

KNOW YOUR RIGHTS:

YOUR RIGHT to protect yourself at work during and after a natural disaster.



FACTS FROM THE NC JUSTICE CENTER'S WORKERS' RIGHTS PROJECT

DURING A NATURAL DISASTER, you—not your employer—are in the best position to decide whether it is safe to travel to and from work, or whether it is safe to stay at work. When in doubt, please protect yourself and your coworkers. You always have the right to refuse to work, but unfortunately there may be consequences for doing so. However, your life is worth more than your job, no matter what.

What are my rights if it is not safe for me to travel to work because of a natural disaster, but my boss is telling me to come in?

Unfortunately, there is no law that says you don't have to travel to work if road or other conditions are unsafe. Even if a state of emergency has been declared and officials are asking people to stay off the roads, your employer can terminate you for not reporting to work. However, you may qualify for disaster unemployment benefits if you are physically unable to get to work after a natural disaster has occurred. Visit www.des.nc.gov/dua for more information.

If you decide not to go to work because it is unsafe, you should notify your employer of the reasons why you cannot come in. If you are fired or if adverse action is taken against you, you might have a legal claim. You are more likely to have legal protection if you and your coworkers make the decision and act together. Consult an attorney to discuss your options.

What if my boss is making me stay and work during an evacuation?

If you believe it is unsafe for you to remain at work, you should notify your employer that you are leaving, and why. If you and your coworkers decide to take action together, such as walking off the job because your

employer is ignoring an evacuation order, you will have more legal protections than if you act alone.

You may have a legal claim if you are fired or retaliated against for leaving work when you believed it was unsafe. Consult an attorney to discuss your options.

My workplace is reopening, but I'm afraid conditions there are unsafe. What can I do?

Workers have the most legal protection when they bring complaints or concerns to their employer in a group of two or more people. It is a good idea to document your requests in writing.

Be as specific as you can about what you think needs to happen in your workplace in order for you to safely return to work.

I have returned to work, and things are not safe. What are my options?

1. Put your employer on notice.

As explained above, raise your specific health and safety concerns with your employer and do that with at least one other person. It is always a good idea to have a written record, so share your concerns in writing or follow up with a text, email or letter to confirm the conversation.

2. File an OSHA complaint.

You have a legal right to a safe and healthy workplace. You can file a complaint with the NC Occupational Safety and Health Division by calling 1-800-NC-LABOR. You do not have to give your name, but if you don't, be as specific as you can about the workplace location where there are problems, and what those problems are. Let OSHA know how many people are exposed to the unsafe conditions.

You have the right to refuse unsafe work. Unfortunately, your employer may fire or take other action against you if you refuse to work. It is illegal for an employer to retaliate

against a worker who makes a health and safety complaint, so if this happens, you may be able to bring a legal claim. Your claim will be stronger if you have made a formal complaint to OSHA.

3. Apply for unemployment benefits, if you decide not to stay at work.

If your employer is offering you work, you will not qualify for unemployment benefits unless that work is not suitable. As discussed above, it is important to document your concerns with your employer and/or OSHA, and to obtain a doctor's note if the specific health and safety issue at your workplace impacts a health condition you have.

It is not clear that people facing these circumstances will be eligible for unemployment benefits, but if you decide not to continue to work, you should apply. If you are denied unemployment benefits, you have 10 days to appeal the agency's decision against you. You need to do so in writing.

MORE INFO



Want to know more?

The NC Justice Center's Workers' Rights Project offers factsheets on a range of workplace rights topics in English and Spanish. Find our factsheets here:



North Carolina Justice Center | P.O. Box 28068 | Raleigh, NC 27611 | (919)856-2570 | <http://www.ncjustice.org>

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in North Carolina. However, this fact sheet does not address exemptions and does not go into detail regarding legal rights. In addition, laws and legal procedures are subject to frequent change and differing interpretations, and the North Carolina Justice Center cannot ensure the information in this sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

What can I do if my health has been impacted by the effects of a natural disaster at my workplace?

If you have an accident at work or are experiencing an occupational disease, you may qualify to receive workers' compensation benefits. You should give written notice of any work-related injury or illness to your employer as soon as possible, ideally within 30 days after the date of your injury. You must file a worker's compensation claim with the North Carolina Industrial Commission no later than 2 years from the date of your injury. The best way to file a claim is to file a Form 18 with the Industrial Commission here: https://www.ic.nc.gov/forms/form18_724.pdf.

What if my boss retaliates against me for raising these issues?

It is illegal for your boss to retaliate or discriminate against you for asking questions or making a complaint about health and safety or applying for workers' compensation. They cannot transfer you, deny you a pay raise, cut your hours, or fire you because you raised concerns about your health or safety. If you have been retaliated against because of a safety or health complaint or a worker's compensation issue, you have 180 days to file a retaliation complaint with the North Carolina Department of Labor's Employment Discrimination Bureau.

If you have been retaliated against because you took action or raised concerns with other people at your workplace, in most

instances you are protected by the federal law that prevents most employers from taking adverse action against someone for joining with coworkers to complain about working conditions. For more information, contact the National Labor Relations Board.

I work in disaster recovery and remediation. How can I protect myself from hazards?

There are many hazards associated with cleanup from natural disasters, including heat stress, buildup of carbon monoxide from generators, hazardous animals such as snakes and spiders, water-borne diseases, contact with contaminated materials, downed power lines, and more. Request and use personal protective equipment (PPE) from your employer. If PPE is not provided, or if you are exposed to other hazards, you have the right to file a complaint with OSHA. You can ask OSHA to keep your name confidential.

Federal OSHA has put together a series of factsheets about staying safe during cleanup and recovery that can help you to protect yourself: www.dol.gov/general/disasterrecovery#Safe.

Can I get unemployment benefits if I can't work due to a natural disaster?

Some people can qualify for Disaster Unemployment Assistance if, due to a disaster, they have lost their jobs, their work is temporarily interrupted, they are physically

unable to get to their work, they can't work due to an injury caused by a natural disaster, or they are a contractor whose jobs have been cancelled or impacted by the disaster. These benefits can last for a longer time period than regular unemployment benefits. For more info, [visit www.des.nc.gov/dua](http://www.des.nc.gov/dua).

All immigrants who are lawfully present, authorized to work, and have a social security number, may be eligible to apply for regular unemployment benefits if they lost their jobs due to a disaster and are eligible/available to work elsewhere. A narrower group of lawfully present immigrants including green card holders, refugees, asylees, trafficking victims, certain victims of domestic violence, and people with humanitarian parole for more than one year are eligible for the more generous Disaster Unemployment Benefits.

TELL US YOUR STORY



The Workers' Rights Project at the NC Justice Center is on a mission to improve job conditions in North Carolina. Have you ever experienced unfair treatment at work?

Dealt with wage theft or union busting? Share your story* with us. We're gathering testimonies to advocate for better workplace protections, including safety, fair wages, and support during difficult times: <https://tinyurl.com/ncworkerstories>

***Your story will remain confidential unless you give us written consent to share it.**

RESOURCES

For help finding a lawyer, call:	North Carolina Advocates for Justice	1-(800) 688-1413
	North Carolina Bar Association Lawyer Referral Service	1-(800) 662-7660
	Legal Aid of North Carolina	1-(866) 219-5262

TO FILE A CLAIM WITH A GOVERNMENT AGENCY OR TO SEEK INFORMATION ON THE FOLLOWING ISSUES, CONTACT:

DISCRIMINATION	US Equal Employment Opportunity Commission	1-800-669-4000	www.eeoc.gov
E-VERIFY	Department of Homeland Security/EVerify	1-888-897-7781	https://www.e-verify.gov/
FAMILY & MEDICAL LEAVE	US Department of Labor	1-866-487-9243	www.dol.gov/whd
HEALTH & SAFETY	NC Department of Labor	1-800-NC-LABOR (625-2267)	www.nclabor.com/osh/osh.htm
MISCLASSIFICATION	Internal Revenue Service		http://www.irs.gov/pub/irs-pdf/fss8.pdf
RETALIATION	NC Department of Labor, Employment Discrimination Bureau	1-800- 625-2267	www.nclabor.com/edb/edb.htm
UNEMPLOYMENT INSURANCE	NC Department of Commerce, Division of Employment Security	1-877-841-9617	https://www.ncesc.com/
UNIONS & COLLECTIVE ACTION	National labor Relations Board	1-866-667-6572	www.nlrb.gov
WAGE THEFT	NC Department of labor, Wage and Hour Bureau US Department of Labor	1-800-625-2267 1-866-487-9243	www.nclabor.com/wh/wh.htm http://www.dol.gov/whd/
WORKERS' COMPENSATION	NC Industrial Commission	1-800-688-8349	http://www.ic.nc.gov/