

Occupational Health and Safety Act



Questions and Answers



Nova Scotia Teachers Union

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What is the Occupational Health and Safety Act?

On May 17, 1996 Nova Scotia proclaimed a new Occupational Health and Safety Act. It came into force on January 1, 1997. The Act provides a solid framework for improving health and safety for all Nova Scotians. Employers and employees are both required, and encouraged, to take responsible action that will ensure the health of and safety of the employees at or near the workplace. The improved rules reinforce the widely accepted internal responsibility system.

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What is the Internal Responsibility System?

Since all parties influence what a workplace is like, management and employees must **share responsibility** for making the workplace safer and healthier. The Act states what the responsibilities, and duties, of all workplace parties are. Management and employees are key, and the Department of Labour is an essential part of that system. With the proper support, commitment and back-up, it will work.

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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 or that of other persons in the workplace.

The Right To Refuse - you have the right to refuse unsafe or unhealthy work.

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 your health and safety, or that of the workplace.

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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 (principal);
- 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.

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What are the duties and precautions of the School Boards under this Act?

Employers must ensure the health and safety of anyone at or near the workplace. Some of the duties include:

- i) make employees familiar with health and safety hazards;
- ii) manage the 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 the 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 Heath and Safety Act or its regulations;
- vii) make sure that employees have the right equipment and safety gear needed to do their job safely;
- viii) comply with the Act and the regulations and make sure that employees do as well.

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What are the duties and precautions of teachers under this Act?

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

- 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 Heath and Safety Act or its regulations;
- iv) comply with the Act and the regulations.

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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.

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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 improve health and safety in the workplace. **Together** they will make sure 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.

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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.

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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.

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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 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, 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.

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What is an Occupational Health and Safety Policy?

Under the Act, the Employer is required to prepare a written Occupational Health and Safety Policy by July 1, 1997. This policy must indicate the reasons why 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.

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What is an Occupational Health and Safety Program?

Under the Act, the employer is required to prepare a written Occupational Health and Safety Program by January 1, 1998. 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.

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Does a teacher 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 reason to believe that a specific work activity is dangerous to themselves, 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 Officer investigates the situation and advises the employee to do the work.

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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.

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Can a teacher 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. Where a teacher is reassigned there is no loss of salary or benefits.

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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.

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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 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.

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Can a teacher 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.

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

The employee must file a **written** complaint to the Department of Labour within 30 days of the action. Upon receipt of a complaint of discriminatory action, the Department of Labour Officer 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.

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What authority does the Department of Labour Officer have?

A Department of Labour 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.

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Is a School Board 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.

23

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

An employer must notify the Department of Labour 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.

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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 Executive Director of the Department of Labour'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 within twenty-one (21) days of the receipt of the above decision. The Deputy Minister may convene an independent Appeal Panel of three members which may confirm, vary, revoke or suspend the Director's decision. The Appeal Panel's ruling is final and binding.

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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.

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

- exposure to unclean air because of poor ventilation in classrooms;
- hazards of strained backs and muscles because of lifting children;
- 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 of physical education teachers to hazards in the gymnasium or on the playing field;
- exposure to toxic cleaning substances;
- exposure to asbestos dust;
- exposure to mold;
- hazards in technology education shops; teachers are exposed to faulty equipment, wood dust, solvents, paints, epoxies and resins. There are 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. Teachers 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;
- exposure to low frequency waves emitted from poorly maintained video display terminals.

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