

Workplace Health & Safety:

Know Your Rights

A Guide for NSTU Members



Nova Scotia
Teachers Union

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Health And Safety Hazards In The Workplace: A Guide For Members

*****Remember that NSTU Staff Officers are always available to advise you, and you are encouraged to contact an NSTU Staff Officer, especially if you feel that your health or safety is in danger.**

Member Reporting Process

If a member believes the workplace is dangerous to their health or safety:



Report to Principal/Supervisor.



If not remedied to member's satisfaction report to Joint Occupational Health and Safety Committee.



If not remedied to member's satisfaction, report to Office of Division of Occupational Health and Safety.

- Examples of potential health and safety hazards in the workplace: air quality, ventilation, mold, asbestos, electrical hazards, fumes, smoke and dust, and threats and violence.
- Members have a statutory obligation to take every reasonable precaution in the circumstances to protect their own health and safety and that of other persons at or near the workplace.
- If the workplace hazard is immediate and serious, the member may have the right to refuse work: a member has the right to refuse work if they have reasonable grounds for believing that the continued performance of their duties is likely to endanger their health or safety. *See The Right to Refuse Work: A Guide for Members.*
- The Employer has an obligation under the *Occupational Health and Safety Act* to protect the health and safety of members, to inform members of health or safety hazards in the workplace, to prepare a list of all chemicals used in the workplace that may be a hazard to health and safety, to have a system in place to regularly monitor the workplace for potential hazards, to provide reports of health and safety inspections, monitoring or tests upon request, and to respond to written recommendations of the Joint Occupational Health and Safety Committee.
- If the member has identified a hazard to health or safety in the workplace, the member should not wait to take action. The member should:
 - **Report the hazard to the Principal/Supervisor** by taking the following steps:
 - Report verbally to the Principal/Supervisor.
 - Contact their NSTU Staff Officer.
 - With the assistance of the NSTU Staff Officer, confirm the hazard report in writing to the Principal/Supervisor, copy to HR and the JOHS Committee. Include:
 - Name of member and work location.
 - Names of individuals involved (if applicable).
 - Location of incident.
 - Time of incident.
 - Nature of incident.

- Suggest specific remedial measures to be implemented, e.g.:
 - Stop exposure at source.
 - Implement dust control.
 - Provide information about any health or safety hazards that may be met by them at the workplace.
 - Sample and test substance or air quality, and share the results.
 - Move member and students to a different area or building.
 - Date and sign the report.
- **Report the hazard to the JOHS Committee**, if the Principal/Supervisor has not remedied the matter to the member's satisfaction, by taking the following steps:
 - Report verbally to the JOHS Committee.
 - With the assistance of the NSTU Staff Officer, confirm the concern in writing, copy to HR.
 - Ask the JOHS Committee to make specific recommendations to remedy the hazard, e.g. that construction work take place on weekends or on holidays, or that strict measures be put in place for dust and fume containment, or that the Employer perform air quality tests. Ask the Committee to require, in writing, that the Employer respond to the recommendations. The Employer must respond within 21 days.
 - If applicable, ask the JOHS Committee to request from the Employer in writing copies of any reports of workplace occupational health or safety inspections, monitoring or tests, or any other information relevant to the health or safety hazard.
 - **Report the hazard to the Occupational Health and Safety Division**, if the JOHS Committee has not remedied the matter to the member's satisfaction, by taking the following steps:
 - Report verbally to the Division.
 - With the assistance of the NSTU Staff Officer, confirm the concern in writing, copy to HR.
 - Ask the Division Officer to make specific recommendations.
 - If the Division Officer fails to issue an order that the member feels is necessary for the health or safety of persons at the workplace, the member, with the assistance of the NSTU Staff Officer,

can ask for the Division Officer's decision to be placed in writing and the member may **appeal to the Director of the Occupational Health and Safety Division**. The time limit is 14 days.

- o The member may challenge the decision of the Director by filing an **appeal with the Labour Board**. The time limit is 21 days.
- The NSTU may at any point decide to pursue a grievance to try and ensure that the Employer adequately addresses the workplace hazard.
- *The NSTU is here to assist members with occupational health and safety matters and members should be encouraged to contact their NSTU Staff Officer for assistance if they are concerned about a health or safety hazard in the workplace.*

Health and Safety Hazards in the Workplace: A Guide for NSTU JOHS Committee Members

*****Remember that NSTU Staff Officers are always available to advise you or the member and you should, if appropriate, advise the member to contact a Staff Officer, especially if you feel that the member's health or safety is in danger.**

Joint Occupational Health and Safety Committee

Meet monthly (emergency meeting can be called at any time).



Receive concerns/complaints from school staff.



Discuss remedies or training required to deal with concern. (Contact Education Entity or outside agencies if needed).



Make recommendations to the employer.



Inform employee of remedy/actions.



Document meeting minutes and post for all employees to see.

- Examples of potential health and safety hazards in the workplace: Air quality, ventilation, mold, asbestos, electrical hazards, fumes, smoke and dust, and threats and violence.
- The JOHS Committee is responsible under the *Occupational Health and Safety Act* for the “receipt, investigation and prompt disposition of matters and complaints with respect to workplace health and safety” (s.31(c)) and for “making recommendations to the employer, the employees and any person for the improvement of the health and safety of persons at the workplace” (s.31(f)).
- As a JOHS Committee member, you must be aware of the Employer’s obligations under the *Occupational Health and Safety Act*:
 - o The Employer must take every precaution that is reasonable in the circumstances to ensure the health and safety of members (s.13(1)(a)).
 - o The Employer must ensure that members are made familiar with any health or safety hazards that may be met by them at the workplace (s.13(1)(d)).
 - o The Employer must conduct its undertaking so that members are not exposed to health or safety hazards as a result of the undertaking (s.13(1)(f)).
 - o The Employer has a pro-active duty to notify the JOHS Committee of the existence of reports of workplace occupational health or safety inspections, monitoring or tests, and upon request, must make such reports available to the Committee (s.35(1)).
 - o The Employer must also provide reports of workplace occupational health or safety inspections, monitoring or tests to an employee who requests them (s.35(2)).
 - o The Employer must respond in writing within 21 days to a written request by the JOHS Committee for any information of a health or safety nature, and the response must either provide the information or give reasons for not providing the information (s.35(3)).
 - o The Employer must have a written occupational health and safety program that includes a hazard identification system providing for:
 - Evaluation of the workplace to identify potential hazards.
 - Procedures and schedules for regular inspection.
 - Procedures for ensuring the reporting of hazards and the

accountability of persons responsible for the correction of hazards (s.28(2)(e)).

- o The Employer must prepare a list of all chemicals regularly used, handled or present at the workplace that may be a hazard to the health or safety of the employees or that are suspected by the employees of being such a hazard (s.59(1)).
- If the member brings a concern about a workplace health or safety hazard to the JOHS Committee, you should:
 - Ensure that the Committee interviews the member.
 - Ensure that the Employer is complying with its statutory obligations.
 - Consider making specific recommendations, in writing, to the Employer to remedy the hazard, e.g. that construction work take place on weekends or on holidays, or that strict measures be put in place for dust and fume containment, or that the Employer perform tests, e.g. for air quality. Upon receipt of written recommendations from the JOHS Committee and a request to respond, the Employer must respond within 21 days either indicating acceptance of the recommendations or providing reasons why the Employer disagrees with any of the recommendations (s.34(1)).
 - If applicable, consider asking, in writing, that the Employer provide the Committee with any reports of workplace occupational health or safety inspections, monitoring or tests, or any other information relevant to the health or safety hazard (s.35(1) and (3)).
 - If the JOHS Committee is not satisfied with the response of the Employer to any requests made by the Committee, the Committee should promptly report this fact to an Officer of the Occupational Health and Safety Division.
- If the member feels that the JOHS Committee has not remedied the matter to their satisfaction, they have a right to:
 - o Report the matter to an Officer of the Occupational Health and Safety Division.
 - o A Division Officer has the power to:
 - Enter the workplace and take samples and conduct tests (s.47(a) and (f)).
 - Require the production of records (s.47(c)).

- Question individuals (s.47(e)).
 - Order the Employer to conduct tests and obtain a report or assessment to determine whether any biological, chemical or physical agent or thing conforms with the *Act* or good professional practice (s.52).
 - Order the Employer to carry out any matter or thing regulated by or required by the *Act* (s.55(1)).
- The member has the right to appeal the decision of the Division to the Director of the Occupational Health and Safety Division, and the right to appeal the decision of the Director to the Labour Board.
 - ***The NSTU is here to assist its Joint Occupational Health and Safety Committee members and members with occupational health and safety matters, and Committee members and members should be encouraged to contact their NSTU Staff Officer for assistance if they have a concern about a member's health and safety. The NSTU may at any point in the process decide to pursue a grievance to try and ensure that the Employer adequately addresses the workplace hazard.***

Workplace Violence: A Guide for Members

*****Remember that NSTU Staff Officers are always available to advise you, and you are encouraged to contact an NSTU Staff Officer, especially if you feel that your health or safety is in danger due to violence in the workplace.**

Workplace Violence

Right to Refuse:

If a member has reasonable grounds for believing work is likely to endanger their health or safety
See “The Right to Refuse Work – a Guide for Members.”



Look for “Violence Risk Prevention Plan.”



Has the Employer provided the member
with information on the risk?



Suggest specific remedial measures, including training for staff.

- A member has the right to refuse work if they have reasonable grounds for believing that the continued performance of their duties is likely to endanger their health or safety. See: *The Right to Refuse Work: A Guide for Members*.
- The Employer is required to have performed a violence risk assessment for each workplace, and if a significant risk of violence was identified in the assessment, the Employer is required to have in place a workplace violence prevention plan. The member, with the assistance of the NSTU Staff Officer, should bring these obligations to the attention of the Principal/Supervisor, Employer and the Committee.
- Where a member is exposed to a significant risk of violence, the Employer must provide the member with information on the nature and extent of the risk and any factors that may increase or decrease the risk, regardless of whether there has been a specific complaint or work refusal. The member, with the assistance of the NSTU Staff Officer, should determine from the Principal/Supervisor, Employer and the Committee whether this obligation has been met.
- The NSTU Staff Officer may encourage the Employer to consider specific remedial measures in assessing a complaint or work refusal due to violence in the workplace, including:
 - o Whether the member should be reassigned.
 - o Whether the police should be contacted.
 - o Whether the member should obtain a peace bond.
- In cases of student violence, depending on the nature of the violence, the age and developmental level of the student, the NSTU Staff Officer may suggest that the Employer consider some or all of the following additional remedial measures:
 - o Whether the student should be suspended.
 - o Whether the parents should be asked to keep the student home.
 - o Whether there should be an immediate meeting of the member, human resources, student services, administration and/or the parents.
 - o Whether additional training and/or resources are required, including:
 - Trigger identification and avoidance.
 - Personal protective equipment.

- Facility changes.
 - Additional personnel.
 - Additional resources for the member or student.
- *The NSTU is here to assist its Joint Occupational Health and Safety Committee members and members with occupational health and safety matters, and Committee members and members should be encouraged to contact their NSTU Staff Officer for assistance if they have a concern about a member's health and safety. The NSTU may at any point in the process decide to pursue a grievance to try and ensure that the Employer adequately addresses the workplace hazard.*

Workplace Violence A Guide for NSTU JOHS Committee Members

*****Remember that NSTU Staff Officers are always available to advise you or the member and you should, if appropriate, advise the member to contact a Staff Officer, especially if you feel that the member's health or safety is in danger.**

Workplace Violence

A member has the right to refuse work if they have reasonable grounds for believing that work is likely to endanger their health or safety.

See “Right to Refuse Work: A Guide for JOHS Committee Members.”

When there is a complaint about workplace violence or work refusal, be aware of Employer's Statutory duties.

Consider specific remedial measures including training.

Consider contacting Office of Division of Occupational Health & Safety.

Ensure proper violence risk assessment and prevention plan is in place.

- A member has the right to refuse work if they have reasonable grounds for believing that the continued performance of their duties is likely to endanger their health or safety, and a member's work refusal will come to you as a member of the JOHS Committee after the member reports the refusal to the Principal/Supervisor, and the Principal/ Supervisor does not remedy the matter to the member's satisfaction. See: *The Right to Refuse Work: A Guide for NSTU JOHS Committee Members*.
- When a complaint about workplace violence, or a work refusal due to workplace violence, is before the Committee, the Committee should ensure that the Employer is in compliance with its statutory obligations to:
 - o Have done a workplace violence risk assessment, and if a significant risk of violence has been identified, to have in place a workplace violence prevention plan. The Committee should review the plan, if it exists, for guidance (s.5 and 7, Workplace Violence Regulations).
 - o Where a member is exposed to a significant risk of violence, provide the member with information on the nature and extent of the risk and any factors that may increase or decrease the risk (s.10 Workplace Violence Regulations).
- There are some remedial measures to consider when assessing a complaint or a work refusal due to workplace violence. For example, the Committee should consider whether:
 - o The member should be reassigned.
 - o The police should be contacted.
 - o The member should obtain a peace bond.
- In cases of student violence, depending on the nature of the violence, the age and developmental level of the student, the Committee may consider other remedial measures, such as:
 - o Whether administration should suspend the student.
 - o Whether the parents should be asked to keep the student home.
 - o Whether there should be an immediate meeting of the member, human resources, student services, administration and/or the parents.
 - o Whether additional training and/or resources are required, including:
 - Trigger identification and avoidance.

- Personal protective equipment.
 - Facility changes.
 - Additional personnel.
 - Additional resources for the member or student.
- Finally, the Committee should insist that a violence risk assessment and plan be done if they do not exist, and if they exist, the Committee should advise the Employer whether they should be revised in light of the new violence (ss.6(1) and 8(1) Workplace Violence Regulations).
 - The NSTU is here to assist its Joint Occupational Health and Safety Committee members and members with occupational health and safety matters, and Committee members and members should be encouraged to contact their NSTU Staff Officer for assistance if they have a concern about workplace violence.

The Right to Refuse Work: A Guide for Members

*****Remember that NSTU Staff Officers are always available to advise you, and you are encouraged to contact an NSTU Staff Officer, especially if you feel that your health or safety is in danger.**

The Right to Refuse Work

The right to refuse work: A member has the right to refuse work if they have reasonable grounds for believing the work is likely to endanger their health or safety.



Report to Principal / Supervisor



If not remedied to member's satisfaction report to the Joint Occupational Health and Safety Committee.



If the Committee unanimously recommends that member return to work, member must return to work, but then the member can.



Report to the Occupational Health and Safety Division of the Department of Labour.

- A member has the right to refuse work if they have reasonable grounds for believing that the continued performance of their duties is likely to endanger their health or safety.
- However, the member may not refuse to work where the refusal puts the life, health or safety of another person directly in danger.
- If the member has reasonable grounds for believing that the continued performance of their duties is likely to endanger their health or safety, they should immediately report their work refusal to the Principal/ Supervisor verbally.
- The member should follow up with a written confirmation of their work refusal to the Principal/Supervisor, and should, at this point, contact their NSTU Staff Officer for assistance.
- The Employer has a statutory duty to:
 - o take every precaution that is reasonable in the circumstances to ensure the health and safety of members;
 - o provide such information, instruction, training, supervision and facilities as are necessary to the health and safety of members; and
 - o ensure that members are made familiar with any health or safety hazards that may be met by them at the workplace.
- The Principal/Supervisor should interview the member who has exercised their right to refuse.
- If the Principal/Supervisor does not remedy the matter to the member's satisfaction, the member may report the work refusal to the Joint Occupational Health and Safety Committee. Again, the member should enlist the support of the NSTU Staff Officer in doing so.
- The JOHS Committee should interview the member before making a decision whether to recommend that changes be made to the workplace or that the member return to work.
- The JOHS Committee will interview the Principal/Supervisor.
- The JOHS Committee may make recommendations to the Employer.

- The JOHS Committee may unanimously recommend that the member return to work, with or without recommendations.
- If the JOHS Committee cannot come to a unanimous recommendation, it should refer the matter to the Occupational Health and Safety Division.
- If the JOHS Committee does not remedy the matter to the member's satisfaction, the member has the right to report the work refusal to the Division. Again, the member should seek assistance from the NSTU, and the Staff Officer should attend the interview with the Division Officer.
- If the Division Officer advises the member to return to work, they must do so. However, the member may appeal the Officer's order to the Director. There is a 14-day time limit. The member may also appeal the decision of the Director to the Labour Board. There is a 21-day time limit. The member should again seek the assistance of the NSTU in these appeals.
- At any stage, the NSTU may decide to pursue the matter through the grievance procedure as a Collective Agreement matter.
- *The NSTU is here to assist its members with occupational health and safety matters and members should be encouraged to contact their NSTU Staff Officer for assistance if they believe that their health or safety is in danger.*

The Right to Refuse Work: A Guide for NSTU JOHS Committee Members

*****Remember that NSTU Staff Officers are always available to advise you or the member and you should, if appropriate, advise the member to contact a Staff Officer, especially if you feel that the member's health or safety is in danger.**

The Right to Refuse Work

The right to refuse work: A member has the right to refuse work if they have reasonable grounds for believing the work is likely to endanger their health or safety.



Work refusal will come to Joint Occupational Health and Safety Committee if Principal / Supervisor does not remedy matter to member's satisfaction.



You must consider Employer's statutory duty to protect the health and safety of members and to provide information and training that is necessary to the health and safety of members.



If the Committee cannot make a unanimous recommendation, seek assistance from the Occupational Health and Safety Division at the Department of Labour.

- A member has the right to refuse work if they have reasonable grounds for believing that the continued performance of their duties is likely to endanger their health or safety (ss.43(1) and 43(7) of the *Occupational Health and Safety Act*).
- However, the member may not refuse to work where the refusal puts the life, health or safety of another person directly in danger or if the danger is inherent in the member's work (s.43(9)).
- The member's work refusal will come to you as a member of the JOHS Committee after the member reports the refusal to the Principal/ Supervisor, and the Principal/Supervisor does not remedy the matter to the member's satisfaction (see s.43(2)(b)).
- You must keep in mind that the Employer has a statutory duty to:
 - o Take every precaution that is reasonable in the circumstances to ensure the health and safety of members;
 - o Provide such information, instruction, training, supervision and facilities as are necessary to the health and safety of members; and
 - o Ensure that members are made familiar with any health or safety hazards that may be met by them at the workplace (s.13(1)(a), (c) and (d)).
- The Committee must investigate the matter. This should involve an interview of the member. The Committee may make recommendations to the Employer. The Committee may unanimously advise the employee to return to work, possibly under certain conditions. Do not feel pressured to agree if you believe that the Employer has not met its statutory duty to protect the member. The Committee has the right to request the assistance of the Occupational Health and Safety Division if the Committee believes it will support them in carrying out their statutory duty.
- If the Committee does not remedy the matter to the member's satisfaction, the member has the right to report the work refusal to the Division. (s.43(1) and (2)). You should advise the member to seek assistance from the NSTU.
- ***The NSTU is here to assist its Joint Occupational Health and Safety Committee members and members with occupational health and safety matters, and Committee members and members should be encouraged to contact their NSTU Staff Officer for assistance if they have a concern about a member's health and safety.***

FAQS

1 What is the Occupational Health and Safety Act?

The OHS Act provides a framework for protecting and improving health and safety for all Nova Scotians. Employers and employees are both encouraged and required, to take responsible action that will ensure the health of and safety of employees and others at or near the workplace. The foundation of the Act is the internal responsibility system.

2 What is the Internal Responsibility System?

Management and employees must **share responsibility** for ensuring the workplace is safe and healthy. The Act sets out the responsibilities, and duties, of all workplace parties.

Management and employees are key, and in certain circumstances the Department of Labour and Workforce Development plays an essential role in the system.

3 As an employee, how do I have a “say” in how things are done?

Under the Act you **do** have a “voice”. The Act provides all workplace parties with three basic rights.

The Right To Know – you are entitled to receive information on issues that affect your health and safety and in most cases the health and safety of other persons in the workplace.

The Right To Refuse – you have the right to refuse work that endangers your health and safety.

The Right To Participate – you can participate on Joint Occupational Health and Safety Committees or be an Occupational Health and Safety Representative, report unsafe conditions, and voice your concerns or opinions on any issue that affects health and safety in the workplace.

4 As an employee, what are the steps I must follow to report anything in the workplace that I feel is dangerous?

- i) report the situation to your supervisor;
- ii) if the supervisor does not remedy the situation to **your** satisfaction, report it to the Joint Occupational Health and Safety Committee or the Health and Safety Representative;
- iii) if the Joint Occupational Health and Safety Committee or the Health and Safety Representative do not remedy the situation to **your** satisfaction, report it to the Department of Labour and Workforce Development.

5 What are the duties and precautions required of Education Entities under this Act?

Employers must take all reasonable steps to protect the health and safety of anyone at or near the workplace. These steps include the duty to:

- i) make employees familiar with health and safety hazards;
- ii) manage schools in such a manner that employees are not exposed to health or safety hazards;
- iii) consult and co-operate with the Joint Occupational Health and Safety Committee or Health and Safety Representative;
- iv) provide information, safety instruction, job training, supervision and facilities as are necessary for the health and safety of employees;
- v) provide additional training of committee members or representatives and such time off is deemed to be work time;
- vi) co-operate with those persons performing duties, or exercising powers under the Occupational Health and Safety Act or its regulations;
- vii) make sure that employees have the right equipment and safety gear needed to do their work safely;
- viii) comply with the Act and the regulations and make sure that employees do as well.

6 What are the duties and precautions required of members under this Act?

Employees must also take every reasonable precaution to ensure their health and safety and that of others in the workplace.

Employees must:

- i) co-operate with instructions from the employer to wear proper safety equipment and use safety procedures when necessary;
- ii) consult and co-operate with the Joint Occupational Health and Safety Committee or Health and Safety Representative;
- iii) co-operate with those persons performing duties, or exercising powers and the Occupational Health and Safety Act or its regulations;
- iv) comply with the Act and the regulations.

7 What is a Joint Occupational Health and Safety Committee?

The creation of a Joint Occupational Health and Safety Committee is part of the employer's and employee's **Responsibility** and **Right to Participate**. Such committees, made up of at least 50 percent (50%) non-management personnel, are **required** in every workplace where more than twenty (20) workers are regularly employed.

8 What is the role of the NSTU Rep?

Wherever possible the NSTU encourages the school rep to sit on the committee. The strong voice the rep provides can play a key role in assisting the committee.

9 What are the duties and responsibilities of the Joint Occupational Health and Safety Committee?

The function of such a committee is to get the employer and employees working together to protect and if necessary improve health and safety in the workplace. **Together** they will ensure that:

- i) hazards are identified;
- ii) health and safety requirements are complied with;
- iii) health and safety matters or complaints that arise in the workplace are quickly dealt with;
- iv) participation in inspections, inquiries and investigations;
- v) advice on personal protective equipment is offered by the committee;

- vi) consult with the employer regarding an Occupational Health and Safety Policy and an Occupational Health and Safety Program as required under this Act;
- vii) all reports and inspections made, and environment tests taken at the workplace by a Health and Safety Officer, or tests conducted at the request of an officer or the School Board, are reviewed;
- viii) records and minutes of committee meetings are kept and posted.

10 What procedures does the Joint Occupational Health and Safety Committee follow?

The following procedures apply:

- i) the number of committee members must **be agreed to** by both the employer and employees;
- ii) at least half of the committee must be employees not performing management functions;
- iii) the committee will have co-chairs representing management and non-management interests, unless the **committee members agree** to an alternative method of chairing;
- iv) the committee must meet **at least once a month**;
- v) employees on the committee are allowed **time off work**, with pay, for committee business and training;
- vi) the committee **must** create its own rules of procedure.

11 What is a Health and Safety Representative?

At a workplace with more than five (5), but less than nineteen (19) employees, the employer shall have the employees select at least one Health and Safety Representative. The representative shall be selected from among the employees at the workplace who are not connected with management. Their duties are similar to those of a Joint Occupational Health and Safety Committee, with the exception of records, minutes and other issues that pertain to meetings.

12 How does an employee access health and safety information that they require?

Communication of information is part of the employer's and employee's **Responsibility** and **Right to Know**. Some of the items noted in the Act which facilitate good communication are:

- i) an employer who receives a **written** request to respond to a recommendation from a Joint Occupational Health and Safety Committee or a Health and Safety Representative or an employee must respond within **twenty-one (21)** calendar days. If the employer cannot provide the information, he/she must give a written explanation;
- ii) the employer is required to let the Joint Occupational Health and Safety Committee, or a Health and Safety Representative, know about reports on health and safety inspections, monitoring or tests, provide the reports or give a reason why the reports cannot be provided;
- iii) the current names of everyone on the Joint Occupational Health and Safety Committee or the Health and Safety Representative must be posted along with minutes of monthly committee meetings;
- iv) a copy of the Act, telephone numbers of the Nova Scotia Department of Labour and Workforce Development workplace regulations must be posted;
- v) the workplace Health and Safety Policy and Health and Safety Program must be posted;
- vi) the employer must display any order received from the Department of Labour and Workforce Development, along with the notice of compliance and any notice of appeal or decision;
- vii) an employee who notices a hazard must immediately report that hazard to the supervisor;
- viii) one member of the Joint Occupational Health and Safety Committee or the Health and Safety Representative has the right to participate in workplace health and safety inspections, monitoring procedures and/or tests;
- ix) if an employee asks, the monitoring and testing procedures must be explained so that the employee understands what is going on.

13

What is an Occupational Health and Safety Policy?

Under the Act, the Employer is required to prepare a written Occupational Health and Safety Policy. This policy must indicate the reasons the Employer is **committed** to occupational health and safety and that the employer will **co-operate** with employees in striving to meet the goal of a safe and healthy workplace. The policy will state the **responsibilities** of the employer and the employees in creating and maintaining a safe and healthy workplace. The policy will be reviewed annually in consultation with the committee or the representative.

14

What is an Occupational Health and Safety Program?

Under the Act, the employer is required to prepare a written Occupational Health and Safety Program. The program must be established, and maintained, in consultation with the committee or representative, for the purpose of implementing the Employer's Policy, this Act and the regulations. The program must include provision for:

- i) the training of employees;
- ii) the preparation of written work procedures relative to health and safety;
- iii) the establishment and continued operation of a Joint Occupational Health and Safety Committee or selection of a Health and Safety Representative, where required;
- iv) the establishment of a hazard identification program and an accident/incident investigation system;
- v) a system of workplace occupational health and safety monitoring, prompt follow-up and control of identified hazards;
- vi) a system for a prompt investigation of hazardous occurrences to determine their causes and the actions needed to prevent recurrences;
- vii) the maintenance of records and statistics;
- viii) the monitoring of the implementation and effectiveness of the Program.

15

Does a member have the right to refuse to do a specific work assignment if he/she believes his/her health or safety is in danger?

If an employee has a reasonable basis to believe that a specific work activity is dangerous to himself or herself, or anyone else in the workplace, they can refuse to do the work until:

- i) the employer takes action to remedy the problem to the employee's satisfaction or;
- ii) the Joint Occupational Health and Safety Committee has investigated the situation and **all** members of the Committee advise the employee to do the work or;
- iii) a Department of Labour and Workforce Development Officer investigates the situation and advises the employee to do the work.

16 What procedures must be followed when refusing to work?

If an employee is going to refuse to do a specific work activity, these are the steps they should follow:

- i) report to the supervisor (Principal) that they refuse to do the work;
- ii) if the problem is not remedied to the employee's satisfaction, the employee should then report it to the Joint Occupational Health and Safety Committee or the Health and Safety Representative;
- iii) if the problem is still not remedied to the employee's satisfaction, the employee should report it to the Department of Labour and Workforce Development.

17 Can a member be assigned to other work?

When an employee refuses to do certain work, the employer is allowed to give them other work to do, or assign them to a different location.

18 When one employee refuses a specific work assignment, can another employee be assigned to do that work?

The employer has the right to give the work to another person provided that person is made aware of:

- i) the first person's refusal;
- ii) the first person's reason for refusing;
- iii) the second employee's right to refuse under the Act.

19 What happens during an investigation after a refusal to work?

When an employee refuses to do a specific work activity, that employee has the **right** to participate in the investigation along with one Committee member or the Health and Safety Representative. The Department of Labour and Workforce Development will undertake a thorough investigation and give all information to the employee and the Committee member or the Health and Safety Representative. All monitoring or tests must be explained to the employee during the investigation. During the investigation, the employee will be paid his/her regular wages.

20

Can a member be disciplined for refusal to do specific work?

An employer cannot take, or threaten to take, discriminatory action against an employee because:

- i) the employee has complied with the Act or regulations or contacted the Department of Labour about a violation of the Act or regulations;
- ii) the employee has spoken to the Joint Occupational Health and Safety Committee or Health and Safety Representative, serves on or does Committee work or is the Health and Safety Representative;
- iii) the employee has refused to do certain work that the employee believes is unsafe or unhealthy;
- iv) the employee is going to testify or has testified in court about violations of the Act or regulations on the part of the employer;
- v) the employee has told the Joint Occupational Health and Safety Committee, the Health and Safety Representative or a Department of Labour Officer about possible health and safety violations in the workplace.

21

What action should a member take if they are faced with discriminatory action by the employer?

The employee must file a **written** complaint to the Department of Labour and Workforce Development within 30 days of the action. Upon receipt of a complaint of discriminatory action, the Department of Labour Officer and Workforce Development will begin an investigation and decide whether or not the complaint is valid. If the complaint is found to be valid, the Officer will issue an order that any “damage” done to the employee is corrected. This could mean getting their job back, being paid their wages, remove discipline record from file, etc. If the Department of Labour Officer decides that the employee does not have grounds to complain, then the employee shall be notified of the decision.

22 What authority does the Department of Labour and Workforce Development Officer have?

A Department of Labour and Workforce Development Officer has all the powers, authorities and immunities of a Peace Officer under the Criminal Code of Canada. An Officer may enter a workplace at any reasonable time of the day or night. The Officer may request records, conduct an investigation, take samples, seize items, use outside experts, take photographs and question the employer and/or the employees.

23 Is an Education Entity required to list hazardous chemical substances handled or otherwise present in the workplace?

A list of all hazardous chemical substances regularly used or otherwise present at the workplace must be prepared by the employer. The list must include trade names of the chemicals, the name and address of the supplier and manufacturer, the chemical composition of the substance and the generic name.

The list shall be made available to the Joint Occupational Health and Safety Committee or the Health and Safety Representative.

24 What are the reporting requirements for employers when there is an accident at the workplace?

An employer must notify the Department of Labour and Workforce Development within twenty- four (24) hours if an accident happens where a person has been killed or if there has been an accidental explosion, regardless of whether or not a person has been injured.

If there has been a fire or accident at the workplace where a person has been injured, the employer has seven (7) days to notify the Department of Labour and Workforce Development.

25 Does the employee have the right to appeal an order or decision given by a Department of Labour Officer?

An employee directly affected by an order or decision may appeal, **in writing**, within fourteen (14) days of the order or decision being received. The appeal process has two levels, both defined in the Act.

The first level is to the Director of the Department of Labour and Advanced Education's Occupational Health and Safety Division. This person can reopen an investigation and confirm, vary, revoke or suspend the order or decision.

If the employee is not satisfied with this appeal, he/she may appeal to the Deputy Minister of Labour and Advanced Education within twenty-one (21) days of the receipt of the above decision. The appeal is heard by the Labour Board, which may confirm, vary, revoke or suspend the Director's decision.

26 What are the penalties under the Act?

Anyone who has been found guilty of an offense against the Act could, depending on circumstances be fined as much as **\$250,000** plus **\$25,000** per day for each day the offense continues to occur or be **imprisoned for a two year term**, or both.

Alternative sentences imposed by the courts could include an order to publish the facts in the media, or an order to contribute to public education on occupational safety or an order to perform community service work.

27

What are some of the specific health and safety issues for NSTU members?

- exposure to unclean air because of poor ventilation in classrooms;
- hazards of poorly serviced electrical equipment and cords;
- hazards of yard supervision not only from the dangers of play equipment but from the physical condition of the playground because of uneven ground, ice conditions, mud and water;
- hazards in the family studies room because of hot equipment and food, grease fires and slippery floors;
- general exposure to slippery floors that have been too heavily waxed or which are being washed;
- exposure to bomb threats and incidents of arson;
- exposure to toxic cleaning substances;
- exposure to asbestos dust; exposure to mold;
- hazards in technology education shops; members are exposed to faulty equipment, wood dust, solvents, paints, epoxies and resins; high noise levels and fire hazards caused by the accumulation of saw dust;
- hazards in duplicating areas; there are hazards from chemicals such as ammonia, methanol and ethanol used in the duplicating process, ozone produced by copiers and electrical stencil machines and carbon tetrachloride used to clean machines. These areas are often poorly ventilated or not ventilated at all;
- hazards in science laboratories; hazards in these areas include exposure to toxic chemicals, solvents and corrosives as well as dangers of fire and explosion because of faulty storage of chemicals or faulty equipment;
- hazards in art rooms; the fumes of various glazes can be highly toxic when heated in a kiln. Members are exposed to solvents, dusts (wood dust, silica dust, talc) aniline dyes, aerosol sprays and adhesives containing benzene and naphtha. Art rooms are often not ventilated;
- exposure to poor or inadequate lighting;
- exposure to general unsanitary conditions during a custodian strike.

NOTES



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