



## Procedure

Saskatoon & Area - Occupational Health & Safety

**Number:** 40-004

**Title:** General Policy: Refusal to Work

**Saskatchewan Employment Act:** 3-1(1)(i), 3-31 to 3-37

**OHS Regulation:**

**Date:** January 1, 2017

**Date Revised/Reaffirmed:** April 3, 2018

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### Purpose

To ensure that all employees understand and follow the refusal to work process

### Procedure:

- The refusing worker informs the manager/supervisor that they are refusing the work because of a health or safety concern. The refusing worker should not leave the worksite without the manager/supervisor's permission. The refusing worker and the manager/supervisor try to resolve the concern
- If the refusing worker and the manager/supervisor cannot resolve the concern, ask the OHC co-chairs to help. The co-chairs have no right to rule on whether or not the disputed job is unusually dangerous but can assist to resolve the concern.
  - The manager/supervisor has the right to assign the refusing worker to other work (at no loss in pay or benefits) until the matter is resolved.
  - A manager/supervisor can assign another worker to the disputed job if the replacement worker is advised in writing about:
    - The refusal and the reasons for it
    - Why the manager/supervisor believes the replacement worker can do the disputed job safely
    - The right of the replacement worker to refuse
    - The steps to follow when exercising this right
- If the refusing worker is not satisfied following the co-chair assistance, the co-chairs call an emergency OHC meeting to investigate and vote on whether or not the work is unusually dangerous. **A unanimous vote by a quorum of the committee is required to rule for or against a refusal.** The OHC sends recommendations for corrective action to the employer, including a summary of the investigation and the minutes of the meeting.
- Any person may contact an OHO during a refusal process if:
  - the matter has not been discontinued or resolved,
  - the refusing worker or the manager/supervisor is not satisfied with the OHC decision, or
  - the committee vote is not unanimous or the committee cannot agree on recommendations
- The OHO investigates and makes a ruling. If the OHO decides the task is unusually dangerous, the OHO may issue a notice of contravention. If the OHO decides the task is not unusually dangerous, the OHO will advise the worker in writing and advise the worker they are no longer entitled to refuse to do that task.

- Anyone directly affected by an OHO decision may appeal it to the Director of the SK LRWS OHS Division. The OHO's decision remains in force unless it is suspended by the Director or an adjudicator
- If the worker believes the employer has taken discriminatory action against them related to the work refusal, they may contact the OHO

**NOTE: At any time during this process the manager, manager/supervisor, refusing worker, replacement worker, or OHC member may contact LRWS OHO or the SHA OHS department for assistance**

**Non-Compliance/Breach:**

Non-compliance with this policy will result in a review of the incident. A review for non-compliance may result in disciplinary action, up to and including termination of employment or privileges; fines and /or prosecution of individuals under the Saskatchewan Employment Act and OHS Regulations.

**References**

- [Right to Refuse Algorithm](#)
- [Manager/Supervisor Question Checklist](#)
- [Report on Refusal to do Dangerous Work](#)

Review Dates:

January 1, 2017

April 3, 2018

## GUIDELINES TO INVESTIGATING A REFUSAL TO WORK

Worker has reasonable grounds to believe job is unusually dangerous

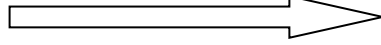
### **STEP 1:**

Involve the Supervisor

Worker Satisfied???



**NO**



**YES – Return to Work**

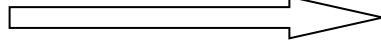
### **STEP 2:**

Involve the OHC Co-Chairs

Worker Satisfied???



**NO**



**YES – Return to Work**

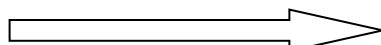
### **STEP 3:**

Committee Investigates

Worker Satisfied???



**NO**



**YES – Return to Work**

### **STEP 4:**

Involve the OHS Division

#### **Step 1:**

- The refusing worker informs the supervisor/manager that the job is being refused for health and safety reasons
- The supervisor and worker attempt to resolve the concern, contact the manager. Document the discussion. The supervisor may reassign the worker during the investigation
- The refusing worker does not leave the site without the permission of the employer
- Another worker can be assigned and must be advised of their rights and the reason for the refusal in writing
- After hours-if supervisor resolves, then consult with the patient care supervisor if applicable. Document and communicate to manager on next shift. If not resolved, notify 1st level call who responds in person in a timely manner. Manager on call notifies 2nd level call, documents and assists to initiate Step 2 if required.

#### **Step 2:**

- The committee co-chairpersons are contacted and asked to assist in the resolution of the refusal in person. Contact OHS services for assistance if required. The co-chairs investigate the work refusal and work on resolution

#### **Step 3:**

- The co-chairs convene an emergency committee meeting. Quorum is required
- The committee investigates the refusal
- A vote is taken to decide if the disputed work is unusually dangerous
- Unanimity is required to rule for or against the refusal
- If the committee reaches a unanimous decision and agrees on recommendations, the committee sends its recommendations for corrective action to the manager. The manager acts and reports to the committee.

#### **Step 4:**

- An occupational health officer investigates and provides a written ruling to the parties
- Anyone directly affected by the officer's decision may appeal under 3-32 of the Act

## **MANAGER/SUPERVISOR QUESTION CHECKLIST Right to Refuse Dangerous Work (3-31)**

**COLLECT** the following information:

Name of the employee calling the Section 3-31: \_\_\_\_\_

Employee's Department: \_\_\_\_\_

- **ASK:** Have you discussed this safety concern with any other Supervisor?
- **ASK:** Please describe your safety concern.
- **ASK:** What do you believe is unusually dangerous to yourself or to another worker?

**CONSIDER:** Would an average worker, with the same level of training and experience, using normal and honest judgment, agree that the work presented an unacceptable hazard?

An unusual danger may include:

- A danger that is not normal for the job
- A danger that would normally stop work danger greater than usual and presents as danger to the health and safety of the worker or others
- A situation for which you are not adequately trained, equipped, experienced to do the work assigned

### **WORK TOWARD RESOLUTION:**

- **ASK:** What actions do you see that need to take place to resolve this situation?
- Ask for description of what has been done to this point to solve the problem?
- Explore potential solutions to resolve concern with the worker.
- **PLAN:** Identify short and longer term steps which can be taken until the concern is resolved.

### **DOCUMENTATION:**

Employee to call Incident Reporting Line/Safety Alert System to report concern.

Manager to complete Report on Refusal to Do Dangerous Work –Section 3-31.

If the refusal is resolved, include resolution on Report of Refusal to Do Dangerous Work.

Manager and Worker to sign report if both parties agree with the documentation.

If concern cannot be resolved – proceed to Guidelines for Investigating Refusal to Work.

## Report on Refusal to do Dangerous Work – OHS Act 3-31

Refusing Worker: \_\_\_\_\_ Site: \_\_\_\_\_ Dept: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Refusal Reported to: \_\_\_\_\_ Position: \_\_\_\_\_

**Describe the work being refused, the reason for refusing, and the potential danger to the health and safety of the worker or others.**

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**Manager/Supervisors Response:**

Proposed resolution:

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Worker satisfied:  Yes  No      Worker reassigned: \_\_\_\_\_

***If refused task was reassigned to another worker, provide a copy of this report with written notification.***

Manager/Supervisor Signature: \_\_\_\_\_ Phone: \_\_\_\_\_

Worker Signature: \_\_\_\_\_ Phone: \_\_\_\_\_

Unresolved, refer to OHC Co-Chairs: time notified: \_\_\_\_\_

Co-Chairs Resolution: (if unresolved convene committee meeting)

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Employer Co-Chair \_\_\_\_\_ Worker Co-Chair \_\_\_\_\_

Date/Time: \_\_\_\_\_