

Temporary Employment in Stanford and Silicon Valley

**Working Partnerships USA
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Executive Summary

This report examines the growing phenomenon of temporary work, its extent and character in Silicon Valley, and the issues which arise from the patterns of temporary employment in the Valley.

The Growth of Contingent Work

Contingent workers – including temporary, contract, free-lance and part-time workers – are becoming an increasingly large and permanent part of the American labor force. This trend began in the 1970s, when employers began to outsource and eliminate permanent, full-time jobs that were not considered part of their “core competency”. As part of the drive for flexibility, employers turned to contingent workers to replace these permanent positions; by some estimates, 30% of the American workforce is now contingent. And it continues to grow.

In the current economic climate, many types of contingent work – in particular, temporary employment – have declined sharply. This does not mean that the expansion of contingent work is at an end. Historically, temporary employment drops precipitously at the beginning of a recession, but once the recovery begins the temps return and even more permanent jobs shift to temp. Much of the impact of the recession is thus being borne on the backs of temp workers.

Temporary Employment in Silicon Valley: Costs and Benefits

Contingent employment is more widespread and increasing more quickly in Silicon Valley than in the country as a whole; over 40% of the workforce is in some sort of contingent work relationship. This paper focuses on temporary workers, one of the fastest growing forms of contingent work. The number of temporary employees in Santa Clara County more than tripled between 1984 and 2000, growing more than twice as fast as the overall labor force.

Temporary agencies can generate benefits for both employers and employees, letting workers test out a new job before making a commitment, or allowing employers to fill a short-term position (e.g., replacing someone on maternity leave) without going through the expensive and time-consuming process of hiring a new employee. But the shift from permanent to temporary work also comes with serious costs. Temps have disproportionately low earnings and access to benefits; they are hardest hit by job and income insecurity. Some of these problems are caused by the temporary industry’s structure and the failure of employment law to adapt to the changes in work arrangements. But others stem from certain employers’ abuse of temporary work.

Rather than using temp agencies to fill positions that are actually temporary, these employers take positions that have been or could be permanent and fill them with temps – either hiring a succession of temporary workers, or keeping one temporary employee in the same position for years. These “permatemp” workers are denied benefits, job security, and other advantages of permanent work, and are often paid less than permanent employees doing the same job.

Stanford Temporary Worker Survey

To get a better picture of hardships experienced by individual temporary workers, we relied on a recent survey of 72 workers at Stanford University and its associated hospitals. Key results of the Stanford Temporary Worker Survey are shown in the attached charts.

Although this survey is not representative of all temp workers at Stanford, its findings have implications both for Stanford and for Silicon Valley. Stanford is a leader in the valley, not only as the county's largest place of employment (with 18,000 workers at Stanford University, Stanford Hospital and Lucile Packard Hospital combined), but also as a world-class university and research institution to which many other institutions look for standards and best practices. The employment policies that Stanford models will be emulated throughout the Valley, and beyond.

Who are the temporary workers?

The temporary workers surveyed were 65% Latina/o and 21% Asian/Pacific Islanders, representing the Valley's two largest and fastest growing minority populations. About half were male and half female. 62% were between the ages of 25 and 54, and half were responsible for dependents. 25% of the survey respondents were employed directly by Stanford, while 75% were outsourced to temporary agencies.

Length and abuses of temporary employment

- 67% of the workers surveyed had held their temporary positions at Stanford for 6 months or more.
- Four workers had held their positions for *five years* or more; one of them had applied three times for permanent status, with no response.

With virtually all workers (94%) saying they would prefer a permanent job, the large proportion of long-term temps seems to point to a pattern of abuse. This is confirmed by information on hire dates of 323 direct-hire temps received from Stanford; 74% had held their jobs for six months or more, and many for much longer, remaining temps for as long as 21 years.

How children and families are affected

The survey found that temporary workers and their families face extremely low wages, lack of health care and housing options, and job insecurity.

- 73% of workers in our survey earned below a living wage (\$10.10 with health, \$11.35 without) – compared to just 20-25% of all workers in Santa Clara County.
- 68% did not have health insurance of any sort, and 21% reported using the emergency room for medical care because they lacked a regular doctor. Health, dental, vision, and family health coverage were overwhelmingly the most desired benefits among surveyed workers.

- Only 15% of workers owned their homes. 46% were forced to “double up” on housing with another family.

These problems affect not just temporary workers, but their families as well. Poor children in the U.S. are twice as likely to suffer stunted growth or to be kept back in school, and score lower on academic tests. Families without health insurance are over twice as likely to miss meals and be unable to pay their rent or utilities. The low pay, lack of benefits, and income insecurity of temp work harm workers and their children. For the one-third of temps who held their positions for over a year, the risk is particularly high that their children will suffer long-term consequences.

The cost to the public sector

The hardships faced by temp workers mean that many must turn to government-provided benefits and services -- such as food stamps, Medi-Cal, and housing assistance -- to support themselves and their families. Choosing four survey respondents representing high-, low-, and middle-income temps, it was estimated that Stanford temp workers are eligible for anywhere from \$3,000 to \$21,000 annually in taxpayer-funded safety net programs which provide food, health care and housing. This amounts to a subsidy for temporary employers; if it were not for these social service programs, many workers might no longer be able to afford to work as temps in Silicon Valley.

Solutions and Best Practices for Ending Abuse

Throughout the country, employers, temporary agencies, state and local governments, advocacy groups, and temporary workers themselves are striving to develop innovative ways of protecting temporary and contingent workers' rights, improving working conditions, and curbing abuse.

Cities ranging from New York City to Hayward have passed “living wage” ordinances that directly address temporary work, ensuring that temporary as well as permanent workers are paid a living wage. In New Jersey, 32 temporary agencies have signed on to a “code of fair conduct” developed by the local Temporary Workers’ Alliance, which helps publicize those agencies in its Consumer Guide to Best Practice Temp Agencies. The state of Washington passed a law in 2002 making it illegal for any public employer to misclassify a worker as “temporary” or a similar label in order to avoid paying benefits. Massachusetts curbed temporary day laborer abuse through a bill preventing excess transportation fees. And tens of thousands of contingent workers -- including county employees in Sacramento, high-tech workers at Microsoft, below-minimum-wage delivery workers in Manhattan, and many more -- have won lawsuits and class actions against employers who misclassified them as contractors or temps to deny their employment rights. These policies and practices, along with the many others being pioneered today, can serve as models to help Silicon Valley employers take steps towards improving their use of temporary employment.

Recommendations

Clearly, many temporary workers at Stanford face conditions that do not meet the employment standards set by the Silicon Valley community. Based on these findings, this report develops a set of policy proposals which will enable Stanford to address the hardships faced by its workers. These proposals are summarized as follows:

- 1. End abuse of temporary work.** Stanford should review all temporary positions to ensure that temporary employment is being used only for positions that are truly temporary. All “permatemp” positions should be converted to permanent jobs.
- 2. Maintain basic community standards for directly hired temporary workers.** As a direct employer of temp workers, Stanford should adhere to the values outlined in the attached “Statement of Principles.” The Statement of Principles affirms that every temporary worker deserves a decent job that can support a family, healthcare for their families and time to spend with their families, a voice at work, the ability to work without fear, job skills for career advancement, the chance to pursue better opportunities, a safe workplace, and honest job ads.
- 3. Ensure that all agencies providing temporary workers are also held to basic community standards.** Stanford should contract only with agencies which adhere to the Statement of Principles.
- 4. Guarantee protection against unfair retaliation for all temporary workers.** Stanford should guarantee that neither directly hired nor agency temps will face retaliation for speaking out about problems at their jobs.

As Silicon Valley’s largest place of employment, as well as an innovative, world-class research university to which others look for standards, Stanford should take a leadership role in addressing the issue of temporary work. Where Stanford leads, other employers will follow. If Stanford has the will and the commitment to take the lead on this issue, it will be a crucial first step towards building a temporary employment system in the Valley that meets the needs of employers, workers, and the community.

Introduction

Over the last two decades, there has been a rapid increase in various forms of contingent and alternative work arrangements, that is, forms of work that do not follow the traditional pattern of long-term, stable employment with a single employer. Temporary, contract, free-lance and part-time workers are becoming an increasingly large – and permanent -- part of the American labor force.

The reason for this rise in contingent employment, to a large extent, is corporations' increasing drive for flexibility in the face of escalating global competition and the rapidly changing economy. Since the 1970s, employers have accelerated the elimination of full-time, permanent jobs, and turned instead to more 'flexible' arrangements, in which a greater number of employees move from job to job and project to project without long term ties to their employer. Major corporations are shrinking the size of their core work force and using various forms of temporary, contracted and sub-contracting arrangements to respond to uncertain market conditions and rapidly changing niche markets.

The number and growth of contingent workers is a highly debated topic, since there are numerous definitions of who does or does not count as a contingent worker. (See box at right). The most broadly based definitions estimate that 30% of the U.S. workforce is now contingent¹, while others are more conservative. But all agree that the size of the contingent workforce has increased enormously over the last two or three decades. Looking at just one type of contingent work – employment at a temporary agency, also known as “help supply services” – Bureau of Labor Statistics data shows that employment in this industry grew from just 0.466% of total nonfarm employment in 1982, to 2.65% of total employment in 2000. In other words, employment in the “help supply services” industry grew 5.7 times as fast as overall nonfarm

What is contingent employment?

Contingent employment – also known as “nonstandard work”, “contingent and alternative work”, and by many other names – is an umbrella term for a widely ranging set of employment arrangements.

What these arrangements have in common is that they deviate in some way from the model of standard, full-time employment in which an employer directly hires a worker on a permanent or indefinite basis.

Types of contingent employment include:

Independent contractors: No legal employer (‘self-employed’); work on contract. Not covered by most employment law.

Temporary workers: Lack permanent employee status. Usually hired through temporary employment agencies; sometimes hired directly.

Short-term hires: Hired for a particular project or during peak periods. Similar to temporary workers.

Day laborers: Hired and paid by the day, usually for low-wage manual labor or domestic work. Sometimes employed through temp agencies.

Part-time work: Work less than a 40-hour work week. Often paid lower wages than full-time workers, and may lack benefits.

On-call work: Work on an as-needed basis.

Leased workers: A third-party leasing company provides payroll services, “leasing” employees to the client.

Guest workers: Foreign workers with short-term employment visas (e.g. H1B); essentially indentured to employer for the duration of their stay.

Since much of our social support system and employment law is based upon the assumptions of “standard” employment, workers in all of these arrangements lack some of the rights and protections our employment system is intended to provide.

(North American Alliance for Fair Employment)

¹ “Report Of The Working Group On The Benefit Implications Of The Growth Of A Contingent Workforce”, US Dept. of Labor, Nov. 10, 1999.

employment in the U.S.² It is predicted that this trend will continue over the next decade, as companies seek flexibility by relying more and more on contingent and outsourced workers, retaining just a small “core” group of permanent employees.³

Contingent employment in the current economic climate

Though the long-term trend shows a rapid increase in contingent growth, the short-term picture is more complex. Certain types of contingent work are expected to increase during a recession; for example, many companies cut costs by reducing workers’ hours from full-time to part-time, which could bring about an increase on the number of involuntary part-time workers. (This trend also illustrates a phenomenon common to many types of contingent work; rather than creating new jobs, contingent work is often created by the rearrangement of existing jobs, so that the addition of contingent jobs may not bring any net new jobs into the economy.) But more commonly, contingent forms of employment have fallen as fast or faster than other types of work in the past two years.

Temporary agency employment in particular has suffered a drastic drop. The help supply services industry lost nearly 7 million jobs between April 2000 and April 2003, and its share of total nonfarm employment fell from 2.65% to 2.18%⁴ -- that is, the temp industry lost proportionately more jobs than the economy as a whole.

This is a common phenomenon; temp workers tend to be “first fired, first hired” during uncertain economic times. When the economy first shows signs of slowing down, temp workers are often the first ones to lose their jobs, as companies cut temp positions before laying off permanent workers. But when the economy begins to recover, businesses hire temp workers in greater numbers than before, replacing some positions which were permanent before the recession. The American Staffing Association has found that “Over the past 30 years, the staffing industry has experienced its greatest growth during economic recoveries. . . . the percentage of the total U.S. workforce employed by staffing companies (penetration rate) has bumped up markedly after each recession.”⁵ If this pattern holds, we can predict that companies will shift even more positions to temporary in the wake of the current recession.

In the meantime, though, a substantial portion of the recession’s impact is being borne on the backs of temp workers. During a recession, temp workers experience a “double whammy” – they are more likely to be out of work, but less likely to qualify for unemployment insurance and similar supports, due to the outdated structure of what was a New Deal system. This situation keeps unemployment insurance tax rates low for the temp industry, since they have fewer claims; but it means that temporary employees often have no means of support when their positions are cut.⁶

² *National Employment, Hours and Earnings*, Series Identifiers EEU00000001 (n) and EEU80736301 (n), Bureau of Labor Statistics, U.S. Dept. of Labor. Accessed 5/21/03 via public data query.

³ Veverka, Amber, “Temps have a tough time, too”, *The Charlotte Observer*, Feb. 12, 2002.

⁴ *National Employment, Hours and Earnings supra*.

⁵ Berchem, Steven P., *Poised for Growth: ASA’s Annual Economic Analysis of the Staffing Industry*, American Staffing Association, May 2002.

⁶ National Employment Law Project, “Temp Work and Unemployment Insurance—Helping Employees at Temporary Staffing and Employee Leasing Agencies”, August 2001, <http://www.nelp.org/docUploads/pub63%2Epdf>.

Part-time employees – another type of contingent worker – also face barriers to qualifying for unemployment, especially if they were working two jobs, or have childcare responsibilities. In many states (though not California) part-timers are excluded altogether from unemployment insurance. Independent contractors have no access at all to unemployment assistance, since they are considered to be “self-employed”.⁷

This report examines one particular type of contingent work - temporary employment - and its prevalence, conditions and impacts in Silicon Valley. The following section gives an overview of the scope of temporary work in the valley and the resulting benefits and costs, focusing especially on the costs which stem from shifting or misclassifying long-term and permanent workers as "temporary". It next presents new data from an in-depth survey of temporary workers at Stanford University and Hospitals, the valley's largest place of employment and a nationally recognized leader. The results of this survey are analyzed to reveal the hardships which Stanford temporary workers face, and what these conditions could mean for Silicon Valley. Finally, the report offers recommendations based on the Stanford survey, which also have relevance for other companies in the region that employ or contract for temporary workers.

Although this report is focused on temporary work, it is important to remember that temping is but one aspect of a larger trend that encompasses all the types of contingent, alternative and nonstandard employment described above. If we can create solutions to the hardships and abuse faced by temporary workers while preserving legitimate and beneficial uses of temporary work, it will be one step towards addressing the larger question of how to integrate the changes in work arrangements wrought by the New Economy into the economic and social structures of our communities.

⁷ National Employment Law Project *supra*.

Temporary Employment in Silicon Valley: Costs and Benefits

Contingent employment is more widespread and faster-growing in Silicon Valley than in the country as a whole, in part because of the high-tech industry's heavy reliance on temporary and contract labor. By some estimates, over 40% of the workforce is in some sort of contingent work relationship.

Profile of the Silicon Valley Temporary Industry

Focusing on temporary employment in particular, in 2000 Santa Clara County was home to 419 temporary agencies with 39,434 employees.⁸ Temporary agencies are private companies that recruit workers to register with the agency, then sell these workers' services to client firms for a fee. The agency takes over many of the employment responsibilities for the workers, including payroll. Major temporary agencies in Silicon Valley are listed in Table 1.1 below.

Some large employers, such as Stanford University, may hire their own temporary workers without going through an agency. But these "direct-hire" temps are not tracked or accounted for on a countywide basis.

Table 1.1: Largest Temporary Placement Agencies in Silicon Valley (2001)

1) Manpower Staffing Services
2) Adecco Employment Services
3) Kelly Services Inc.
4) Richmar Associates Inc.
5) AppleOne Employment Services
6) Advanced Technical Resources
7) Crossroads Staffing Services
8) Select Personnel Services
9) RemedyTemp Inc.
10) Josephine's Personnel Services Inc.

Source: Silicon Valley / San Jose Business Journal's *Book of Lists 2002*

Growth of the temporary industry

The number of temporary employees in Santa Clara County more than tripled between 1984 and 2000, growing over twice as fast as the overall labor force. (See Table 1.2.) In addition, the number of temporary employment agencies in the county has exploded over the last decade, growing by a factor of six -- from 67 agencies in 1992 to 419 in 2000.⁹

⁸ Employment Development Department, Santa Clara County, Labor Market Information Division. Covered Employment and Wages (CEW) data.

⁹ *Ibid.*

**Table 1.2: Growth of Temporary Employment
in Santa Clara County, 1984-2000**

	Total Non-Farm Employment	Temporary Employment	Temp as % of total
1984	759,700	12,340	1.60%
1985	766,200	12,450	1.60%
1986	757,100	14,310	1.90%
1987	775,000	16,920	2.20%
1988	803,700	18,150	2.30%
1989	809,300	17,020	2.10%
1990	814,500	16,580	2.00%
1991	805,800	14,720	1.80%
1992	792,100	15,510	2.00%
1993	796,600	17,370	2.20%
1994	799,900	21,820	2.70%
1995	831,900	28,160	3.40%
1996	879,900	30,660	3.50%
1997	926,600	33,225	3.59%
1998	957,400	34,839	3.64%
1999	971,300	35,380	3.64%
2000	1,030,000	39,434	3.83%

Source: Employment Development Department, Santa Clara County, Labor Market Information Division. Temporary employment represents average monthly employment in SIC 7363 from the Covered Employment and Wages program.

Occupations of temporary workers

Although they are all classified as being employed within the temporary industry, temporary employees work in a wide variety of occupations. In Santa Clara County, temp workers fill over 150 different occupations, from laborers to nurses to engineers to aircraft pilots. But most temps are concentrated in relatively low-wage occupations that do not require a college degree.

Table 1.3 below shows the top 20 occupations for Santa Clara County temporary workers in 1999, along with the educational level usually needed for each occupation. 65% of all temp workers were employed in one of these occupations.

**Table 1.3: Top 20 Occupations Within the Personnel Supply Services Industry
Santa Clara County, 1999**

Occupation	Employment	Education / Experience
Hand Workers	4180	Short-Term On-The-Job Training
General Office Clerks	2770	Short-Term On-The-Job Training
Misc Helpers, Hand Laborers	2370	Short-Term On-The-Job Training
General Secretaries	2010	Post-Secondary Vocational Education
Freight, Material Hand Movers	1710	Short-Term On-The-Job Training
Carpenters	1360	Long-Term On-The-Job Training
Hand Packers And Packagers	1320	Short-Term On-The-Job Training
Clerical & Admin Sup Workers	1200	Short-Term On-The-Job Training
First-Line Sup/Mgr--Blue Collar	1200	Work Experience
Data Entry Keyers—Except Composing	1100	Post-Secondary Vocational Education
Sales And Related Workers	1020	Moderate-Term On-The-Job Training
Receptionists, Information Clerks	950	Short-Term On-The-Job Training
Light Truck Drivers	900	Short-Term On-The-Job Training
Financial Specialists	860	Bachelor's Degree
Food Service Workers	700	Short-Term On-The-Job Training
Inspectors, Testers, Related	680	Work Experience
File Clerks	610	Short-Term On-The-Job Training
Janitors, Cleaners--Except Maids	520	Short-Term On-The-Job Training
Mechs, Installers, Repairers	490	Long-Term On-The-Job Training
Empl Interviewers--Private Or Public	450	Bachelor's Degree

Source: Employment Development Department, Santa Clara County, Labor Market Information Division.

Benefits of Temporary Employment

By their nature, temporary agencies transform existing jobs rather than creating new ones (with the exception of the jobs needed to staff and manage the temporary agency itself.) Nevertheless, temporary agencies can and do provide a valuable service by giving businesses and workers a choice that offers greater workplace flexibility. Indeed, the rapid growth of the temporary employment industry is often attributed to the increased flexibility provided to employers – a heavily valued commodity in the New Economy. A survey by the national staffing industry association indicated that 81% of companies cite labor force flexibility as the overriding reason for employing contingent and temporary workers.¹⁰

The options provided by temporary agencies can be used in two ways, both of which have benefits for both employers and employees. First, if a position will be open for only a few weeks or months – for example, while a regular employee is on medical or maternity leave – the employer can turn to a temporary agency, rather than going through the expensive and time-consuming process of hiring a new employee for a short-term position. Workers who choose this type of employment gain from the fact that the temporary agency does much of the work of searching for and applying for placements. Workers also have more ability to turn down an assignment if it does not meet their needs.

¹⁰ Lenz, Edward A. “Flexible Employment; Positive Work Strategy for the 21st Century,” National Association of Temporary and Staffing Services, 1996.

Second, some companies initially hire temp workers for long-term positions as a sort of trial period; if the temp worker and the employer are a good match, the worker converts to permanent after several weeks. This is commonly known as “temp-to-perm” employment. Through this method, employers can reduce the probability that a newly hired employee will prove to be unsuitable or will decide to leave after a short time, leaving the employer with all the costs associated with rapid turnover. (However, some temp agencies charge their clients “conversion fees” for permanently hiring a temp worker, making temp-to-perm placements less likely.) Workers gain the flexibility of testing out a new job before making a commitment.

Costs of Temporary Employment

However, the shift from permanent to temporary work also comes with serious costs. Compared to both permanent workers in similar occupations and to other types of contingent workers, temps have among the lowest earnings and the least access to benefits; they are hardest hit by job and income insecurity.

Some of these problems have to do with the structure of the temporary industry and the failure of employment law and policy to adapt to the changes in work arrangements. But others stem from the abuse of temporary work by some employers.

Rather than using temp agencies to fill positions that are actually temporary, these employers take positions that have been or could be permanent and fill them with temps – either hiring a succession of temporary workers, or keeping one temporary employee in the same position for years. These “permanent temporary” workers are denied benefits, job security, and other advantages of permanent work, and are often paid less than permanent employees doing the same job.

The remainder of this section will look at the costs of temp work incurred by both individual workers and by society as a whole, focusing especially on those costs which arise from the abuse of temporary work. These costs include low wages, lack of health insurance and other benefits, job and income insecurity, lack of training, insufficient opportunities for education or career advancement, and racial and gender discrimination.

Low wages

One reason why misclassification of employees as temporary can have serious consequences for workers is the often large wage difference between temps and perms, even when both are performing the same work. Over 15,000 temporary workers in this county -- almost 50% of all temps -- earn less than \$10.00 an hour. Job categories in which low paid temps are concentrated include cashiers, telemarketers, data entry keyers, general office clerks, stock clerks, receptionists, machine operators, hand workers, vehicle operators, janitors, maids, and health attendants; in other words, clerical, service, and production operation.

In 1999, the average wage for Silicon Valley temps in clerical, service, and production operation jobs was \$7.19 per hour, while the average for all service workers (permanent and temp) was \$11.47. Annually, this means the difference between bringing home \$23,850 in a year if you're permanent, or getting just \$15,000 a year if you're temporary.¹¹

¹¹ California Employment Development Department, 1994, 1995, 1997; OES data; WPUSA calculations

State and national data confirm that temporary work carries with it a wage penalty. In California, median earnings for temporary workers in 2001 were about \$333 per week, or \$17,334 for a 52-week year. For full-time year-round workers, median income was \$40,627 for men and \$31,722 for women – roughly twice as much.¹²

Nationwide, in 1999 full-time temp workers earned 37% less than full-time traditional workers - a difference that cost temps an average of \$4.95 per hour. Table 1.4 below breaks down the wage difference between temps and traditional workers by race and sex.

Table 1.4: Median Usual Weekly Earnings of Temporary vs. Permanent Workers: Full-Time Workers, United States, 1999

	Temporary help agency workers		Workers with traditional arrangements		Wage penalty for temps
	Median usual weekly earnings	Est. hourly wage	Median usual weekly earnings	Est. hourly wage	
Total, 16 years and over	\$342	\$ 8.55	\$540	\$ 13.50	-37% (\$4.95/hr)
Men	367	\$ 9.18	613	\$ 15.33	-40% (\$6.15/hr)
Women	331	\$ 8.28	474	\$ 11.85	-30% (\$3.57/hr)
White	338	\$ 8.45	562	\$ 14.05	-40% (\$5.60/hr)
Black	354	\$ 8.85	445	\$ 11.13	-20% (\$2.28/hr)
Hispanic	296	\$ 7.40	396	\$ 9.90	-25% (\$2.50/hr)

Source: Bureau of Labor Statistics, Contingent and Alternative Employment Arrangements.

When one takes into account that many temporary workers are unable to work full-time year-round, either because of personal considerations, or, more likely, because the placements available do not provide consistent full-time work, the income differential between temporary and permanent work becomes even greater. It is clear that workers who are engaged in temporary work for long periods are likely to suffer considerable financial consequences.

Given the high cost of living in Silicon Valley, the consequences of such low wages affect not just individuals, but the larger community. At \$7.19/hour, a Valley temp worker does not even make enough to rent the average two-bedroom apartment -- let alone to pay for food, clothing, utilities, transportation, childcare, and other necessities. The community thus bears the burden of supporting low-wage temporary employees who, though hard-working, do not make enough to support themselves and their families.

Health insurance and other benefits

Another drawback to working in temporary employment is the lack of health and retirement benefits. Temporary employees hired through an agency are almost never eligible for the health or pension plan of the client company where they work. Federal law requires a company to offer

¹² Bureau of Labor Statistics, Contingent and Alternative Employment Arrangements, Feb. 2001. California temp data extracted by Steven Hipple, Economist, Bureau of Labor Statistics.

its benefits equally to all its employees; it cannot discriminate in its health or retirement plan. But since temporary agency workers are paid by the agency and not by the client company, they are not eligible for the client company's benefits. In a few instances, companies that have misclassified long-term workers as temps in order to exclude them from benefits are now being required to include those workers (see ‘Solutions and Best Practices’ below), but this phenomenon is not yet widespread.

In practice, most temp workers have little hope of becoming eligible for the client company’s benefits, and so must depend on the temporary employment agency to provide health and retirement coverage. But very few agencies do so. Of those that offer health insurance, usually the cost to workers is so high, or the requirements so stringent, that few if any workers are able to enroll. In California, less than 14% of temps receive health insurance coverage from their employer, compared to 63% of traditional workers.¹³ Nationwide, only 7.6 % of agency temps have employer-provided pension plans, compared to 49.5% of workers with traditional employment arrangements.¹⁴

The situation is even worse for low-income temps – those least likely to be able to purchase health care or save for retirement on their own. Of agency temps in the U.S. with family incomes below \$15,000, only 3% have job-based health insurance, and virtually none – only 1% – have employer-provided pension plans. By comparison, 43% and 24% of standard full-time workers with family incomes below \$15,000 have job-based health and pension plans, respectively.¹⁵

It is sometimes argued that temporary workers do not need job-based health insurance because they get health insurance elsewhere; from another job, from a spouse's or relative's family health coverage, or by purchasing their own. For most temporary workers, none of these options are feasible. The low wages earned by the majority of temporary workers make it impossible to purchase individual insurance, which is much more costly than group plans. And only 22% of temporary workers in the state have coverage from a relative, a public program, or another job. That leaves 64% of California temps with no health coverage whatsoever – not even Medi-Cal.¹⁶

This lack of health coverage has negative impacts on both working families and state and county budgets. An uninsured worker will most likely have to turn to the health care safety net – public hospitals, clinics, and emergency rooms – for basic health care. And without family health coverage, temp workers will need to enroll their children in public programs such as Medi-Cal, Healthy Families, and Santa Clara County’s Healthy Kids. This means that taxpayers end up paying for the lack of health coverage – a bill that can reach thousands of dollars per person per year. In addition, workers’ health suffers from their inability to access preventive health care.

The impact of lacking retirement benefits is not as immediate, but it will have clear repercussions in the future. The aging or "graying" of California's population is already a matter of serious concern, as an increasing proportion of the population will be in need of long-term health care.

¹³ Bureau of Labor Statistics, Contingent and Alternative Employment Arrangements, February 2001. Data extracted by BLS economist Steven Hipple.

¹⁴ Bureau of Labor Statistics *supra*.

¹⁵ U.S. General Accounting Office, Contingent Workers: Income and benefits Lag Behind Those of Rest of Workforce, June 2000. GAO/HEHS-00-76.

¹⁶ Bureau of Labor Statistics *supra*.

With no retirement income except Social Security, long-term temporary workers will become another factor straining the already overburdened public health, Medicare and Medi-Cal systems.

Job insecurity

Low wages and lack of benefits, though disproportionately experienced by temp workers, are not an integral part of temporary employment. Some temp workers are well-paid, some have good benefits, and it would be possible to improve compensation for the industry overall. Job insecurity, however, is inherent to the structure of temporary work. The very flexibility that can make temp work so attractive to an employer -- the ability to hire or fire workers at any time, with no notice of layoffs, severance pay, or contract requirements to get in the way -- deprives workers of the stability that they need. In essence, the costs of flexibility are shifted from the employer onto the worker.

This is where the hardship caused by long-term temp work becomes most evident. Inadequate compensation can be harmful enough in itself, but an employee who has faithfully worked at a job for years should at least have some assurance that he or she will not be called up and told not to come to work tomorrow. Yet this possibility is what temporary workers constantly face. Just as businesses suffer in the face of economic uncertainty, so do individuals; workers who know their income is undependable have difficulty saving or planning for the future, and may be unable to access credit, get financing for major purchases, or even rent a house or apartment.

Temporary workers have higher unemployment rates, work shorter assignments than others in the service sector, and are subject to a higher rate of unemployment during recessions.¹⁷ While some argue that temps enjoy the flexibility that temporary work provides, surveys have indicated that most temporary workers do not have a choice and would prefer to be working under more stable conditions. Several national surveys have found that:

- Nearly three-fifths of temporary help workers would have preferred not to work for temporary help agencies¹⁸
- In a survey of the general public, 22% of Americans had taken a contingent job involuntarily (including temping and other varieties of contingent work).¹⁹
- Even the staffing industry acknowledges that only about 20% of temporary workers choose to temp because they can't or don't want to commit to permanent work.²⁰

Education and career advancement

In addition to basic education, the New Economy demands changing skills sets from its workers. Rapid changes in technology are characteristic of the high tech industry and a fundamental aspect of controlling market share within the world industry. These changes do not affect engineers and designers in the high tech industry alone; they require lifelong training and education for workers in many different fields, from clerical work to production. The need for

¹⁷U.S. Department of Labor. *Report on the American Workforce*. Chapter 1, p. 21. 1999

¹⁸ Bureau of Labor Statistics, 1999

¹⁹ January 2000 poll by Lake Snell Perry and Associates. Results reported in: National Alliance for Fair Employment, "Contingent Workers Fight for Fairness," http://www.fairjobs.org/fairjobs/contingent/cwffe_poll.php.

²⁰ Lenz, Edward A., "The Staffing Services Industry: Myth and Reality", *American Staffing Association*, Feb. 15, 2001.

changing skills sets is central to the current discussion around a skills shortage as well as the debates surrounding H1B Visa caps. Employers, however, are assuming little direct responsibility to rectify these problems.

Fewer and fewer employers today are willing to invest in education and training even for their permanent workers. For temporary workers, client companies have virtually no incentive to provide training or skills updating, since the worker is not likely to remain long, and the company's investment would end up benefiting another firm.

Part of the appeal of temporary workers is the ability to "order up" a worker who has exactly the skills that a company needs, without having to put time and money into training. This means that the responsibility for training falls on the shoulders of the temporary employment agency or, more likely, on the temporary workers themselves.

This is reflected in the extensive use of community college computer classes as well as business institutes in the Silicon Valley region. Even those workers who are able to shoulder the cost of their own training have difficulty; many classes have long waiting lists, and it is difficult to attract and retain teachers because of the noncompetitive salaries compared with private high tech jobs. A time commitment to classes also means that a worker may have to turn down assignments if they are offered at the same time that the class is scheduled - or else fail to complete the training course.

The difficulty in acquiring training, caused by a combination of employer disinterest, individual worker time constraints, and cost, contributes to a lack of career mobility and an inability to rise within companies or develop professionally. Overall, it reduces the incentive to invest and groom employees to move up within a firm. Because temporary workers lack on-the-job experience with one particular firm, they are at a disadvantage compared with permanent employees. As the Center for Policy Initiatives discovered while investigating the experience of temp workers in San Diego, "With the exception of a handful of highly skilled positions, temporary work does not lead to a first step in a career ladder."²¹

Racial and gender discrimination

The disadvantages of being a temporary worker tend to fall disproportionately on women and minorities, because a greater percentage of women and minorities are employed through temporary agencies than are employed in the labor market as a whole. Nationally, 25.4% of temporary agency employees are Black and 17.6% are Hispanic, compared to 11.4% and 11.0% of traditional workers. Women make up 58.9% of temps, but only 47.8% of traditional workers. In other words, temp workers are considerably more likely than traditional workers to be Hispanic or female, and are more than twice as likely to be Black.²²

The structure of temporary employment also facilitates racism and sexual discrimination. Several studies have revealed that levels of discrimination and segregation, by both race and

²¹ Baiocchi, Gianpaolo, Sundari Baru, and Paula Chakravartty, *Just Getting By: The Experience of Temporary Workers in San Diego's Economy*. Center for Policy Initiatives, October 2002.

²² Bureau of Labor Statistics *supra*.

gender, are markedly higher within the temp workforce than in the workforce as a whole.²³ Part of the reason for this is the legal arrangements; with both the agency and the client company responsible for different aspects of a worker's employment, the worker often does not know who to approach when confronted with discrimination on the job, and the agency and client may compound the problem by passing responsibility back and forth. Furthermore, temporary agencies often provide employers with the option to profile or request certain types of employees and thus screen by race and gender before the employee even reaches the company's doorstep. While this is difficult to document, anecdotally most professionals in the industry agree to its widespread nature.

Finally, the vulnerability of low wages and job insecurity in the temporary industry exacerbates the already difficult situation for many welfare to work clients, who are disproportionately female. Through the CalWORKS program, welfare to work clients are often placed into temporary work through temporary help agencies. The insecurity generated by temporary work is worsened by the additional needs of this low-income population such as childcare and education. In the first trimester of 1999, 465 CalWORKS clients were placed in temporary agencies, almost 20% of the total CalWORKS placements and 4% of all temporary workers in Santa Clara County. Given that many people in this population are entering the job market with few skills and barriers to becoming employable, the lack of career paths or training associated with temporary placements compounds difficulties they are highly likely to face down the road. Furthermore, as they move off of welfare they lose access to support for transportation and childcare as well as Medi-Cal, and this industry, as mentioned, provides almost none of these benefits.

The Future of Temporary Workers in Silicon Valley

It is important to recognize that these conditions do not apply to individuals for just a brief period of time until they secure regular employment. One industry survey indicated only 29% of temporary workers found permanent work through their temporary agencies.²⁴ The rapid increase in the number of temporary workers and temporary agencies in this valley indicates that for thousands of our residents temporary work is a long-term way of life.

Contingent employment is more widespread and growing faster in Silicon Valley than in the country as a whole. The region thus provides a picture of the future of employment for millions of Americans, as information technology increasingly transforms the structure of work in our economy. For a minority of highly skilled employees who have learned how to negotiate decent wages for themselves and operate in contingent labor markets, these flexible employment patterns can be beneficial -- making it easier to balance work and family responsibilities, and to gain greater control of their own work schedules. But for the majority of both low and high-skilled Silicon Valley residents, the rise in contingent employment means increasing economic insecurity, declining wages, little access to benefits and health care, and limited opportunities for advancement.

²³ Colastosti, 1992; Ryan and Schmit, 1996; Kalleberg *et al*, 1997; Spalter-Roth and Hartmann, 1998

²⁴ Lenz, Edward A, National Association of Temporary and Staffing Services, "Flexible Employment: Positive Work Strategies for the 21st Century." *Journal of Labor Research*, 1996.

Findings of Stanford Temporary Worker Survey

To get a better picture of hardships experienced by individual temporary workers, we relied on a recent survey of 72 workers at Stanford University and its associated hospitals. Although this survey is not representative of all temp workers at Stanford, its findings have implications both for Stanford and for Silicon Valley. Stanford is a leader in the Valley, not only as the county's largest place of employment (with 18,000 workers at Stanford University, Stanford Hospital and Lucile Packard Hospital combined), but also as a world-class university and research institution to which many other institutions look for standards and best practices. The employment policies that Stanford models will be emulated throughout the Valley, and beyond.

Survey Methodology

Departments at Stanford in which substantial numbers of temporary workers are employed were identified. Worksite organizers with SEIU 715 who were familiar with each department located temporary workers for the project and arranged the interviews. The interviews themselves were conducted by student research interns, using a questionnaire developed by SEIU Local 715 and Working Partnerships USA. The interviews were part of a larger project that also involved identifying services needed by the temporary workers and providing the workers with appropriate referrals.

A total of 72 temporary workers at Stanford University, Stanford Hospital and Lucile Packard Children's Hospital (referred to collectively as "Stanford" throughout this report) were surveyed between March 13 and May 3, 2003. The total number of temporary workers at Stanford is not available; however, this sample is believed to comprise between 2% and 5% of all temporary workers. It is not a random sampling, and thus cannot be extrapolated to Stanford temporary workers as a whole; except where noted, the data and percentages given below represent only the 72 workers surveyed.

Additional data on length of employment for directly hired temporary workers was obtained from Stanford and the hospitals. This data is also presented below.

Survey Results

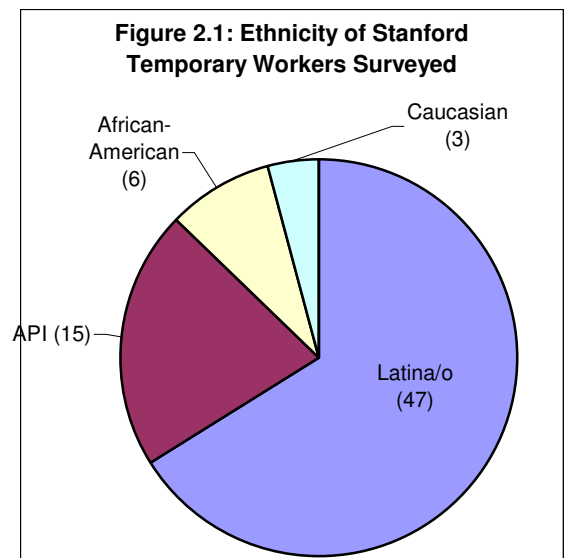
Demographics

Ethnicity and immigrant status

The majority of the workers surveyed were Latinas/os, with a strong minority of Asians and Pacific Islanders, predominantly Filipinas/os. (See Figure 2.1) Over three-quarters were immigrants, but largely not recent immigrants; two-thirds had lived in the U.S. for more than five years. 47% were women and 53% men.

Age

Contrary to the perception that most temp workers are young people gaining job experience or students looking for “a little extra money”, 70% of workers surveyed were age 25 or older. However, few of the workers surveyed were seniors, with only 22% over age 45. (See Figure 2.8) 49% of workers were responsible for one or more dependents.



Employment characteristics

Department and occupation

All of the temporary workers surveyed worked at Stanford or one of the associated hospitals, with 31 at Stanford Hospital or Lucile Packard Children’s Hospital, 40 at Stanford University itself, and one unspecified. The majority worked in the Dining or Housekeeping departments, with Medical Records and Facilities/Operations also well represented. (See Figure 2.7)

Top job classifications included housekeeper, dishwasher, and dining, but a wide range of more than 20 occupations were represented, from an electrician to a master locksmith to a medical transcriber. (As for all the data in this survey, it is important to remember that these statistics represent only the 72 workers surveyed, and do not necessarily reflect the distribution of Stanford temporary workers as a whole.)

Employer

Stanford employed 25% of the temps directly. The remaining three-quarters were outsourced to a variety of temporary employment agencies, Manpower chief among them, followed by Option 1 and Surgitech. (See Figure 2.6)

Duration of employment

Despite the temporary nature of their employment, many of the individuals surveyed had worked as Stanford temps for a considerable time. Only 8 percent had worked there for less than a month. Two-thirds of the workers had held their current jobs for at least six months, and 36% -- more than a third of all workers -- had been at Stanford for a year or more. Remarkably, four workers (5.6% of the total) reported having held their “temporary” positions for five years or more. Three of the four had dependent children; none of the workers had health insurance. One reported that s/he had originally been told the temporary position would last three months, while another had been told it would last only a week. All four desired permanent status; one reported

that s/he had applied three times for a permanent position, but never received a response. (See Figure 2.2)

Nearly all workers (94%) said they would be interested in a permanent job. A similar number (93%) said they would like to work more hours. Half of the workers surveyed had applied for a permanent job at Stanford; some had applied multiple times, with no success. (Fig. 2.3, 2.4, 2.5)

Wages

Most temporary workers earned low wages compared to the cost of living in the region. Over half earned \$9.00/hour or less. When presence or absence of health benefits was taken into account, 73% earned less than the living wage set by the City of San Jose. This means that 73% of the workers would be unable to afford basic necessities for themselves and their families on the wage they earn at Stanford. (See Figures 2.9, 3.2)

Temp workers' approximate monthly earnings were calculated using the wages, hours, and days of work per month reported in the survey. 86% of all workers earned \$2,000 per month or less; more than a quarter made less than \$1,000 per month. Although half of all workers in Santa Clara County earn more than \$3018 per month (2000 U.S. Census), only 6% of the workers surveyed made more than that amount. Clearly, temporary work at Stanford is part of the bottom half of the hourglass.

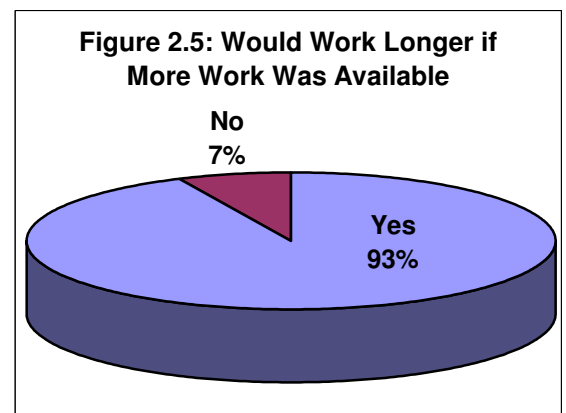
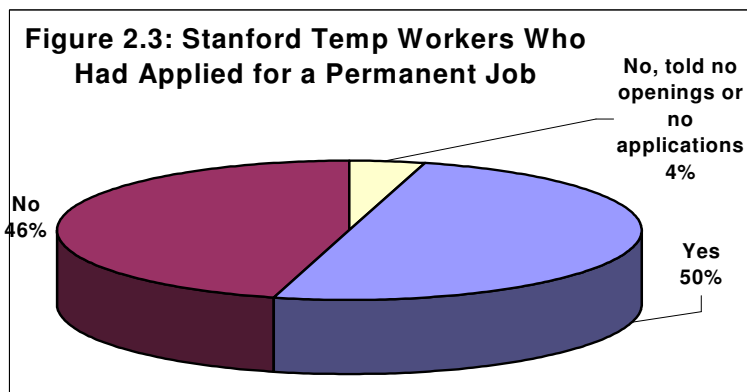
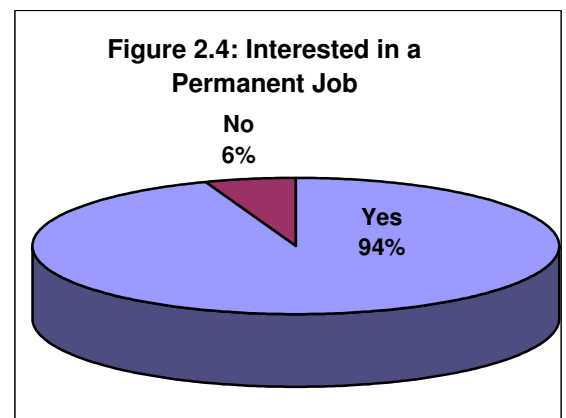
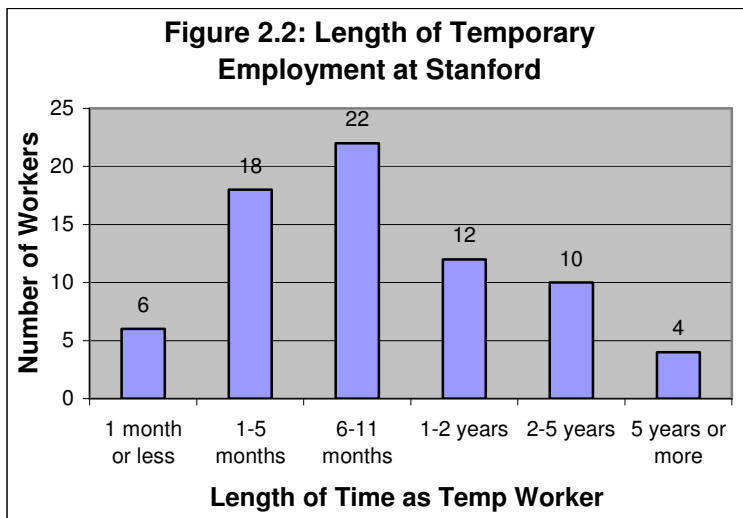


Figure 2.6: Employers of Stanford Temporary Workers

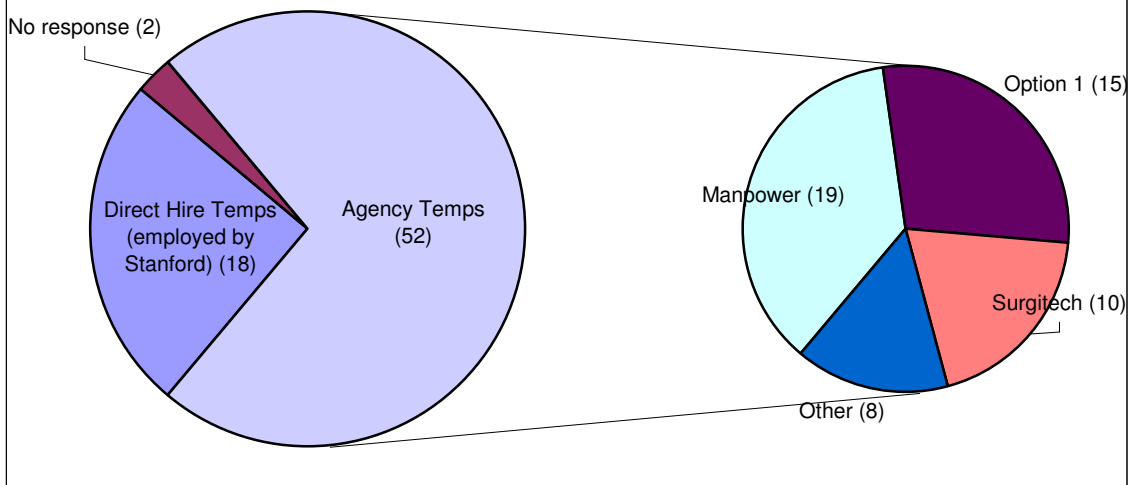


Figure 2.7: Departments in Which Stanford Temp Workers Were Employed

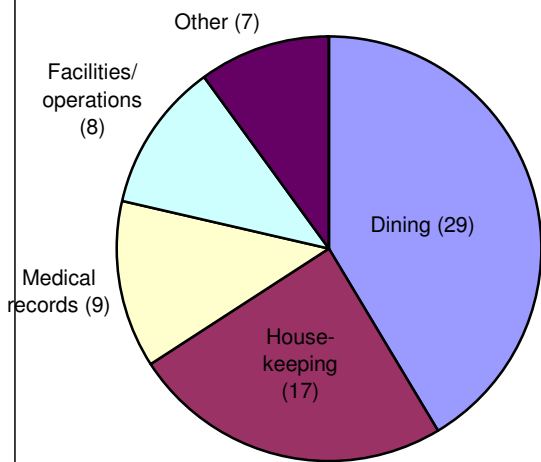


Figure 2.8: Ages of Stanford Temporary Workers

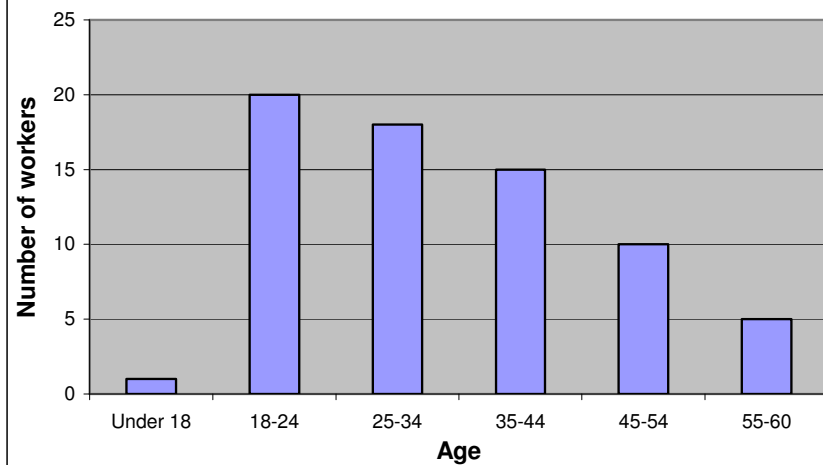
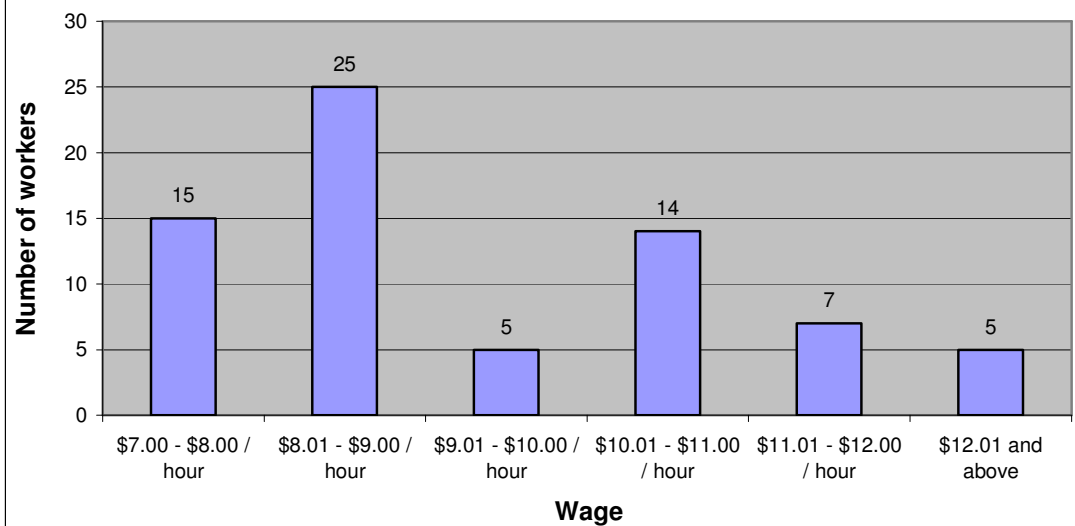


Figure 2.9: Hourly Wages of Stanford Temporary Workers



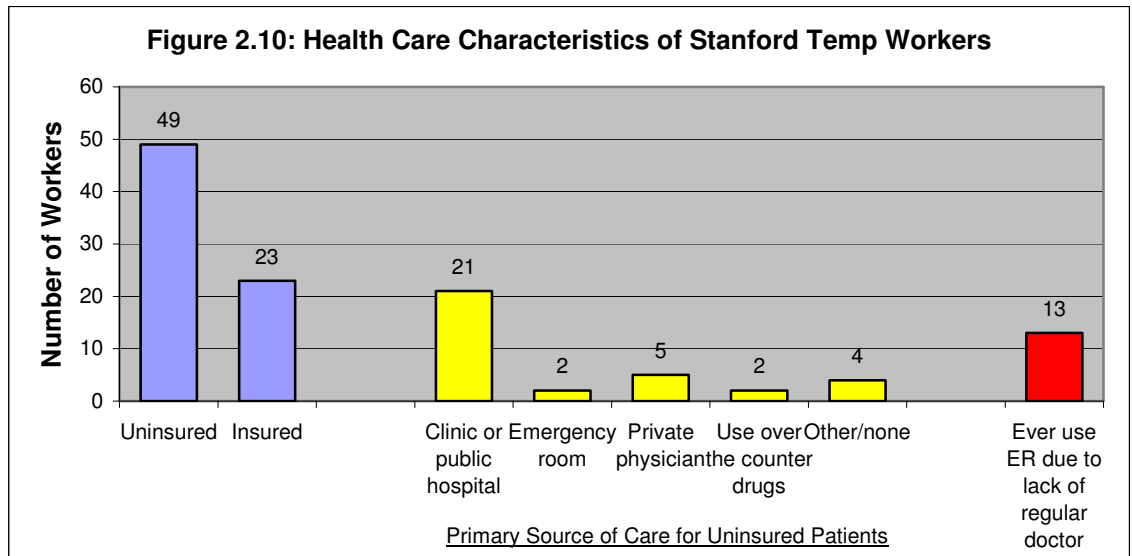
Health Care

Health

Insurance

Over two-thirds of the workers surveyed had no health insurance. Of the 32% who did have insurance, 17% said they got it from another job, and 39%

were covered through a family member's insurance. Thus, at most 13% of Stanford temp workers received health insurance through their job at Stanford.



Health Care Providers Used

Workers who lack health insurance must either pay out-of-pocket for all of their care (not feasible for most workers), find a free or low-cost source of care, or go without. We asked uninsured workers where they usually went for health care. Most (62% of respondents) used a public clinic or hospital.²⁵ 18% of respondents either self-medicated with over-the-counter drugs, or had no source of care. Only 15% went to a private physician.

Very few workers identified the emergency room as their primary source of care. However, when asked, “Do you ever use the emergency room for medical care because you don’t have a regular doctor?”, 21% of respondents said that they do sometimes use the emergency room for this reason.²⁶ Most of the workers who reported using the emergency room for medical treatment were uninsured; but, surprisingly, two insured workers also responded affirmatively to this question.

Need for Health Insurance

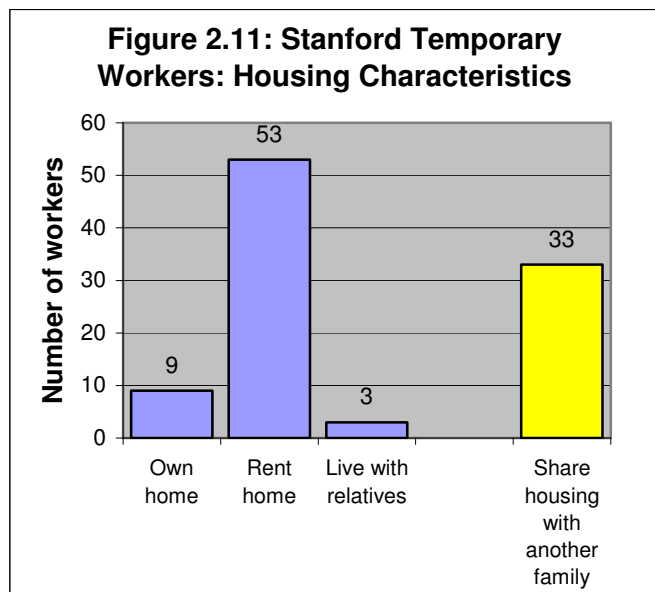
Workers expressed a strong desire for better access to health benefits. When asked if there were any benefits they would like to have at their job, 68% named health, dental or vision – more than twice as many as desired any other type of benefit. Even among those who reported being covered by health insurance, 55% wanted medical benefits, either additional benefits such as dental and vision or family coverage, or benefits from their work at Stanford rather than through another job or family member.

²⁵ A large number of uninsured workers (15 out of 49) did not respond to this question.

²⁶ 10 out of 72 workers did not respond to this question.

Job Training

Most workers received very little training from Stanford and/or their temporary agency. 40% reported either that their sole form of training was an instructional video, or that they received no training at all. After videos, the most common types of training were on-the-job (14%) and safety training (12.5%).



Household and family

Dependents

49% of workers were responsible for one or more dependents, most with two or three dependents. Collectively, the 72 workers had 86 dependents. Most of these (81%) were children, ages 0 – 18. 7% were age 25 and over, presumably elderly parents or ill or disabled relatives.

Housing

Over 80% of temp workers were renters, with less than 15% owning their homes.²⁷ Nearly half (46%) shared housing with another family, presumably because they could not afford to rent a house on their

own. 11% reported experiencing homelessness at some point.

Transportation: Getting to Work

61% of temporary workers drove alone to their jobs at Stanford. 21% carpoolled, 22% used public transportation (either public buses or the Marguerite, a Stanford-run bus system), and one bicycled.²⁸

Two-thirds of all workers, and all but three of the drivers, parked their cars at Stanford. When asked about workplace concerns or employment benefits desired, only one person named parking as an issue.

Needs of Workers

Concerns

When workers were asked, “What concerns do you have about your job?”, the temporary nature of their employment was the top concern. 25% of respondents cited job security as one of their top concerns, and another 21% were concerned that their job was not permanent. 19% said they had no concerns, 9% were concerned with health care, and another 9% with being able to work more hours.²⁹ (See Figure 2.12)

²⁷ 7 workers did not respond to this question.

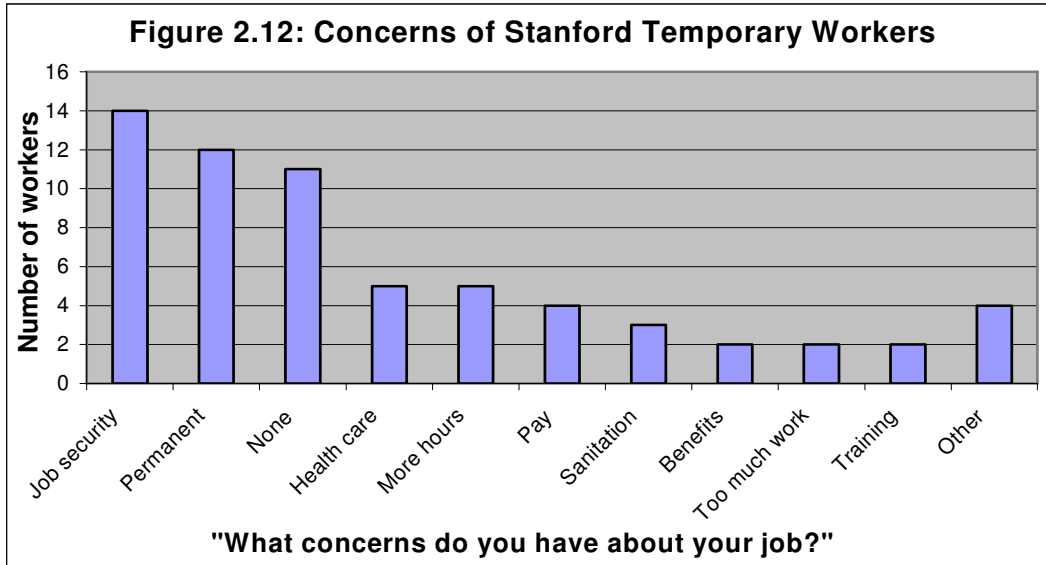
²⁸ Numbers do not add to 100% because some workers used more than one form of transportation.

²⁹ 15 workers did not respond to this question.

Improvements

When asked what they thought could be improved at their job, workers had a wide variety of replies, and many gave multiple answers. We classified these into 6 general categories. The most common area of improvement was compensation (pay or benefits of some sort), with 26 responses.

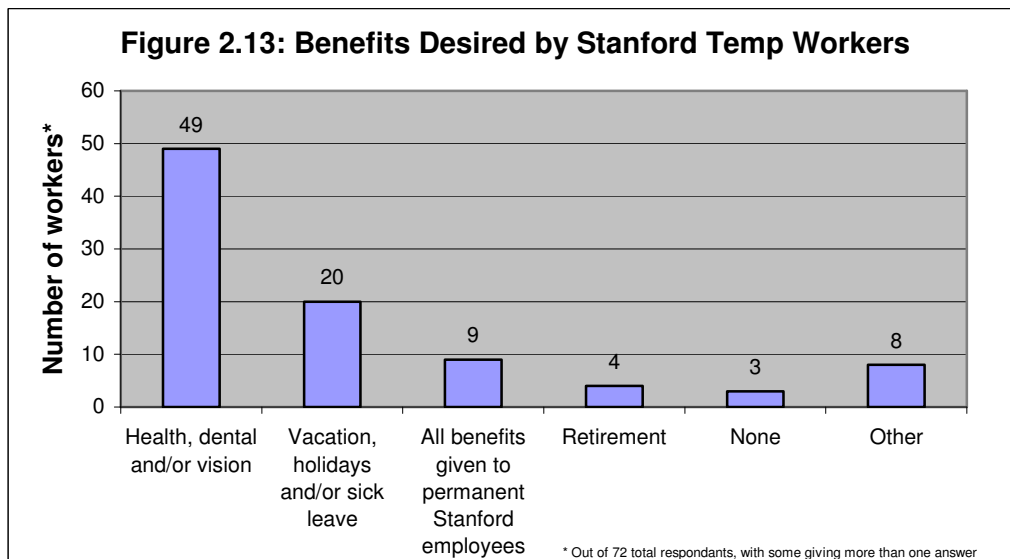
14 responses had to do with the contingent status of the work. 13 responses related to relations with management or between co-workers, and another 13 dealt with working conditions. 13 were about work schedule or number of hours worked (with most wanting



more hours). 11 were related to training and education, either for the worker themselves or for the workforce as a whole. Three said there were no areas for improvement. (See Table 2.14)

Employment Benefits

As seen in Table 2.13, 68% of workers wanted health insurance (medical, dental, vision, and/or family coverage), far more than desired any other sort of benefit. 28% of workers named vacation, holidays or sick leave as a desired benefit. 13% simply wanted “benefits”, or wanted the basic or standard benefits package received by permanent Stanford employees. 6% wanted retirement benefits, 4% did not want any additional benefits, and 11% named a variety of other benefits, from life insurance to a bus pass.



<u>Compensation</u>		<u>Work schedule/hours</u>	
Pay	12	More hours	11
Benefits	6	Stable schedule	2
Health care	6	<i>Total</i>	<i>13</i>
Retirement	1		
Vacation	1	<u>Training/Education</u>	
<i>Total</i>	<i>26</i>	ESL	2
		Training	9
<u>Contingent status</u>		<i>Total</i>	<i>11</i>
Permanent	11		
Job security	3	<u>Relations with co-workers or management</u>	
<i>Total</i>	<i>14</i>	Respect	4
		Equality	2
<u>Working conditions</u>		Coalition between workers	2
Less work	4	Better manager	1
Change duties	1	Communication with co-workers	1
Less pressure	1	Human relations	1
Organization and efficiency	1	Discrimination	1
Conditions	1	No grievance procedure	1
Understaffed	1	<i>Total</i>	<i>13</i>
Ventilation in Dining Area	1		
Equipment	3	<u>Other</u>	
<i>Total</i>	<i>13</i>	Live closer to work	1
		None	3

Table 2.14: Job Improvements Desired by Stanford Temporary Workers

Survey Analysis: Implications for Stanford and Silicon Valley

The conditions discovered in the Stanford Temporary Worker Survey have implications for Stanford and, more broadly, for all of Silicon Valley. The 72 workers we surveyed do not, of course, represent all Silicon Valley temp workers. But Stanford is a leader in the Valley, not only as the largest place of employment, but also as a world-class university and research institution to which people and businesses look to set the standard. Just as others in the Valley strive to emulate Stanford in research and development, so business may follow the example set by Stanford with its employment practices. Thus, in this section we analyze the results of the above survey and discuss what they mean for Stanford and for Silicon Valley.

Who are the Temporary Workers?

The Stanford temp workers surveyed were predominantly Latinas/os or Asian/Pacific Islanders. As such, they represent Silicon Valley's two largest and fastest growing minorities. The opportunities available to people from these groups will be crucial to determining not only whether our communities are equitable, but also whether the Valley itself succeeds or fails.

Together, Latinos and APIs make up half of Santa Clara County's population. If they

are disproportionately employed in jobs that offer low wages, little access to benefits and no job security or opportunity for advancement, the economic and social health of the Valley will suffer. As will be shown below, the conditions experienced by the mostly Latino and API temp workers in our survey are a cause for concern in this regard.

It is sometimes perceived that temp work is chiefly the domain of students or young people just entering the workplace, and that poor working conditions are therefore not of great concern, since temp workers are merely gaining experience and will soon move on to better things. However, the age range in our survey indicated that for most of the temp workers interviewed, that was not the case. Though there were some young temp workers, 70% were age 25 or over. By comparison, among all Santa Clara County residents (including children and the elderly), 66% are age 25 or over.³⁰

Table 3.1: Demographics of Stanford Temp Workers

	Santa Clara County	Stanford Temp Worker Survey
<u>Race</u>		
Latina/o (any race)	24%	65%
API	26%	21%
African-American	3%	8%
Caucasian	44%	4%
<u>Immigrants</u>	34%	approx. 75%
<u>Age</u>		
15-19	6.4%	12%
20-24	6.7%	19%
25-34	17.8%	26%
35-44	17.6%	22%
45-54	13.0%	14%
55-59	4.6%	6%
60-64	3.5%	1%

Santa Clara County data from 2000 U.S. Census

³⁰ U.S. Census 2000, Summary File 1.

Is Temp Work Really Temporary?

Temporary work by its nature offers very little job security. A temp often does not know how long an assignment will last, and can never be sure when one assignment ends if another will be available. Not knowing whether one will have a steady source of income from week to week or even day to day causes a variety of financial problems. Banks and others may be less likely to provide loans or financing to a temp worker whose income may fluctuate, and landlords may be more reluctant to rent to them. Personal financial planning – especially long-term saving, as for education or retirement – is very hard to do with poor job security.

If temporary work were just a hiatus of a few weeks or months between permanent jobs, or if temp work always led to a permanent job, then this insecurity might not matter so much. But a substantial number of the workers we surveyed seemed to be caught in a state of permanent temporary work. Only 8% had worked as Stanford temps for less than a month, and 36% had held their positions for a year or more. This period includes only their experience temping at Stanford; some may have spent even longer as temp workers at other, previous assignments.

Stanford University also provided hire dates for 323 of its directly hired temps. This information was even more striking. One temporary worker had been in the same position at Stanford for 21 years! Others had worked as Stanford temps for 13 years, 11 years (four workers), 10, 9, and 7 years. In all, 120 workers – 37% – had been Stanford temps for at least a year. 74% had been temps for at least half a year, and the average length of employment (for workers currently at Stanford) was 14 months. A minority of the temp positions actually seemed to be temporary.

Part of the reason why temp workers have difficulty finding permanent jobs lies in federal and state employment law, a largely out-of-date system which does not account for many of today's work arrangements. For instance, a worker who quits a temporary job to look for permanent work will have difficulty collecting unemployment insurance; once a person accepts temporary employment, the legal system tends to trap them in it.

But we must also ask: why do these “temporary” positions at Stanford exist for such long periods? If more than a third of temporary workers surveyed had held their jobs for over a year, why are those jobs not permanent? This disconnect is even more striking in the cases of the four workers surveyed who had been Stanford “temporary” workers for five years or more. All of these workers said they would prefer a permanent position. One had applied three times for permanent status. Surely, a position that has existed for five years ought to be considered permanent, not temporary – and the worker employed in that position ought to have all the rights and benefits accorded to regular Stanford workers.

What about temporary work as a gateway to permanent work? We do not know the overall temp-to-perm rate at Stanford. We do know that virtually all (94%) of the temporary workers said they would be interested in a permanent job – yet they were still temps. Half of all workers had applied for a permanent job at Stanford. A few were told they needed to work more hours to be considered, and one had an interview pending. But the overwhelming majority were rejected, told no positions were available, or simply got no response.

With the growth of temp work in the Valley, the creation of “permanent temporary” positions raises the specter of greater job and income insecurity for a substantial number of people, which could have long-term effects on our economy as well as straining the social service system.

Temp work is still a small proportion of overall employment, but with the exception of the current recession, it has been growing rapidly; temporary agency jobs as a proportion of all employment in the county has increased tremendously over the past two decades, from 1.6% of employment in 1984, to 2.7% in 1994, to 3.8% in 2000.³¹ This means that temporary employment increased twice as fast as all forms of employment from 1984-2000. If these growing quantities of “temporary” jobs become long-term positions, it will create an increasing class of workers and families in Santa Clara who do not have a stable income, lack job security, and might not be able to save money for retirement or for their children’s education.

Of course, in the current recession, job insecurity is a problem for many in Silicon Valley, not just temp workers. But temp workers suffer even more than the average Valley worker from unemployment and the threat of unemployment. Temporary workers tend to be “first fired, first hired” – employers are quick to lay off temp workers in a recession, and hire back temporary rather than permanent workers as businesses begin to recover.³² As Richard Berner, economist for Morgan Stanley, describes it, temp workers “have provided a ‘shock absorber’ for the U.S. economy and U.S. companies.” Of the 1.8 million workers laid off nationwide in the first year of the recession, 22% were temp workers, said Berner.³³

Though this may lessen the short-term impact on permanent employees, the cost to temporary workers of serving as “shock absorbers” for the entire U.S. economy can be staggering, especially since unemployment insurance and other aspects of the “safety net” often exclude temps. And we can expect the proportion of temporary employment in Santa Clara and the nation to continue to rise once the recession ends.³⁴ The growth and changing nature of temporary employment is a long-term concern for the Valley.

How Children and Families are Affected

The plight of temporary workers affects their families as well. Half of the temp workers we surveyed were responsible for dependents; collectively, the 72 workers had 86 dependents, most of them children. But the low compensation and insecurity revealed in the survey create a difficult environment in which to raise children or support an elderly parent.

The City of San Jose has set a “living wage” – generally considered to be the minimal wage needed to obtain the basic necessities, given the cost of living in a particular region – of \$10.10 per hour with health benefits, or \$11.35 per hour without.³⁵ All employees “doing work on, for, or on behalf of the City” must be paid a living wage. The preamble to the City’s living wage policy states that “it is beneficial to the health and welfare of all citizens of San Jose that all workers are paid a wage which enables them to not live in poverty . . . a livable wage will increase the ability of these employees to attain sustenance, decrease the amount of poverty and

³¹ Employment Development Department, Santa Clara County, Labor Market Information Division. Note that the temp industry growth trend has not continued through the current recession; temporary employment in Santa Clara and nationwide plummeted in 2001 and 2002, as discussed in Section 1 of this report.

³² “Calif. Jobless Rate Eases to 6.4% in April”, *Los Angeles Times*, May 11, 2002; and many other sources.

³³ Cassel, Andrew. “Temp workers help the economy.” *The Philadelphia Inquirer*. April 17, 2002.

³⁴ Veverka, Amber, “Temps have a tough time, too”, *The Charlotte Observer*, Feb. 12, 2002; and Berchem, Steven P., *Poised for Growth: ASA’s Annual Economic Analysis of the Staffing Industry*, American Staffing Association, May 2002.

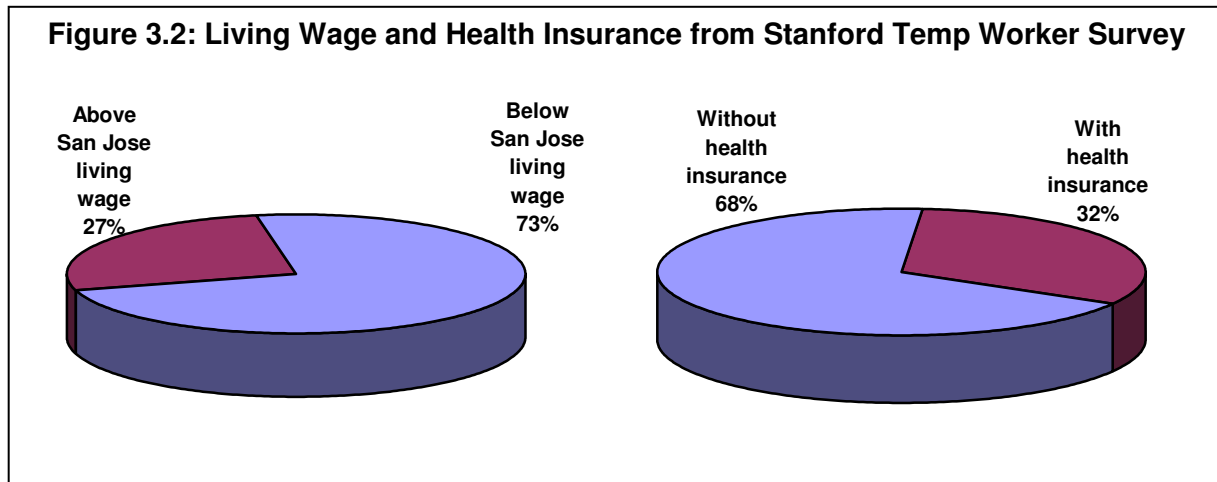
³⁵ Effective July 1, 2003, the San Jose Living Wage will increase to \$10.31/hr with health benefits or \$11.56/hr without benefits.

reduce the amount of taxpayer funded social services in San Jose.”³⁶ Stanford recently passed a similar policy, setting its living wage at the same level as San Jose’s.

Yet most of the temporary workers we surveyed were not paid a living wage. 73% earned below the minimum standard set by San Jose, and many earned much less, with over half below \$9/hr. By comparison, only about 20-25% of all Santa Clara County residents earn below the living wage.³⁷ (Stanford’s living wage policy explicitly excludes temporary workers, as well as many others who work at Stanford.)

The impact of family poverty on children can be devastating. The Children’s Defense Fund reports that: “Poor children are at least twice as likely as nonpoor children to suffer stunted growth or lead poisoning, or to be kept back in school. Poor children score significantly lower on reading, math and vocabulary tests when compared with otherwise-similar nonpoor children.” Parental poverty is a greater risk to an infant’s survival than smoking during pregnancy.³⁸

In addition to their low pay, most workers lacked health coverage. Only a third of the workers had health insurance of any sort, and the majority of those got it from another source, not through Stanford or the agency employing them. Some of the children of uninsured parents may have had health coverage through a public program such as Medi-Cal, Healthy Families, or Santa Clara County’s Healthy Kids. But parents do not always know about these programs, or may be reluctant to participate and believe they are ineligible; an estimated 10,000 children remain uninsured in the county, despite the remarkable efforts of the Children’s Health Initiative. A number of workers alluded to the lack of family health insurance as a job concern, or said they are forced to take their children to the emergency room for medical treatment.



Even if children are insured, the illness of a parent or guardian can have a negative impact on a family. An uninsured worker who becomes ill or injured may have to forgo other necessities like food or rent to pay expensive medical bills. The lack of preventative care that goes along with lack of insurance also makes it more likely that a worker will fall seriously ill. A study by the Economic Policy Institute found that families lacking health insurance “are over twice as likely

³⁶ City of San Jose Resolution No. 68900, June 8, 1999.

³⁷ Analysis of US Census data by Working Partnerships USA, forthcoming publication.

³⁸ “Child Poverty: Frequently Asked Questions,” Children’s Defense Fund, December 2002.

http://www.childrensdefense.org/fs_cpfaq_facts.php

to miss meals and not pay their rent, mortgage, or utility bills as are other families with the same income.”³⁹

Finally, the lack of reliable income leads to a lack of stable housing, which can have a profound effect on children. Over 80% of temp workers surveyed were renters, compared to just 41.2% of all Santa Clara County households. Renters, of course, are more likely than homeowners to be evicted or forced out by rent increases, depriving children of a stable home environment and the security of knowing that they have a place to live.

In addition, nearly half of the temp worker households did not have their own home, but shared housing with another family. The Economic Policy Institute’s study of *Hardships in America* defined “doubling up on housing” as a “critical hardship” – the most severe category of hardship that family can face. The study found that “This kind of hardship indicates that a family’s income level cannot support basic needs critical for survival.”⁴⁰ The fact that almost half of the workers we surveyed were currently facing this critical hardship is a matter of serious concern.

In sum, the low pay, lack of benefits, and income insecurity seen in the survey harm workers and their children. Even if a parent worked as a temp for just a few months, their children’s health, education and security could be at risk; for the one-third of temps who had held their positions for a year or more, the risk is even greater that their children will suffer long-term consequences.

The Cost to the Public Sector

As we have seen, the majority of the Stanford temp workers surveyed did not make a living wage and had no health insurance, in addition to facing the income insecurity inherent to temp work. In short, the compensation from their jobs was not sufficient for them to subsist upon -- especially for those who were also responsible for dependents. In many cases, it is likely that these workers must turn to government-provided benefits and services -- such as food stamps, Medi-Cal, and housing assistance -- to survive.

This means that the government ends up bearing the cost of supporting these workers. Taxpayers, of course, pay for all these services. Without taxpayer-supported benefits, few workers could afford to be employed as low-wage temps. Companies and institutions which employ or contract for these workers thus receive a substantial indirect subsidy from federal, state and local governments.

We do not know what public programs and services temps at Stanford are actually using. However, by gathering information on wages, hours, health coverage, number of children, and homeownership, we were able to estimate the benefits for which an individual temp worker in our survey would be eligible. To capture the range of different situations, we picked four workers based on their income levels; one from the middle of the bottom 25% of the income range, one from the middle of the second 25%, one from the third 25%, and one from the top 25% of earners. These four case studies follow.

³⁹ Boushey, Heather, Chauna Broct, Bethney Gundersen, and Jared Bernstein, *Hardships In America*. Economic Policy Institute, 2001, p.2.

⁴⁰ *Ibid*, pp. 2, 4.

Jesus⁴¹ is a 23-year-old Latino man. He's married with 2 children, and they rent their home. He makes \$9.00/hour with health insurance and works 64 hours per month; his biggest concern about his job is that he would like to be able to work more hours. We don't know whether his wife is employed, but we assumed that she is and that her earnings are the same as her husband's. This makes the family's total earnings \$13,824 per year. With this income, they are eligible for public programs including food stamps; Medi-Cal for their children; Section 8 housing; free school breakfast and lunch; and the Earned Income Tax Credit. The approximate total value of the government transfers for which they are eligible is \$21,513 annually – which means the government could be paying *more* than their employers to support Jesus and his family and to enable him to work as a temp.

Greg is a 28-year-old Latino man with no children. We assumed that he is single. He makes \$7.00/hour and works 168 hours per month, with total annual earnings of \$14,112 and no health insurance. Being childless, he qualifies for fewer government programs, but as a renter he is still eligible for Section 8 housing, and probably utilizes county health services for the uninsured. The total value of these services is around \$3,474 annually.

Rosa is a 34-year-old Mexican-American woman, married with three children. The family rents their home. Rosa makes \$8.75/hour with health insurance and works 170 hours per month. She is concerned about her job security and low pay, and sees a lack of equality at her work. With earnings of \$17,850 per year, Rosa and her family would be eligible for food stamps, Medi-Cal for her children, Section 8 housing, free school breakfast and lunch, and the Earned Income Tax Credit. These add up to approximately \$20,054 annually in government transfers. If Rosa's spouse were employed and made as much as she did, the family would still be eligible for Healthy Families insurance and the reduced price school breakfast and lunch, for a total of about \$3,310 annually.

Anthony, a 46-year-old Filipino man, was among the highest-earning temps in our survey. He's married with three children, and the family rents their home. Anthony makes \$11.50/hour without health insurance and works 170 hours per month. His spouse also works at Stanford and is employed part-time; we assumed she made half of what he does. Their combined annual earnings are thus \$35,190. Anthony is eligible for the reduced price school breakfast and lunch and Healthy Families insurance for his children, and he and his wife probably utilize county health services for the uninsured. These services cost the government about \$4,206 annually.

The four profiles demonstrate how low-paying temporary jobs impact the public sector. While they do not account for the income insecurity faced by temp workers, they provide a picture of how wages, hours, and benefits for these jobs fall short. When this happens, the public pays – as much as \$20,000+ annually per worker. Even for the workers with higher wages, multiple wage-earners, or no dependents, the cost of income-based programs and public health care was at least \$3,000 annually.

Clearly, a worker receiving thousands or tens of thousands of dollars worth of public services for such basic needs as food, housing, and health care could not afford to continue in that job without those services. If these services were no longer available, most of the workers surveyed

⁴¹ All names have been changed.

would have to leave their temp jobs and find another way to support themselves, possibly by moving to a region with better job opportunities and a lower cost of living.

Programs such as food stamps and housing vouchers are distinct from services that we expect the government to provide for everyone, like firefighters, public schools or paved roads. Income-based programs are meant as a safety net, to compensate for the fact that in our economic system there will always be some people who cannot find a job or have fallen on hard times and need some extra support. But instead they are being used to enable employers to transform secure jobs with benefits into temporary jobs with inadequate compensation.

In some ways, contingent employment such as temp work may leave workers worse off than if they had no job at all. An EPI analysis found that families below 200% of poverty with a part-time worker were *more* likely to experience serious and some critical hardships – including lack of health insurance, not receiving necessary medical care, having their water, electricity or telephone disconnected, and doubling up on housing – than were families below 200% of poverty who had no workers at all.⁴² (Part-time work is not, of course, identical to temporary work, but as contingent, generally low-wage employment arrangements they have some of the same characteristics.) If contingent work is already costing workers more in some aspects than unemployment, social service programs that supplement meager paychecks may be the thread by which low-wage contingent work is hanging. Without these government-subsidized programs, it might simply not be worthwhile for workers to take these jobs.

⁴² Boushey *supra*, p. 35-36.

Solutions and Best Practices for Ending Abuse

Throughout the country, employers, temporary agencies, state and local governments, advocacy groups, and temporary workers themselves are striving to develop innovative ways of protecting temporary and contingent workers' rights, improving working conditions, and curbing abuse. Several of the most successful efforts are profiled below. These policies and practices can serve as models to help Silicon Valley employers take steps towards improving their use of temporary workers.

Living Wage Laws Protect Temporary Workers

Over 100 cities, counties and other jurisdictions in the U.S. have passed "living wage" laws which require that when city funds are used to hire workers, directly or indirectly, those workers should be paid a wage high enough for the basic necessities of life. Living wage laws establish community standards for employment. They also ensure that publicly-funded jobs do not end up costing the public more money by paying workers so little that they must depend on public assistance to survive.

Given these goals, it is apparent that living wage laws will often need to deal with temporary work, both to prevent abuse of temporary work paid for with public funds and to ensure that jurisdictions or contractors do not misclassify permanent workers as temporary in an attempt to avoid living wage requirements. Living wage laws that have specifically addressed temporary work include: West Hollywood, CA (1997), San Fernando, CA (2000), Tuscon, AZ (1999), Miami-Dade County, FL (1999), Hayward, CA (1999), Fairfax, CA (2002), Portland, OR (1996, amended 1998), and New York City, NY (1996, amended 2002). Many other ordinances simply cover all city or county contractors, which would include temporary employment agencies if they have contracts with the city/county.

Some key provisions of living wage ordinances addressing temporary work are:

- ◆ West Hollywood requires contractors and grantees receiving at least \$25,000 in city funds to pay no less than \$8/hr with health benefits or \$9.30/hr without health benefits. Temporary employment agencies must pay at least \$9/hr.
- ◆ Fairfax's ordinance covers temporary, part-time, and seasonal workers as well as "regular" employees, and applies to employees of subcontractors as well as direct contractors.
- ◆ Miami-Dade County passed a living wage ordinance covering specified categories of service contracts, as well as direct County employees. It specifies that clerical and other office work is covered by the ordinance whether the jobs are temporary or permanent. Portland's ordinance also makes a point of covering temporary clerical workers.
- ◆ Hayward passed a living wage ordinance covering nine listed categories of service contracts, one of which is temporary personnel. In addition to a living wage and health benefits, the Hayward law requires at least 12 paid and 5 unpaid days off each year.⁴³

⁴³ Living Wage Resource Center, "Living Wage Successes: A Compilation of Living Wage Policies on the Books", <http://www.livingwagecampaign.org/victories.php>

New Jersey: Temp Agencies Sign On to Code of Fair Conduct

The Temporary Workers Alliance, an organization of temporary workers which began in 1995, has worked with local temporary agencies to adopt a “code of fair conduct” and to inform workers what they can expect from each agency.⁴⁴ 32 temporary agencies in 9 New Jersey counties have agreed to abide by the Temp Worker Alliance’s “Principles of Fair Conduct for Temporary Employment Agencies.” The provisions of the Code include: accurate descriptions of positions in advertisements; nondiscrimination; provision of and adherence to written job descriptions; respectful treatment; adequate training and safety equipment; notification of legal employment rights; health and vacation benefits after 90 days, with full disclosure of requirements; no barriers to conversion to permanent work; noninterference in union organizing drives; and equal treatment for welfare-to-work clients.⁴⁵

Every six months, the Temp Worker Alliance publishes *The Consumer Guide to Best Practice Temp Agencies*, which lists the agencies who have signed on to the Code of Conduct and describes their services. The Guide is widely distributed among prospective temporary workers as well as potential clients, particularly companies looking to contract with high-road, reliable temporary agencies. Nonprofit workforce development agencies and college career counselors can also use the Consumer Guide when determining which agencies to recommend to their clients or students who are looking for a job.⁴⁶ Through the Code of Conduct and Consumer Guide, the Temp Workers’ Alliance has created a “win-win-win” program; temporary workers are able to choose agencies which will treat them fairly, client companies can select reliable agencies with which to contract, and “best practice” temporary agencies receive publicity that helps them attract both workers and clients. In addition, as use of the program grows, the entire region can benefit through the reduction in the abuse of temporary employment.

Washington State: Equal Rights for Public Sector “Permatemps”

On March 27, 2002, Washington Governor Gary Locke signed into law a bill designed to eliminate abuse of temporary employment by state and local government. The bill, SB 5264, made it illegal for any public employer in Washington State to misclassify a worker as “temporary”, “contract”, “seasonal”, or a similar label in order to avoid paying benefits such as health insurance. In the bill, the Washington legislature declared its intent “that public employers be prohibited from misclassifying employees, or taking other action to avoid providing or continuing to provide employment-based benefits to which employees are entitled.”

This bill promises justice for the thousands of public sector workers in Washington who have been forced to work for years as “permatemps”, denied health insurance and other benefits which they had earned. It was passed in the wake of a series of successful lawsuits by workers at Washington cities and counties who, due to their classification as temporary workers, had been refused the wages and benefits accorded to regular employees even after years of employment.⁴⁷

⁴⁴ Peterson, Barrie, staff at Bergen Employment Action Project / Temporary Workers Alliance. Interview conducted May 29, 2002 by Louise Auerhahn, Working Partnerships USA.

⁴⁵ *Principles of Fair Conduct for Temp Agencies* <http://tempguide.tripod.com/conduct.htm>

⁴⁶ Peterson *supra*.

⁴⁷ Washington State Legislature, 2001-2002 Biennium Information Summary Page for Senate Bill 5264, http://www.leg.wa.gov/wsladm/billinfo01_02/dspBillSummary.cfm?billnumber=5264; Center for a Changing Workforce; “Washington State Passes Permatemp Protection Bill,” <http://fcfw.org>; LaBrecque, Louis C.,

King County, Washington has settled two class action lawsuits for its systematic misclassification and denial of wages and benefits to permatemps. In the first case, settled in 1997, over 2,100 long-term county workers had been forced to remain classified as “temporary.” The county paid \$21 million in compensation for the denied benefits. More recently, over 500 additional permatemps hired through agency contracts won a \$18.6 million settlement in 2000. These workers averaged 2 years of work at the county, with some working far longer – yet they did not get the health benefits due regular workers, accrued no sick leave or vacation time, and had no job security. The settlement included retroactive pay, benefits, retirement credits and vacation leave. Importantly, the county agreed to transform some of the long-term temporary positions into permanent jobs. It will also monitor its contract work to avoid further abuses.⁴⁸

Also in 2000, the city of Bellevue, Washington settled a lawsuit by about 100 misclassified employees. In addition to a \$719,000 fund to compensate the workers, the City agreed to review all work performed by contract workers and eliminate any misclassifications, to set up monitoring to prevent future abuses; and to allow city workers who believe they have been misclassified to resolve the dispute through the grievance process of the City’s Human Resources department.⁴⁹ Workers at the City of Seattle won a similar lawsuit in the 1990s.⁵⁰ These lawsuits, and the underlying pattern of worker abuse they demonstrated, helped prompt Washington to pass the misclassification legislation.

By passing this bill, the state of Washington made a strong statement that it intends to hold itself and the public sector employers in its jurisdiction responsible for adhering to basic community standards of fair employment. The Legislature made it clear that the bill is not intended to ban legitimate uses of temporary and contingent work. Rather, it attacks the abuse of contingent work via misclassification – in particular, the use of permatemps. This abusive behavior is defined as “to incorrectly classify or label a long-term public employee as “temporary,” “leased,” “contract,” “seasonal,” “intermittent,” or “part-time,” or to use a similar label that does not objectively describe the employee’s actual work circumstances.”

Workers praised the bill for demonstrating Washington’s commitment to protecting the rights of its employees. Said Susan Coles, a King county employee who worked as a permatemp for over five years, “I’m glad that other workers won’t have to go through what we went through with Metro and the County. Between lawsuits and legislation, hopefully we’ve put an end to these practices.”⁵¹

Addressing Abuse of Public Sector Temps and Contract Workers in California

A similar pattern of abuse of temporary and contingent employment by public sector employers appears to be emerging in California. Although the state legislature, unlike Washington’s, has

“‘Permatemp’ Workers to be Protected Under Bill Signed by Washington Governor,” *Pension & Benefits Daily*, Vol. 2 No. 61, March 29, 2002.

⁴⁸ Modie, Neil, and Mike Lewis, “County employees win \$18.6 million over ‘temp’ label.” *Seattle Post-Intelligencer*, June 8, 2000. <http://seattlepi.nwsource.com/local/temp08.shtml>.

⁴⁹ Center for a Changing Workforce, “Permatemp Legal Developments”, <http://www.cfcw.org/legl.html>.

⁵⁰ National Employment Law Project, *Organizing for Workplace Equity: Model State Legislation for “Nonstandard” Workers*, Nov. 2000.

⁵¹ Center for a Changing Workforce *supra*.

not yet moved to address this issue, several lawsuits have begun to bring about restitution for misclassified public workers and, hopefully, to deter future misclassification.

The charter of the County of Sacramento provides that temporary employees could only be hired for 30 days. Yet many workers who had been with the county for years were classified as temporary or a similar status, and denied health insurance, leave, and other benefits on that basis. 94 county workers sued over this unfair treatment, and in October 2000 the County settled for \$1.4 million. At the time of settlement, the county employed over 1,500 temporary workers – 10% or more of its workforce.⁵²

In a case that could have ramifications for public employers throughout the state, workers for the Metropolitan Water District of Southern California (MWD) who have been misclassified as temporary agency employees and independent contractors are trying to win the right to the retirement benefits they have earned. The employees were paid by staffing agencies, but MWD hired and exercised complete control over them. Yet MWD refused to allow them to participate in the California Public Employees Retirement System (CalPERS), because the intermediary of the staffing agencies allowed MWD to claim that the workers were technically not public employees.

In October 2001, the California Court of Appeals found that the workers were in fact common law employees of MWD, and that MWD has abused the use of staffing agencies by using them to exclude employees from retirement benefits. The Court argued that permitting MWD to exclude the workers from CalPERS would set a precedent allowing public agencies to “unilaterally avoid” their obligation to their employees “by setting up a variety of third-party wage and benefit mechanisms, or by bypassing internal merit hiring systems.” Therefore, the workers should be able to participate in CalPERS, whether or not MWD uses a payroll service in their employment. This case is currently before the California Supreme Court.⁵³

Microsoft Permatemps Win Compensation, Permanent Jobs

At Microsoft, permanent workers and temp agency employees or independent contractors often worked side by side at the same tasks, the only difference the color of the badge they wore – orange for temps, blue for perms. But those lucky enough to have a blue badge were a privileged class. They had access to health care, paid holidays and vacations, and a lucrative employee stock option plan, as well as the security of a guaranteed paycheck. Orange-badge-wearers - workers whom Microsoft had assigned to temp agencies for payroll, or had designated as independent contractors - had none of these privileges.

In the landmark case *Vizcaino vs. Microsoft*, as many as 12,000 Microsoft workers who had been classified as temporary agency employees and independent contractors, and thus denied Microsoft benefits, were declared to be “common law” employees of Microsoft. Some 3,000 “temporary” workers won conversion to permanent status, and all won compensation for benefits they should have been entitled to during their years of working for Microsoft, including the

⁵² *Ibid.*

⁵³ *Ibid.*; Cochran-Bond Law Offices, “Metropolitan Water District Benefits Class Action: Litigation Update 10-07-02.” <http://www.c-blaw.com/MetroWaterLitUpdate10.htm>.

Microsoft Employee Stock Option Purchase Plan. Microsoft will pay about \$97 million to compensate permatemps who were unfairly denied benefits.⁵⁴

Massachusetts: Fair Transportation Practices for Temp Workers

The Merrimack Valley Project (MVP), an interfaith and community organization in Massachusetts, found that temp agencies in the cities of Lawrence and Lowell were charging workers up to 15% of their take-home pay as a "transportation fee" -- even if workers preferred to transport themselves to their worksite. With over 15,000 temporary workers employed in the region at peak times, and agencies charging as much as \$2-300 per worker per month, the agencies stood to make a substantial profit from the scheme. But the workers, mostly low-wage manufacturing or warehousing employees who were already struggling to survive, could ill afford to pay such costs.

MVP, working with temp workers and community organizations, helped design a state bill that would curb the gouging of temp workers. The fair transportation practices bill became Massachusetts law in February 2002. It prevents temporary agencies from charging workers more than the actual cost of transportation, and caps total charges at 3% of a worker's daily wage. At a Merrimack Valley meeting attended by 400 temp workers and community members, the state Attorney General pledged to improve enforcement of employment laws relating to temp agencies, with a particular focus on wage laws as well as the new transportation act.⁵⁵

Manhattan Delivery Contractors Finally Win Right to Minimum Wage

In Manhattan, many grocery stores and other businesses hire delivery workers to carry items from the store to their clients' homes, often by foot. The service is much in demand, due to the heavy traffic and high apartment buildings that characterize the area. But some companies exploit these workers through a complex arrangement in which the retail store contracts with an agency, which in turn hires delivery workers as supposed "independent contractors," though in reality they work for and are supervised by the retailer. By falsely classifying the workers as independent contractors, both the retailer and the agency avoid minimum wage and overtime laws. Many delivery workers work twelve hours a day, six or seven days a week, but are paid around \$150 to \$200 per week -- or \$2/hour. Most of the delivery workers are West African immigrants.

The delivery workers have banded together and are pursuing several concurrent strategies to win their right to a minimum wage. Workers for the Food Emporium supermarket chain achieved a \$3 million settlement in December 2000, with some workers slated to receive \$30,000 in back pay. Workers involved in the settlement believed it might lead not just to payment of back wages, but also to hiring of the delivery workers as permanent employees. Workers are continuing to pursue lawsuits against other grocery and drugstore chains and the agencies with

⁵⁴ Blair, Michael, "Court Upholds Microsoft 'Permatemp' Settlement", WashTech News, May 15, 2002.; Center for the Changing Workforce *supra*.

⁵⁵ National Campaign for Jobs and Income Support, "Permanent Struggle, Temporary Solution: Contracting Out America", Feb. 26, 2002. <http://www.nationalcampaign.org/contingent06.asp>; Jordan, Jennifer; "New law will help temps," *The Eagle-Tribune*, Feb. 15, 2002.

which they contracted, and in February 2003 won a partial judgment against one of the drugstore chains (Duane Reade) and its contractors (Hudson Delivery and Chelsea Trucking). In addition to legal remedies, several hundred of the delivery workers have won the right to organize, joined a union, and negotiated a contract with the agencies that guarantees minimum wage and time and a half for overtime.⁵⁶

⁵⁶ Greenhouse, Steven, "Deliverymen to get \$3 million to settle wage case," *The New York Times*, Dec. 8, 2000; National Employment Law Project, "Delivery workers win ruling against Duane Reade", Feb. 4, 2003, <http://www.nelp.org/news/pressreleases/releaseduane032503.cfm>

Conclusion and Recommendations

Clearly, many temporary workers at Stanford face conditions that do not meet the employment standards set by the Silicon Valley community. But as we have seen, communities throughout the country have found innovative solutions to the problems associated with the abuse of temporary work. Stanford, as both a direct employer of temporary workers and a client which contracts with temporary agencies, has an obligation to address the issues uncovered in this report.

Stanford does not bear sole blame for temporary workers' hardships. The temporary employment agencies can also work to address many of these problems; steps that agencies can take are outlined in the attached "Statement of Principles." But ultimately, temporary agencies will only make these improvements if encouraged to do so by their client companies. By choosing which agencies to contract with and how much money it is willing to allocate for the contract, Stanford exercises control over the compensation and working conditions of its temps. Furthermore, the decision to fill a permanent position with a temporary worker is a choice made by Stanford, not by the temporary agency. As a recognized leader in the Valley and worldwide, Stanford should take a leadership role in addressing the issue of temporary work.

The recommendations below are targeted at Stanford in particular, on the basis of the needs discovered in the Stanford Temporary Worker Survey. But temporary workers at locations throughout the valley are likely to face similar conditions. Other employers who use temp workers would do well to consider these recommendations. Clearly, the trends of insecurity and poverty that we have seen in temp work in the Valley cannot continue to increase indefinitely. Sooner or later – probably sooner – something will have to change. Legal change is a possibility, and may be needed to address issues that extend beyond the employment relationships. But we think employers and the community will both benefit if employers take the initiative to develop innovative solutions, rather than waiting for government to come up with all the answers and enforce compliance. If Stanford has the will and the commitment to take the lead on this issue, it will be a crucial first step towards building a temporary employment system that meets the needs of employers, workers, and the community.

Recommendations

1. End abuse of temporary work. Temporary employment should be used only for positions that are truly temporary: covering for an absent worker, meeting short-term peak demand, performing a task which will only be needed for a limited and defined period of time (such as a special grant or contract), or filling an open position while searching for a permanent hire. Stanford and the hospitals should periodically review all positions filled by temporary workers – both agency and direct-hire – to determine whether the position meets one of these criteria. If it does not, it should be converted to a permanent position, with the temporary worker currently filling the position given the option to become permanent where feasible. Special attention should be paid to any position that has been temporary for more than 6 months, whether filled by a single temporary worker or by a succession of temps.

2. Maintain basic community standards for directly hired temporary workers. Allowing for differences in the structure of the job, temporary workers hired by Stanford should enjoy the same rights and protections as permanent workers. Stanford and the hospitals should adopt and adhere to the principles contained in the attached “Statement of Principles”, which is based on codes of conduct developed by Silicon Valley temporary workers and by the North American Alliance for Fair Employment (NAFFE). The Statement of Principles draws on our common community values to state the basic necessities that every temporary worker deserves:

- I. A Decent Job that Can Support a Family
- II. Healthcare for Their Families / Time to Spend With Their Families
- III. A Voice at Work
- IV. To Work Without Fear
- V. Job Skills for Career Advancement
- VI. Pursuit of Better Opportunities
- VII. A Safe Workplace
- VIII. Honest Job Ads

In adopting the Statement of Principles, Stanford and the hospitals can be assumed to act as both the agency and the client company for directly hired temporary workers.

3. Ensure that all agencies providing temporary workers are also held to basic community standards. When Stanford contracts with a temporary employment agency, that agency should be held to the same standards to which Stanford adheres. Accordingly, Stanford and the hospitals should contract only with agencies which adhere to the principles in the attached Statement of Principles. In addition, Stanford may need to maintain and keep better records of the personnel whom it hires through agencies, in order to ensure that these agencies are meeting the agreed-upon standards for employees working at Stanford.

4. Guarantee protection against unfair retaliation for all temporary workers. Whether temporary or permanent, agency or direct-hire, all workers should be able to speak out about problems at their jobs, to file complaints through the appropriate channels, and to identify unsafe working conditions. Yet many temporary workers cannot speak out because they fear that they will lose their position or be blacklisted from future assignments as a result. Stanford and the hospitals should create a written policy guaranteeing non-retaliation, and take steps to ensure it is followed.