

Right to Refuse Work – For Teacher Members

Background

The *Occupational Health and Safety Act, 1990* affirmed three important rights for workers:

1. The right to **know** about all hazards in the workplace;
2. The right to **participate** in training and consideration of issues; and
3. The right to **refuse unsafe work**.

How serious is this issue?

Section 43 of the Act provides that:

*You may refuse to work where you have "**reason to believe**" that any equipment, machine, device, thing he or she is to use or operate, or physical condition of the workplace is likely to endanger yourself or another worker.*

You do not have to prove that the work is unsafe – only have "reason to believe" that the work is unsafe.

However, **if you are a teacher**, Regulation 857 requires that you **ensure** students' safety in your care **first**, before you exercise your right to refuse unsafe work.

Any unsafe conditions of work should be corrected immediately. No work should endanger anyone's health or safety.

If your concern cannot be corrected immediately using existing resources, you should exercise your legal right to refuse unsafe work.

Steps to follow in a work refusal situation

First Stage

1. **Ensure** the safety of your student's first.
2. **Report** the circumstances to your "supervisor" (Principal, not a Curriculum Leader or Assistant Curriculum Leader) and state the following:
"I have already ensured the safety of my students. I believe that by performing the work I am required to do, I am likely

to endanger a fellow worker or myself. Therefore, I am refusing to do the particular work in question, as permitted by the Occupational Health and Safety Act, for the following reason(s) (State your reason(s)) Please investigate my concern(s) in the presence of my OSSTF designated representative.

3. **Remain** in a safe place. The supervisor (Principal), in the presence of your OSSTF designated representative, will investigate "forthwith" (i.e. without delay).
4. **Return** to work, upon completion of the investigation, if you agree that it is now safe.

Second Stage

After following the steps in the First Stage, if you disagree that it is safe to resume work, proceed with the following steps: At this stage, you must have **reasonable grounds** to believe the work is **dangerous**. (Reasonable grounds means that you have some objective information that causes you to believe the work is still unsafe).

1. **Remain** in a safe place or accept reasonable alternative work.
2. **Telephone** the Inspector from the local Ministry of Labour office. (Either you, the Principal or your OSSTF designated representative can do this). Any other worker must be informed of your work refusal, and the reasons for it, in the presence of their OSSTF designated representative (or their worker representative on the Joint Health and Safety Committee) before they can be given and accept the work under dispute. The Ministry of Labour Inspector will inspect the situation in your OSSTF designated representative and your presence if you wish. The Inspector will make a report in writing.
3. You **must return** to work if the Inspector deems it safe.
4. Any of the parties (you, your OSSTF designated representative and/ or the principal) can appeal to the Inspector's decision.