

What Workers Need to Know About Pandemic Flu

What the Union Can Do: Preparing the Workplace for Pandemic Flu

What is the union's role during a pandemic flu?

A pandemic flu can spread quickly and easily in the workplace. The H1N1 (swine) flu has now infected people in the United States and in many other countries. The World Health Organization has declared it a full blown pandemic. Employers must be prepared to deal with the health and safety issues that a pandemic flu brings. The lives and health of workers depend on employers being prepared **NOW**. Otherwise it will be too late.

Under the law, it is the employer's responsibility to provide a safe and healthy workplace. The union's role is to make sure the employer takes action **NOW** to protect workers. Unions can play an important role in making sure employers are prepared for a pandemic flu. This factsheet discusses some actions unions can take to help employers get ready for a pandemic flu.

What can a union do to help an employer prepare for a pandemic flu?

1. Review the employer's safety and health programs

The first step is to decide if the employer is ready to deal with the safety and health issues of pandemic flu in the workplace. The union needs to look at the employer's current programs, plans, and policies to see whether they include an infection control program for pandemic flu. Union representatives need to ask the employer for copies of these programs and plans. These include the following:

- General safety and health program for the workplace,
- An overall plan to help prevent the spread of the virus (infection control program),
- Ways to identify workers most likely to be exposed or activities that are likely to expose workers,
- Methods to control the spread of the virus,
- A plan to monitor workers' health to identify sick workers (medical surveillance),
- Training on pandemic flu in the workplace and how workers will be told about risks, and
- A plan to keep equipment and surfaces clean.

2. Use the union's safety and health committee

The union's safety and health committee should look over all employer safety and health plans. The committee should decide if these plans will protect workers during a pandemic flu by asking the following:

- Are the current plans strong enough to deal with the issues related to pandemic flu?
- Can the plans be adapted with small changes in order to deal with pandemic flu?
- Do the plans need major changes?
- Do the plans need to be rewritten to include pandemic flu programs or policies?

The safety and health committee should give its review to union leaders. They should include recommendations for changes in order to protect workers during a flu pandemic. The union can then meet with the employer and, together, use the safety and health committee's review and recommendations to develop a pandemic flu plan.

3. Review policies that may affect workers

Unions should look over other policies that may affect workers during a pandemic flu. These policies should be changed to make sure they help workers and the employer during a pandemic.

Unions should review or help develop the following policies:

- Sick leave and pay (should support sick workers to stay home),
- Family leave and pay (should support workers to stay home to take care of sick family members),
- Policy for missing work (should not punish workers for staying home because of their own sickness or a family member),
- Working from home (allowing workers to do this when possible),
- Work shift flexibility and work shifts that start at different times (if fewer workers are at work at the same time, the risk of being exposed to the virus goes down),
- Travel rules (get rid of all travel that is not needed), and
- Medical removal protection (MRP) program (supports sick workers to report symptoms and stay home while they are sick by providing pay and benefits during the illness).

4. Put policies and programs into action NOW!

Unions should encourage employers to put safety and health policies for pandemic flu into action now.

Some of the safety and health actions that can start now include:

- Worker training,
- Monitoring workers' health,
- Medical evaluations and fit-testing for respirators,
- Gathering safety and health items (respirators and other personal protective equipment, soap and hand washing materials, etc.),
- Studying the risks of coming into contact with the virus,
- Supporting and allowing workers to stay home when they have flu-like symptoms, and
- A vaccination program for seasonal flu.

What legal rights might give workers some protections during a pandemic flu?

There are a number of legal rights that a union and workers should be aware of:

- Right to refuse unsafe work under OSHA: Under Section 11(c) of the OSH Act, workers have **limited rights** to refuse to do a job if they believe in good faith that they are exposed to an “imminent danger” (danger of death or serious injury). This **may** apply to workers who are required to have close contact with people with suspected or confirmed cases of H1N1 flu.
- State Workers Compensation laws: If a worker catches the flu while at work, he or she **may** be eligible for workers’ compensation benefits (which include paid time off and paid medical care).
- Family Medical Leave Act (FMLA): If a worker gets the flu, he or she **may** be covered under the protections of the Family and Medical Leave Act, which gives workers the right to time off from work (unpaid) and prohibits an employer from discriminating against them for absenteeism for the time off. A worker **may** also be entitled to time off from work (unpaid) to care for his or her spouse, child or parent who gets the flu. And, in addition, there **may** be a state law which gives workers similar or better protections.

Can unions bargain over safety and health protections?

Yes! Some employers may refuse to meet with the union to talk about the union’s ideas to protect workers during a pandemic flu. If that happens, the union needs to use their right to bargain with employers on health and safety conditions in the workplace. This is a right under the National Labor Relations Act (NLRA) for workers in the private sector. This is also a right under bargaining law that covers federal, state, county, and municipal workers. It is against the law for employers to refuse to bargain over safety and health conditions.

These are the key points:

- The union's role is to make sure the employer takes action **NOW** to protect workers against pandemic flu.
- Unions need to review the employer's safety and health programs to see whether they have a strong plan to deal with pandemic flu.
- Unions need to use their right to bargain to make sure that issues involving pandemic flu are covered by the employer's safety and health program.

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