



SYMPATHY STRIKING AT KAISER

An overwhelming majority of our ESC members at Kaiser Permanente voted to strike in sympathy with our colleagues from Stationary Engineers, Local 39. We know many of you have questions about what this means -- be sure you understand the facts and our rights to sympathy strike.



Basic Information

What is a sympathy strike?

A sympathy strike is when members of one union strike to support or aid another group of workers on strike. Withholding our labor in solidarity is a powerful way to protest against Kaiser’s unfair treatment and to take a stand for fair treatment and respect.

Who are the Engineers?

Stationary Engineers, Local 39, is a union of 700 professionals who maintain life-saving machinery, mechanical systems, and facilities -- for example, they fix broken ventilators and help save COVID patients’ lives. Much like the healthcare professionals represented by Local 20, they are critical unsung heroes of the healthcare profession.

Why are the Local 39 engineers on strike?

The engineers are striking over unfair labor practices and because they are experiencing the same disrespect and lack of recognition that all Kaiser healthcare workers are feeling. They have been without a contract since September 17th, and Kaiser management will not come to the table to settle a fair contract.

Why is it important for Local 20 members to sympathy strike with Local 39?

It is critical that we show solidarity with our fellow healthcare professionals because an injury to one of us is an injury to all of us. We must take a stand now to tell Kaiser loud and clear that we will not allow them to bully workers and threaten the quality of patient care.

How long will our sympathy strike be?

The plan is for a 24-hour strike at all Kaiser facilities in Northern California starting at **7 a.m. on Thursday, Nov. 18, 2021, until 7 a.m. on Friday, Nov. 19, 2021.**

Is it legal for ESC Local 20 to sympathy strike with Local 39?

Yes, since we provided ten days notice to Kaiser.



Additional Questions: SYMPATHY STRIKING

What is the significance of showing up to the picket line?

As the old saying goes, we have “strength in numbers.” Kaiser will measure the strength of Local 39 and the unions sympathy striking with them by how many people show up on the picket line. We all serve the same patients and communities, so it only makes sense to stand together for patient care and professional respect.

What am I expected to do during the sympathy strike?

Show up to the picket line and bring your family. Kaiser’s attacks demand the full participation of all of us to show them we are united with the engineers and will not back down. In 2019, Local 39 notified the employer that it would engage in a sympathy strike to support our bargaining. Now it’s time to stand with them - “An injury to one is an injury to all.”

Doesn’t the “No Strike” clause in our contract prohibit us from engaging in a sympathy strike?

No. The Ninth Circuit Court of Appeals has ruled that a union must explicitly waive the right to sympathy strike in order to have a contract prohibit it. General no strike clauses, like those in the ESC Local 20 contracts, do not prohibit sympathy strikes. *Children’s Hosp. Medical v. California Nurses*, 283 F.3d 1188 (9th Cir. 2002).

Can non-union members or members of other unions join the sympathy strike line?

Yes. Generally, other hospital workers can lend support (including RNs and doctors) and make an individual decision not to cross Local 39’s picket line.



Work Questions

Can I sympathy strike if I am on probation or on call?

Yes. Per-diem, probationary, part-time, and on-call employees have the same right as everyone else to sympathy strike. Non-US citizens also have the legal right to participate in a sympathy strike.

Will I get paid if I go on sympathy strike?

No. Going on a one-day sympathy strike is a short-term sacrifice to invest in our long-term future. If Kaiser is successful in breaking the engineers’ strike by committing unfair labor practices and forcing them to accept wages well below what they deserve, the stage will be set for the rest of us. Given Kaiser’s profits and skyrocketing cost of living, Kaiser’s proposals are wholly unacceptable, not to mention the pay scale reductions, reduced bonuses, and benefit cuts that Kaiser is demanding of other unions. Take a stand now to protect what we’ve worked for over the long term.

Can Kaiser legally fire or discipline me for sympathy striking?

Employees cannot be terminated for engaging in lawful protected activity such as engaging in a sympathy strike or refusing to cross a picket line. In addition, employers cannot permanently replace employees who engage in an unfair labor practice strike. Because Local 39’s strike is an unfair practice strike, our support of that strike is also protected, concerted union activity. Please report any threats by management to a union steward or ESC Local 20 Labor Representative.

Additional Questions: SYMPATHY STRIKING

What will happen to our patients during a sympathy strike?

We are required to give a ten-day notice before our sympathy strike. It is then Kaiser's responsibility to reschedule procedures, hire temporary replacements, and make a plan to provide care.

Am I required to train my manager or scabs (replacement workers) on how to do my job before a strike?

If training is a normal part of your job duties, yes. However, if your workload or safety issues, including concerns about whether managers can be properly qualified in such a short time, prevent you from doing so, inform your supervisor. If you do not normally train people and it's not part of your job description, you can legitimately decline based on that. If management insists on being trained/directs you to train them, ask them to put the directive in writing, specifying what they want to be trained on, to allow you to respond in writing with all your concerns. In your response, copy the Lab Director, AMGA, MGA, and PIC, and your union representative, so there is a written record of all of this. If they refuse to put it in writing, document their request and your response in writing yourself, with copies to the same people. Please let your Local 20 Union Representative know if this happens.

Do I need to tell my supervisor I will not be reporting to work on the strike day?

No. Kaiser was given notification ten days in advance. You may be asked if you are participating in the sympathy strike; you do not need to respond.

Can I use vacation/sick days for the sympathy strike?

No. Sick days and vacation days cannot be used during a sympathy strike.

Can we be permanently replaced for sympathy striking with Local 39?

No. Local 39's strike is an unfair labor practices strike, so by extension, our sympathy strike is a protected, concerted union activity. Local 39 has filed charges for failure to bargain in good faith and other labor law violations. It is illegal to permanently replace unfair labor practice strikers.

What happens if my shift starts before 7am on 11/18 or 11/19?

If your shift starts before 7 a.m. on the 18th, report to work as scheduled. For those not engaged in direct patient care, leave the workplace immediately at 7 a.m. If you provide direct patient care (for example, Home Health Therapists), transition your patients to another competent professional, then leave the workplace to participate in the strike and picketing. If your shift starts before 7 a.m. on the 19th, report to work at 7 a.m., which is when the strike ends.

Can the time of the sympathy strike be changed to fit my work schedule?

No. The time was coordinated with all the other unions, and the deadline for providing the legal notice that protects our members has passed. The period of protected concerted activity is from **7 am on the 18th through 7 am on the 19th**. If you do not show up for your scheduled shift outside of those hours, you will **not be protected** and can be disciplined.