



## Work Refusal

### #300.21

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<b>Adopted:</b>	April 13, 2018
<b>Last Reviewed/Revised:</b>	September 23, 2025
<b>Responsibility:</b>	Superintendent of Education
<b>Next Scheduled Review:</b>	September 2029

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#### PURPOSE:

The Brant Haldimand Norfolk Catholic District School Board (BHNCSDB) is committed to the protection of its employees and endeavors to maintain a safe work environment in order to prevent workplace accidents, injuries and incidents of workplace violence.

#### APPLICATION AND SCOPE:

The purpose of this administrative procedure is to provide a protocol for work refusal consistent with the Occupational Health and Safety Act for employees to follow in the event that they believe the work is unsafe. This administrative procedure applies to all BHNCSDB employees. Note that under the Occupational Health and Safety Act, Regulation 857 – Teachers, Section 3(3), teachers have a limited right to refusing work where the circumstances are such that the life, health or safety of a pupil is in imminent jeopardy.

#### REFERENCES:

- Occupational Health and Safety Act and Regulations
- BHNCSDB Health and Safety Policy and Administrative Procedure 300.16
- Terms of Reference for the Structure and Function of the BHNCSDB Multi-Site Joint Health and Safety Committee

#### FORMS:

- Work Refusal Form

#### APPENDICES:

- N/A

#### DEFINITIONS:

**Internal Responsibility System (IRS):** is the underlying philosophy of the occupational health and safety legislation in all Canadian jurisdictions. Its foundation is that everyone in the workplace – both employees and employers – are responsible for his or her own safety and for the safety of co-workers.

**Workplace Violence:** as defined in the Occupational Health and Safety Act, means:

- a) The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
- b) An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
- c) A statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.



## **ADMINISTRATIVE PROCEDURES**

### **Workplace Hazards**

A workplace hazard refers to any source of potential damage, harm, or adverse health effects on a person or property in a workplace setting. Hazards can be physical, chemical, biological, ergonomic, or psychosocial in nature and are governed by the Occupational Health and Safety Act (OHSA) of Ontario.

When a workplace hazard has been identified, further investigation is required by the supervisor. A sited workplace hazard is not necessarily cause for a work refusal.

Workplace parties should use the Internal Responsibility System to control substandard and unsafe conditions through health and safety hazard reporting; hazard identification and assessment; monthly and annual health and safety inspections, investigations and implementation of corrective actions.

Staff can complete the Workplace Hazard Form using the Online Reporting Tool in the BHN Hub.

### **Conditions when a worker can refuse to work**

Under the Occupational Health and Safety Act an employee has the right to refuse work where the employee has reasonable grounds for believing that the work is likely to endanger their health or safety. The Occupational Health and Safety Act is specific about the procedure to be followed when an employee indicates they are refusing unsafe work.

If the work refusal meets the criteria defined under Section 43(3) of the Occupational Health and Safety Act as outlined below, a worker may refuse to work or do particular work, where they have reason to believe that:

- a) Any equipment, machine, device or thing the worker is to use or operate is likely to endanger them or another worker;
- b) The physical condition of the workplace or part thereof in which the worker works or is to work is likely to endanger them;
- c) Workplace violence is likely to endanger them or
- d) Any equipment, machine, device or thing the worker is to use or operate or the physical condition of the workplace or part thereof in which the worker works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger them or another worker.

Employees will not be penalized for exercising or seeking to exercise their rights under the Occupational Health and Safety Act.

### **First Stage Work Refusal**

Upon refusing to work, the employee shall promptly report the circumstances of the work refusal to their direct Supervisor. The employee will complete their section of the *Work Refusal Form*-Form 1.

- 1.1 The Supervisor will immediately contact the Health and Safety Coordinator. The Supervisor will follow direction from the Health and Safety Coordinator.

The Supervisor will immediately investigate the work refusal in the presence of the employee, the Health and Safety Coordinator (where deemed appropriate) and a Joint Health and Safety Committee (JHSC) site representative.

The JHSC site representative must be made available and must attend the investigation without delay. Time spent by this representative is deemed to be work time, for which the person shall be paid at their regular rate, or premium rate if deemed proper.



The Supervisor or the JHSC site representative may request through the JHSC co-chairs assistance with the investigation by the certified members of the JHSC.

Until the investigation is completed, the employee initiating the work refusal must remain in a safe place near as reasonably possible to their workstation and be available to the Supervisor for the purpose of the investigation.

During the investigation, the Supervisor may assign the employee to alternative work.

During the investigation, the Supervisor must record as many details as possible regarding the refusal.

If action can be taken to resolve the complaint without need for further investigation, the Supervisor will carry out the action decided upon, and the Supervisor will complete their section of the Work Refusal Form.

If the employee is satisfied with the corrective action, they can return to work after signing the Work Refusal Form. The JHSC site representative and Supervisor must also sign the report.

If the reasons for work refusal cannot be resolved internally, the work refusal will progress to a Second Stage work refusal and the Ministry of Labour will be called to resolve the work refusal.

### **Second Stage Work Refusal**

If the employee continues to refuse work after the Health & Safety Coordinator will notify the Ministry of Labour.

If the employee continues to refuse work after the completion of the first stage work refusal investigation, The Health and Safety Coordinator will immediately notify the Ministry of Labour and will conduct internal notifications to the Director of Education, Human Resources Services Manager, and the JHSC Co-Chairs.

The Ministry of Labour Inspector will investigate the work refusal in consultation with the Health & Safety Coordinator, the employee, the Supervisor and the JHSC site representative.

Pending the investigation and decision of the Ministry of Labour Inspector, the employee must remain, during normal working hours, in a safe place that is near as reasonably possible to their workstation and be available to the Ministry of Labour Inspector for the purposes of investigation. This does not apply if the employer is able to find suitable alternative work for the employee to do during normal working hours.

During the investigation, the Supervisor must record all matters relating to the work refusal and ensure that these records are maintained on file. Copies of all investigation notes must be provided to the Health and Safety Coordinator and the JHSC site representative.

Following the investigation, the Ministry of Labour Inspector will decide whether the work being refused is likely to endanger the employee or another person.

The Ministry of Labour Inspector will provide their decision in writing, as soon as practical to the Health and Safety Coordinator, the employee and the JHSC site representative.



Pending the completion of the investigation, another employee may be assigned to the work that is being investigated, however that employee must be advised of the other employee's refusal and reasons for it, in the presence of the JHSC site representative. The Supervisor will confirm in writing that they have advised the employee of the work refusal and reasons for the work refusal in the presence of the JHSC site representative.

If the Ministry of Labour Inspector determines the work is unsafe, they will direct the workplace parties by issuing an order for corrective actions. The employee will not return to work until corrective actions are in place. Once compliance is achieved, the worker will return to work.

If the Ministry of Labour Inspector does not consider that the work is likely to endanger a worker, the employee is expected to return to work.

If the employee continues to refuse work after the Ministry of Labour Inspector's decision that the work is not likely to endanger a worker and no reasonable grounds exist for the ongoing refusal, the employee may be subject to disciplinary action.



## HEALTH & SAFETY – WORK REFUSAL FORM

The Brant Haldimand Norfolk Catholic District School Board gives all employees the right to refuse unsafe work as defined under section 43(3) the Occupational Health and Safety Act. The work refusal must be reported promptly to the Supervisor and Section 1 of this form is to be completed by the worker and submitted to the Supervisor for investigation, and if necessary, corrective action, to occur.

### SECTION 1: TO BE COMPLETED BY EMPLOYEE

**Employee Name:**

**Employee Position:**

**Location:**

**Date:**

**Name of Supervisor Receiving Report:**

**Name of JHSC Site Representative:**

**Are you refusing work as defined under section 43(3) of the Occupational Health and Safety Act?**

☐ YES ☐ NO

**Description of Hazard:** (Please describe the hazard, unsafe condition, or unsafe practice in detail)

## SECTION 2: TO BE COMPLETED BY SUPERVISOR

**NOTE:** If the employee is exercising their right to refuse unsafe work, the supervisor must immediately contact the Health and Safety Coordinator and then investigate the hazard in the presence of the employee and JHSC Representative (and in some cases with the Health and Safety Coordinator present as well).

**Action Details:** (please check the applicable action that will be taken below)

- ☐ Corrective action has been taken to eliminate the hazard (provide details in description)
- ☐ A work order has been submitted to the Maintenance department through eBASE (provide details in description)
- ☐ There are no reasonable grounds to determine such a hazard exists (provide reasoning in description)
- ☐ Employee is continuing with Stage 2 Work Refusal (please refer to instructions in Section 3)

**Description of Action Taken:** (please recommend or describe the specific action that will be taken to eliminate the hazard, if no action will be taken, please provide reasoning behind this decision).

### Employee Acknowledgment:

- ☐ I am satisfied with the corrective action taken
- ☐ I am not satisfied with the corrective action taken and am continuing to exercise my right to refuse unsafe work

**Employee Name:**

**Signature:**

**Date:**

**Supervisor Name:**

**Signature:**

**Date:**

**JHSC Site Representative Name:**

**Signature:**

**Date:**

### Copy Distribution:

1. Employee
2. JHSC Site Representative
3. JHSC Area Representative
4. Health and Safety Coordinator

## **SECTION 3: SECOND STAGE WORK REFUSAL**

### **INSTRUCTIONS FOR SECOND STAGE WORK REFUSAL:**

1. If the employee continues to refuse work after the completion of the first stage work refusal investigation, the Supervisor will immediately contact the Health and Safety Coordinator to advise that there is a second stage work refusal.
2. The Health and Safety Coordinator will immediately notify the Ministry of Labour, Immigration, Training and Skills Development (MLITSD) and will conduct internal notification to the Director of Education, Human Resources Manager, and the JHSC Co-Chairs.
3. If available, the employee may be assigned to suitable alternate work until the MLITSD conducts their investigation of the work refusal. If alternate work is not available, the employee must remain, during normal working hours, in a safe place that is near as reasonably possible to their workstation and be available to the MLITSD Inspector for the purposes of the investigation.
4. No other employee shall be assigned to the work that is being refused unless the worker has been advised of the other employee's refusal and reasons for it, in the presence of the JHSC Site Representative.
5. If another employee agrees to perform the work, the Supervisor will confirm in writing that they have advised the employee of the work refusal and have provided the employee with the reason(s) for the work refusal in the presence of the JHSC Site Representative.
6. Once the MLITSD has completed their investigation and any orders for corrective action have been resolved, the employee will return to work.

For additional information regarding the process for work refusals, please refer to Board AP 300.21 – Work Refusal.