

Governor Andrew Cuomo

Albany, New York

Via Email: melissa.derosa@exec.ny.gov

cc: monique.owens@wcb.ny.gov; darren.cohen@exec.ny.gov; roberta.reardon@labor.ny.gov;
megan.baldwin@exec.ny.gov

March 10, 2020

Dear Governor Cuomo,

We write to urge you, as part of your coordinated effort to fight the spread of COVID-19, to include restaurant workers in the standard minimum wage laws of New York State on par with other workers. We do so because for reasons we describe below, paid sick days are of little help to workers who critically depend on tips to earn a basic income. For without such wage parity for restaurant workers throughout New York State, guaranteed paid sick days will not allow sick restaurant workers to stay home.

During the norovirus outbreaks between 2009 and 2012, contaminated food accounted for more than [25 percent](#) of cases of illness. More generally, [70 percent](#) of food-borne illness can be traced back to ill food service workers. While much is yet to be learned about coronavirus, we know enough about existing infections like norovirus and the flu, which can be spread in similar ways.

But we must not blame the food service workers. The fault lies with unjust wage policies that force restaurant employees to show up for work even when they're sick.

We know that you expressed a desire for New York State to join ten other states and the District of Columbia in requiring paid sick leave for workers. But paid sick leave would only be of limited help to restaurant workers who depend on tips and only receive a sub-minimum wage while out sick. For these workers, actually taking that paid sick would remain a luxury when workers must be present at work in order to earn the tips that make up a livable wage.

Employers are supposed to ensure that tips make up the difference between the subminimum wage for tipped workers and the full minimum wage. Paid sick leave in New York and Massachusetts should ensure tipped workers earn a full minimum wage, not the subminimum wage, when they are sick. However, the US Department of Labor has reported an [84% violation rate](#) with regard to restaurants complying with these rules. Furthermore, the Restaurant Opportunities Center has reported that based on their members' experience, restaurant workers are more likely to use paid sick leave when they are accustomed to receiving a full minimum wage from their employers, rather than relying on tips as a portion of their base wage. Clearly, the best policy to enact in the face of a looming epidemic is to ensure these workers a full minimum wage with tips on top so that they may stay home when they are ill.

Two out of three restaurant workers cook, prepare, and serve food while sick, according to a nationwide survey of over 4,000 restaurant workers that the Restaurant Opportunities Centers United published in 2010. The reason is simple—their wages are so low that they simply can't afford to stay home.

Mandating companies to provide paid sick days to their workers is only part of the solution. According to Federal law, tipped workers can be paid a sub-minimum wage, just \$2.13 an hour, which hasn't been raised in 30 years. But seven states—California, Alaska, Minnesota, Montana, Nevada, Oregon, and Washington—have adopted One Fair Wage so that all workers in those states are paid the full minimum wage, with tips on top. Many of us live, teach and work in public health in California, which requires all workers to be paid the full minimum wage with tips on top, better enabling them to stay home when sick. We know New York can follow California's lead.

We know that you believe in One Fair Wage, because you mandated it in New York State. But, unfortunately, a large group was omitted—*restaurant workers*. This omission must now be corrected, not only out of basic fairness, but also in the interest of public health and safety. Only if restaurants are subject to the standard minimum wage AND receive paid sick days will the tens of thousands of restaurant workers be able to stay at home when they are sick and thereby promote safety for the millions of New Yorkers who dine out every day.

We hope that you will adopt this common sense measure to promote public health and safety.

Sincerely yours,

Steven Markowitz MD, DrPH
Professor and Director
Commoner Center, Queens College, CUNY

Jacqueline Moline MD, MSc
Professor and Chair
Occupational Medicine, Epidemiology and Prevention
Zucker School of Medicine at Hofstra/Northwell Health

Luz Claudio, PhD
Professor
Department of Environmental Medicine and Public Health
Ichan School of Medicine at Mount Sinai

Michael Lax, MD
Professor, Family Medicine
Medical Director, Occupational Health Clinical Center
SUNY Upstate University Medical Center

Susan Richman, MD, MSc
Bellevue- NYU Occupational Health Clinical Center
NYU Langone Health

Jeanette Zoeckler, PhD, MPH
Director, Preventive Services
Occupational Health Clinical Center
SUNY Upstate University Medical Center

John Meyer MD
Professor
Department of Environmental Medicine and Public Health
Ichan School of Medicine at Mount Sinai

Ken Spaeth, MD, MPH
Assistant Professor
Occupational Medicine, Epidemiology and Prevention
Zucker School of Medicine at Hofstra/Northwell Health

Alfredo Morabia MD, PhD
Professor of Epidemiology
Commoner Center, Queens College, CUNY

Matt London, MS
Director
Northeast New York Coalition of Occupational Safety & Health

Nick Freudenberg, DrPH
Distinguished Professor
Faculty Director, CUNY Urban Food Policy Institute
Community Health and Social Sciences, CUNY SPH, Graduate School of Public Health & Health Policy

Isabel Cuervo, PhD
Assistant Professor
Commoner Center, Queens College, CUNY

Homero Harari, PhD
Assistant Professor
Department of Environmental Medicine and Public Health
Ichan School of Medicine at Mount Sinai

Kavita Rajasekhar, MD, MPH
Assistant Research Professor
Commoner Center, Queens College, CUNY

Norman Zuckerman, CIH
Senior Industrial Hygienist
Department of Environmental Medicine and Public Health
Ichan School of Medicine at Mount Sinai

Jean Grassman, PhD
Associate Professor of Environmental Health
CUNY School of Public Health

Grace Sembajwe, PhD
Associate Professor
Occupational Medicine, Epidemiology and Prevention
Zucker School of Medicine at Hofstra/Northwell Health

Carla Patterson-Wingate, LCSW
Occupational Health Clinical Center
SUNY Upstate University Medical Center

Jeanette Zoekler, PhD, MPH
Director, Preventive Services
Occupational Health Clinical Center
SUNY Upstate University Medical Center

Emily J. Ozer, PHD
Professor
UC-Berkeley School of Public Health

Lia Fernald, PHD
Professor
UC-Berkeley School of Public Health

Laura Stock, MPH
Director
Labor Occupational Health Program
UC Berkeley School of Public Health

Ndola Prata. MD, MSc
Professor in Residence
UC-Berkeley School of Public Health

Kristine Madsen, MD, MPH
Associate Professor
UC-Berkeley School of Public Health

Lauren Aguado, Ph.D.
Postdoctoral Fellow, Laboratory of Virology and Infectious Disease
The Rockefeller University

Aleksandr Stotland, Ph.D.
Project Scientist
Smidt Heart Institute, Cedars-Sinai Medical Center

Ryan A. Langlois, Ph.D.
Assistant Professor
Dept. of Microbiology & Immunology, University of Minnesota

Meredith Minkler, DrPH, MPH
Professor Emerita / Professor in the Graduate Group
UC Berkeley School of Public Health

Charlotte Chang, DrPH, MPH
Coordinator of Research to Practice & Evaluation
Labor Occupational Health Program
UC Berkeley School of Public Health

Jennifer Hamilton, Ph.D.
Postdoctoral Fellow
Dept. of Molecular & Cell Biology, University of California, Berkeley

Diane Bush, MPH
Coordinator of Public Programs
Labor Occupational Health Program
U.C. Berkeley School of Public Health