

Reimagining Workplace Protections for Temporary Workers

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Temp staffing agencies hire workers for temp jobs at host companies, and the staffing agency serves as the employer of record for the job's duration. Though initially introduced for short-term needs, staffing agencies are increasingly providing workers for long-term engagements.¹ Since 2009, temp agency jobs have grown 4.35 times faster than jobs overall.² As temp work has grown, job quality has deteriorated, with temp workers earning 20 to 25 percent less an hour than those in permanent direct-hire positions.³ Abusive practices combined with few legal protections create dangerous and substandard conditions for temp workers, who are disproportionately Black and Latinx.

This fact sheet, extracted from the report *Reimagining Workplace Protections: A Policy Agenda to Meet Independent Contractors' and Temporary Workers' Needs*, highlights key challenges faced by temp workers and offers actionable policy solutions.

TABLE 1

Challenges to Temp Workers' Rights and Protections and Possible Solutions

Challenge	Solutions
Discrimination is widespread in temp staffing agencies. Some agencies refer applicants to jobs based on host company preferences for workers of a certain race, sex, national origin, and/or age, or absence of a disability.	<ul style="list-style-type: none"> Require temp agencies to report demographic data on the workers they place at host companies. Promote joint-employer responsibility, meaning both the temp staffing agency and host company are liable for violations of worker protection laws. Provide additional resources to workers and worker advocacy groups to address retaliation.
Temp staffing agencies create a second class of workers who are typically paid less and provided fewer benefits than directly hired workers who perform the same work.	<ul style="list-style-type: none"> Pass legislation to provide basic protections under the law that provide temp workers with equal compensation to direct-hire employees. Introduce clear, mandatory, and enforceable health and safety standards that create accountability for both host companies and staffing agencies.
New technologies, including platform-based and algorithmic hiring, can complicate questions over who is legally responsible for worker protections and hide systemic discrimination.	<ul style="list-style-type: none"> Provide workers, regulators, and the public with needed information about how algorithmic management systems make decisions. Provide a process to audit systems and challenge automated decisions.

Promising Solutions

- Massachusetts' Temporary Workers Right to Know Act, passed in 2012, requires that staffing agencies provide workers a job order with key information in writing before new assignments.⁴ The law also prohibits staffing agencies from charging fees for obtaining a job, getting a background check, or using required transportation.

Substandard working conditions for temp jobs disproportionately harm workers of color, who are overrepresented in these jobs. In the most recent BLS Contingent Worker Supplement, Black workers accounted for 12.1 percent of the overall workforce but 25.9 percent of the temp workforce. Latinx workers make up 16.6 percent of all workers but 25.4 percent of temp workers.⁵

- Illinois enacted the Responsible Jobs Creation Act in 2015, fueled by the Chicago Workers' Collaborative and strong on-the-ground worker organizing of temp workers. The law holds staffing agencies and host companies jointly responsible for wage-and-hour violations, requires agencies to provide workers with central information in writing, prohibits agencies from charging fees for transportation or background checks, requires agencies to attempt to place temp workers in permanent positions as they become available, and requires temp staffing agencies to retain race and gender information of workers referred to host companies.
- Washington State's Senate introduced a Temp Worker Safety Bill in 2019, which requires agencies to visit host companies to review safety and health practices and hazards and provide necessary training to workers.⁶

How Many Temp Workers Are There?

In 2019, BLS estimated there were more than 3 million temp agency jobs.⁷ The same year, the American Staffing Association reported 16 million people held temp positions, reflecting both a broader definition that includes subcontracted staffing firms and the high turnover of this work.⁸ Because staffing agencies place workers at a range of companies, much less is known about the distribution of temp workers across different industries and types of work.

Notes

¹ Erin Hatton, *The Temp Economy: From Kelly Girls to Permatemps in Postwar America* (Philadelphia: Temple University Press, 2011).

² National Employment Law Center (NELP) analysis of Current Employment Statistics, NAICS 561320, June 2009 to September 2018, available at "Current Employment Statistics – CES (National)," BLS, accessed October 1, 2020, <https://www.bls.gov/ces/data.htm>; "Lasting Solutions for America's Temporary Workers" (New York: NELP, 2019), <https://s27147.pcdn.co/wp-content/uploads/Lasting-Solutions-for-Americas-Temporary-Workers-Brief.pdf>.

³ "Current Employment Statistics – CES (National)," BLS; "Lasting Solutions for America's Temporary Workers," NELP.

⁴ "Your Rights Under the Massachusetts Temporary Workers Right to Know Law," Mass.gov.com, accessed October 1, 2020, <https://www.mass.gov/doc/c8-ma-notice-of-temporary-workers-rights-english/download>.

⁵ "Contingent and Alternative Employment Arrangements," BLS, accessed October 1, 2020, <https://www.bls.gov/news.release/conemp.toc.htm>.

⁶ See S.B. 6122 (2020), <https://app.leg.wa.gov/billsummary?BillNumber=6122&Initiative=false&Year=2019#documentSection>.

⁷ "Current Population Survey, Temporary Help Services Workers," BLS, accessed October 1, 2020, <https://www.bls.gov/webapps/legacy/cesbtab1.htm>.

⁸ "Staffing Industry Statistics," American Staffing Association, accessed October 1, 2020, <https://americanstaffing.net/staffing-research-data/fact-sheets-analysis-staffing-industry-trends/staffing-industry-statistics/>.