

## Right to Refuse Work

### 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, or physical condition of the workplace is likely to endanger yourself or another worker.*

*You do not have to prove it is unsafe – only have “reason to believe”.*

**\*\*For Teacher Members only** - if you are a teacher, Regulation 857 requires that you **must** ensure the safety of students in your care **first**.

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.

Often threatening to refuse unsafe work is sufficient to get the problem corrected.

### Steps to follow in a work refusal situation:

#### First Stage

1. **Ensure** the safety of your student’s first (for teachers only)
2. **Report** the circumstances to your “supervisor” (Principal, not a Department Head) and state the following:  
*“I have already ensured the safety of my students (for teachers only). I have reason to believe that by performing the work which 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 reasons ...Please investigate my concerns in the presence of my OSSTF/FEESO member on the Joint Health and Safety Committee”.*
3. **Remain** in a safe place. The supervisor (Principal), in the presence of your OSSTF/FEESO Health and Safety Officer, 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 do **not** agree 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/FEESO Health and Safety Officer can do this). Any other worker must be informed of your work refusal, and the reasons for it, in the presence of your OSSTF/FEESO Health and Safety Officer (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 the presence of your OSSTF/FEESO Health and Safety officer 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. **Appeal** of the Inspector's decision can be made by any of the parties involved.