Demo Activity: Problem-Solving for COVID-19

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

Task 1
First, introduce yourselves and pick someone from your group to be the Facilitator who will use Share Screen to help you review the 5 Fact Sheets on pages 2-7.

Then working together, decide how to most efficiently review all the content and identify the key points in each Fact Sheet.

When we return (in 5 minutes) you will be tasked with using the Fact Sheets to assess your workplaces.
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:
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 workers 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 measures 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

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

Source: [https://coshnetwork.org/COVID_Rights_and_Strategies-Safe_Workplaces](https://coshnetwork.org/COVID_Rights_and_Strategies-Safe_Workplaces)
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. The OSHA “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 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.

5. What are my health and safety rights?

You have the right:

- To 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
- To 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).

New Jersey law also protects you against retaliation from your employer when you assert your workplace rights. One step would be to talk to your supervisor or someone from human resources about the reason for the negative employment action against you. But resolving this problem may require your employer hearing from the Department of Labor directly to end the retaliation. You can contact the Department of Labor at 609-292-2305.

OSHA and state of NJ 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.
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.