

THE COVID-19 PANDEMIC AND MARYLAND STATE AND HIGHER EDUCATION INSTITUTIONS

AFSCME MARYLAND
JUNE 2020

INTRODUCTION

As Maryland looks to reopen its state office buildings and public higher education institutions, ensuring health and safety in the workplace must be the highest priority. AFSCME Council 3 has been demanding testing, personal protective equipment (PPE), plans and emergency pay for essential employees who have been showing up to work daily during this crisis. The Department of Budget and Management (DBM) and the University System of Maryland (USM) have often been slow to react, and inadequately prepared. This has left workers on the frontline without the resources they need to effectively fight the virus, and Marylanders in need of public services unable to access them. Reopening workplaces is far more complex than closing them and it is imperative that occupational health and safety regulations, procedure's, and systems provide the basis for return to work, as well as in situations where work has continued.

In this document, we will outline the necessary steps and best practices that all State Agencies and the USM need to follow to ensure that workers, those they serve, and their families stay safe during this pandemic. We also recognize the disproportionate impact the COVID-19 virus is having on black and brown communities in Maryland. The unprecedented demand for state services exacerbated by racial inequities in healthcare, the economy, and the criminal justice system, means that now more than ever we need every state and higher education employee on the frontline fully equipped and ready to serve Marylanders. An unprotected worker is an unprotected community.

“Each employer shall furnish to each of his employees employment, and a place of employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm to his employees”

General Duty Clause [Section 5(a)(1) of the OSH Act, 29 USC 654(a)(1)]:

Number 1: Follow the Law and Utilize Best Practices

- I. This section of the Occupational Health and Safety Act requires employers to provide safe and healthful workplaces. The specific language is “Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm to his employees,” which would include protecting workers from exposure to the coronavirus. Workers are responsible for following established procedures and participating in training organized by the employer. Workers should report to their immediate supervisor any situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health. **Workers have the right to remove themselves from any such situation and cannot be required to return until the employer has taken remedial action, as reasonably practicable. When workers exercise this right, they are protected from any undue consequences.**

- II. Dialogue and negotiations between management and the union are central to producing and implementing effective reopening plans. Arrangements which are simply imposed on workers without consultation and union involvement pose a much higher risk, both to workers and to the public in general. **All the evidence shows that workplaces, whether health and care facilities, correctional and youth detention facilities, college campuses, and all places large or small in number where workers come into contact with the public, or offices and other places where significant numbers of workers are together are major vectors for the spread of the virus. Good occupational health and safety protects workers, members of their households and the public.**
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Number 2: Formulate Effective Policy Guidance for a Safe Return to Work

No worker should be subjected to be an “experiment” in a “soft-open” to see if it’s safe to resume normal business again. State agencies and the USM must be accountable and transparent about ensuring that every workplace has a written program to protect workers from the hazards of infectious disease. Employers must develop those plans in cooperation with their workers. This plan must include:

- 1. Determination of points of potential exposure:** Locate the areas and tasks where workers may be exposed to viruses, including worst case scenarios.

2. **Exposure control plan:** Utilize [OSHA's](#) hierarchy of controls to eliminate, substitute, engineer or make policy revisions, and protect workers and the public with PPE to eliminate or control all serious hazards.
3. **Comprehensive worker training,** including information about the virus and disease, points of exposure and exposure control plan.
4. **Continue to meet with the union** while implementing the program and revise it as needed.

Proper plans identify hazards at a worksite and the employer then has an obligation to remediate the hazard by putting in controls, they train employees on these measures, they re-evaluate, and work with a union committee of frontline staff to have all voices at the table. We are looking for transparent, accessible plans that address the following:

 **Hazard Control Measures:**

- Use physical barriers to separate people by at least six feet at all times.
- Schedule the public and workers, including breaks and work shifts, to reduce person-to-person contact.
- Reduce use of shared equipment and schedule regular decontamination when sharing does occur.
- Provide washing stations with water, soap, and clean, drying towels and hand sanitizer stations.
- Provide all necessary personal protective equipment (PPE), training and fit testing at no cost to workers.

 **Provide training to all workers on the hazards that are present, the control plan, and its implementation.**

- Demonstrate and practice putting on and taking off PPE.

- Provide the training in Language workers understand.
- Make sure the training is effective in practice. The workers must understand the training to be able to follow it and properly execute.
- Involve worker representatives and peer trainers in the training.

→ **Monitor use and effectiveness of all hazard control measures.**

→ **Establish a Workplace Health and Safety Committee to monitor the implementation of the plan and recommend necessary revisions**

- The committee must have worker representatives chosen by the union.
- The committee must have no more management representatives than worker representatives.
- Worker and management representatives will co-chair the committee.
- Health and Safety Committees are already required under our AFSCME state contract, and under state labor and employment law for certain sectors.

→ **Make sure workers can report hazards and illnesses and take time off without penalty. Provide access to testing and support for workers impacted by COVID-19.**

- All workers with symptoms or unprotected exposure to infected people should stay home without loss of pay or benefits.
- Encourage workers to report hazards/concerns without fear of retaliation. Eliminate any program that penalizes absenteeism, e.g., weekend makeup, removal from future overtime opportunities, etc.
- Provide Employee Assistance Program (EAP) to help with family hardships. Make COVID-19 testing available for any worker on work time and at no cost.
- Ensure prompt notification of any case to those in the immediate work area and promptly decontaminate all areas that were accessed by those infected.

→ **Provide additional pay to workers who have been and continue to be performing essential duties** Follow the MOU Emergency Pay provisions previously agreed to and compensate all essential and mission

critical employees for their sacrifices made to keep the community safe and healthy during the COVID-19 crisis.

- **Post reports on implementation and progress of hazard control to all workers in a timely, accessible manner; including an up-to-date accounting of confirmed cases at the worksite.**
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Number 3: Coordinated Action Between State Agencies and across the USM

The Maryland Department of Health (MDH), Department of General Services (DGS), Department of Budget and Management (DBM) and the University System of Maryland (USM) have all at one point or another during this crisis deflected responsibility to another state agency. **The Hogan Administration needs to draft written coordination agreements between the MDH, DGS, DBM and the USM to define their roles in holding state agencies and higher education institutions accountable for their reopening plans.**

- Special attention should be paid to ensuring that return to work policies do not discriminate against any workers and that they consider the needs of those in vulnerable situations or populations. **The needs of pregnant workers should be considered, as well as any worker at higher risk of severe illness.**

- **Effective and coordinated communication is essential** to inform managers, workers, and the larger community about the steps being taken to prevent state offices, facilities, and Higher Education institutions from becoming vectors for spreading the virus.
 - **Add signage to entrances, restrooms, and breakrooms requiring the use of facemasks for entrance into public buildings**, similar to the executive order that is still in place for businesses. Include communications to employees on how to properly put on and take off PPEs.
 - Provide workers with **childcare or flexible work options** while schools, camps, and childcare providers remain closed.
 - **Universal and frequent testing** for staff reporting to work in congregate living settings and performing home visits, the individuals in the state's care, and on all higher education campus. Re-test for symptoms every two weeks. Provide comprehensive contact tracing.
 - Investments in necessary **technology infrastructure and equipment** to allow for remote work, and flexible telework policies that take into account the challenges workers can face from doing the work from home.
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Number 4: Comprehensive Reform of the Maryland Occupational Safety and Health (MOSH) Agency.

Maryland is one of 27 states/U.S. territories that have OSHA approved state plans that cover public sector employees. The Maryland state agency that enforces health and safety guidelines for workers is the Department of Labor under its Maryland Occupational Safety and Health (MOSH) division. While having an OSHA approved state plan is the first step to meaningful worker health and safety policy, states must always adjust their laws, regulations, and standards to meet the needs of workers in their state and the public. Among the many things that this pandemic has highlighted is that Maryland's health and safety laws are woefully inadequate in protecting workers during this dangerous

period in their career. We must fix the laws and enable the regulatory agency responsible for enforcing them by investing the necessary resources.

No standard to protect workers from infectious diseases.

- Governor Hogan should direct Maryland Occupational Safety and Health (MOSH) to immediately issue an **Emergency Temporary Standard** to keep workers and the public safe during this pandemic. The Maryland General Assembly should legislate new standards during the next legislative session.
- Currently in Maryland's Labor and Employment Code, there are standards for protecting workers from hazardous chemicals, operating heavy machinery, and workplace safety in the health care industry. There's very little else in state law in terms of protecting Maryland's workers. **We propose the Maryland General Assembly pass legislation during the next session requiring:**
 - Employers to establish, in consultation with their frontline workers (and the exclusive bargaining representative where present), an effective written Injury and Illness Prevention Program (IIPP). The benefits of an effective IIPP include better health and safety outcomes, improving staff morale, increased productivity, and reduced overall costs.
 - Require MOSH to promulgate an infectious disease standard.
 - Require and provide the technological resources for MOSH to enhance their current reporting mechanisms and make them more accessible to the public; including tracking data, investigations, citations, trainings conducted, and employers with repeat offenses to name a few.

Increase Funding for MOSH

- MOSH currently **only has one employee** assigned to handle all of the COVID-19 specific complaints coming in from workers and unions during this pandemic. In March alone, over 800 complaints came into the office.
 - Statewide, MOSH has only 25 OSH compliance officers and 12 industrial hygienists. Maryland has a total workforce of around 2.6 million workers between the private and public sectors; the ratio of MOSH compliance staff to Maryland workers is roughly 1 to 70,270.
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Workers and Employers Can Prevent and Slow the Spread of the COVID-19 by Working Together

The national union for AFSCME has invested significant research resources into developing a series of Health and Safety Fact Sheets that AFSCME members and employers should reference as modeling guidance for reopening plans, as well as guidance for worksites that have been open and serving the public throughout the COVID-19 Crisis. These Fact Sheets, along with sector specific guidance for the work our members perform for the public can be found here:

<https://www.afscme.org/covid-19/resources>

Relevant to the discussion on reopening plans, AFSCME has developed a Health and Safety Fact Sheet which covers best practices for the following:

Office Space Configurations

Meeting Rooms

Lobby and Common Areas

Breakrooms

Restrooms

Ventilation, Temperature and Humidity

Cleaning and Disinfectant

Communication

Training

Reopening Fact Sheet The reopening fact sheet is included in the appendix of this document and should serve as a reminder of the benefits of including workers, through their union, in planning for and implanting policies that promote a safe and healthful return to work for Maryland state and higher education employees.

Maryland deserves better.