



Vancouver Island West School District 84  
**OCCUPATIONAL HEALTH & SAFETY PROGRAM**

**SECTION R**

**REFUSAL OF UNSAFE WORK**

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**INTRODUCTION**

A person must not carry out or cause to be carried out any work process or operate or cause to be operated any tool, appliance or equipment if the employee has reasonable cause to believe that to do so would create an undue hazard to the health and safety of any person.

**PROCEDURE FOR REFUSAL**

1. A worker who refuses unsafe work must immediately report the circumstances of the unsafe situation to his/her Supervisor or the Superintendent/Secretary-Treasurer (or designate).
2. The Supervisor or the Superintendent/Secretary-Treasurer (or designate) receiving the report must immediately conduct an investigation and ensure that any unsafe condition is remedied without delay or, in his or her opinion the report is not valid, must so inform the person who made the report.
3. If the procedure in (2) does not resolve the matter and the employee still feels unsafe and refuses to do the work, the Supervisor or Superintendent/Secretary-Treasurer (or designate) must investigate the matter in the present of the worker who made the report and in the presence of a worker member of the Joint OH&S Committee or the Safety Representative, a Union rep or, if not available, then any other reasonably available worker selected by the worker.
4. If the second investigation does not resolve the matter, then both the worker and the Supervisor or Superintendent/Secretary-Treasurer (or designate) must immediately notify WorkSafeBC, who must investigate the matter without undue delay and issue whatever orders are deemed necessary.

The WSBC Officer would apply an objective test to determine whether the employee has reasonable cause to believe that continuing working would create an undue hazard to the employee or to others. This test is described as follows:

*Whether the average employee at the workplace, having regard to his/her general training and experience, would, exercising normal and honest judgment, have reason to believe that the circumstances presented an unacceptable degree of hazard.*

In applying this test, the worker does not have to be correct about whether or not the situation was unsafe; rather, the test is one of reasonable belief on the part of the worker. Also, the physical condition of the particular worker is a relevant consideration in reaching the objective assessment as to whether the worker had reasonable cause to believe that to continue working would cause an undue hazard for him/herself.

Note: A copy of each investigation report is to be kept on file in the worksite and a copy sent to the Associate Director of Human Resources.

## **REASSIGNMENT OF REFUSED WORK**

If the worker refuses work (as above), the Superintendent/Secretary-Treasurer (or designate) must not require or permit another worker to do the refused work unless:

1. The matter has been resolved under (2), (3) or (4) above; or,
2. The Superintendent/Secretary-Treasurer (or designate) has, in writing, advised the other worker and a person referred to in (3) above, of all of the following:
  - i. the refusal;
  - ii. the unsafe condition reported under (1) above;
  - iii. the reasons why the work would not create an undue hazard to the health and safety of the other worker or any other person;
  - iv. the right of the other worker to refuse unsafe work.

## **NO DISCRIMINATORY ACTION**

The worker cannot be disciplined in a situation where, though no undue hazard was ultimately found to exist, the worker had reasonable cause to believe it did exist. The employee can be temporarily assigned to alternative work at no loss in pay until the matter under 'Procedure for Refusal' is resolved, and this is not deemed to constitute discipline.

## **POSITIVE TAKE-AWAYS FROM THIS PROCESS!**

- Workers – You have the right to refuse unsafe work and you will not be disciplined if you had reasonable cause to believe that it was unsafe.
- Supervisors – Your workers are your eyes and ears of the front line of workplace health and safety. If your worker feels that something is unsafe, this is an opportunity for you to investigate and correct a situation that might have caused harm!



# REFUSAL OF UNSAFE WORK: INVESTIGATION REPORT

To be filled out by Supervisor or Superintendent/Secretary-Treasurer (or designate) and Employee or Worker Representative.

**NOTE: If additional space is required, please use a separate sheet and attach to this report.**

Name of Employee(s) Refusing Unsafe Work: \_\_\_\_\_

Worksite and Location of Unsafe Work: \_\_\_\_\_

Date/Time of Refusal: \_\_\_\_\_ Date of Investigation: \_\_\_\_\_

Details of Unsafe Work as Reported by Employee: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Witnesses:**

Last Name	First Name	Address	Telephone

Was situation determined to be unsafe? Yes / No    Was employee informed of decision? Yes / No

If unsafe, what was the remedy? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Did the remedy result in the employee feeling safe and able to do the work? Yes / No

*If NO, then a second investigation must be conducted in the presence of the employee and a Joint OH&S Committee or Safety rep and a Union rep, or any other reasonably available worker selected by the worker, and another report completed. If still not resolved, a WSBC Officer is to be contacted immediately.*

**Persons Conducting Investigation:**

Name	Signature	Type of Representative Employer, Worker or Other	Date

I agree this is a fair depiction of the instance(s): \_\_\_\_\_  
*Employee or Worker Representative Signature*

