

Members' right to refuse unsafe work: a refresher

NSTU members have the right, under the Nova Scotia Occupational Health and Safety Act, to refuse to work where the teacher/Community College member has reasonable grounds for believing that the work is likely to endanger his or her health or safety. The member has that right until:

- (a) The employer has taken remedial action to the satisfaction of the teacher,
- (b) The joint occupational health and safety committee (JOHS committee) has investigated the matter and unanimously advised the teacher to return to work, or
- (c) An officer of the Occupational Health and Safety Division of the Nova Scotia Department of Labour and Advanced Education has investigated the matter and advised the teacher to return to work.



For example, if you are a resource or learning centre teacher and you have reasonable grounds for believing that a student on your caseload is likely to assault you—for example, he has already assaulted you and is threatening to do so again—then you have reasonable grounds for believing that working with the student is likely to endanger your health or safety and you have the right to refuse to work with that student until one of the three conditions above it is met.

You must exercise your right to refuse work immediately and you do so by notifying your principal or supervisor that you are exercising your right to refuse to perform the work in question.

If the employer has not remedied the situation to your satisfaction, you can continue your work refusal until the JOHS committee has unanimously advised you to return to work. If they have not done so, you may continue to exercise your work refusal until an officer of the Department of Labour has advised you to return to work.

The Act requires the employer to continue to pay you during your work refusal. Your supervisor can reassign you during your work refusal, but this is subject to any applicable collective agreement provision.

You cannot exercise a work refusal if to do so would put the life, health or safety of another person directly in danger. So, for example, if a student is acting violently, you cannot simply walk out of a classroom if other students are endangered. However, once the incident is over and students are safe, and you believe that the student is likely to assault you again, you most certainly have the right to refuse to work with that student.

The Act also says that you cannot refuse to work if the danger is inherent in the work. However, a danger is not inherent in a job unless the employer has taken every precaution reasonable in the circumstances to eliminate the danger, as is required by the Act. In the view of the NSTU, if a student continues to assault and threaten to assault a teacher/Community College member, the employer has not yet taken all reasonable measures to eliminate that danger, because the employer has the power to hire additional staff to protect the member, and the employer ultimately has the power to remove the student from the school setting. Being subjected to continued assaults and threats of assault is not inherent in your job.

If you have any questions about your workplace health and safety rights, do not hesitate to contact your NSTU staff officer for more information.