



June 16, 2020

Dear Governor Cooper and Secretary Cohen,

Thank you for your letter responding to the Farmworker Advocacy Network's ([FAN](#)) March 31, 2020 letter asking the state to take urgent action to protect agricultural workers in North Carolina from COVID-19. We are disappointed with the response and that you did not meet with us to discuss our concerns. During the two months between when we sent our letter and you responded, thousands of farmworkers arrived in North Carolina and outbreaks started happening at migrant labor camps.

In our letter we acknowledged that NC DHHS has published helpful guidance for migrant housing providers and agricultural employers but expressed our concern that this unenforceable guidance was not sufficient to protect our state's agricultural workforce. It is frustrating, therefore, that your response to us simply directed our attention back to this guidance.

Agricultural workers experience high levels of wage theft and other workplace violations even when there are legal requirements in place.ⁱ Migrant farmworkers are one of the most marginalized and isolated groups of essential workers in the state, predominantly people of color and non-English speaking immigrants. They cannot count on their employers and housing providers to voluntarily comply with guidance to take the necessary steps to protect their health during this pandemic and they lack the power to insist such guidance is followed themselves.

There are additional concerns that FAN members have witnessed over the last few months that we think it is important for your offices to understand.

Barriers to testing and follow-up care

- Some employers are refusing to provide transportation for workers to get tested and/or get medical care. Outreach workers are not equipped to transport symptomatic workers to get tested and/or medical care. They have not been able to get medical providers to go to migrant labor camps to do large-scale testing. Some camps have more than 80 people living in them and it makes more sense to bring the testing to them.
- Some hospitals / health departments are refusing to test farmworkers, even when they are identified as being on the NC DHHS priority list due to their congregate living settings. Some

workers have had to travel to other counties in order to get tested. Workers have been turned away from hospitals when seeking testing after 5:00 p.m. when most community clinics in rural farmworker areas are closed.

- Some hospitals / health departments are not asking patients about the type of work they do or their housing, which means they are most likely not following relevant reporting protocols or guidance and thus leading to an undercount of infected farmworkers.
- Some hospitals / health departments are refusing to test multiple people in one household if one person is COVID-positive, which means that household members who are presumed positive but work in different locations may not trigger needed isolation or quarantine measures.
- Tests can cost as much as \$350, which is unaffordable to farmworkers.
- There is a lack of interpretation available both when seeking diagnosis and in follow-up.

Worker fear and confusion

- Many H-2A workers do not want to report their symptoms or get tested because they are afraid that if it comes back positive it will cause trouble for their employer by triggering a requirement for a large portion of the labor camp to be isolated and because they fear they will be singled out and face retaliation. Some workers report considering abandoning their own employment rather than be the worker responsible for creating upheaval and risking their family members' and co-workers' jobs with the same employer.
- Workers are reporting that, even if they have symptoms, they hide them and work anyway because they cannot afford to miss a day's worth of income. Employers are not paying sick leave when needed. The language the workers hear from their employers about the pandemic is threatening rather than reassuring. The message is that if someone in the labor camp gets sick, everyone is going to lose work and income. Employers, of their own volition, are not addressing any worker misinformation or fear. We are not aware of any agricultural employer group or association that has published a public statement in Spanish reassuring workers that they are eligible for paid COVID-19 leave, and will not face reprisal in North Carolina for reporting symptoms, seeking care, or following a doctor's orders related to COVID-19 to combat these dangerous fears and messaging.
- Some workers have a false sense of security about being safe from coronavirus because they have not heard of many farmworkers getting sick. While other workers report hearing rumors about workers who got sick, sought care, and were never seen again – leading to more insecurities and fear. The lack of public data available regarding farmworkers and COVID-19 at labor camps and their agricultural work sites reinforces these dangerous narratives. There are so many small agricultural employers, growers and farm labor contractors, that are breaking rules and need more oversight. Many workers report that they

are not being provided any sort of PPE and are unable to physically distance while working and travelling between their work sites and their homes.

Recommendations

We continue to encourage the Governor to address the concerns and implement the recommendations from our March 31 letter. Below are additional recommendations based on what we have witnessed over the last two months.

- 1) **Issue an Executive Order**, as has been done by governors of other states including Wisconsinⁱⁱ and Michigan,ⁱⁱⁱ to make compliance with public health guidelines such as those developed by NC DHHS mandatory and enforceable. North Carolina has the 6th largest farmworker population in the nation, yet we have not taken measures to protect this significant workforce. Farmworkers, agricultural employers and migrant housing providers need to have requirements instead of guidelines in order to motivate them to comply with NC DHHS, OSHA and CDC guidance. [Governor Cooper's Executive Order 131](#) established required policies for retail establishments. Agricultural workers need at least as much protection as retail workers.
- 2) It is urgent that more accurate and transparent information about the number of COVID-19 positive cases associated with migrant farmworker housing and agricultural worksites is collected and shared. Based on reports from FAN members, we believe that there are outbreaks at more than 30 farms in 25 counties, including at a migrant labor camp that has capacity to house close to 500 workers. For the reasons mentioned above about lack of access to testing and reluctance to get tested, we believe the number of camps and worksite with unconfirmed COVID-19 cases is much higher. The current reporting on the NC DHHS COVID dashboard is not adequate both because it is simply reporting on a point in time, but also because by limiting the reporting only to migrant labor camps with more than 10 people^{iv} and to cases that originated in the labor camps, it is not broad enough to demonstrate the real magnitude of the problem. As a result, stories about farmworkers actually getting tested, seeking care and benefits, surviving quarantine and returning to work, and not getting fired are not normalized. Additionally, without this information, health care providers and advocates cannot safely assist workers to overcome misinformation and barriers to care and testing in their service areas. The congregate living data should include reporting specific to migrant housing and NC DHHS should be reporting more broadly about total agricultural worksites affected and worker cases beyond the congregate living data.
- 3) Testing needs to be free and more widely available, ideally at labor camps or other locations that are more accessible than health clinics and hospitals. Testing and follow-up care need to be culturally competent with Spanish interpretation available and more evening hours. More regular testing and better communication from NCDHHS about what testing means would normalize it and make farmworkers more comfortable with it. Governor Cooper's [Executive Order 143](#), "Addressing the Disproportionate Impact of COVID-19 on Communities of Color" provides for more access to testing, but it makes no mention of

agricultural workers. Agricultural workers and the particular occupational hazards they encounter certainly need to be included in the work that happens as a result of the EO. We would like the opportunity to recommend someone for the newly created Andrea Harris Social, Economic, Environmental, and Health Equity Taskforce who is from a farmworker community or someone who can provide meaningful input based on their direct knowledge about the unique experience of farmworkers. We have heard reports within the last few days of Latinx workers still being turned away from hospitals when requesting testing.

- 4) Where employers are not following guidance issued by NC DHHS and outbreaks are occurring, we encourage Secretary Cohen to use her enforcement authority under N.C. Gen. Stat. § 130A-17 through 130A-20 to protect employees from dangerous workplaces.
- 5) Finally, although it is not directly related to the pandemic, we cannot underscore enough the need for the state to be planning and preparing now for how it will handle evacuation and sheltering of farmworkers, especially farmworkers in isolation or quarantine, in case it is necessitated by a natural disaster this hurricane season. Hurricane shelters and evacuation routes can easily become hotspots for COVID-19 outbreaks. A COVID-informed emergency plan is desperately needed.

We also note that we have not yet received a response to our May 8 letter about the magnifying crisis within meat and poultry processing plants. Many of the recommendations in this letter apply equally to that industry, such as the urgent need for mandatory requirements and the benefit of better reporting.

We again request to meet with you and request that we receive a timely response that is responsive and appropriate to our concerns and the gravity of the situation. Please contact Anna Jensen, FAN Coalition Coordinator, at 919-915-9990 or annaj@ncfwp.org and/or Clermont Ripley, coordinator of FAN's Advocacy team, at 919-856-2154 or clermont@ncjustice.org, to discuss how we can carry this important work forward and ensure that farmworkers are not needlessly put in harm's way.

Sincerely,

The North Carolina Farmworker Advocacy Network^v

ⁱ For one overview, see “U.S. Department of Labor Enforcement in Agriculture: What Must Be Done To Protect Farmworkers Despite Recent Improvements” Farmworker Justice 2015, available at <https://www.farmworkerjustice.org/sites/default/files/FarmworkerJusticeDOLenforcementReport2015%20%281%29.pdf>

ⁱⁱ State of Wisconsin, Office of the Governor Tony Evers, Executive Order #25, Additional Safety Measures Related to the Department of Workforce Development and Migrant Labor Camps, April 14, 2020, <https://evers.wi.gov/Documents/COVID19/EMO25-DWDMigrantLaborCamps.pdf>

ⁱⁱⁱ State of Michigan, Office of the Governor Gretchen Whitmer, Executive Order No. 2020-111 Protecting the Food Supply and Migrant and Seasonal Agricultural Workers from the effects of COVID-19, June 1, 2020, https://content.govdelivery.com/attachments/MIEOG/2020/06/01/file_attachments/1464409/EO%202020-111%20Emerg%20order%20-%20migrant%20worker%20protections.pdf

^{iv} As of May 21, 2020, according to the N.C. Department of Labor Agricultural Safety and Health, the total number of registered migrant labor camps (not including employer-provided motel housing) was 1877 labor camp sites. 1011 of those labor camps, the majority, are certified for less than 10 occupants and therefore are excluded from the congregate living report even when they have confirmed COVID-19 cases.

^v A full list of FAN members is available on our website <https://ncfan.org/about/>