

Low-Wage Asian and Latinx Workers in the COVID-19 Pandemic



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LOHP's mission is to promote safe, healthy, and just workplaces and build the capacity of workers and worker organizations to take action for improved working conditions. We look broadly at the impact of work on health and we advance the principle that healthy jobs - which pay a living wage, provide job security and benefits, protect against hazards and harassment, have reasonable workloads, and engage workers in the decisions that affect them - are a basic human right.

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