



**Comments to The New York State Department of Labor regarding
Section 2 of The New York Health and Essential Rights Act**

February 9, 2022

Board of Directors

Stuart Appelbaum

*President,
Retail, Wholesale and
Department Store Union*

My name is Lynda Nguyen and I am the Senior Policy and Research Analyst at [ALIGN, the Alliance for a Greater New York](#). ALIGN leads the [NY Essential Workers Coalition](#), a statewide partnership of over 75 unions, worker centers, immigrant rights organizations, legal service providers, health and safety organizations, and community-based organizations that fought for the landmark New York Health and Essential Rights Act (“NY HERO Act”). Our Coalition represents millions of Black and brown essential workers across the state who have kept New York moving throughout the pandemic.

Eddie Bautista
*Executive Director,
NYC Environmental Justice
Alliance*

We celebrate the historic passage of the NY HERO Act as the first and only permanent Airborne Infectious Disease Standard in the country. Section 2 of the NY HERO Act authorizes the creation of worker committees that will be empowered to raise health and safety complaints, and report violations. Occupational health and safety, including the spread of highly contagious airborne infectious diseases, requires constant vigilance. In fact, Commissioner Reardon testified during the Joint Workforce Development Hearing in January that the Department of Labor received 53,000 COVID complaints since the start of the pandemic. It has been, and will remain, difficult to solely rely on the DOL to frequently monitor businesses.

Henry Garrido
*Executive Director,
AFSCME District Council 37*

Workers know what workers need. Worker committees have long been noted as an important tool in workplace health and safety. Workers are well positioned to identify the safety and health risks in their workplace, and [research has shown that worker voice has a positive impact on employer compliance with the law](#).

Lucia Gomez
*Political & Legislative Director,
New York Central Labor
Council*

We are encouraged by the Department of Labor’s commitment to empowering workers to have a role in ensuring safety in their workplace. We are pleased that the proposed rules include an easy process for workers to form committees, in as many workplaces as statutorily eligible, and for committee members to carry out their duties. This will lead to greater safety for workers, businesses, and members of the public.

Bernadette Kelly
Trustee,

Nevertheless, there are some changes that could better implement the statute and make the committees more effective. We call on the DOL to incorporate the following modifications into the standards:

IBT Local 210

Jose Lopez
*Co-Executive Director,
Make the Road New York*

Maritza Silva-Farrell
*Executive Director,
ALIGN*

Worker Committee Size

Cynthia Travieso
*Political Director,
Community Voices Heard*

The proposed rules set a maximum cap of twelve members per worker committee. This rule undermines the intent of the NY HERO Act. Twelve workers will not be able to adequately understand and represent the breadth of health and safety issues presented at larger worksites with many different job tasks and shifts— take a warehouse for example, a picker who works during the day at a Buffalo facility faces very different health and

Jonathan Westin
*Director
New York Communities
for Change*

safety risks compared to their coworker who works at a Staten Island loading dock at night. This cap would also undermine multi-worksite committees by limiting the amount of participation at each site and potentially exclude some sites from participating. We recommend that the cap be increased for larger employers.

Language Access

All workers deserve to be informed and actively engaged in conversations pertaining to workplace health and safety. In order for committees to effectively promote workplace safety, committee meetings, trainings, and materials must be easily accessible to all workers across different languages. [66 percent of NY's essential workers are immigrants](#). Mandating language services that expand access to workers who speak languages other than English, such as interpreters and materials translation, will be critical to the successful implementation of NY HERO. This aligns with the intent behind [federal](#) and [state language access policies](#).

Funding for Enforcement

The NY HERO Act is an urgently needed law that will address the current crisis and future airborne infectious disease pandemics. We urge the state to dedicate a modest investment of \$50 million to hire investigators to enforce the COVID safety provisions of the NY HERO Act, provide public outreach and training to workers and employers so they understand their rights and responsibilities, and support small businesses with making ventilation upgrades.

Thank you for the opportunity to testify today.