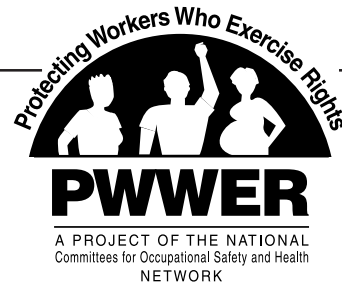


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# Health and Safety Rights On the Job for Teen Workers



FACTSHEET OF THE "PROTECTING WORKERS WHO EXERCISE RIGHTS" PROJECT OF THE NATIONAL COSH NETWORK

## Three Stories: Sylvia, Joe and Donna

18-year old Sylvia caught her hand in an electric cabbage shredder at a fast food restaurant. Her hand is permanently disfigured and she'll never have full use of it again.

17-year old Joe lost his life while working as a construction helper. An electric shock killed him when he climbed a metal ladder to hand an electric drill to another worker.

16-year old Donna was assaulted and robbed at gunpoint at a sandwich shop. She was working alone after 11 P.M.

Most of us have jobs. Sometimes we work full-time; many of us work part-time during the school year. We work to earn extra spending money or maybe to help our families with necessities. We work to earn a paycheck; we don't go to work to get hurt on the job. However, this is exactly what happens to many of us. Sylvia, Joe, and Donna did not bargain on their injuries as part of their jobs.

## Who's Clumsy

Has anyone jumped on you or one of your friends because of an "accident" at work? When a worker gets hurt, the boss or someone else is likely to say that person is "clumsy," or not "paying attention," or even "stupid" – especially when we are still in our teens. In other words, they blame the victim for the problem.

There are a lot of stories like Sylvia's, Joe's and Donna's.

Every year about 70,000 teens go to a hospital emergency room for treatment of a workplace injury.

Every year, on average, 68 teens are killed on the job.

This isn't about "accidents" – the problem is UNSAFE WORKPLACES!!!

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## Changing the Old Ways

Workplace safety is a serious issue for everyone. Look at the figures above. When you consider how many are injured, killed or made sick, wouldn't you call that an epidemic?

And this is an improvement from when our parents and grandparents were teens! Many people struggled hard to reduce the toll of workplace injuries and disease, but we still have a long way to go. Part of the solution is for you to know how to use the rights and legal protections won over the years by the struggles of workers and health professionals. This fact pack will help you.

## Your Workplace Safety Rights

United States law requires your employer to provide work and a workplace free from recognized hazards. An employer who does not do this can be cited and fined by OSHA (the Occupational Safety and Health Administration.) OSHA also provides a number of legal protections for employees. Below is a brief summary checklist of these protections. More details about some of these rights are listed throughout this fact sheet. For more information, contact your local OSHA area office or other resource listed on page 8 of your fact pack.

Your employer must:

- Inform you of OSHA safety and health standards. The employer must make available copies of the relevant standards and the OSHA law itself.
- Display (prominently) the official OSHA poster which describes rights and responsibilities under OSHA's law.
- Tell you if they apply for a change from an OSHA standard.

You have the right to:

- Request the following information from your employer:
  - (1) safety and health hazards in your work,
  - (2) how to protect yourself from these hazards, and
  - (3) what to do if you are in an accident or exposed to toxic substances
- Look at your exposure and medical records.
- Request an inspection from OSHA.
- Have your name withheld from the employer when making a written and signed complaint.
- Have your union representative or someone else accompany an OSHA compliance officer during an inspection
- Talk to an OSHA compliance officer.
- Observe OSHA monitoring or measuring of hazardous materials and see the resulting records.
- Review the Log and Summary of Occupational Injuries and Illnesses (OSHA Log 200).
- Be informed by the posting of any citation issued by OSHA.
- Object (within 15 days) to the time period set by OSHA for correcting any violations.
- Submit a written request to the National Institute for Occupational Safety and Health (NIOSH) for information about possible toxic effects of the chemicals you use, and have names withheld from the employer, if that is requested.
- Be informed of any OSHA actions taken at your worksite. You also can request an informal review of any OSHA decision not to inspect your worksite or to issue a citation to your employer.
- File a discrimination complaint if you are punished for exercising the above rights or for refusing to work when faced with an imminent danger of death or serious injury and there is no time for OSHA to inspect.

## **Don't Be A Victim: Assert Your Rights! Be A Workplace Safety Activist**

- Request an OSHA inspection by filing an anonymous complaint. You can do this if you or other workers have been injured or made sick by the hazard or are concerned about a hazard.
- Request an OSHA inspection by filing a signed complaint, which can include your request that OSHA keep your identity secret from the employer. It is mandatory for OSHA to comply with requests for anonymity.
- Request information from, or complain about job hazards to your employer, a labor union, the Occupational Safety and Health Administration (OSHA) or another government agency.
- Respond to questions from an OSHA inspector and point out hazards to the inspector, including telling the inspector about past accidents or illnesses. Inform the inspector if your employer has temporarily eliminated hazards during the inspection, such as shutting down some operations or opening windows that are usually closed.
- Talk privately with an OSHA inspector on a confidential basis.
- Tell an inspector whether your employer has been notified of hazards and whether you have received training for hazardous work.
- Consider refusing an assignment that a “reasonable person” would see as “a real danger of death or serious injury,” when there is not enough time to file an OSHA complaint and when you have unsuccessfully requested that your employer correct the problem. NOTE: While legal rights should (but often do not) protect work refusals, workers should remember that it is possible to get another job, but not to get another life.
- Request and receive information from your employer about hazards you may be exposed to, including Material Safety Data Sheets (MSDSs) for hazardous materials.
- Request and receive the results of air sampling, noise monitoring or any other health and safety testing that was done in your workplace.
- Request and review copies, supplied by your employer, of the Occupational Safety and Health Act and any health and safety regulations that apply to your work.
- Request and receive information about procedures to be followed if you are involved in an accident or are exposed to toxic substances.
- Participate in union activities concerning health and safety matters.

NOTE: Much of the information in this fact pack refers to workers' rights under the Occupational Safety and Health Act and the agency that enforces that law: the Occupational Safety and Health Administration (OSHA). Not all workers in the U.S. are covered by OSHA. Mine workers have the Mine Safety and Health Administration. Employees of state, county and city governments in 27 states are not covered by OSHA regulations. There may be some state regulations in those states that provide certain worker health and safety protections and rights if you are a public sector worker.

## **Can You Blow The Whistle and Keep Your Job Too? Seven Steps to Prevent and Defend Against Retaliation**

- 1** Before you take action, ask yourself, “Is my boss likely to respond positively to a question or suggestion about safety?” If not, “Am I prepared for retaliation, even losing my job?” Don’t be caught off guard by a harsh response to a simple question or complaint about safety.
- 2** Strength in Numbers: union members are in a much better position to enforce their rights than individual workers. Raise health and safety issues with your union first. Even if you are not in a union, you will be better off (and have more legal protection) if you join with at least one other co-worker when taking action on job safety and health.
- 3** Consider complaining to the government, such as OSHA or your local Fire Department or Health Department, not your employer. This may give you more protection because an employer who first learns about a safety complaint from an official investigation may hesitate to retaliate because the government is already investigating.
- 4** **Keep good records:** Keep dated notes including the names of witnesses and what was said or done by whom and when. Keep your notes on consecutive pages in a bound notebook, so they will be more useful if you need to use them as evidence. Keep copies of any documents you send or receive.
- 5** If you have not been keeping records, sit down right now and write out everything that has happened up to now, with as much detail as possible.
- 6** **Keep records away from the workplace.** The boss might keep you from returning to work to get your stuff.
- 7** **Don’t miss deadlines – you have 30 days to file an 11(c) complaint.** It is illegal for your employer to retaliate or discriminate against you because you exercise your rights to a safe workplace. Should this happen, though, you have 30 days to file an OSHA Section 11(c) complaint. The clock starts ticking when you become aware that you have been punished for exercising your rights (which could be later than the time you were punished, if the true reason for the punishment was concealed).

If your 30-day deadline is about to expire, file your initial complaint by telephoning any OSHA office and saying that you want to file an 11(c) complaint. Give OSHA the basic facts of the case and be sure to get the name of the person who takes the information from you. Your complaint will be logged in as of the date of the call, and an OSHA investigator should contact you.

For more information about protections against discrimination for exercising your health and safety rights, see the Factsheet: “Using Section 11(c) of the Occupational Safety and Health Act”

## Filing An 11(c) Complaint

### How do I file an 11(c) complaint?

There is no official form to file with OSHA. You can make your complaint to an OSHA inspector in a face-to-face or a telephone conversation. It's better, however, to send a letter (use certified mail with a return receipt). Give OSHA the following information:

- Name of your employer,
- What OSHA right you exercised before your employer retaliated
- What your employer did to you, and,
- When you discovered (or suspected) your employer retaliated against you.

Do not send copies of documents or other evidence with your complaint, but do include a brief description of any evidence you have.

### When must I file?

Don't forget you have only 30 days from the time you find out that you have been discriminated against to file this complaint!

### Can I have someone help me file?

Yes. You can authorize a representative, such as your union, a COSH group (local committee on occupational safety and health), or anyone who you designate, to do it with or for you.

### Where do I file the complaint?

An 11(c) complaint can be filed with any OSHA official or at any OSHA office. Find the address of a nearby OSHA office in the telephone book, under U.S. Labor Department, Occupational Safety and Health Administration, or call 1-800-321-OSHA.

### What happens next?

OSHA will assign an investigator to the case. The investigator will interview you to obtain a detailed description of what happened, which will be written down as a statement for you to sign. You should give the investigator the names of any witnesses who can confirm your allegations and any additional evidence.

After the investigator interviews you and obtains your signed statement, he or she will send your employer a letter announcing an OSHA 11(c) investigation. Normally, the investigator will deliver the letter to your employer by hand, and will immediately interview any witnesses who are in the workplace, and the employer.

Your employer might claim you were punished for another reason, such as lateness. In that case, the inspector will ask to see records that document the accuracy of such charges. Your employer cannot use something you've done as an excuse for punishing you when you exercise an OSHA right. For example, if other workers are late and are not punished, the employer would be violating the law by deciding to punish you for doing the same thing after you raise a health and safety issue. But if your employer can prove that you were punished for a reason unrelated to the exercise of your OSHA rights, the investigation will be closed.

(continued on page 6)

## Filing an 11(c) Complaint (continued)

### What happens after OSHA's investigation is finished?

OSHA will meet with you to explain its decisions and answer any questions. If OSHA believes there is not enough evidence to prove your complaint, OSHA will close the case and send you a letter stating why. If you disagree with OSHA, you have 15 days to send an appeal.

Send your appeal to:

Office of Investigative Assistance  
U.S. Department of Labor – OSHA, Room N3603  
200 Constitution Ave., N.W.  
Washington, D.C. 20210.

If OSHA determines that you were punished for exercising an OSHA right, OSHA may begin to negotiate a settlement with your employer immediately. OSHA may ask your employer to restore to you whatever was illegally taken away and seek payment of lost wages and fringe benefits. OSHA has the power to seek punitive damages, over and above lost wages and other direct losses, but it is a power that OSHA almost never uses.

If OSHA comes to an agreement with your employer, it will almost always ask you to join in the agreement. If you will, then the case is settled. If you do not agree to these terms, OSHA has the power (which it seldom uses) to settle the case without your agreement.

Push OSHA to bargain for the best possible settlement (including punitive damages) and refuse to accept an unreasonable settlement.

If OSHA cannot reach an agreement with your employer, it will refer the case to prosecutors at the Labor Department. They can (and often do) refuse to take action, and send the case back to OSHA for more negotiations with your employer. Or, the prosecutors can sue your employer in federal court. You will not be charged for this.



**Need help filing 11(c)? Use the resource list on page 8 of your fact pack.**

## **Other Protections for Young Workers**

### **Prohibited Work and Hours Limitations**

The Federal Government has rules that all employers with young workers must follow. Certain jobs are prohibited to those under 18 years old because they are extremely hazardous. Limitations are also put on hours of work in order to make sure you have plenty of time for school, recreation and other activities important to your overall health and well-being.

Some states have additional requirements for employers. For information on your state, you can contact the U.S. Department of Labor's Wage and Hour division at 202-219-8305, and they will give you the number for your state.

### **Hazardous Work Prohibited For Teens Under 18 Years Old**

- Manufacturing or storing explosives
- Meat packing or processing (including power-driven meat slicing machines)
- Driving a motor vehicle and being an outside helper on a motor vehicle
- Power-driven bakery machines
- Coal mining
- Power-driven paper-products machines\*
- Logging and sawmilling
- Manufacturing brick, tile and related products
- Power-driven wood-working machines\*
- Power-driven circular saws, band saws and guillotine shears\*
- Exposure to radioactive substances and to ionizing radiations
- Wrecking, demolition and ship-breaking operations
- Power-driven hoisting equipment
- Roofing operations\*
- Power-driven metal-forming, punching and shearing machines
- Excavation operations\*
- Mining, other than coal mining

\* Limited exemptions are provided for apprentices and student-learners under specified standards.

### **Hours Limitations**








Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs up to 3 hours on a school day, 18 hours in a school week, 8 hours on a non-school day, and 40 hours on a non-school week.

Additionally, all work must be done between the hours of 7 a.m. and 7 p.m., except from June 1 through Labor Day. During this summer period, evening hours are extended to 9 p.m.



## Resources for Teen Workers

For more information about your rights on the job, or for assistance in exercising your rights, contact:

-  Your union, if you are in one.
-  Your local COSH group (Committee on Occupational Safety and Health). For the COSH group nearest you, call NYCOSH at 212-627-3900.
-  OSHA. For the OSHA office closest to you, call 1-800-321-OSHA.
-  U.S. Department of Labor, Wage and Hour Division. Call 202-219-8305: they can give you the number of the Regional Office nearest you.
-  Your state's Labor Department. Each state has a Department of Labor or other department or agency that enforces the state's wage and hour laws and child labor laws. If you don't know the department in your state to contact, contact the U.S. Department of Labor, Wage and Hour Division at 202-219-8305, and they will give you the number for your state.
-  Children's Safety Network Rural Injury Prevention Resource Center, at 715-387-9298. This center has materials specific to agricultural work and injury prevention.
-  National Child Labor Committee, at 212-840-1801. This non-profit organization promotes the rights, dignity and well-being of children and youth with regard to work.

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