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JOINT SENATE AND HOUSE DEMOCRATIC POLICY COMMITTEE

## **Policy Hearing: Worker Protections**

**Wednesday, July 22, 2020 at 11:00 a.m.  
Virtual Zoom Meeting**

### **AGENDA**

- 11:00**     **Call to Order & Opening Remarks**  
**Senator Lisa M. Boscola**, Chair  
**Representative Mike Sturla**, Chair  
**Senator Katie Muth**, 44<sup>th</sup> Senatorial District  
**Senator Lindsey Williams**, 38<sup>th</sup> Senatorial District  
**Representative Elizabeth Fiedler**, 184<sup>th</sup> Legislative District  
**Representative Patrick Harkins**, 1<sup>st</sup> Legislative District
- 11:10**     **Chris Naylor**, Legislative and Political Director, UFCW 1776  
Keystone State  
**Rick Bloomingdale**, President, Pennsylvania AFL-CIO  
**Tom Lipko**, Assistant to the Executive Director, AFSCME Council 13
- 12:00**     **Sun Straight**, Nursing Home Campaign Director, SEIU Healthcare PA  
**Maureen May, RN**, President, PASNAP  
**Arthur Steinberg**, President, American Federation of Teachers PA  
**Jerry Roseman**, Industrial Hygienist, Director of Environmental  
Sciences for the Philadelphia Federation of Teachers Health & Welfare  
Fund
- 12:50**     **Closing Remarks**

**PA Senate and House Democratic Policy Committee Hearing**

**Testimony from United Food and Commercial Workers Union, Local 1776 Keystone State**

**Chris Naylor, Legislative Director**

**Wednesday, July 22, 2020**

Senator Boscola, Representative Sturla and members of the PA Senate and House Democratic Policy Committee,

Thank you for allowing our union to take part in this very important hearing regarding worker protections, especially as we continue to deal with the Covid-19 pandemic here in Pennsylvania.

UFCW Local 1776 Keystone State represents workers in various industries that were deemed essential during this pandemic. Retail grocery stores, drugstores, meatpacking, food processing plants and long-term care facilities all remained opened during the onset of Covid-19, all industries where our members work. Our members prepare, package and sell the food that Pennsylvanians eat. We provide critical services to elderly Pennsylvanians. Our members face great risks of exposure to Covid-19 every day. We coordinated quickly with our members and employers to establish new safety protocols in all of our worksites and acquire hazard pay in the various sectors where our members work. We helped develop new paid leave policies in the event a member contracted Covid-19.

Sadly, this virus did hit our membership hard. Our union has identified 831 members who have contracted Covid-19. These are the cases we know of, and surely there are more. Tragically, 7 of our members have passed away from this virus.

It's painful. This has been one of the most challenging times our members, field staff and everyone associated with our union have ever dealt with. Things have stabilized a bit, but the effects of Covid-19 in our membership are still present.

Frontline workers all across this country are the reason we are able to get through this pandemic. That's why we continue to advocate further for legislative solutions that will help keep them as safe as possible in the worksite; and properly incentivize the work they do. Significant legislation has been introduced and action has been taken, but we can still do so much more to support frontline, essential workers during these times.

I want to highlight some of the significant steps lawmakers have taken so far in order to keep our members safe:

- Senator Tina Tartaglione, as well as Representatives Pat Harkins and Steve Malagari, have introduced Senate Bill 1101, Senate Bill 1102, House Bill 2492 and House Bill 2493, which are known as the Covid-19 Grocery Store and Food Worker Safety Acts. These bills mandate safety policies all employers in retail grocery, pharmacy and food processing must take to keep their employees safe from Covid-19.
- Due to these bills being introduced, Governor Wolf and Health Secretary, Dr. Rachel Levine, were given the blueprint to issue a workplace safety directive that mandated Covid-19 safety policies in all workplaces that were open. This happened on April 15<sup>th</sup>, and this Department of

Health order has helped force bad actor employers to protect their employees. This order has literally saved lives in our membership with a few employers who were slow to act in implementing Covid-19 safety regulations.

- Governor Wolf – with support of the lawmakers on these committees – has mandated masks must be worn in all public places where six-foot distancing is not possible. This has helped reduce the spread of Covid-19 and has provided more justification for our members who continue to urge their employers to enforce mask usage in the workplace. (This has been a flashpoint in some of our retail worksites.)
- And just this past week, DCED has implemented a hazard pay program from the federal funds provided through the CARES Act that will financially acknowledge the great risks and exposure frontline workers experience on a day to day basis.

These steps are important and, on behalf of our 35,000 members and their families, I want to thank you, again, for all of your hard work. Still, I am sure that you will agree, more work must be done.

Increasing the minimum wage, providing further hazard pay, paid leave policies and a national testing strategy are all needed to continue to support workers during this pandemic. But there are two areas we believe state government need to further examine and act on that will save lives and reduce the spread of Covid-19, especially for our frontline workers:

1. The April 15<sup>th</sup> workplace directive is incredibly important and is a game changer in terms of providing safe working conditions for employees and customers. But through no fault of anyone or any agency, the directive does lack real enforcement power unless additional state dollars are being invested into the Department of Health or other agencies that can carry out “compliance checks” on businesses that are open. We want to be clear – our union is not saying this to close down businesses. But I think we are all aware of some businesses in the state who are not taking Covid-19 as seriously as they should. Without random compliance checks (similar to what the Liquor Control Enforcement does with liquor establishments), places of businesses that are not following the health directives that are being issued, will continue to risk the health of their employees and customers.
2. Further, we are calling on all lawmakers to think about various ways that mask usage in public can also be more enforceable. Our members’ largest complaint is about customers that are not wearing masks in a grocery store, drug store, Fine Wine and Good Spirits store, etc. While it is “mandatory” to wear a mask, this mandate lacks enforcement power and comes with no penalty to anyone who chooses not to wear a mask around our members. We need further action to give the various agencies additional dollars to enforce this directive, but also to give local governments the ability to issue fines and citations when needed for those individuals who risk the health and safety of those around them when they choose not to wear a mask. Wearing a mask is not a political statement, it’s a statement that you care about saving lives. Our members need mask usage enforced.

I thank the committee for the time today and am happy to answer any questions they may have.



## Order of the Secretary of the Pennsylvania Department of Health Directing Public Health Safety Measures for Businesses Permitted to Maintain In-person Operations

The 2019 novel coronavirus (COVID-19) is a contagious disease that is rapidly spreading from person to person in the Commonwealth of Pennsylvania. COVID-19 can be transmitted from people who are infected with the virus even if they are asymptomatic or their symptoms are mild, such as a cough. Additionally, exposure is possible by touching a surface or object that has the virus on it and then touching one's mouth, nose, or eyes.

COVID-19 is a threat to the public's health, for which the Secretary of Health may order general control measures, including, but not limited to, closure, isolation, and quarantine. This authority is granted to the Secretary of Health pursuant to Pennsylvania law. *See* Section 5 of the Disease Prevention and Control Law, 35 P.S. §§ 521.1, 521.5; sections 2102 and 2106 of the Administrative Code of 1929, 71 P.S. §§ 532, 536; and the Department of Health's (Department's) regulations at 28 Pa. Code §§ 27.60-27.68 (relating to disease control measures; isolation; quarantine; movement of persons subject to isolation or quarantine; and release from isolation and quarantine). Particularly, the Secretary has the authority to take any disease control measure appropriate to protect the public from the spread of infectious disease. *See* 35 P.S. § 521.5; 71 P.S. §§ 532(a), 1402(a); 28 Pa. Code § 28.60.

Recognizing that certain life-sustaining businesses in the Commonwealth must remain open despite the need for strong mitigation to slow the spread of the virus, I am ordering certain actions to be taken by employers and their employees to protect their health and lives, the health and lives of their families, and the health and lives of the residents of the Commonwealth who depend upon their services. Special consideration is required to protect not only customers, but the workers needed to run and operate these establishments.

As cleaning, disinfecting, and other maintenance and security services performed by building service employees are critical to protecting the public health by reducing COVID-19 infection in the Commonwealth, I previously directed building safety measures in an Order that went into effect at 12:01 a.m. on April 6, 2020. Similarly, based upon the manner of COVID-19's continued and extensive spread in the Commonwealth and in the world, and its danger to Pennsylvanians, I have determined that an additional appropriate disease control measure is the further direction of safety measures for all employees and visitors at life-sustaining businesses that have remained open during the COVID-19 disaster emergency.

Accordingly, on this date, April 15, 2020, to protect the public from the spread of COVID-19, I hereby order:

- A. A business that is authorized to maintain in-person operations, other than health care providers, pursuant to the Orders that the Governor and I issued on March 19, 2020, as subsequently amended, shall implement, as applicable, the following social distancing, mitigation, and cleaning protocols:
- (1) in addition to maintaining pre-existing cleaning protocols established in the business, as specified in paragraph (2) below, clean and disinfect high-touch areas routinely in accordance with guidelines issued by the Centers for Disease Control and Prevention (CDC), in spaces that are accessible to customers, tenants, or other individuals;
  - (2) maintain pre-existing cleaning protocols established by the business for all other areas of the building;
  - (3) establish protocols for execution upon discovery that the business has been exposed to a person who is a probable or confirmed case of COVID-19, including:
    - a. close off areas visited by the person who is a probable or confirmed case of COVID-19. Open outside doors and windows and use ventilation fans to increase air circulation in the area. Wait a minimum of 24 hours, or as long as practical, before beginning cleaning and disinfection. Cleaning staff should clean and disinfect all areas such as offices, bathrooms, common areas including but not limited to employee break rooms, conference or training rooms and dining facilities, shared electronic equipment like tablets, touch screens, keyboards, remote controls, and ATM machines used by the ill person, focusing especially on frequently touched areas;
    - b. identify employees that were in close contact (within about 6 feet for about 10 minutes) with a person with a probable or confirmed case of COVID-19 from the period 48 hours before symptom onset to the time at which the patient isolated;
      - i. If the employee remains asymptomatic, the person should adhere to the practices set out by the CDC in its April 8, 2020 Interim Guidance for Implementing Safety Practice for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19;
      - ii. If the employee becomes sick during the work day, the person should be sent home immediately. Surfaces in the employee's workspace should be cleaned and disinfected. Information on other employees who had contact with the ill employee during the time the employee had symptoms

and 48 hours prior to symptoms should be compiled. Others at the workplace with close contact within 6 feet of the employee during this time would be considered exposed;

- iii. Promptly notify employees who were close contacts of any known exposure to COVID-19 at the business premises, consistent with applicable confidentiality laws;
  - iv. ensure that the business has a sufficient number of employees to perform the above protocols effectively and timely;
- c. implement temperature screening before an employee enters the business, prior to the start of each shift or, for employees who do not work shifts, before the employee starts work, and send employees home that have an elevated temperature or fever of 100.4 degrees Fahrenheit or higher. Ensure employees practice social distancing while waiting to have temperatures screened;
  - d. employees who have symptoms (*i.e.*, fever, cough, or shortness of breath) should notify their supervisor and stay home;
  - e. sick employees should follow CDC-recommended steps. Employees should not return to work until the CDC criteria to discontinue home isolation are met, in consultation with healthcare providers and state and local health departments. Employers are encouraged to implement liberal paid time off for employees who do not return to work as set forth above.
- (4) stagger work start and stop times for employees when practicable to prevent gatherings of large groups entering or leaving the premises at the same time;
  - (5) provide sufficient amount of space for employees to have breaks and meals while maintaining a social distance of 6 feet, while arranging seating to have employees facing forward and not across from each other in eating and break settings;
  - (6) stagger employee break times to reduce the number of employees on break at any given time so that appropriate social distancing of at least 6 feet may be followed;
  - (7) limit persons in employee common areas (such as locker or break rooms, dining facilities, training or conference rooms) at any one time to the number of employees that can maintain a social distance of 6 feet;

- (8) conduct meetings and trainings virtually (*i.e.*, by phone or through the internet). If a meeting must be held in person, limit the meeting to the fewest number of employees possible, not to exceed 10 employees at one time, and maintain a social distance of 6 feet;
- (9) provide employees access to regular handwashing with soap, hand sanitizer, and disinfectant wipes and ensure that common areas (including but not limited to break rooms, locker rooms, dining facilities, rest rooms, conference or training rooms) are cleaned on a regular basis, including between any shifts;
- (10) provide masks for employees to wear during their time at the business, and make it a mandatory requirement to wear masks while on the work site, except to the extent an employee is using break time to eat or drink, in accordance with the guidance from the Department of Health and the CDC. Employers may approve masks obtained or made by employees in accordance with Department of Health guidance;
- (11) ensure that the facility has a sufficient number of employees to perform all measures listed effectively and in a manner that ensures the safety of the public and employees;
- (12) ensure that the facility has a sufficient number of personnel to control access, maintain order, and enforce social distancing of at least 6 feet;
- (13) prohibit non-essential visitors from entering the premises of the business; and
- (14) ensure that all employees are made aware of these required procedures by communicating them, either orally or in writing, in their native or preferred language, as well as in English or by a methodology that allows them to understand.

B. In addition to the above, the following measures apply to businesses, other than health care providers, that serve the public within a building or a defined area:

- (1) where feasible, businesses should conduct business with the public by appointment only and to the extent that this is not feasible, businesses must limit occupancy to no greater than 50% of the number stated on the applicable certificate of occupancy at any given time, as necessary to reduce crowding in the business, and must maintain a social distance of 6 feet at check-out and counter lines, and must place signage throughout each site to mandate social distancing for both customers and employees;

- (2) based on the building size and number of employees, alter hours of business so that the business has sufficient time to clean or to restock or both;
- (3) install shields or other barriers at registers and check-out areas to physically separate cashiers and customers or take other measures to ensure social distancing of customers from check-out personnel, or close lines to maintain a social distance between of 6 feet between lines;
- (4) encourage use of online ordering by providing delivery or pick-up options;
- (5) designate a specific time for high-risk and elderly persons to use the business at least once every week if there is a continuing in-person customer-facing component;
- (6) require all customers to wear masks while on premises, and deny entry to individuals not wearing masks, unless the business is providing medication, medical supplies, or food, in which case the business must provide alternative methods of pick-up or delivery of such goods; however, individuals who cannot wear a mask due to a medical condition (including children under the age of 2 years per CDC guidance) may enter the premises and are not required to provide documentation of such medical condition;
- (7) in businesses with multiple check-out lines, only use every other register, or fewer. After every hour, rotate customers and employees to the previously closed registers. Clean the previously open registers and the surrounding area, including credit card machines, following each rotation;
- (8) schedule handwashing breaks for employees at least every hour; and
- (9) where carts and handbaskets are available for customers' use, assign an employee to wipe down carts and handbaskets before they become available to each customer entering the premises.

This Order shall take effect immediately and be enforceable as of 8:00 p.m. on April 19, 2020.



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Rachel Levine, MD  
Secretary of Health



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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1101 Session of  
2020

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INTRODUCED BY TARTAGLIONE, FONTANA, SCHWANK, BREWSTER, MENSCH,  
MUTH, SANTARSIERO, KEARNEY, A. WILLIAMS, BLAKE, COLLETT,  
IOVINO, LEACH, FARNESE, SABATINA, BOSCOLA, COSTA AND STREET,  
APRIL 3, 2020

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REFERRED TO AGRICULTURE AND RURAL AFFAIRS, APRIL 3, 2020

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AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated  
2 Statutes, providing for pandemic of 2020 guidelines for food  
3 establishments.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 3 of the Pennsylvania Consolidated Statutes  
7 is amended by adding a chapter to read:

8 CHAPTER 75

9 PANDEMIC OF 2020 GUIDELINES FOR FOOD ESTABLISHMENTS

10 Sec.

11 7501. Scope of chapter.

12 7502. Declaration of purposes.

13 7503. Definitions.

14 7504. Guidelines for social distancing.

15 7505. Guidelines for cleaning and personal hygiene.

16 7506. Compensation and benefit policies.

17 7507. Guidelines for attendance policies.

1 7508. Guidelines for infected food employees.

2 7509. Guidelines for communication with food employees.

3 § 7501. Scope of chapter.

4 This chapter relates to food establishments that operate  
5 during the pandemic of 2020.

6 § 7502. Declaration of purposes.

7 The General Assembly finds and declares as follows:

8 (1) On March 6, 2020, Governor Wolf declared a disaster  
9 emergency throughout this Commonwealth in accordance with 35  
10 Pa.C.S. § 7301(c) (relating to general authority of Governor)  
11 as a result of the pandemic of 2020.

12 (2) On March 19, 2020, Governor Wolf issued an executive  
13 order to close all non-life-sustaining businesses in this  
14 Commonwealth to stop the spread of the coronavirus disease  
15 (COVID-19) and combat the pandemic of 2020 as authorized  
16 under section 5 of the act of April 23, 1956 (1955 P.L.1510,  
17 No.500), known as the Disease Prevention and Control Law of  
18 1955.

19 (3) In Governor Wolf's executive order on March 19,  
20 2020, Governor Wolf specifically designated food  
21 establishments as life-sustaining businesses that are allowed  
22 to operate during the pandemic of 2020 to maintain the food  
23 chain supply that nourishes and feeds the residents of this  
24 Commonwealth.

25 (4) Consequently, food employees are essential employees  
26 who are necessary to preserve the health and well being of  
27 the residents of this Commonwealth during the pandemic of  
28 2020.

29 (5) Therefore, it is urgent that food establishments  
30 implement procedures and safeguards to protect food employees

1 from being infected with the coronavirus disease (COVID-19).

2 § 7503. Definitions.

3 The following words and phrases when used in this chapter  
4 shall have the meanings given to them in this section unless the  
5 context clearly indicates otherwise:

6 "Food employee." An employee who works for a food  
7 establishment.

8 "Food establishment." A room, building or place or portion  
9 thereof or vehicle maintained, used or operated for the purpose  
10 of commercially storing, packaging, slaughtering, making,  
11 cooking, mixing, processing, bottling, baking, canning,  
12 freezing, packing or otherwise preparing, transporting or  
13 handling food. The term excludes retail food facilities, retail  
14 food establishments or public eating and drinking places.

15 "Health insurance policy." As follows:

16 (1) Any individual or group health, sickness or accident  
17 policy, or subscriber contract or certificate offered, issued  
18 or renewed by an entity subject to one of the following:

19 (i) The act of May 17, 1921 (P.L.682, No.284), known  
20 as The Insurance Company Law of 1921.

21 (ii) The act of December 29, 1972 (P.L.1701,  
22 No.364), known as the Health Maintenance Organization  
23 Act.

24 (iii) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
25 corporations) or 63 (relating to professional health  
26 services plan corporations).

27 (2) The term does not include accident only, fixed  
28 indemnity, limited benefit, credit, dental, vision, specified  
29 disease, Medicare supplement, Civilian Health and Medical  
30 Program of the Uniformed Services (CHAMPUS) supplement, long-

1 term care or disability income, workers' compensation or  
2 automobile medical payment insurance.

3 "Pandemic of 2020." The coronavirus disease (COVID-19)  
4 outbreak in this Commonwealth.

5 "Retail food establishment." As defined in section 5702  
6 (relating to definitions).

7 "Retail food facility." As defined in section 5702 (relating  
8 to definitions).

9 "Social distancing." A deliberate measure to increase the  
10 physical space between individuals to avoid spreading the  
11 coronavirus disease (COVID-19).

12 § 7504. Guidelines for social distancing.

13 In order to ensure that food employees are practicing social  
14 distancing, the department, in conjunction with the Department  
15 of Health, shall develop guidelines to recommend that an owner  
16 of a food establishment take all of the following actions during  
17 the pandemic of 2020:

18 (1) Make more space available where food employees can  
19 take their work breaks and meal periods, including making  
20 available conference or training rooms or establishing other  
21 temporary accommodations such as heating tents.

22 (2) Adjust work break time periods to reduce the number  
23 of food employees who are on break at any given time.

24 (3) Stagger start times for food employees to mitigate  
25 the exposure of food employees to large groups of other food  
26 employees without the use of any time or attendance tracking  
27 devices.

28 (4) Conduct training sessions and meetings with smaller  
29 groups of food employees or online if access is available.

30 (5) Limit the number of visitors who are allowed access

1 to the food establishment, including limiting access to only  
2 third-party providers and contractors until further notice.

3 (6) Implement self-screening procedures for all visitors  
4 at the entrance of the food establishment, including  
5 inquiries about past travel history and current health  
6 status.

7 (7) Refrain from utilizing temporary food employees  
8 interchangeably between various work sites.

9 (8) Screen temporary employees for the coronavirus  
10 disease (COVID-19).

11 (9) Use temporary employees at the food establishment for  
12 designated time periods of no less than two weeks.

13 § 7505. Guidelines for cleaning and personal hygiene.

14 (a) Required cleaning.--The department, in conjunction with  
15 the Department of Health, shall develop guidelines to recommend  
16 that an owner of a food establishment take all of the following  
17 actions during the pandemic of 2020:

18 (1) Increase the level of cleaning at the food  
19 establishment's facilities, including frequently disinfecting  
20 high-use areas and surfaces.

21 (2) Immediately clean break rooms, locker rooms and  
22 common areas after use by food employees.

23 (3) Limit the number of food employees who are allowed  
24 in a locker room during any given time.

25 (b) Personal hygiene.--The department, in conjunction with  
26 the Department of Health, shall develop guidelines to recommend  
27 that an owner of a food establishment take all of the following  
28 actions:

29 (1) Make available sanitizers and other disinfectant  
30 wipes in common areas and work areas within the food

1 establishment.

2 (2) Provide ample time for food employees to wash and  
3 sanitize their hands.

4 § 7506. Compensation and benefit policies.

5 The department, in conjunction with the Department of Labor  
6 and Industry, shall develop guidelines to recommend that an  
7 owner of a food establishment take all of the following actions  
8 during the pandemic of 2020:

9 (1) Notwithstanding the compensation requirements under  
10 Article IV of the act of December 5, 1936 (2nd Sp.Sess., 1937  
11 P.L.2897, No.1), known as the Unemployment Compensation Law,  
12 provide compensation, at the regular rate of pay, to food  
13 employees who have been infected with the coronavirus disease  
14 (COVID-19) and are unable to perform work functions or are  
15 otherwise subject to quarantine.

16 (2) Maintain the health insurance policy and other  
17 employee-related benefits of food employees who have been  
18 infected with the coronavirus disease (COVID-19) and are  
19 unable to perform work functions or are otherwise subject to  
20 quarantine.

21 (3) In the case of food employees who are eligible for  
22 compensation for a temporary disability under the act of June  
23 2, 1915 (P.L.736, No.338), known as the Workers' Compensation  
24 Act, waive any waiting period requirements for food employees  
25 who have been infected with the coronavirus disease (COVID-  
26 19) and are unable to perform work functions or are otherwise  
27 subject to quarantine.

28 § 7507. Guidelines for attendance policies.

29 The department, in conjunction with the Department of Labor  
30 and Industry, shall develop guidelines to recommend that an

1 owner of a food establishment take all of the following actions  
2 during the pandemic of 2020:

3 (1) Suspend attendance policies for food employees  
4 regarding any coronavirus disease (COVID-19) or quarantine  
5 incident, regardless of whether or not the absence of any  
6 food employee is mandated by a medical professional.

7 (2) In the case of food employees who are required to  
8 provide care for a family member or need to address childcare  
9 issues, refrain from penalizing food employees and allow the  
10 use of any available personal paid time off or provide an  
11 unpaid leave of absence if no personal paid time off is  
12 available.

13 § 7508. Guidelines for infected food employees.

14 The department, in conjunction with the Department of Labor  
15 and Industry, shall develop guidelines to recommend that an  
16 owner of a food establishment take all of the following actions  
17 if a food employee has been infected with the coronavirus  
18 disease (COVID-19) or is otherwise subject to quarantine during  
19 the pandemic of 2020:

20 (1) If the infected food employee has been on the  
21 premises of the food establishment, immediately clean the  
22 area where the food employee was performing work functions  
23 and send any food employee home who worked in the same area.

24 (2) Provide compensation to any food employee who worked  
25 in the same area as the infected food employee at the regular  
26 rate of pay for a time period of no less than 14 days from  
27 the date the food employee was sent home.

28 § 7509. Guidelines for communication with food employes.

29 The department, in conjunction with the Department of Labor  
30 and Industry, shall develop guidelines to recommend that an

1 owner of a food establishment communicate with each food  
2 employee, in writing or verbally in any applicable language, to  
3 ensure each food employee understands the food establishment's  
4 protocols to address the pandemic of 2020.

5 Section 2. This act shall take effect immediately.



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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1102 Session of  
2020

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INTRODUCED BY TARTAGLIONE, MUTH, FONTANA, SCHWANK, BREWSTER,  
MENSCH, SANTARSIERO, KEARNEY, A. WILLIAMS, IOVINO, BLAKE,  
COLLETT, LEACH, FARNESE, SABATINA, BOSCOLA, COSTA AND STREET,  
APRIL 3, 2020

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REFERRED TO AGRICULTURE AND RURAL AFFAIRS, APRIL 3, 2020

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AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated  
2 Statutes, providing for pandemic of 2020 guidelines for  
3 grocery stores.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 3 of the Pennsylvania Consolidated Statutes  
7 is amended by adding a chapter to read:

8 CHAPTER 73

9 PANDEMIC OF 2020 GUIDELINES FOR GROCERY STORES

10 Sec.

11 7301. Scope of chapter.

12 7302. Declaration of purpose.

13 7303. Definitions.

14 7304. Guidelines for social distancing.

15 7305. Guidelines for cleaning and personal hygiene.

16 7306. Compensation and benefit policies.

17 7307. Guidelines for attendance policies.

1 7308. Guidelines for infected employees.

2 § 7301. Scope of chapter.

3 This chapter relates to grocery stores that operate during  
4 the pandemic of 2020.

5 § 7302. Declaration of purpose.

6 The General Assembly finds and declares as follows:

7 (1) On March 6, 2020, Governor Wolf declared a disaster  
8 emergency throughout this Commonwealth in accordance with 35  
9 Pa.C.S. § 7301(a) (relating to general authority of Governor)  
10 as a result of the pandemic of 2020.

11 (2) On March 19, 2020, Governor Wolf issued an executive  
12 order to close all non-life-sustaining businesses in this  
13 Commonwealth to stop the spread of the coronavirus disease  
14 (COVID-19) and combat the pandemic of 2020 as authorized  
15 under section 5 of the act of April 23, 1956 (1955 P.L.1510,  
16 No.500), known as the Disease Prevention and Control Law of  
17 1955.

18 (3) In Governor Wolf's executive order on March 19,  
19 2020, Governor Wolf specifically designated grocery stores as  
20 life sustaining businesses that are allowed to operate during  
21 the pandemic of 2020 to provide food and supplies to  
22 residents of this Commonwealth.

23 (4) Consequently, grocery store employees are essential  
24 employees who are necessary to maintain the health and well-  
25 being of the residents of this Commonwealth during the  
26 pandemic of 2020.

27 (5) Therefore, it is urgent that grocery store owners  
28 implement procedures and safeguards to protect their  
29 employees and customers from being infected with coronavirus  
30 disease (COVID-19).

1 § 7303. Definitions.

2 The following words and phrases when used in this chapter  
3 shall have the meanings given to them in this section unless the  
4 context clearly indicates otherwise:

5 "Customer." An individual who purchases food, food products  
6 or supplies from a grocery store.

7 "Grocery store." A retail establishment, commonly known as a  
8 grocery store, supermarket or delicatessen, where food, food  
9 products and supplies are sold for human consumption off the  
10 premises.

11 "Health insurance policy." As follows:

12 (1) Any individual or group health, sickness or accident  
13 policy or subscriber contract or certificate offered, issued  
14 or renewed by an entity subject to one of the following:

15 (i) The act of May 17, 1921 (P.L.682, No.284), known  
16 as The Insurance Company Law of 1921.

17 (ii) The act of December 29, 1972 (P.L.1701,  
18 No.364), known as the Health Maintenance Organization  
19 Act.

20 (iii) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
21 corporations) or 63 (relating to professional health  
22 services plan corporations).

23 (2) The term does not include accident only, fixed  
24 indemnity, limited benefit, credit, dental, vision, specified  
25 disease, Medicare supplement, Civilian Health and Medical  
26 Program of the Uniformed Services (CHAMPUS) supplement, long-  
27 term care or disability income, workers' compensation or  
28 automobile medical payment insurance.

29 "Pandemic of 2020." The coronavirus disease (COVID-19)  
30 outbreak in this Commonwealth.

1 "Social distancing." A deliberate measure to increase the  
2 physical space between individuals to avoid spreading the  
3 coronavirus disease (COVID-19).

4 § 7304. Guidelines for social distancing.

5 In order to ensure that grocery store employees and customers  
6 are practicing social distancing, the department, in conjunction  
7 with the Department of Health, shall develop guidelines to  
8 recommend that an owner of a grocery store take all of the  
9 following actions during the pandemic of 2020:

10 (1) Place floor markings to indicate where customers  
11 should stand to put distance between each customer while they  
12 stand in the checkout line.

13 (2) Place floor markings to indicate that customers  
14 should stand behind the checkout area until it is time to  
15 complete a transaction.

16 (3) Install plexiglass shields at each cash register and  
17 any other area where customers are allowed to checkout.

18 (4) Establish limits on the amount of customers in the  
19 grocery store at one time.

20 (5) Implement line control procedures indoors and  
21 outdoors with appropriate spacing between each customer.

22 (6) Waive curbside and in-store pickup fees to avoid  
23 crowds gathering inside the grocery store.

24 (7) Designate specific times for high-risk and senior  
25 customers to shop at the grocery store.

26 § 7305. Guidelines for cleaning and personal hygiene.

27 (a) Required cleaning.--The department, in conjunction with  
28 the Department of Health, shall develop guidelines to recommend  
29 that an owner of a grocery store take all of the following  
30 actions during the pandemic of 2020:

1           (1) Reduce the hours of operation for the grocery store  
2 for the purpose of restocking, cleaning and disinfecting the  
3 grocery store.

4           (2) Allow only half of the available cash registers to  
5 be used at one time to provide space in between cash  
6 registers.

7           (3) Require each cashier to switch to another cash  
8 register every hour to allow the previously used cash  
9 registers to be sanitized.

10       (b) Personal hygiene.--The department, in conjunction with  
11 the Department of Health, shall develop guidelines to recommend  
12 that an owner of a grocery store take all of the following  
13 actions:

14           (1) Assign grocery store employees to substitute for  
15 cashiers to allow cashiers to wash their hands with soap and  
16 water for 20 seconds.

17           (2) Provide hand lotion to grocery store employees to  
18 ensure that their hands do not crack as a result of hand  
19 washing.

20           (3) Make hand sanitizer readily available for grocery  
21 store employees.

22           (4) Schedule cashier station sanitation breaks.

23           (5) Assign grocery store employees to rotate through the  
24 grocery store and sanitize frequently touched surfaces,  
25 including credit card and debit card payment screens.

26           (6) Assign grocery store employees to wipe down shopping  
27 carts and hand baskets on a regular basis.

28           (7) Reduce the handling of paper coupons.

29           (8) Prohibit the use of reusable shopping bags for any  
30 purpose.

1           (9) Encourage the use of credit cards and debit cards  
2           instead of cash.

3 § 7306. Compensation and benefit policies.

4           The department, in conjunction with the Department of Labor,  
5 shall develop guidelines to recommend that an owner of a grocery  
6 store take all of the following actions during the pandemic of  
7 2020:

8           (1) Notwithstanding the compensation requirements under  
9 Article IV of the act of December 5, 1936 (2nd Sp.Sess., 1937  
10 P.L.2897, No.1), known as the Unemployment Compensation Law,  
11 provide compensation, at the regular rate of pay, to grocery  
12 store employees who have been infected with the coronavirus  
13 disease (COVID-19) and are unable to perform work functions  
14 or are otherwise subject to quarantine during the pandemic of  
15 2020 as the regular rate of pay.

16           (2) Maintain the health insurance policy and other  
17 employee-related benefits of grocery store employees who have  
18 been infected with the coronavirus disease (COVID-19) and are  
19 unable to perform work functions or are otherwise subject to  
20 quarantine during the pandemic of 2020.

21           (3) In the case of grocery store employees who are  
22 eligible for compensation for a temporary disability under  
23 the act of June 2, 1915 (P.L.736, No.338), known as the  
24 Workers' Compensation Act, waive any waiting periods  
25 requirements for the grocery store employees who have been  
26 infected with the coronavirus disease (COVID-19) and are  
27 unable to perform work functions or are otherwise subject to  
28 quarantine during the pandemic of 2020.

29 § 7307. Guidelines for attendance policies.

30           The department, in conjunction with the Department of Labor,

1 shall develop guidelines to recommend that an owner of a grocery  
2 store take all of the following actions during the pandemic of  
3 2020:

4 (1) Suspend attendance policies for grocery store  
5 employees regarding any coronavirus disease (COVID-19) or  
6 quarantine incident during the pandemic of 2020, regardless  
7 of whether or not the absence of any grocery store employee  
8 is mandated by a medical professional.

9 (2) In the case of grocery store employees who are  
10 required to provide care for a family member or need to  
11 address childcare issues during the pandemic of 2020, refrain  
12 from penalizing the grocery store employees who utilize  
13 personal paid time off or take an unpaid leave of absence.

14 § 7308. Guidelines for infected employees.

15 The department, in conjunction with the Department of Labor,  
16 shall develop guidelines to recommend that an owner of a grocery  
17 store take all of the following actions if a grocery store  
18 employee has been infected with coronavirus disease (COVID-19)  
19 or is otherwise subject to quarantine during the pandemic of  
20 2020:

21 (1) If the infected grocery store employee has been on  
22 the premises of the grocery store, immediately clean the area  
23 where the grocery store employee was performing work  
24 functions and send any grocery store employee home who worked  
25 in the same area.

26 (2) Provide compensation to a grocery store employee who  
27 worked in the same area as the infected grocery store  
28 employee at the regular rate of pay for period of no less  
29 than 14 days from the date the grocery store employee was  
30 sent home.

1 Section 2. This act shall take effect immediately.



# Two of My Colleagues Died of Covid-19

In a meatpacking plant, changes were made too late.

**By Carmen Dominguez**

Ms. Dominguez is a union steward at the JBS beef plant in Souderton, Pa.

- April 29, 2020, 7:00 p.m. ET



Carmen Dominguez outside the JBS beef plant where she is a union steward.

SOUNDERTON, Pa. — On a normal day, work at a meatpacking plant is not easy. The slaughterhouse is boiling hot. People who aren't used to the temperature can feel as if they are experiencing high blood pressure. The freezer is super cold and will amplify any flulike symptoms. Workers wear as many layers as they can to stay warm, but it is difficult.

In the past month, two of my co-workers died from Covid-19. The company instituted protective measures, but it was too late. The virus spread quickly through our communities. I work in a plant with 1,400 employees. A majority of us are immigrants. Companywide communications are translated into Spanish, Arabic and Haitian Creole.

Our work is essential to feeding the nation, yet plants like mine have become hot spots for the virus. On Tuesday, President Trump said that he would [declare meat processing plants](#) “critical infrastructure” to avoid a shortage in the supply chain. Already, thousands of meatpacking workers across the country have become sick at work.



A sign outside the JBS plant in Souderton, Penn., advertising jobs. Credit...Mark Makela for The New York Times

Our union, the United Food & Commercial Workers, demanded at the national level that meatpacking plants restructure themselves to accommodate safety measures and provide personal protective equipment to all employees. Our plant temporarily closed on April 2, before the deaths. At that time, 19 people had tested positive. JBS remodeled the floor in line with coronavirus [safety measures](#) secretary of health for Pennsylvania, Dr. Rachel Levine, ordered. The doors reopened on April 20.

Before this closure, people had started to panic. Social distancing was limited. Employees didn't cover their mouths. In meatpacking plants, workers are piled up on top of one another, often touching because there are so many of us. Many decided to stay at home on leave because they were afraid of becoming infected or of spreading the coronavirus to their families.

In this pandemic we have to live day to day. Now we feel a bit more secure. Employees' temperatures are taken the moment they walk inside to start their shift. Each person is given a mask and a face shield to wear. There are more hand sanitizer stations, and

workers are given time to wash their hands. In the cafeteria, the tables are separated so that people don't have contact. On the floor there are guides so that people know how far apart they should be from one another. There are signs in multiple languages, reminding people to wash their hands often, wear a mask and stay at least six feet apart. Supervisors monitor the flow of employees to make sure there is distancing in the hallways and break areas.

The two people we lost to the coronavirus were most likely exposed to the virus at work before the factory shut down. One, Wilbert Rivera, 49, was already fighting cancer and was on leave. The other was our principal union steward, a 70-year-old Haitian man named Enock Benjamin. He worked at the plant for 12 years and did so much to defend the rights of his colleagues. He was diabetic and suffered from asthma. He loved to work, and he worked until the last moment he could. They will not be forgotten.

During this pandemic, we are living day to day. We don't know the new dangers that we will face in the future. We have to act quickly to protect our essential workers.

Employees' temperatures are taken the moment they walk inside to start their shift. Each person is given a mask and a face shield to wear. There are more hand sanitizer stations, and workers are given time to wash their hands. In the cafeteria, the tables are separated so that people don't have contact. On the floor there are guides so that people know how far apart they should be from one another. There are signs in multiple languages, reminding people to wash their hands often, wear a mask and stay at least six feet apart. Supervisors monitor the flow of employees to make sure there is distancing in the hallways and break areas.

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Ms. Dominguez is a union steward at the JBS beef plant in Souderton, Pa.

<https://www.nytimes.com/2020/04/29/opinion/coronavirus-worker-deaths.html>

TESTIMONY

OF

RICHARD BLOOMINGDALE, PRESIDENT

THE PENNSYLVANIA AFL-CIO

ON

WORKPLACE PROTECTIONS IN REOPENING PA

BEFORE THE

JOINT SENATE AND HOUSE DEMOCRATIC POLICY COMMITTEE

JULY 22, 2020

Richard W. Bloomingdale, President  
Frank Snyder, Secretary-Treasurer

Pennsylvania AFL-CIO  
600 North 2<sup>nd</sup> Street  
Harrisburg, PA 17101

Good morning Chairwoman Boscola and Chairman Sturla,

Thank you for inviting me to testify today. My name is Rick Bloomingdale, and I am the President of the Pennsylvania AFL-CIO. We represent over 700,000 union women and men, and more than 50 international unions across the Commonwealth.

Since the earliest days of the union movement, nothing has been a greater rallying cry for organizing than lack of safety on the job and the undervaluing of the lives of working people.

We applaud the Governor's swift action at the beginning of this crisis. The right decision is not always popular nor easy. But there is nothing more important than protecting the health and safety of our communities and our loved ones. If the Governor had not acted decisively in March or adopted a measured reopening strategy, then Pennsylvania would have suffered an even more overwhelming spike of COVID-19. We are seeing the effects of irresponsible reopening strategies across the country and commit to doing better for Pennsylvanians.

We must follow science and common sense, not partisanship. We must readjust the way we value workers and our community's well-being. Just like it took time for people to buckle up and to wear the protective gear on the job site, these change will take time as well. The problem is that, in a pandemic, time is in short supply to get this right.

While it is crucial to get the economy moving again, we must ensure the implementation of comprehensive safety precautions across all sectors of the workforce. Science must anchor our approach, as our understanding of this virus continues to evolve. We are right to be concerned about our jobs and the economic health of our Commonwealth. And the solution is obvious. We must acknowledge that failing to bring COVID-19 under control and prevent its spread is the greatest threat to the future of our Commonwealth's economy and our community.

Workplace safety is a fundamental factor in getting our pandemic under control and reopening our economy. This virus is no less of a threat to workplace health and safety than a building without fire exits, or a construction site without hard hats. Yet, the situation today in many workplaces is no different than it was in every industry before workers had a voice at the table.

We face an unprecedented challenge, and it is workers who are on the frontlines. We've called these workers essential. We've called them heroes. They are workers in food production, service, childcare, and healthcare workers. And yet, they continue to struggle to receive the support and protection they desperately need.

Workers in low wage, so-called "low skill" jobs have always been the most vulnerable to exploitation. At the beginning of the Industrial Revolution, workers in factories and coal mines were considered expendable. But workers won a place at the bargaining table and used their voice to demand safety on the job. Work in those industries remains hazardous, but they are safer today because of their wins at the bargaining table. They passed OSHA and MSHA 50 years ago, and today we need to follow through.

How do we protect workers?

First, Pennsylvania must take the lead in our COVID-19 response, given the federal government's failure to provide leadership and coherent strategies. We need an emergency protection standard now, with clear guidance for employers on sanitation, PPE requirements, testing and notification protocols, and anti-retaliation protections. Employers who fail to protect their workers must be held accountable.

Access to personal protective equipment remains a significant problem. Workers are having to reuse and ration respirators, gowns, and gloves. Some workers have been forced into reckless "DIY" situations when employers offer no alternative. No health care worker should be asked to substitute a trash bag for a protective gown; this is unacceptable, and the state must take action to ensure employers provide workers the resources they need.

In the years and months before the COVID-19 pandemic became a reality, unions were advocating for raising the poverty-level minimum wage and extending OSHA-style health and safety protections for all workers. We have been fighting an uphill battle on these issues for decades in our Commonwealth, and now inaction and neglect have come home to roost.

Today, more than 570,000 public employees are without statutory safety and health protections on the job. Twenty-nine states have instituted or passed legislation that has ensured public sector workers have safety and health protections workplace. Pennsylvania is not one of them. This must change, and it must change now.

Regardless of where you work, what you do, or who your employer is, all workers have the inherent right to safety on the job, and to come home at the end of their day without fearing they're exposing their loved ones unnecessarily. It is time for our Commonwealth to recognize this fundamental right, and pass legislation that once and for all recognizes that workers, whether public or private, have the right to safety on the job.

Workers must be empowered to advocate for better treatment on the job. Those workers who speak up when they and their coworkers' safety is at risk, must be protected from retaliation.

Second, we must recognize that, in the time of COVID-19, protecting workers goes far beyond the worksite.

What happens when workers get sick? Too many are left without paid sick leave or healthcare coverage. This is a grave risk not only to the physical health of workers but to the financial stability of hundreds of thousands of working families. If workers are forced to decide between a paycheck and staying home when they are ill, then we will not be able to prevent the spread of COVID-19.

We know that in Pennsylvania, before the pandemic, more than 37% of households were in financial hardship. Nearly 40% had zero savings for a rainy day. Most hourly wage workers make less than \$15 an hour and cannot afford rising costs due to COVID-19.

The choice between your paycheck and your health is even worse when so many workers, especially those in essential positions, lack access to affordable healthcare. Workers then weigh the risk of financial ruin versus seeking treatment. If we do not expand access to healthcare or make it possible for working people to stay home when they are sick, we will be punishing the most vulnerable in our community.

We believe that there is dignity in all work. Every job has value, and every worker is an essential member of our Commonwealth. In the words of the late AFSCME President Jerry Wurf, "If there is dignity in all work, then why is there not dignity for all workers."

Pennsylvania workers need action, and they need elected leaders to fight for their dignity and champion their rights on the job.

## **Thomas Lipko – Testimony to House and Senate Democrats – COVID-19 safety – July 22, 2020**

Members of the Committee, my name is Tom Lipko, Assistant to the Executive Director of AFSCME Council 13. I work closely with various Commonwealth agencies to defend the interests of the AFSCME members who make those agencies happen. I want to thank Chairwoman Boscola, Chairman Sturla, and all other Senators and Representatives for having me here today.

I can say without a doubt: it has been working people who have kept our civilization afloat during the COVID-19 pandemic, and AFSCME members have been right there on the front lines. They are keeping our public services alive and caring for the most vulnerable among us. Some have faced furloughs while others have been able to work remotely, but all along, many put on a mask and reported for duty in person.

In addition to road crews, trash collectors, custodians, maintenance workers, and state office clerical staff, AFSCME members are correctional officers, probation officers, and parole agents, who keep our communities safe and face a multitude of dangers, even when there is no pandemic. We represent nurses and staffers at hospitals and nursing homes, who come in direct contact with COVID-19 patients, putting themselves and their families at risk to serve the public and earn a paycheck.

Nationwide, dozens of AFSCME members and retirees have died from this horrible virus, including some of our Council 13 members. We must work for a better system to prevent future deaths and ensure those we have lost did not die in vain.

The unknown elements of this virus along with our nation's shameful lack of preparedness have led to the endangerment and ultimate demise of too many workers and their loved ones. AFSCME Council 13 has worked tirelessly to ensure safe conditions in our members' workplaces, but we need your help.

We acknowledge that none of us have ever faced a situation like this in our entire lives, but we need to embrace this moment as a learning experience, and we need to work together to enact policies that thoroughly protect and properly compensate public employees.

To start, we need to ensure public service workers have the Personal Protective Equipment they need. That means masks, face shields, and gloves, as well as coveralls, washable work clothes, and additional respiratory protection where needed. We must ensure workers have information on what PPE to use, how to use it, and when to use it. We must also provide adequate hand sanitizer, sanitizing wipes, tissues, and trash receptacles.

We need things as complex as workplace-specific infectious disease preparedness and response plans that can help guide protective actions against COVID-19 and its spread.

We need things as simple as policies promoting mask wearing, social distancing, proper handwashing, staying home when sick, sanitizing surfaces, and respiratory etiquette.



We should discourage workers from sharing equipment and telephones, while encouraging routine cleaning and disinfecting of surfaces, equipment, and other areas of the work environment.

We need more teeth in our guidelines and consistent application of those guidelines.

We need better communication and more transparency – employees and their unions should have full access to information regarding COVID-19 cases in the workplace.

Prompt identification and isolation of potentially infectious individuals is a critical step in protecting workers, customers, visitors, and others within worksites.

We should ensure public service workers have more access to free COVID-19 testing. Employees near those suspected of being COVID positive or those traced back to specific individuals should not have to wait and see. These employees should be provided testing as soon as possible to provide them and their families peace of mind.

We need to give employees the resources they need to work remotely as often as possible.

We need to encourage employees to stay home when sick and make sure they have job security if they need to miss work due to contracting the virus, or if they need to quarantine after contact with an infected individual. If employees fear losing their job if they take off for illness, they will risk infecting others by coming to work. They should be able to take leave in these situations and continue to be paid.

And with the inherent risks of going to work, being around others, and servicing the general public, these workers deserve hazard pay. Some Commonwealth and other public sector employees received hazard pay while most did not. Hazard pay cannot be applied so haphazardly. While some jobs are more dangerous than others, every worker deserves some level of additional pay to 1. Compensate them for putting themselves and their families at risk and 2. Provide some extra income at a time when the economy is suffering. Again, we acknowledge this is new territory for everyone, but there must be a better way to provide hazard pay for front-line workers.

Since public sector employees do not enjoy OSHA protections like their private sector counterparts, the least we can do is develop some COVID-specific policies to protect them during a global health crisis, and we can learn from OSHA to do so. In addition to many of the measures that I have already mentioned, OSHA recommends the following:

- Employers providing job-specific education and training on preventing transmission of COVID-19, including initial and refresher training
- Modifying the work environment and/or changing work practices to provide additional protection to workers and clients
- Improving ventilation at workplaces with high efficiency air filters and increased ventilation rates
- Providing clear communication about the risk exposure in the workplace as well as information about how the pandemic may affect certain age groups or people with specific health histories
- In addition to actively encouraging sick employees to stay home, not requiring a healthcare provider's note for employees who are sick to validate their illness or to return to work, as medical facilities may be extremely busy and not able to provide such documentation in a timely manner.
- Working with the insurance companies providing employee health benefits, and state and local health agencies, to provide information to workers and customers about medical care in the event of a COVID-19 outbreak
- Developing emergency communications plans, including a forum for answering workers' concerns and internet-based communications
- Giving special attention and resources to those at high risk of exposure, like workers in hospitals, nursing homes, and other healthcare facilities
- Installing a drive-through system for customer service, where feasible
- Installing physical barriers, such as clear plastic sneeze guards, where feasible
- Ensuring that psychological support is available to address employee stress

Even though public sector workers, again, are not covered by OSHA, they deserve these same rights. Worker rights and Collective Bargaining Agreements remain as important as ever. We must combat management attempts to circumvent contracts in the name of an emergency. We also cannot allow retaliation for employees reporting safety hazards at the workplace or contacting union reps. Labor unions have been a barrier against these kinds of practices, and we would welcome your help on that front, as well.

Council 13 commends and supports the Wolf Administration's handling of this crisis. We appreciate their leadership, and we urge the management of the agencies that employ AFSCME members to follow their lead and offer clear direction.

Another way you, as elected officials, can help public employees is by urging our US Senators to support the HEROES Act, which was passed by the US House of Representatives and would bring \$1 trillion in relief to states, cities, counties, and municipalities. It would ensure some of the protections I mentioned today while saving the jobs of our invaluable public servants. We cannot make a health recovery or an economic recovery without public service workers, so let's protect their jobs and make sure they have what they need to do them safely.

As you know, public service is often difficult and thankless, and that is true for AFSCME members as much as anyone. The least we can do to show just a shred of the appreciation they deserve is to enact protective measures like those I have mentioned here today.

Again, I'd like to thank you for providing AFSCME with this opportunity to speak on behalf of our 67,000 represented employees that are out there working to keep Pennsylvania safe and operational, even during a pandemic. Thank you.

Good morning, my name is Sun Strait, and I'm the Nursing Home Campaign Director for SEIU Healthcare Pennsylvania, where 45,000 frontline healthcare workers in homecare, nursing homes, hospitals and Commonwealth professionals come together to fight for quality care and quality jobs. I'm newer to the Local and to the state, but I've worked with nursing home workers for several years in various capacities, and I care very deeply about the long term care industry and the people who care for our society's most vulnerable citizens. Thank you for the opportunity to speak on a topic that I feel so passionately about.

I believe you all know that just one of the things that this pandemic has done is highlight many systemic issues within the long-term care system and nursing homes in particular. I also know that I'm amongst friends and that I'm in a position where I could be preaching to the choir, and so what I'd like to do is share some personal anecdotes to help illustrate the demands that you've already heard many times from our union members and leadership.

First is funding. Yes, the legislature has approved funding to address emergent needs for COVID, and we are of course appreciative, but there are a couple of points I'd like to emphasize here. One, we need to do more and on an ongoing basis. If nursing homes had been funded adequately for a longer period, I don't believe they would have been hit as hard as they have been. Two, we also need transparency around how the money is spent. We've been getting many frantic phone calls from our members asking us, "How do we know that the money is being spent on what we need to care for residents? How do we know that the money will be spent on us?" We need transparency around the funding now and are supportive of Senator Muth and Dan Miller's legislation for Nursing Home Transparency. We also need to ensure that future increases in funding to long term care are tied to quality incentive metrics that will incentivize employers to work with us and do right by their employees by moving dollars directly to the bedside.

Second would be paid sick leave. These workers are just now being considered essential workers, and were left out of the FFCRA even though they're on the frontline of this crisis. To add insult to injury many long term care workers get very little paid sick leave or don't have paid sick leave, or in some cases they just have PTO which is supposed to encompass sick leave and vacation time. So workers who are getting COVID are being forced to go unpaid or use whatever paid leave they have accrued. Some COVID positive healthcare workers have qualified for workers compensation, but without a presumptive eligibility it can be up to the worker - in the midst of a significant illness - to prove they contracted COVID at work. We need to pass Public Health Emergency Leave legislation that will cover all frontline workers so our healthcare

heroes and all workers who are putting their bodies on the line during this crisis are able to stay home when they fall ill to the COVID virus.

I want to share with you the story of a member of ours named Regina. She's a CNA and on a membership call she told us that many of her residents were sick or dying from COVID, that she had tested positive for COVID, and was trying to recover in quarantine. But before she knew she was even sick; she gave it to her elderly mother who had been hospitalized. She couldn't see her children or her mother and felt so isolated – but despite all of this, she was the **most** worried about her residents. She cared so much and was so overwhelmed that she wondered if she should even continue doing this work anymore. She even wondered if it was worth recovering and staying alive anymore. Hearing her story broke my heart. She probably did not have enough paid sick time to cover being out sick herself, and certainly not enough to care for her mother after she got better, or her children if needed, either. How are essential workers supposed to be able to continue to do the work they do when they can't afford to be out sick?

Last but certainly not least is staffing. Nursing home workers need safe staffing regulations now. I know that our union has been advocating for safe staffing for years, since the regulations haven't been updated in 28 years now, and acuity of the residents has just increased over time; residents are just getting sicker. I worked with a CNA who had to run from laying a resident down to help a coworker whose resident had their stomach burst open after surgery, covering everything with blood and other body fluids. Because of short staffing she had to choose between making sure her resident was safe in bed and helping her coworker and the resident who had just had surgery. The tragic thing here is that her resident ended up getting back out of bed, fell, and bumped her head. The resident was fine, but they tried to fire the CNA for negligence. No healthcare worker should have to make those choices, and they likely wouldn't if they were better staffed. Please consider legislation to improve staffing. There are better ways out there, other models that other states are using to improve staffing, and those models have been proven to work.

Thank you again for this time.

## **POLICY HEARING TESTIMONY - 7.22.2020**

**TOPIC:** Workplace Protections During the COVID-19 Crisis

**TESTIMONY:** Maureen May, RN - President of PASNAP

Hello, Senators and Representatives.

I'm Maureen May, president of the Pennsylvania Association of Staff Nurses and Allied Professionals—or, PASNAP. We are the largest union of healthcare professionals who work in critical care hospitals in the commonwealth. I want to thank you for the opportunity to speak today on behalf of our more than 8,500 members and for your willingness to try to understand exactly what working on the front lines during the initial months of the COVID crisis has meant and how we can strengthen workplace protections for healthcare professionals moving forward.

I am also a practicing registered nurse. I have worked at the bedside for more than 36 years, most recently at Temple University Hospital in Philadelphia, which, as you know, was hit hard by the pandemic in the spring and is likely to experience a second wave in the coming months.

What I will share with you today is born of my own experience working throughout the height of the pandemic and the experience of our members working on the front lines in hospitals throughout Pennsylvania.

I am hoping that my testimony will resonate with you, that you will hear it and take swift and decisive action to protect the very people you rely on to protect your constituents, your communities and your very own families.

Treatments for managing COVID-19 will continue to grow. And a vaccine might be available some day, but it's no reason to relax. COVID-19 is daunting. It's deadly. And according to Dr. Anthony Fauci, founding member of the White House Coronavirus Task Force, truly historic in its ability to spread, to adapt and to defy treatment.

I am quoting him when I say, "We haven't even begun to see the end of it yet."

So let's go back to the beginning.

Our hospitals were not prepared for this outbreak. Our government agencies weren't prepared. And as a result, they were playing catchup during those critical early months of the pandemic in the eastern part of the state.

In the early days of the crisis, Hospitals in "crisis mode," were able to circumvent basic protections and safety standards that have been in place my entire career and resorted to severe rationing of Personal Protective Equipment—what we call PPE.

They often didn't notify workers of possible COVID exposure, wouldn't allow employees to quarantine with pay and completely abandoned long-held infection control safety protocols. As a result we, the frontline caregivers, paid the price.

When healthcare professionals actually had NIOSH-approved N95 respirators, many hospitals had policies that forced employees to use them repeatedly, day after day, when the normal standard, as intended by the manufacturer, was one N95 respirator per interaction with a patient, and then the mask was to be immediately discarded.

In some hospitals, appropriate use of N95 respirators was only related to designated COVID-19 units within the hospital... Then we started to see outbreaks in non-COVID designated areas.

One hospital within PASNAP used KN95 masks that are harder to fit to one's face and harder to provide an airtight seal that protects the employee from airborne viruses.

We saw hospitals that were requiring employees to wipe down and reuse gowns--again, something that wasn't allowed under normal infection control standards.

If a healthcare professional was exposed to a COVID-19 positive patient before the patient's positive tests results came back, in some hospitals, healthcare professionals were told to monitor their symptoms and go back to work, risking further spread of the virus within the hospital.

Healthcare professionals have had a really hard time during the last four months. We often felt that hospitals were putting into place policies that justified their lack of supplies, all at the expense of the health and safety of our patients, our co-workers, our families and ourselves.

Sadly, it's no surprise that thousands of healthcare workers around the state have tested positive for COVID-19. Many fought for their lives, were cared for by their coworkers and some died in the hospitals where they once worked.

This lack of protection for frontline healthcare workers, in equipment and in policy was apparent from the beginning. In March, PASNAP began fighting to hold hospitals accountable for both. After repeated conversations, Pennsylvania Secretary of Health Dr. Rachel Levine announced a new Department of Health order on June 10<sup>th</sup> that, in effect, would force hospitals to be accountable to their employees and ensure that they, and therefore their patients, are safe.

Effective at 12:01 AM on 6/10/2020, the new order from the Pennsylvania Department of Health required that hospitals:

1. Notify staff members who have been in close contact with a confirmed or probable COVID-19 case within 24 hours of the known contact and provide instruction for quarantine and work exclusion.
2. Test symptomatic and asymptomatic hospital staff members who have received notice of close contact with a confirmed or probable COVID-19 case upon request.
3. Procure and distribute nationally approved respirators to the hospital staff member when the staff member determines the mask is soiled, damaged or otherwise ineffective.

4. Require universal masking for all individuals entering the hospital facility except for people for whom wearing a mask would create a further health risk or individuals under age 2.

The Department of Health order isn't perfect, but it represented a big leap forward. The rule protects healthcare workers and therefore patients, and if enforced, it will ensure that hospitals won't once again be caught flat-footed with unsafe practices and insufficient PPE in the event of a predicted second wave of COVID-19. We at PASNAP commend Secretary Levine and Governor Wolf for taking the steps desperately needed to protect nurses, healthcare professionals, and patients.

But we as a commonwealth *can* go farther, and the legislature can help.

1. Healthcare workers should not have to prove how they became infected with COVID-19 when filing a workers compensation claim. COVID-19 is protean in nature. It affects people in wildly different ways: Some have no symptoms or symptoms that are very mild; others are hospitalized; still others die. For some who survive, the virus causes protracted illness, long-term disability and organ failure. The workers compensation law should be amended to list COVID-19 as an occupational disease of occupational exposure for employees of healthcare providers who provide in-person care to patients.
2. We need more PPE. This is still a major concern moving forward. As lawmakers, we turn to you to help get more supplies so that the rationing within hospitals of needed PPE will stop and we can return to the basic safety and infection control standards that we have complied with our entire careers. In order to do this, we simply need more PPE.

We need to look at our experience with the virus so far and learn from it. And we need to prioritize the protection of those on the frontlines—the people who are protecting and caring for all of you.

Frontline healthcare professionals need to feel safe—as safe as humanly possible. And they don't. Not yet. You can help to change that and you must.

It's the moral thing to do. But it's also very practical: Because protecting healthcare workers protects patients. And with infection rates on the rise once again in the commonwealth, we are all potential patients.

I want to thank you again for the opportunity to speak to you and to tell my story, and I would welcome the chance to talk further. Please don't hesitate to reach out if you would like to hear more; if you would like to talk to our members, who are on the ground every day, beating back this virus; or if you would like to collaborate in any way to move protections in Pennsylvania forward.

Thank you.



## **AFT Pennsylvania President Arthur Steinberg**

*Testimony | Joint PA Senate & House Democratic Policy Committee | Hearing on Reopening*

*Wednesday, July 22, 2020 | Virtual*

Thank you Chairwoman Boscola, Chairman Sturla, and the Honorable members of this joint Senate and House Policy Committee, for allowing me the chance to speak this morning.

My name is Arthur Steinberg, and I'm the president of AFT Pennsylvania the Pennsylvania affiliate of the American Federation of teachers. I'm here on behalf of our 36,000 members and 61 locals to Discuss the important decisions ahead of the General Assembly counties, municipalities, school districts, educators, and parents across the Commonwealth with regard to reopening schools this fall, and how to protect workers , families , and communities.

First, I would like to begin by thanking educators for a heroic and remarkable performance over the last four months. While everyone had to take school closures, virtual learning, and stay at home orders day by day, educators across the Commonwealth and the nation continued to show up every day for their students.

Teachers want to be back in their classrooms. We know the limits of remote instruction and the harm of prolonged isolation for students. We know that children best connect, learn and thrive when they're in school in person, and that public schools feed kids every day, in normal times. Additionally, not every child and teacher have access to the technology and broadband internet needed to teach virtually. We want to be back in school, but we need to know that teachers, students, and staff are safe.

We only have one chance to get reopening schools right. The novel coronavirus, COVID-19, is deadly.

However, before we can even consider reopening schools, there are dangers to mitigate and public health benchmarks to hit in order to protect the educators and workers who occupy those buildings every single day.

In Pennsylvania, nearly a quarter of K-12 teachers may be at higher risk of contracting a severe case of COVID-19 because they are over 50 years old. Add to that anyone younger than 50 who has pre-existing conditions like asthma, diabetes, or hypertension. Then, add to that any educator who does not fit into either of these categories, but lives with and/or cares for someone who is a member of a vulnerable population. That number becomes staggering quickly.

Additionally, many staff are in close, daily contact with a large number of children and some staff members in particular have direct responsibility for: [a] helping ill or potentially ill students and staff (e.g. school nurses); [b] working with children with special needs of

various kinds who require diaper changes, toileting assistance, help with eating, etc. [school educational and support staff]; and [c] for wiping down “dirty” surfaces and for cleaning up spills, that may include bodily fluids.

For these reasons, before schools can open, districts must identify all high-risk staff and students in order to develop and implement special precautions to reduce their opportunity for exposure. As well as identify staff members who reside in the same household and/or who are in regular close contact with high risk individuals and follow the same guidelines.

Teachers also face practical health care issues. For instance, new teachers starting this year in the School District of Philadelphia will not receive health insurance coverage until October, leaving them with nearly six weeks of potential exposure to a devastating disease without the financial safety that seasoned educators and administrators enjoy.

Our Commonwealth, counties, and school districts must also provide adequate testing, contact tracing, and plans for quarantine and isolation before schools can reopen. And schools must be provided the resources and expertise to ensure HVAC systems are properly functioning and providing adequate ventilation and air circulation.

AFT Pennsylvania does not believe schools should open unless there is a sustained downward trajectory in positive COVID-19 cases. Specifically, we believe that positivity rate must be 5% or lower over 14 days and incidents be fewer than 50 cases per 100,000 of population over the course of 14 days, with an Effective Reproduction Rate below 1 for 14 days.

If and after all of these conditions are met, then we must ensure that adequate PPE is supplied to each open school building.

Although we are still learning about this disease, studies published within the past two weeks by the CDC and the Journal of the American Medical Association suggest that “cloth face coverings are one of the most powerful weapons we have to slow and stop the spread of the virus.”<sup>1</sup> Therefore, we also must stand firm in our assertion that schools will not be safe to occupy if and until Personal Protective Equipment (PPE) is made universally available. 100% compliance by students, especially those in kindergarten through third grade, ample PPE supplies must be guaranteed for teachers and staff. PPE are our last line of defense against this virus; without it, returning to school will be impossible.

In order to provide more in-depth scientific data, I would like to yield the remainder of my time to Jerry Roseman, Director of Environmental Sciences for the Philadelphia Federation of Teachers Health & Welfare Fund.

We at AFT Pennsylvania are grateful to this committee for holding this forum to hear about how reopening will affect workers. We are especially grateful given that those at the

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<sup>1</sup> <https://www.cdc.gov/media/releases/2020/p0714-americans-to-wear-masks.html>

highest levels of our federal government do not believe that the guidance from the Centers for Disease Control should impede schools opening.

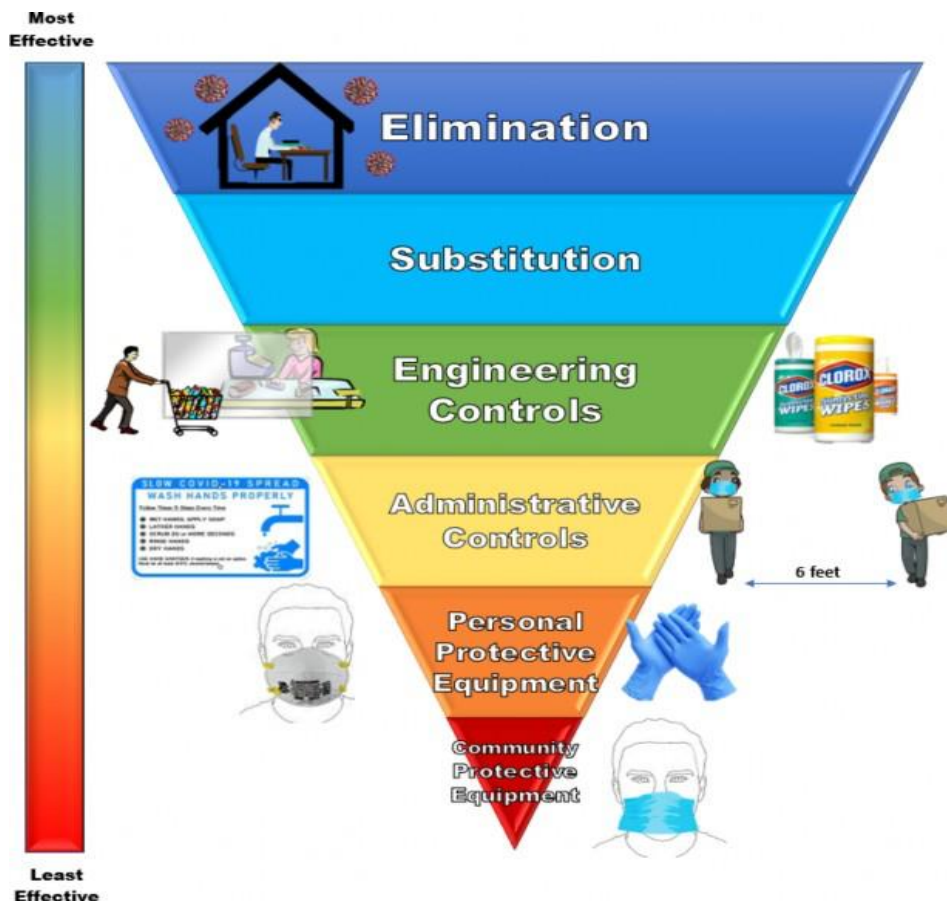
Teachers should not feel the need to write or update their last will and testament before heading back to school.

Thank you.

Good Morning and thank you for providing me with an opportunity to speak with you today.

My name is Jerry Roseman and I work as the Director of Environmental Science for the PFT Health and Welfare Fund and Union.

- As we consider the reopening of schools we should all be able to agree on the primary objectives needed for safely bringing students and staff back into the buildings. Those objectives include occupant health and safety, educational programming and the importance of in-school face-to-face instruction, issues of equity and educational justice, and the critical importance of normalizing everyday life and getting back to work.
- Protecting the health, safety and welfare of all students and staff should be the first and primary concern for school reopening.
- When facing a serious contaminant situation like asbestos, lead and now the virus that causes Covid-19, the CDC recommends following something called the “Hierarchy of Controls” when implementing techniques for protecting those potentially exposed to dangers in buildings.



- As you can see in the graphic above, and in order of decreasing effectiveness, the hierarchy of controls directs us to do the following:

- (1) First, is to eliminate or substitute the hazardous exposure from the working environment if possible. For Covid-19 and the virus that causes it, that involves ensuring that no one who is infected with the virus is in a school – something that is clearly not possible but can be closer to being achieved by following the AFT Pennsylvania recommended approach.

- (2) If we can't eliminate the hazard we should then try to use "Engineering Controls" including ventilation, surface cleaning, and barriers to reduce exposures to virus.

- (3) The 3<sup>rd</sup> step involves the implementation of "Administrative Controls" – these are measures that individuals can take to lower their exposures. This can include complying with "Physical Distancing" rules and "Personal Hygiene" efforts including regular hand washing.

- (4) Finally, if all else is insufficient to effectively control exposure such that unacceptable risk remains, then, and only then, do we consider and allow for the use of Personal Protective Equipment (PPE).

- Implementation of lower level controls such as PPE, distancing, ventilation, cleaning, and personal hygiene are only considered acceptable as temporary measures while higher level controls, such as "hazard elimination and/or substitution" are being put in place.

- AFT Pennsylvania recommendations and planning documents considers the "Community Health Gatekeeping Benchmarks" we are discussing here today as the "Hazard Elimination" step that will, if not get rid of the exposure risk inside the school building, at least lower exposures to minimally acceptable levels **before** a return to schools.

- Our recommendations follow the "Precautionary Principle" standard that is a Public Health precept designed to ensure that if a mistake is made in decisions regarding the exact health risk posed by a dangerous exposure it is always better to err on the side of being over protective rather than under protective and to make certain that those most vulnerable and most at risk are always fully protected.

- Just last week Governor Wolf said, "During the past week we have seen an unsettling climb in Covid 19 cases" and Philadelphia's Mayor said, "We've seen it very clearly that when you open up too fast and too recklessly, you throw it back almost to a red phase."

- There is still a lot we are unsure of with respect to the hazards posed by the Covid-19 virus including the role of children in disease transmission and their risk of illness, airborne virus exposure risks, and infection rates in general.
- So before talking about a starting date for reopening let's talk about the Community Health "gatekeeping" benchmarks being recommended by the AFT Pennsylvania as metrics that must be met before we consider any return to school.
- We've developed a 3-part strategy all of which need to be met before reopening.
- The 1<sup>st</sup> is that a sustained downwards trajectory of local cases must be maintained – this will of course document that the total numbers of those diagnosed with Covid-19 are continuing to decline.
- The 2<sup>nd</sup> is ensuring that the "Positivity Rate" is less than or equal to 5% over the most recent 14-day period – this is a basic W.H.O. recommendation and one adopted by many other health organizations and agencies as well.
- The Positivity rate reflects the percentage of positive tests out of the total number of tests conducted over a period of time.
- High positivity rates typically indicate inadequacies in testing capacity – with the idea being that if we don't test enough we don't know enough.
- Low positivity rates, on the other hand, support the fact that enough testing is being done to make informed decisions about reopening schools.
- We therefore recommend that in addition to the downward case trajectory the positivity rate of  $\leq 5\%$  should also be complied with before we consider bringing staff and students back into school.
- A 3<sup>rd</sup> metric is also recommended by the AFT Pennsylvania - this is the "Transmission Rate" associated with Covid -19 referred to as the "R" Number. We have stated, in our plan, that this should also be used prior to considering a return to school.
- The R # describes how many uninfected people, under a given set of conditions, would become infected if exposed to someone with Covid-19. In order to stop viral spread and see the virus "die out" requires that the effective R# is below and that it remains below 1 for at least 14 consecutive days prior to any return to school buildings.
- These 3 "standards", taken together, are considered by us as consistent with meeting the highest order step in the CDC hierarchy of controls and should be

implemented prior to restarting face-to-face instruction in schools.

- This approach has been developed by us to ensure that cases are low and declining, that enough testing is being done and that transmission is being effectively controlled. Only once these are all met should we think it might be safe to return to in-school learning and teaching.
- Although I won't be addressing these other mitigation strategies in any detail here today there are a few points that I believe are important to highlight:

1) Cleaning must be done during school hours but it **also must occur after school as well once all students and staff have left the buildings**. This requires more cleaners and more resources as well as daily verification to ensure cleaning has been effectively accomplished.

2) Ventilation control – meaning increased fresh air and virus dilution - is a critical element of any return to school planning and this is an area that I think may not be well understood in sufficient detail by the public.

- Dilution of airborne virus exposures by ventilation measures are only accomplished by upping the levels of fresh “outside air” [OA] in occupied rooms and spaces and increasing exhaust and air exchange rates in those same areas to well recognized and long-recommended standards.
- For many reasons, including scale and scope of current HVAC system deficiencies, the time, complexity and costs associated with fixing these systems, and ongoing system maintenance needs these improvements are not possible in very many schools and spaces certainly not in the short term.
- Portable fans that move air around within spaces are not a suitable control – **they do not** provide any additional fresh air whatsoever and they present an additional potential risk associated with the possibility of actually spreading the virus throughout a space resulting in additional risk and exposure to others.
- The same is true with window air conditioners. These are cooling and dehumidification system elements that help with reducing heat and humidity in classrooms but they too typically provide no fresh OA and also can simply act to recirculate and blow possibly already contaminated room air throughout a space.
- The above comments about specific mitigation strategies are not meant to suggest that it is impossible to lower airborne virus load and transmission to some identified and acceptable degree but to do so in an appropriate and practical manner is a “the devil is in the details” type of approach.
- In conclusion it's important to recognize that in order for anyone to be able to

“know” with enough certainty, and to independently verify what needs to be done, what can be done, and what has been done in our schools, about ventilation, cleaning and physical distancing, requires the provision and sharing of detailed information, of the current use, size, square and cubic foot dimensions for all rooms and spaces in all schools. It also requires a detailed listing of all mechanical systems present, by school and space, to include the type, size, capacity and ability of each system component necessary to control and deliver fresh OA to each space.

- Without this level of detail being made available for planning, there is simply no effective, data-based way to proceed further at this time.

Thank you again and I am happy to answer questions and to provide further details and information as requested.