



Temp Workers Demand Good Jobs:

Survey reveals poverty pay, permatemping, deceptive recruitment practices, and other job quality issues

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About Temp Worker Justice

Temp Worker Justice (TWJ) is the national organization for temporary workers, founded in 2019. It empowers workers and workers' organizations seeking justice and fairness in the workplace. TWJ provides research and education, and connects workers to on-the-ground organizing and legal support. It builds the capacity for action through partner organizations and workplace leaders, advancing workers' rights. Learn more at www.TempWorkerJustice.org.

About Chicago Workers Collaborative

Chicago Workers' Collaborative is a worker center founded in 2000 to promote the creation of stable, living wage jobs with racial and gender equity for the lowest wage-earners, primarily temp staffing workers, in the Chicago region, through leadership and skills training, critical assistance and services, advocacy and collaborative action. CWC is a 501(c)(3) nonprofit organization. Learn more at www.chicagoworkerscollaborative.org.

About Mississippi Workers' Center for Human Rights

The Mississippi Workers' Center for Human Rights (MWCHR) is a 501(c)(3) nonprofit organization founded in 1996 to provide legal advocacy and training for low-wage Black workers. Through direct action/public awareness campaigns, legal advocacy, and popular education, MWCHR collaborates with workers to create better workplace conditions and ensure that all workers are treated with dignity and respect and have equal access to good jobs and humane living conditions, regardless of their race, creed, gender or religion. Learn more at www.msworkrights.org.

About the National Employment Law Project

Founded in 1969, the National Employment Law Project (NELP) is a leading nonprofit advocacy

organization dedicated to building a just and inclusive economy where all workers have expansive rights and thrive in good jobs. Together with local, state, and national partners, NELP advances its mission through transformative legal and policy solutions, research, capacity-building, and communications. Learn more at www.nelp.org.

About New Labor

Founded in 2000, New Labor is an organization that educates, organizes, and fights for better work conditions and social justice in the workplace. With a base of around 4,000 members, and centers in New Brunswick, Lakewood, and Newark, New Jersey, New Labor organizes to empower members and amplify their voices in the community, workplace, and political realm. New Labor is a 501(c)(3) organization. Learn more at www.newlabor.org.

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Founded in 1996, the North Carolina Justice Center is a 501(c)(3) nonprofit organization, working on issues of concern to North Carolinians with low incomes. As a leading progressive research and advocacy organization, our mission is to eliminate poverty in North Carolina by ensuring that every household in the state has access to the resources, services, and fair treatment it needs to achieve economic security. Learn more at www.ncjustice.org.

About Warehouse Workers for Justice

Warehouse Workers for Justice (WWJ) is a worker center founded in 2008 to win stable, living wage jobs with dignity for the hundreds of thousands of workers in Illinois' logistics and distribution industry. WWJ provides workshops about workplace rights, unites warehouse workers to defend their rights on the job, builds community support for the struggles of warehouse workers and fights for public and private policies that promote full-time work at decent wages in the warehouse industry. WWJ is a 501(c)(3) nonprofit organization. Learn more at www.ww4j.org.

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Introduction

Antonia Bannister fears for her younger brother's safety every day he works as a "temp" at a Jacksonville, Florida, warehouse picking and packaging high-priced clothing and accessories for the global multi-billion-dollar luxury fashion brand Coach.



Coach, like many major corporations operating warehouses and factories in Jacksonville, contracts with a company called Remedy Intelligent Staffing to supply a sizable portion of the labor at its distribution hub in the city.¹

Antonia's younger brother is a Remedy "temp" just like two of his older siblings had been.

Back in 2012, Remedy placed their older brother, Lawrence "Day" Davis, at a Bacardi bottling plant in Jacksonville. It was his first job ever, and 90 minutes into his first day, he was killed in a machine accident. He was just 21 years old—the same age Antonia's younger brother is now.²

The U.S. Occupational Safety and Health Administration identified Day's death as part of a pattern of temp workers dying on their first days on the job. His death was part of what prompted the agency to launch its Temp Worker Initiative to improve safety for temp workers and lay out the joint responsibility of both "host employers" like Bacardi and staffing agencies like Remedy in ensuring it.³

The initiative was an important step. And more needs to be done. Antonia knows firsthand. After Day's death, Antonia became the eldest sibling, felt a new sense of responsibility to her family, and vowed that she would never take a job that put her safety at risk. But "times get hard, and a lot of time it's only the warehouses and factories, only hiring through temp agencies, that have work readily available when you need it most." Desperate for work, she had to go to the same staffing agency that employed Day. "It never felt right, but it was my only option."⁴

Antonia worked in warehouses for Remedy for a total of 5 years, 4 of which were at Coach's old warehouse location in Jacksonville. While there, she once injured her ankle when she was not provided with the proper equipment to safely do her job, and once fainted because of extreme heat in the warehouse. After neither incident did Coach nor Remedy ask Antonia whether she needed to see a doctor. Each time, she was sent to an onsite medical room, given ice or water, then expected to return to work. She was forced to seek out and pay for medical treatment on her own for her ankle injury, and doubts that the injury was even logged by her employers.

Antonia explains that temp workers in Jacksonville's industrial parks are often placed in more dangerous jobs than permanent workers at their worksites, safety training is lacking, and host employers fail to show concern, treating temps as disposable. "As a temp, they don't care about your safety, or us as people," she says. "Everybody is

expendable because the staffing agency can always get another person to work that position.”⁵

As a “permatemp” at Coach for four long years, she worked with stagnant wages, no benefits, no paid time off, no sick time, “no freedom” to balance her life with her work. She earned less in wages and benefits than permanent workers, and unlike them, her seniority provided her no say in selecting a floor assignment.⁶

When she was finally offered a permanent position for a meager 25-cent raise, she quit. After her 4 long years, she says the offer “made me feel like I had no value.”⁷

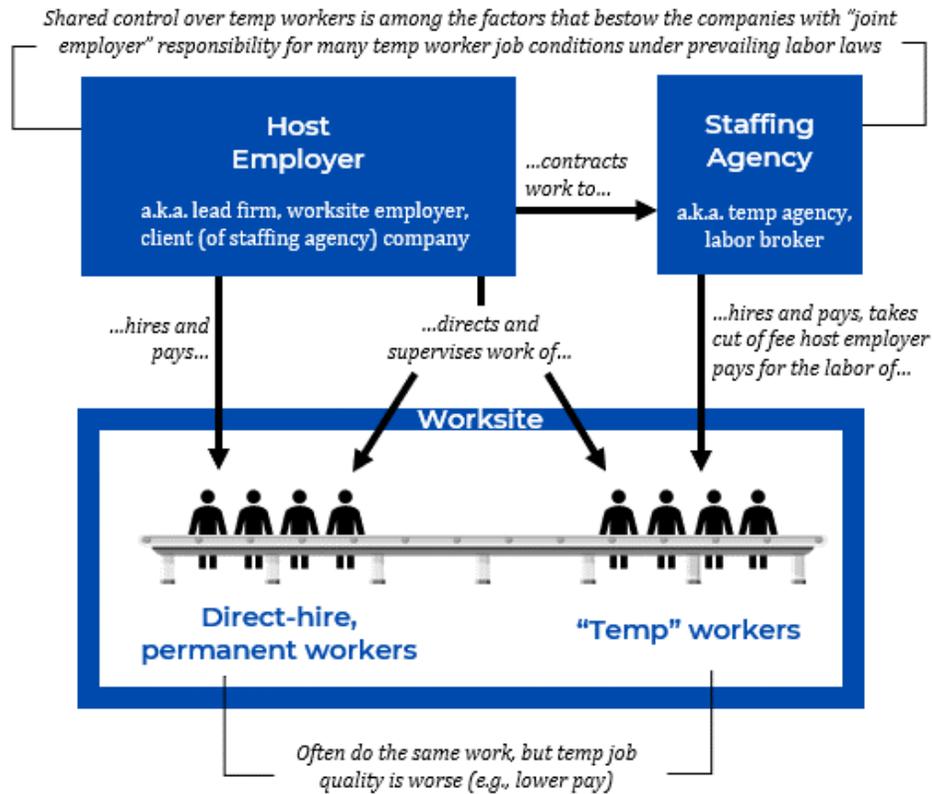
Antonia found a job in daycare, and she does hair for extra money—she hopes to open her own salon one day.

Although Antonia is no longer a temp worker, her years of experience as one, the trauma of losing Day to a temp job, and her younger brother’s current temp employment, have made her a fierce advocate for temp worker rights. She joined the National Temp Worker Council of a national temp worker advocacy group called Temp Worker Justice (TWJ) in 2020. Through her work with TWJ, she’s speaking out and raising awareness about the dangers and insecurity of temp work, the inequity it creates in workplaces, and she’s fighting to make work better and safer for temp workers like her younger brother.

**

Antonia’s family’s experience working for companies that employ workers through staffing agencies—the grave health and safety issues they have had to deal with, the permatemping, the wage and benefit penalties relative to permanent and directly hired workers—is indicative of the experience of millions of temp workers in the United States. Remedy Intelligent Staffing is part of a large, globalized temporary help and staffing industry that supplies labor to companies that have decided to temp out their workforces in nearly every U.S. industry.⁸ And Coach is just one of many corporations that contract work throughout their supply chains to staffing agencies rather than hiring workers directly.⁹ See the diagram below for more information on “temp” work players and relationships.

“Temp” Work Players and Relationships



In December 2021, nearly two years into the COVID-19 pandemic, employment via U.S. temporary help and staffing agencies was 2.8 million.¹⁰ According to temp industry estimates, between 13 and 16 million U.S. workers find work via staffing agencies each year.¹¹

During the COVID-19 pandemic, a surge in e-commerce has spurred growth in industries such as warehousing, where companies use temporary help and staffing agencies at a relatively high rate.¹² In March 2020, days after the pandemic was declared, the Retail Industry Leaders Association, whose members including Walmart and Kroger, partnered with the staffing industry’s largest trade group, the American Staffing Association, to launch a staffing agency database where retailers could find labor to supply their warehousing, retail store, and other operations.¹³

After a drop during the first month of the pandemic, growth in the volume of temp work has outstripped that of all private sector work by a factor of 2.5.¹⁴ U.S. staffing industry revenue was projected to grow 16 percent to a record \$157.4 billion in 2021.¹⁵

The prevalence and projected growth of companies employing workers via staffing agencies is a concern. Evidence shows that, under current law and employer practice, a host employer contracting out work to a staffing agency reduces job quality for workers,

and breeds inequality and racial segregation within workplaces and in the broader labor market.¹⁶

To better understand the job quality issues that temp workers face, Temp Worker Justice (TWJ) partnered with several worker and advocacy groups—the Chicago Workers Collaborative, Mississippi Workers’ Center for Human Rights, New Labor (New Jersey), Warehouse Workers for Justice (Illinois), the North Carolina Justice Center, and the National Employment Law Project—on a national survey project between 2019 and 2021. In total, 1,337 workers from 47 U.S. states participated in the TWJ Survey Series. Temp workers employed by staffing agencies including Aerotek, Adecco, Manpower Group, Kelly Services, Robert Half, and Randstad, and working for host employers including Amazon, Walmart, Google, and Tyson Foods, answered questions about issues like pay, benefits, health and safety, discrimination, and employer retaliation. *See the Appendix for more on the TWJ Survey Series methodology and sample.*



Key findings from the TWJ Survey Series:

- **Wage theft:** Nearly 1 in 4 (24% of) temp workers reported that, while working as a temp, their employers have stolen wages from them in at least one of three ways—paid less than the minimum wage, failed to pay the overtime rate, or failed to pay for all hours worked.
- **“Permatemping”:** More than 1 in 3 (35% of) temp workers reported that their current temp assignment had lasted over 1 year, and 18 percent reported that their current temp assignment had lasted over 2 years.
- **Workplace injury:** More than 1 in 6 (17% of) temp workers reported experiencing a work-related injury or illness while employed through a staffing agency. Of those workers who reported experiencing a work-related injury or illness, 41 percent said that they covered healthcare costs themselves, out of pocket or through their own health insurance.
- **Employer retaliation:** Nearly 3 in 4 (71% of) temp workers said that they experienced some form of retaliation for raising workplace issues with a supervisor or management.
- **Interest in joining a worker organization:** Fully 4 in 5 (80% of) temp workers reported interest in joining a worker organization like a union that works to improve conditions for temp workers.

Temp workers are organizing in their workplaces and advancing public policy campaigns to address the issues listed above, as well as others.

This report provides an overview of key temp worker job quality issues, drawing on government data and the TWJ Survey Series. The stories of temp worker leaders and groups leading efforts to improve conditions for temp and all workers are featured throughout the report. The final section of the report provides a roadmap for worker groups, advocates, and policymakers looking to raise standards for temp workers and all workers in the U.S.

Temp Worker Job Quality Issues

The hiring and labor practices of host employers and of staffing agencies create a variety of job quality issues for temp workers. Findings from the Temp Worker Justice Survey Series, along with government data, reveal issues related to pay, hours, benefits access, job mobility, workplace health and safety, and dignity and voice in the workplace.

POVERTY WAGES, PAY INEQUITY, and WAGE THEFT

Host employers and staffing agencies collaborate to establish worker pay practices that leave temp workers prone to poverty wages, two-tiered pay structures, and wage theft.

When host employers subcontract work to temporary help and staffing agencies, lowest-bidder dynamics in the contracting process may create a “race to the bottom” that pushes down wages for temp workers.

Temp workers are more likely to live in poverty than their direct-hire counterparts. According to government data, temp workers are more than twice as likely as workers in all industries to live in poverty: 7.6 percent of full-time temp workers earn poverty wages, compared to 3.6 percent of workers in all industries.¹⁷ In a selection of warehousing and manufacturing occupations, the poverty rate for temp workers, at 19.7 percent, is nearly three times that of workers in all industries, at 6.7 percent.¹⁸

[TWJ Survey Series on temp worker reliance on public assistance to meet basic needs](#): More than 1 in 3 (36% of) temp workers reported that they or their dependents have received some form of public assistance while they worked via a staffing agency.¹⁹ Temp workers reported receiving benefits from government assistance programs for people at or near the federal poverty line, including the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Medicaid, and the Children’s Health Insurance Program.

A large share of staffing agency profits come from their “take” of the hourly fee that client firms pay for the services temp workers provide. Temp workers receive an hourly wage that is a fraction of the total hourly fee host employers pay. The “markup” rate—the difference between the temp worker’s hourly wage rate and the rate billed to the client company for the worker’s labor—can range from 30 percent to 150 percent.²⁰ High markup rates can leave temp worker wages at very low levels.

A participant in a July 2020 focus group of temp workers in New Jersey conducted by New Labor described an 82 percent markup rate on her pay rate for warehouse work; she’s left with a wage that is difficult to get by on. “How is it possible that a company pays an agency \$20 an hour for each worker and the agency pays you \$11? It’s legal, I know, to pay \$11 an hour, but it’s not fair.”²¹

A food processing temp worker in Mississippi who participated in the TWJ Survey Series explained that directly hired workers, many of whom have shorter tenures than their

“temp” counterparts, earn more than temps at her workplace. “I feel that I should be paid as much as other[s] [who] operate in the same position,” she said.

Without wage parity standards that require equal pay for equal work, temp workers often receive lower wages than their direct-hire counterparts, for doing the same work.²² The table below shows the difference in median hourly wages between temporary help and staffing agency employees and employees in all industries in five low-paid occupational groups.

Median Hourly Wage: U.S. Temp Workers vs. Workers Overall, by Occupational Group, 2020			
Major Occupational Group	Overall Median Hourly Wage	Temp Median Hourly Wage	Temp Difference
Transportation & Material Moving	\$16.38	\$13.68	-16.5%
Production	\$18.00	\$14.16	-21.3%
Building/Grounds Cleaning & Maintenance	\$14.39	\$13.14	-8.7%
Educational Instruction & Library	\$25.18	\$13.96	-44.6%
Personal Care & Service	\$13.52	\$12.88	-4.7%

Source: U.S. Bureau of Labor Statistics, Occupational Employment and Wage Statistics, May 2020, “Temp” is NAICS 56132 Temporary Help Services.

A participant in the TWJ Survey Series doing clerical and information technology temp work in Georgia wrote that her host employer “raised the minimum wage for all [direct-hire] employees by \$3. Everyone who was currently making the minimum wage got the raise except for the temp employees.” She wants to know whether any wage parity protections exist for temp workers: “I’m wondering if I have any rights as a temp employee...to appeal this significant gap in wages.” While at least 30 countries around the world do have wage and benefit parity standards for temp workers and direct-hire workers, the U.S. does not.²³ A proposed bill in New Jersey would establish wage parity for temped out and direct-hire workers doing similar work (see the Recommendations section below for more on the bill).

Temp workers are particularly prone to wage theft. The temporary help and staffing industry is among the fifteen industries on the Wage and Hour Division’s list of “Low Wage High Violation Industries,” designated as such because of relatively low pay, low rates of worker complaints, and high rates of violation of federal wage and hour law.²⁴

TWJ Survey Series on temp worker wage theft: Almost 1 in 4 (24% of) temp workers reported that, while working as a temp, their employers have stolen wages from them in at least one of three ways—paid less than the minimum wage, failed to pay the overtime rate, or failed to pay for

all hours worked. Employer failure to pay for all hours worked was the most reported form of wage theft, with 17 percent of temp workers reporting such a violation.



Wage theft

24%

of temp workers reported they have experienced wage theft.

UNDEREMPLOYMENT

Some host employers and staffing agencies provide temp workers with fewer work hours than they need to make ends meet.

TWJ Survey Series on temp worker underemployment: While most (80% of) temp workers reported working full-time hours, nearly 1 in 7 (14% of) temp workers reported that they are working part-time involuntarily.

That temp worker underemployment rate is substantially higher than the rate for the overall U.S. workforce. According to government data, during the COVID-19 pandemic, the overall involuntary part-time rate in the U.S. fluctuated between 2.8 and 8.2 percent.²⁵

A participant in the TWJ Survey Series who works as a temp worker in the healthcare industry in New York wrote that weeks go by without her receiving a job assignment. At

the time she was surveyed, she had been out of work for three weeks, and wrote that she had “barely been able to pay bills.”

POOR AND INEQUITABLE ACCESS TO EMPLOYEE BENEFITS

Host employers and staffing agencies establish compensation practices that limit temp worker access to employee benefits like health insurance, paid sick leave, paid vacation, and retirement benefits.

Staffing agency workers, even those with years-long tenures, are often denied the benefits direct-hire workers receive.

“I just want the same benefits that all the permanent employees get,” explained a TWJ Survey Series participant starting her fourth year as a “temp” at a biotechnology company. She was doing the same administrative and clerical work as, and for a longer timespan than, many permanent direct-hire workers, but was denied the same employment benefits, including paid sick leave and paid vacation days.

Temp workers are less likely to be covered by health insurance than employees who are permanent and directly hired by employers. According to government data, 63.0 percent of full-time temp workers receive employer-provided health insurance, compared to 77.7 percent of all full-time workers. Just 33.0 percent of temp workers in warehousing and manufacturing occupations receive employer-provided health insurance, less than half the share of all workers in warehousing and manufacturing occupations (69.9%).²⁶

Paid sick leave is critical for protecting worker health and public health.²⁷ During the COVID-19 pandemic, access to paid sick leave has helped to reduce the spread of coronavirus.²⁸ According to government data, 79 percent of U.S. workers have access to paid sick leave.²⁹

TWJ Survey Series on temp worker access to paid sick leave: Just 13 percent of temp workers and 24 percent of temp workers who had been working at their current assignment for over a year reported having access to paid sick leave.

Several states and localities have passed paid sick leave laws in recent years. And during the COVID-19 pandemic, federal law granted paid sick leave to millions of more workers across the country to protect worker and public health. However, due to corporate lobbying, employers with more than 500 employees were exempted from the 2020 and 2021 federal laws that provided workers paid sick leave. According to the latest government data available, 80 percent of U.S. temp workers are employed at large staffing agencies that employ more than 500 workers.³⁰ Most temp workers have not been covered by the federal paid sick leave laws.

A participant in the TWJ Survey Series working as a temp worker doing clerical work in Texas wrote, “Our staffing agency let us know they cannot pay us for having COVID.

They stated their company has over 500 employees therefore we do not qualify to get paid for the days we missed due to being sick.”

The U.S. remains the only industrialized nation without a federal policy mandating paid vacation.³¹ A large share of U.S. employers do offer employees paid vacation. According to government data, approximately 77 percent of U.S. workers receive the benefit, although the median number of paid vacation days, at just 10,³² is lower than the minimum in most industrialized nations.³³

TWJ Survey Series on temp worker access to paid vacation days: Just 6 percent of temp workers and 14 percent of temp workers who had been working at their current assignment for over a year reported having access to paid vacation days.

According to government data, 72 percent of U.S. workers have access to an employer-provided retirement benefit.³⁴

TWJ Survey Series on temp worker access to an employer-provided retirement benefit: Just 4 percent of temp workers reported that their staffing agency makes contributions to a retirement account. For temp workers reporting that they have worked in their current assignment for over a year, the share with an employer-provided retirement benefit is just 8 percent.

Decisions about the duration of a temp workers’ assignment may be tied to employer policies about benefits eligibility. Employers may rapidly cycle through temp workers to avoid paying employee benefits.

TWJ Survey Series on temp worker termination prior to benefits eligibility: More than 1 in 10 (12% of) temp workers reported being laid off from a temporary position just prior to becoming eligible for employment benefits.

“PERMATEMPING,” JOB MOBILITY, and CAREER ADVANCEMENT ISSUES

Host employers and staffing agencies limit job mobility and career advancement opportunities for temp workers in various ways.

Host employers and staffing agencies may employ “permatemps”—temp workers whose job assignment lasts for a year or longer—who languish for years in dead-end jobs characterized by lower pay and fewer benefits than directly hired permanent workers.

Contracts between host employers and staffing agencies can perpetuate “permatemping” and block temp workers from transitioning into permanent, direct-hire positions. Some contracts contain “no-poach” clauses, which prohibit host employers from hiring temp workers as permanent employees during the length of the assignment and for some time afterwards. Others contain “conversion fee” or “bondage fee” clauses, which require a host employer to pay an often substantial fee if it hires a temp worker

as a permanent employee. No-poach and conversion/bondage fee clauses deter host employers from hiring temp workers into permanent positions and lock workers into second-tier, temporary work.

A participant in the TWJ Survey Series wrote that she had struggled to earn a living for years as a temp worker in food services in California. She was thrilled when a business where she was placed as a temp banquet server “expressed interest in hiring me as a full-time employee.” But then the staffing agency swooped in and demanded a prohibitive conversion/bondage fee. “The agency's 'Placement Specialist' told [the business] that it would cost \$5000.00 to buy out my contract with the agency, which, of course, was outrageous and the offer was retracted,” she wrote.

TWJ Survey Series on temp worker “permatemping” experience: More than 1 in 3 (35% of) temp workers reported that their current temp assignment had lasted over 1 year, and almost 1 in 5 (18%) reported that their current temp assignment had lasted over 2 years.

Close to half (44%) of Latinx temp workers reported that their current temp assignment had lasted over 1 year.

Nearly 3 in 4 (72% of) temp workers reported that they have never been hired into a permanent position when they started as a temp worker.

About 1 in 7 (14% of) temp workers reported that they knew their staffing agency prevented them from taking a permanent job with their worksite employer.

A temp worker in the information technology industry in Colorado who participated in the TWJ Survey Series reflected on the impact of her dead-end temp job on her life. “I have been at the same level for 20 years,” she wrote. “Working as a temp has ruined my life.”

Should they seek to find work via other staffing agencies, temp workers may face pushback from staffing agency employers. Employment contracts may contain “non-competition” agreements that prevent workers from taking jobs with competing staffing agencies.

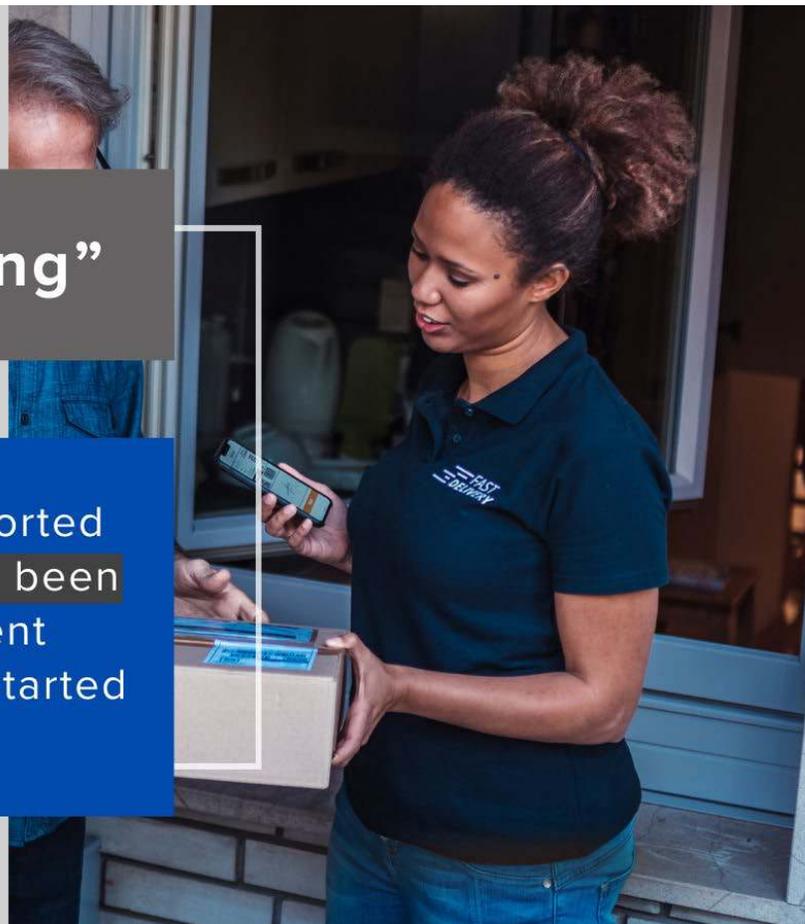
TWJ Survey Series on staffing agencies preventing temp workers from taking jobs at competing staffing agencies: Approximately 7 percent of temp workers reported that they knew their staffing agency employer prevented them from working for other staffing agencies.



“Permatemping”

72%

of temp workers reported that they have never been hired into a permanent position when they started as a temp worker.



HEALTH AND SAFETY ISSUES

Lack of safety training, ambiguous and inappropriate liability structures, and frequent job-switching make temp workers particularly vulnerable to workplace injury and illness, including COVID-19.

TWJ Survey Series on safety training: Nearly 1 in 5 (19% of) temp workers reported that they never received safety training prior to starting a new temp job, and nearly 1 in 4 (23% of) temp workers reported that they “only sometimes” received such training.³⁵

According to a Temp Worker Justice Survey Series participant working as a temp at a concrete manufacturing plant in Arizona, temp workers like him are placed in dangerous jobs without proper training. “People with no experience in the trade get sent here daily and are not trained how to operate the heavy machinery that they have to use,” he wrote.

Although host employers are usually responsible for overseeing day-to-day workplace operations, staffing agencies are often the only “employer of record” for the purposes of workers’ compensation.³⁶ As a result, host employers may not be directly financially liable for injuries resulting from unsafe workplace practices.

TWJ Survey Series on workplace injury: More than 1 in 7 (17% of) temp workers reported experiencing a work-related injury or illness while employed through a staffing agency.

Of those workers who reported experiencing a work-related injury or illness, more than 2 in 5 (41%) said that they covered healthcare costs themselves, either out of pocket or through their own health insurance.

More than 2 in 5 (43% of) temp workers surveyed after the onset of the COVID-19 pandemic reported that they received no new training on how to stay safe from COVID-19 in the workplace.

Reynalda's story

Reynalda Cruz started working for temp agencies in New Jersey in 1992 and experienced many of the indignities that so many other temp workers face. In New Jersey, temp agencies are clustered in immigrant neighborhoods in cities like Elizabeth and New Brunswick where they target Latinx immigrants, many of whom are undocumented and have no other work opportunities. Reynalda says that both temp agencies and the client companies discriminate against Latinx immigrants, assigning them to the most physically demanding, least desirable work at the lowest pay in warehouses and manufacturing plants across New Jersey.

According to Reynalda, temp agencies usually require temp workers to report to the agency in the morning to be assigned work. Workers wait at the agency—typically for at least an hour—until an agency-contracted van transports them to the warehouse or factory where they will work, yet they are not paid for any of the time before they arrive at their worksite. At the end of the workday, the workers are transported back to the agency by van, yet often must wait an hour or more (also unpaid time) for the van to arrive. One time, after her shift ended, Reynalda waited outside the warehouse for over three hours in the cold for the van to arrive. The vans are filled beyond capacity, and people sit on the floor or on top of each other to fit. Even worse, staffing agency employers deduct between \$30 and \$50 weekly from workers' pay for the unsafe and overcrowded vans they are required to take to work.

Even prior to the COVID-19 pandemic, unsafe working conditions were common. For a few months, Reynalda worked at a medical pill manufacturing plant, where pill powder filled the air and many workers, who were not supplied with masks, suffered respiratory illnesses. One worker who had trouble breathing had a heart attack at work, and Reynalda called 911 after the worksite supervisors refused to do so.

Reynalda's employers have paid her late or not paid her for all hours worked on numerous occasions—a financially devastating problem for someone who makes the minimum wage or very close to it. At one worksite, she would often arrive 10 minutes late because the van was delayed, yet she would lose an entire hour of pay. Although she was supposed to be paid on Friday, many times her pay would be delayed until the following Monday or even the following Friday, forcing her to go an entire week without income.

Spanish is her native language, and in 2007, Reynalda started taking English classes at New Labor. After that, she began to do policy advocacy work with the worker center, initially focusing on immigration reform at the federal level and immigrant rights at the state level. In 2014, she began working as an organizer with New Labor and stopped working for temp agencies. Because many of her friends and family members continue to work for temp agencies and face indignities at work, she is committed to ensuring that temp work provides stability and security to all people; temp worker organizing and advocacy are a focus of her work.³⁷





Safety training

19%

of temp workers for whom safety training is applicable reported that they **have never received such training** prior to starting a new temp assignment.

DISCRIMINATION AND WORKPLACE SEGREGATION

Black and Latinx workers are overrepresented in staffing agency work. Black workers are overrepresented in temp work by a factor of nearly 2: Black workers are 12.2 percent of the overall workforce, but they make up 23.2 percent of temporary help and staffing agency workers. In manufacturing and warehousing occupations, Black workers are overrepresented by a factor of more than 2: Black workers are 33.0 percent of temp workers in these occupations, compared to 15.5 percent of overall manufacturing and warehousing workers.³⁸

Latinx workers are 19.3 percent of all workers, but 17.9 percent of staffing agency workers.³⁹ In manufacturing and warehousing occupations, Latinx workers are overrepresented by a factor of 1.3: Latinx workers are 30.9 percent of temp workers in these occupations, compared to 23.9 percent of overall manufacturing and warehousing workers.⁴⁰ “Temp towns”—areas with a high concentration of staffing agencies—are located in immigrant communities, where agencies target undocumented workers.⁴¹

According to a randomized study of staffing agencies operating in the Chicago metropolitan area, 2 in 3 agencies engaged in racially discriminatory hiring or job placement, in some cases against Black workers and in others against Latinx workers.

Four in 5 job offers were made either only to Latinx applicants or only to Black applicants although both ethno-racial groups had the same job-relevant qualifications.⁴²

On the job, host employers and temp agencies may discriminate against temp workers on the basis of race/ethnicity, gender, age, and other demographic characteristics, in how they assign work, pay for it, and promote workers to higher or permanent positions.

TWJ Survey Series on workplace discrimination: 1 in 4 temp workers of color reported that they had experienced some form of workplace discrimination based on their race. Nearly 1 in 10 (9% of) women temp workers reported that they had experienced some form of workplace discrimination based on their gender. About 1 in 7 (14% of) temp workers over age 45 and over 1 in 6 (17% of) temp workers 65 or older reported that they had experienced some form of workplace discrimination based on age.

People reentering the workforce post incarceration may be targeted by staffing agencies. Workers on parole may face limited job market prospects and be under court order to maintain work, making them particularly vulnerable to being channeled into dead-end, poor quality staffing agency jobs.⁴³ In New York, staffing agencies known as “body shops” operating in the construction industry target reentry workers for hire, and offer wages far below the industry standard.⁴⁴

A participant in the TWJ Survey Series, who works as a temp worker in meat-packing plants in Texas and has an incarceration record, reported that “temps are treated worse than permanent workers” at his worksite, and wrote that because of his conviction record, he has been forced to work twice as hard as workers who are permanent and directly hired and who don’t have a conviction record like he does. He reported that he faced discrimination and was “looked at as less than” by both temp agency staff and his host employer.

Alfred’s story

Over the past five years, Alfred White has obtained multiple warehousing and food processing jobs through multiple temp agencies in Will County, Illinois. Will County, about 45 miles southwest of Chicago, is “the largest inland port in North America.”⁴⁵ Alfred explains that his conviction record has limited his opportunities for work, forcing him to take poor quality “temp” jobs. His own experience in the job market has led him to believe that people with conviction records are especially likely “to be temps forever” and endure the economic insecurity and inequitable treatment that comes with that status.

Regardless of the temp agency or the assignment, Alfred's temp work has always come with low pay, less than what permanent workers at the same worksite receive, and either inadequate or no benefits. Conditions have been dangerous—he describes operations at many worksites as “chaos”.

Recently, a staffing agency misled Alfred about his prospects for permanent work, and he was forced into a permatemping situation. While the agency told Alfred at the time of his hire that temp workers were

often converted to permanent employees, he was never offered a permanent job and had the same temp assignment for two years.

Alfred joined the National Temp Worker Council at TWJ and is speaking out because he believes that all people with records deserve access to jobs that provide dignity and economic security.



STAFFING AGENCIES' DECEPTIVE RECRUITMENT PRACTICES

Staffing agencies often use deceptive hiring practices related to pay, benefits, job mobility, and prospects for permanent hire.

TWJ Survey Series on staffing agency deceptive recruitment practices: Nearly 3 in 4 (72 % of) temp workers reported that a staffing agency had misled them about some aspect of a job they were being recruited to perform, including pay or benefits they would receive, the likelihood they would be converted from a temp to a permanent hire, and the timing of their permanent hire.

Nearly a third (31% of) temp workers reported that a staffing agency had misled them about when they would be permanently hired, and almost 1 in 5 (19%) reported that a staffing agency misled them about the pay they would receive as a temp worker.

Jobs may be labeled “temp to perm”—a marketing slogan, but not a guarantee. And only two states require that temp workers be notified of their pay rate prior to beginning a new assignment.⁴⁶

A participant in the TWJ Survey Series, who was hired as a temp worker to do line work at a plastic products manufacturer in South Carolina, explained that she was misled about when she would be transitioned into a permanent job. “In my initial hiring event the group of hires I was brought on board with was told that after 520 hours we would be rolled over to permanent employees if we hadn't been late or missed a day's work.” She says that after meeting the stated requirements, she was still a temp worker, and “no explanation has been offered to me as to why I have been left a temporary employee after accomplishing what I was told was the requirement to become permanent.” She wrote, “It is truly a disservice to give someone false hope and ask them to work as often and as hard as possible in return for a reward that is withheld for no apparent reason.”

A clerical temp worker in Mississippi who participated in the TWJ Survey Series said that she was misled by the staffing agency and host employer about the prospects of being made a permanent employee. She believes her “temp status” was used to lower her compensation. “I feel they used me as a full time [direct-hire] employee without having to pay me regular salary or benefits,” she said.

Janell's story

Janell Longa has worked temp jobs on and off since the mid-1990s. Volt, Kelly Services, Office Team, Robert Half and Randstad are just a few of the staffing agencies that have hired her to perform clerical work for companies in various industries. "You name it, I've done it," says Janell.

Since 2017, Janell has worked full time at the same "temp" assignment, creating accounts and providing other information technology support for employees of a respiratory care medical supplier. Although she works alongside permanent employees who do the same work, Janell is a "temp" worker who was hired and is paid by a staffing agency.

Janell's starting wage at the medical supply company was \$12 per hour. A few years into her "temp" assignment, she saw a temp job posting advertising an open position at the same medical supply company with a wage of \$16.60 per hour--the job description was identical to her own. After she raised this discrepancy with her worksite supervisors at the medical supply company, they agreed to raise her wage to \$15 per hour.

Janell does not receive basic employment benefits like paid time off, affordable health insurance coverage, or retirement benefits. For about a year during the pandemic, she worked full-time from her bedroom at home. Her staffing agency and host employer did not provide her with the resources to create an ergonomic workspace, resulting in severe shoulder pain and exacerbating her arthritis. She cannot afford to take time off to recover from her injuries. She fears she will be in pain for the rest of her life and that she will never be able to retire.

Janell is speaking out because she is fed up. She joined Temp Worker Justice's National Temp Worker Council to meet other temp workers and advocate for change and for better conditions for temp workers.⁴⁷



EMPLOYER RETALIATION

When temp workers raise concerns with supervisors and managers about workplace issues, they may face retaliation.

TWJ Survey Series on employer retaliation for speaking up about workplace issues: Almost 3 in 4 workers (71%) said that they experienced some form of retaliation for raising workplace issues with a supervisor or management. The most reported form of retaliation was being fired or no longer given work, with well over 1 in 4 (29% of) temp workers reporting this employer response to speaking up about problems in the workplace.

A TWJ Survey Series participant working as a temp worker for an information technology company in Minnesota explained that job precarity deters many temp workers from speaking up about unpaid overtime and other issues. "If temps complain...they're deemed unproductive or unfit for the position and get laid off or

won't have their contracts extended" she wrote. She explained that temp workers "feel a lot of pressure to keep their job and work to the point of exhaustion right up until their expiration/renew date and sometimes contracts are only renewed for a week or a month."

A warehousing temp in California who participated in the TWJ Survey series reported that he raised concerns with his employer about violations of COVID-19 safety regulations in his workplace. "I believe I am being investigated to be terminated because of such concerns," he wrote.



Employer retaliation

71%

of temp workers said that they experienced some form of employer retaliation for raising workplace issues with a supervisor or management.



WORKER VOICE

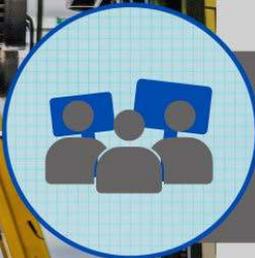
In most cases, staffing agency workers, including those who are undocumented, are covered by the National Labor Relations Act, the federal law that provides U.S. workers with organizing and collective bargaining rights. According to government data, just 2.3 percent of temp workers are union members. Compared to 10.8 of all U.S. wage and salary workers.⁴⁸ The temporary nature of job assignments, or the expectation or pretense that the work is temporary, can inhibit labor organizing.

For host employers, the use of staffing agencies can be a divide-and-rule tactic within a workforce. Employing temp workers to do the same work as directly hired permanent employees can chill

organizing and silence the voicing of discontent, as permanent workers may perceive a threat that their position could be “temped out”. At the same time, temp workers navigate an often indefinite probationary status that holds the illusory promise of better quality, permanent employment.

TWJ Survey Series on interest in joining a worker organization: Full 4 in 5 (80% of) temp workers reported interest in joining a worker organization like a union that works to improve conditions for temp workers.

A participant in the TWJ Survey Series doing warehousing work as a temp in Georgia wrote that he had seen many instances when host employers and staffing agencies “walk[ed] over and mistreated” temp workers. He described doing dangerous work unloading trailers, in an environment made especially unsafe by inadequate lighting and fast-moving and improperly managed forklift traffic. Injuries would result in termination. He wrote, “Get hurt, they fire you.” Temp workers, he said, need “back up” and “should have a union.”



Interest in joining a worker organization

80%

of temp workers reported interest in joining a worker organization like a union that works to improve conditions for temp workers.

Spotlight on TWJ Survey Series Partners

Temporary The efforts of worker center and advocacy group partners in Illinois, Mississippi, New Jersey, and North Carolina boosted data collection for the TWJ Survey Series. In all, five groups spread across the South, Midwest and Northeast regions of the U.S. recruited over 500 temp workers to participate in the survey project. Groups used community networks and online advertisements on social media websites to reach workers, and several groups collected survey responses in person and via telephone. Their survey work has supported temp worker organizing and is informing local, state, and federal policy efforts to improve conditions for temp workers.

IN ILLINOIS: CHICAGO WORKERS COLLABORATIVE and WAREHOUSE WORKERS FOR JUSTICE

For over a decade, the Chicago Workers Collaborative (CWC) and Warehouse Workers for Justice (WWJ) have been organizing and winning policies that raise standards for temp workers in Illinois. With members who work in industries with a high prevalence of temp arrangements—WWJ members work in the logistics and distribution industry, and CWC’s members work largely in distribution and in food processing and other manufacturing sectors—addressing temp worker job quality is key for the two groups.

CWC and WWJ were instrumental in passing the 2017 Illinois Responsible Job Creation Act, groundbreaking legislation that combats low pay and wage theft, “permatemping”, unsafe workplace conditions, and discrimination in the Illinois temp sector. The legislation has served as a model for state and federal temp worker policy in the U.S. *Learn more about the legislation in the Recommendations section of this report.*

CWC and WWJ got involved with the TWJ Survey Series to elevate the voices of temp workers and inform advocates and policymakers of the issues that temp workers identify as most important to address, particularly in the context of the COVID-19 pandemic. The groups were also keen to connect the experiences of Illinois temp workers with those of workers around the country.



To identify temp workers to survey, CWC and WWJ conducted outreach through their member networks, and WWJ focused outreach on the food supply chain. A total of 174 Illinois temp workers, concentrated in warehouse and food production work, participated in the TWJ Survey Series project. Survey results for Illinois largely mirrored those from the national sample. In Illinois, permatemping was especially prevalent among temp workers surveyed, with 43 percent of Illinois temp workers reporting that they had worked at a temp job for more than a year, compared to 35 percent of temp workers in the national sample. Illinois temp workers were also more likely than workers in the national sample (83% compared to 72%) to have been misled by a staffing agency about some aspect of a job they were being recruited to perform, including pay or benefits they would receive, the likelihood they would be converted from a temp to a permanent hire, and the timing of their permanent hire.

Survey results from Illinois temp workers⁴⁹ are informing CWC's and WWJ's temp worker organizing as well as temp-related policy enforcement and development work they are leading in Illinois. CWC and WWJ hope to join with partners across the country to federalize many of the protections they have won in Illinois.

IN MISSISSIPPI: MISSISSIPPI WORKERS' CENTER FOR HUMAN RIGHTS

The Mississippi Workers' Center for Human Rights (MWCHR) continued its organizing and advocacy work in support of temp workers in the Mississippi Delta through its participation in the TWJ Survey Series project.

The MWCHR has been fighting for the dignity and safety of the Mississippi Delta's most vulnerable workers for more than two decades. Over the years, MWCHR has observed the wage and benefit disparities and permatemping that temp workers endure in the Delta's food processing, auto parts manufacturing and assembly, warehousing, laundry, and other industries.

In 2020 and 2021, interns participating in the group's Fannie Lou Hamer Emerging Leaders Program identified and surveyed 99 temp workers across the state, concentrated in warehouse and food production work, for the TWJ Survey Series project. Mississippi survey results largely mirrored those from the national sample. In Mississippi, permatemping was especially prevalent among temp workers surveyed, with 38 percent of Mississippi temp workers reporting that they had worked at a temp job for more than a year, compared to 35 percent of temp workers in the national sample. Mississippi temp workers were also more likely than (18% compared to 14%) workers in the national sample to be underemployed—to report that they were involuntarily working part-time hours as a temp worker.

Temp worker surveying by MWCHR is shedding light on longstanding abuses and injustices experienced by temp workers in the Delta, including permatemping and physically hazardous conditions at worksites. Surveyed temp workers recently participated in the latest in a series of injured workers summits organized by MWCHR. And survey findings have informed a recently introduced bill in the Mississippi legislature, SB2184, which addresses permatemping and other issues related to temp worker job quality, and is an important step toward addressing the negative impacts of

temp arrangements on workers in Mississippi.⁵⁰ *Learn more about the proposed legislation in the Recommendations section of this report.*

In the months and years ahead, the MWCHR looks forward to joining with allies around the country to advance federal policy shifts to address poor conditions and injustice temp workers in Mississippi and across the country face.

IN NEW JERSEY: NEW LABOR

New Labor in New Jersey has been organizing and advocating for the state's temp workers since its inception, with a large proportion of its membership concentrated in industries like warehousing and manufacturing that have a high prevalence of temp work arrangements.

Their efforts alongside those of partners like Make the Road New Jersey spurred the reintroduction in January 2022 of legislation that requires wage parity between direct-hire workers and temp workers doing similar work, written notice of the terms and conditions of each temp assignment, wage bonding to combat theft of worker pay, "reporting time" pay, record-keeping requirements to combat discrimination and other illegal treatment of workers, the right to refuse union strike-breaking temp assignments, among other provisions.⁵¹ *Learn more about the proposed legislation in the Recommendations section of this report.*

For New Labor, the TWJ Survey Series project presented an opportunity to collect stories about and put numbers to the realities members know and live as temp workers: unsafe conditions, wage theft, discrimination, and lack of respect on the job. The survey findings promise to make these issues real for the public.

To identify temp workers to survey, New Labor reached out to workers through its members' networks. A total of 141 New Jersey temp workers, concentrated in warehouse and production work, participated in the TWJ Survey Series project, nearly all workers completing Spanish-language surveys. Survey results for the state largely mirrored those from the national sample. In New Jersey, permatemping was especially prevalent among temp workers surveyed, with 44 percent of Illinois temp workers reporting that they had worked at a temp job for more than a year, compared to 35 percent of temp workers in the national sample. The New Jersey survey also asked temp workers about issues related to their commute to work, and the survey revealed that nearly a third (32%) of workers used employer-provided vans to commute to work, and 43 percent reported that they had been forced to travel in over-capacity vans, some during the COVID-19 pandemic.

In the summer and fall of 2021, New Labor members conducted two focus groups with more than a dozen temp workers to build on findings from the survey.

Survey and focus group findings for New Jersey temp workers are being used to advocate for the new state temp worker legislation.

The survey project has created a space for New Labor to grow its base of temp workers, develop worker leaders, and build and strengthen campaigns driven by temp workers.

New Labor hopes the surveys show the need to make policy change at the local, state, and federal level to compel host employers and staffing agencies to improve conditions for temp workers. New Labor looks forward to collaborating with allies, including those who participated in the survey project, to advance federal policy.

IN NORTH CAROLINA: NORTH CAROLINA JUSTICE CENTER

North Carolina Justice Center’s Workers’ Rights Project (WRP) works to ensure that all jobs in North Carolina are good jobs, that North Carolinians can take time off from work when they need it without facing hardship, and that they have dignity when out of work.

For the WRP, this means workers understand their power to enforce their rights, to improve their workplaces and to influence policy makers; workplaces are healthy and safe and free from discrimination; jobs pay living wages and provide access to sufficient paid time off; working people have adequate benefits and access to a strong system of unemployment benefits and workers’ compensation when needed; and existing wage laws and other workplaces protections are expanded and enforced. The WRP has observed that temp workers in North Carolina are denied many of those things. The WRP decided to support data collection for the TWJ Survey Series to learn more about temp worker experiences and build support for future policy efforts aimed at turning temp jobs into good jobs and reducing the overall reliance on temp work in North Carolina.

The WRP recruited workers through social media and worker center and labor partners. A total of 120 North Carolina temp workers, concentrated in warehouse, production, and clerical work, participated in the TWJ Survey Series project. Survey results for the state largely mirrored those from the national sample. In North Carolina, temp workers were especially likely to report reliance on public assistance, with 52 percent of the state’s temp workers reporting that they had relied on some form of public assistance, compared to 36 percent of temp workers in the national sample. North Carolina temp workers were also more likely than (22% compared to 14%) workers in the national sample to be underemployed—to report that they were involuntarily working part-time hours as a temp worker.

The WRP at North Carolina Justice Center hopes that survey results will help persuade policymakers in the state and at the federal level that policy change is needed.



Recommendations

Temporary help and staffing agency workers are organizing to build power and address workplace issues at both the firm level and in the public policy arena. Below are the organizing and policy strategies they are advancing to improve conditions for temp workers and all workers in the U.S.



WORKER ORGANIZING AND BARGAINING

Both temp workers and their permanent and directly hired co-workers can take action in their workplaces to raise labor standards for all workers and limit contracting out to staffing agencies.

- **Unionized workers can, through bargaining, demand contract provisions that protect temp workers and limit subcontracting to staffing agencies:** (1) include temp workers in the bargaining unit; (2) require companies to offer a permanent, direct-hire position to temp workers after a certain amount of time on the job; and (3) limit the number of temped out positions.
- **Even in non-unionized workplaces, permanent, direct-hire employees can engage in protected concerted activity with temp workers to improve conditions for all workers in their workplace.** For example, members of the Alphabet Workers' Union—a minority union of Google workers, including direct-hire employees, temp workers, and contractors—recently engaged in coordinated protests after Google and its staffing agency Modis stopped paying a bonus that had been promised to temp workers. The workers won, and Modis resumed its bonus pay program.⁵²

Temp worker organizing through worker centers has helped to build the worker power necessary to improve conditions for both temp workers and permanent, direct-hire workers. Organizations that authored this report—Temp Worker Justice, Chicago Workers' Collaborative, Mississippi Worker Center for Human Rights, New Labor (NJ), North Carolina Justice Center, and Warehouse Workers for Justice—have been doing this work. Temp worker organizing is key to ensuring that laws already on the books get enforced, to identifying areas in need of public policy intervention, and to advocating for new laws and regulations that would improve conditions for temp and all workers.

POLICY DEMANDS



The organizing and survey research work led by Temp Worker Justice and groups organizing and advocating for temp workers has helped to identify the policy demands listed below, aimed at turning poor quality temp jobs into good jobs.

- **To improve compliance with labor standards, joint employer liability and supply chain accountability:** Under most labor laws, companies that contract work to intermediaries like staffing agencies are jointly responsible as employers when their temp and other contracted workers experience wage theft, discrimination, health and safety violations or any other workplace

problems, but enforcement of joint liability is spotty, and laws need to be clarified. In 2014, California passed Assembly Bill 1897, which created automatic joint liability for lead and subcontracted firms for worker wages and workers' compensation.⁵³ Federal and state administrative agencies that regulate employment, such as the Department of Labor, the Equal Employment Opportunity Commission, and the National Labor Relations Board, should adopt similar rules ensuring that both host employers and staffing agencies are considered employers. Host employers should be required to be at the bargaining table during union negotiations between staffing agency employers and union representatives for temp workers. Employers⁵⁴ should be required to create plans ensuring companies in their supply chain comply with employment laws, and should be held jointly liable if those companies fail to do so.

- **To address pay and benefit inequity, equal pay for equal work policies:** Temp workers should have the same pay and benefits as permanent, direct-hire employees performing similar work.
- **To end “permatemping,” strict and enforceable limits on the duration of temp assignments:** While hiring temp workers to meet short-term labor demands may be appropriate, companies should not be allowed to outsource positions to staffing agencies indefinitely. Companies should be required to abide by strict time limits (such as 90 days) for temp positions, after which they should be required to offer the position to the temp worker on a permanent, direct-hire basis or eliminate the position entirely.
- **To address poverty wages and wage theft, a higher minimum wage and improved enforcement of wage and hour laws:** Raising the federal minimum wage to at least \$15 per hour would alleviate the grinding poverty and economic insecurity many temp workers experience. In addition, given the high levels of wage theft among temporary help and staffing agencies, the federal Department of Labor and state labor agencies should undertake targeted enforcement of the staffing industry, including doing outreach to the many workers centers that represent temp workers to understand the problems these workers face.
- **To improve temp worker job mobility and career advancement, a ban on contract terms that limit those opportunities:** Staffing agencies and host employers, or client companies, often agree to contract terms or impose employment terms on temp workers—such as “no poach”, conversion/bondage fee, and “non-compete” clauses—that prohibit or strictly limit temp workers’ opportunities to accept permanent employment with the client company or even accept employment with competitor staffing agencies. These contract terms should be prohibited. The Federal Trade Commission has the authority to regulate employment terms and other contract terms that limit workers’ mobility. It should ban “non-compete” clauses, “no-poach” clauses, and conversion/bondage fee clauses in employment contracts between staffing agencies and their workers, and in the business contracts between host employers and staffing agencies. These contract terms limit temp workers’ opportunities to obtain higher-quality, permanent employment.
- **To identify “permatemping” and patterns of discrimination and occupational segregation, registration and record-keeping requirements:** Staffing agencies should be required to register with a state or

federal regulator and keep records about: each temporary assignment, including its length, pay, and hours; each temp worker applicant and placement, including each applicant's race, gender and ethnicity; and, for those applicants who are hired, the type and length of the assignment and whether the assignment leads to a permanent position. The Equal Employment Opportunity Commission should amend its reporting requirements so that staffing agencies are required to report on the size and demographics of their workforce, similar to other private sector employers with 100 or more employees.

- **To eliminate deceptive recruitment practices, transparency about the terms and conditions of assignments:** Staffing agencies should be required to provide each temp worker with written notice of the terms and conditions of each assignment in that worker's primary language, including the length of the assignment, specific criteria for transitioning to permanent employment, and the "markup" rate—the difference between the temp worker's hourly wage and the hourly charge to the client company for their labor. Temp workers should have the right to know the terms and conditions of their assignments and how much temp agencies are taking in hourly fees. And temp workers must be provided with notice and the right to refuse work assignments at worksites where strikes, lockouts, or other labor disputes are ongoing.
- **To protect the health and safety of temp workers, a ban on temp work in high-risk jobs, a right to paid sick leave, and host employer responsibility for providing workers' compensation coverage:** Temp workers get injured on the job at higher rates than permanent workers. Temping out should be banned entirely in dangerous occupations and industries, such as construction, that require substantial training and experience to lessen health and safety risks. Temp workers should have the right to paid sick leave without onerous eligibility barriers, like waiting periods or slow accrual policies. And, finally, host employers—not staffing agencies—should be responsible for providing temp workers with workers' compensation in the event of an injury or illness at work, so that host employers have incentives to invest in training and safety measures that minimize risk for their temp workers.
- **To rein in employer retaliation, "just cause" termination policies:** In the U.S., most employers can legally fire workers without warning or explanation. This "at-will" employment system undermines workers' ability to speak up about mistreatment on the job because workers reasonably fear that their employer will fire them or take other adverse action in retaliation—an especially common problem for temp workers, as our survey results show. Employers should only be permitted to fire workers for just cause, meaning that they have demonstrated a good reason and, in cases of job performance problems, have given the worker fair warning and a chance to improve.



PROMISING LEGISLATION

Below is a list of recently proposed federal and state legislation that would strengthen temp worker rights and protections.

- **The Restoring Worker Power Act of 2020, HR.7638,** would require equal pay for temp workers and permanent workers doing similar work; limit conversion/bondage fees and ban non-compete agreements in staffing

contracts; require staffing agencies to register with the Department of Labor and report information about their workforce, including the race and gender of their workers and the percentage of workers who transition to permanent positions; and require staffing agencies to disclose to their workers the material terms and conditions of their work, including the difference between a worker's hourly wage and the hourly charge to the client company for the temp worker's labor.⁵⁵ Congress should reintroduce the bill.

- **The Worker Flexibility and Small Business Protection Act of 2020, S.4738**, would ban permatemping and make companies that contract out labor to staffing agencies and other labor intermediaries joint employers of the temp workers whom they employ, so that these companies would be responsible as employers for the working conditions they create.⁵⁶ Congress should reintroduce the bill.
- **The Protecting the Right to Organize Act of 2021, HR. 842**, would make it easier to hold companies that contract out labor to staffing agencies responsible as employers of those workers under the National Labor Relations Act (NLRA), the federal law that enshrines a right to collectively bargain with an employer to improve working conditions. Both host employer and staffing agencies would be required to bargain with temp workers about the terms and conditions of their employment. The bill also adopts a simple and straightforward test—the “ABC test”—for determining who is an employee (and therefore covered under the NLRA) and who is an independent contractor (and not covered), a critical issue as more staffing agencies, like the app-based staffing firm Wonolo, mislabel their workers as independent contractors.⁵⁷ Congress should pass the bill.
- New Jersey legislators reintroduced **An Act concerning employment and protection of temporary laborers, S.511/A.1474**, in January 2022. The bill requires the following: equal pay for temp workers and permanent workers doing similar work; a ban on transportation fees and other unfair deductions; wage bonding to combat theft of worker pay; written disclosure in a temp worker's primary language of terms and conditions of employment, including pay rate, hours, length of assignment, health and safety issues, and the amount of paid leave to which the worker is entitled under state law; the right of temp workers to refuse assignments at any workplace where a strike, lockout, or other labor dispute is ongoing; and, client company and staffing agency joint liability for payment of temp workers' wages and for violations of the bill.⁵⁸ The New Jersey Legislature should pass the bill.
- In Mississippi, **SB.2184, An Act to Authorize Certain Labor and Employment Protections for Temporary Workers in Mississippi; and for Related Purposes**, was introduced in January 2022.⁵⁹ The bill includes the following: a 90-day limit on temporary assignments; a requirement that staffing agencies keep records, available for inspection by the Mississippi Department of Employment Security, of third-party client contracts, workforce demographics, and pay rates; written notice to temp workers upon each new assignment of job terms including pay rate, hours, length of assignment, and safety training and equipment required; a ban on transportation fees between worksites; and, a ban on the use of staffing agency workers at workplaces where a strike, lockout, or other labor dispute is ongoing. The Mississippi Legislature should pass the bill.

Model Temp Work Policies Already on the Books

Local and state governments in the U.S. and countries around the world have passed policies regulating temp work that can serve as models for policymakers looking to address the many problems associated with temp work in the U.S. today.

Massachusetts' Temporary Workers' Right to Know Act of 2012 requires staffing agencies to provide temp workers, prior to each assignment, with work hours, the wage rate, a description of the job to be performed, the name and contact information of the host employer, and the name and contact information of the agency's workers' compensation carrier.⁶⁰

California passed the "Labor Contracting: Client Liability" Act (more commonly known as AB 1897) in 2014, which provides that any business that contracts with a staffing agency or other labor contractor shall be jointly liable for any failure on the part of the labor contractor to pay wages owed or to secure workers' compensation insurance for any workers supplied to the business.⁶¹

Illinois' Responsible Job Creation Act of 2017, which amended the state's Day and Temporary Labor Services Act, requires staffing agencies to provide temp workers with the wage rate, a description of the job to be performed, the type of equipment, protective clothing, and training required for the job, the name and address of the host employer, and the terms of any transportation offered. It also requires staffing agencies to provide temp workers with an itemized statement of their wages at the time of payment that details the number of hours worked each day for each client and all deductions. And the law requires staffing agencies to keep records about the demographics of hires and job placements, by type of work performed, hourly rate of pay, and dates of employment.⁶²

Washington state passed the Health and Safety Law for Temporary Workers in 2021, requiring employers in the construction and manufacturing industries to document job hazards temp workers may face, inform staffing agencies about those hazards, and work with staffing agencies to ensure that temp workers are informed and trained. Temp workers also have a right to refuse a task if they have not been properly trained. The law arose after a state study found that temp workers were twice as likely to be seriously injured on the job as permanent, direct-hire workers, and were less likely to receive training to recognize and protect themselves from workplace hazards.⁶³

New York City passed Intro 2318 in 2021, requiring City licensure of staffing agencies or "labor brokers" operating in the construction sector. The law requires that labor brokers biennially report workforce information including average hourly wage, type and value of benefits, and the names of third-party clients and construction site locations. Labor brokers must also provide workers with a written notice of their labor rights and protections. The law arose from a Laborers' Local 79 campaign against "body shops"—labor brokers in New York City that place people with criminal conviction records in construction jobs with low pay and no benefits, training, or advancement opportunities.⁶⁴

The U.S. lags far behind many countries in regulating temp work and requiring the following:⁶⁵

- Equal pay and benefits for temp workers and permanent employees - at least 30 countries in Asia, Europe, North America, and South America
- Special licensing or registration for staffing agencies - at least 31 countries in Africa, Asia, Europe, and South America
- Limits on the duration of staffing agency assignments - at least 10 countries in Asia, Europe, and South America
- Restricting the type of work performed by temp workers - at least 16 countries in Asia, Europe, and South America

Appendix: TWJ Survey Series Methodology

Survey instruments used in the Temp Worker Justice Survey Series were developed in collaboration with the Chicago Workers Collaborative, Mississippi Workers' Center for Human Rights, New Labor (NJ), North Carolina Justice Center, and Warehouse Workers for Justice (IL). These organizations represent and advocate for workers in low-paid industries, many of whom are staffing agency workers. With feedback from temp workers, surveys were designed to examine work-related issues of pay, work hours, benefits access, job mobility, workplace health and safety, and dignity and respect in the workplace. Surveys were approximately 70 questions (mostly multiple-choice and some free-response) in length, and available in English and Spanish.

Survey participant recruitment included both online advertisements and outreach through the worker organizations listed above. Participants recruited via worker organization partners were given a monetary stipend. A majority of survey respondents completed the survey directly online via an online survey tool, and a small number of surveys were administered in person by participating worker organizations.

The Temp Worker Justice Survey Series surveyed a total of 1,337 temp workers between February 2019 and December 2021. A subsample of survey respondents completed a version of the survey that included questions related to the COVID-19 pandemic between April 2020 and March 2021.

While not representative, the survey sample was broad in reach, including workers from 47 states and across a wide range of occupations and industries. Compared to the Census Bureau's American Community Survey sample, TWJ Survey respondents are younger, more likely to be Black, Latinx, and women, and less likely to be white, Asian, and men.

Demographic Characteristic	TWJ Survey Series, 2019-2021 (%)	American Community Survey, 2019 (%)
Black	28.0	23.2
Latinx	31.0	19.3
Asian	2.2	5.4
White	29.3	48.3
Women	60.0	55.9
Men	40.0	44.1
18-24	9.5	12.1
25-34	55.6	26.8
35-54	33.0	41.1
55-64	1.7	14.9
65+	0.2	5.2

Endnotes

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