

# AVON MAITLAND DISTRICT SCHOOL BOARD

## ADMINISTRATIVE PROCEDURE

### NO. 414

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#### **SUBJECT: REFUSING UNSAFE WORK**

Legal References: *Education Act: Section 283 Chief Executive Officer: Maintain an Effective Organization; Ontario Occupational Health and Safety Act Sections 43 & 50; Health Protection and Promotion Act; Teachers Regulation (Reg. 857)*

Related References: *Administrative Procedure 138 Positive Workplace Environment; AP 175 Accidents, Incidents, and Occupational Illnesses; AP 351 Code of Conduct; AP 357 Violence-Free Schools; AP 404 Violence Prevention in the Workplace; AP410 Environmental Health and Safety; AP 411 Workplace Hazard Notification and Investigation; AP 540 Hazardous Materials Disposal; AP 541 Hot Work; AP 542 Indoor Environmental Quality; AP 543 Well Water Testing; AP 546 Pesticides: Use of*

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#### **1. Right to Refuse Work**

This administrative procedure provides a means for all staff members of Avon Maitland District School Board to exercise their right to refuse to do work they have "reason to believe" may endanger them or other staff members in accordance with the *Occupational Health and Safety Act*.

#### **2. Administrative Procedures**

##### **2.1 Introduction**

2.1.1 A staff member of Avon Maitland District School Board may refuse to do work if he or she has "reason to believe" that:

- a) Any equipment, machine, device or thing that the staff member is using or is told to use is likely to endanger himself or herself or another employee of the board;
- b) The physical condition of the workplace is likely to endanger the staff member;
- c) Workplace violence is likely to endanger himself or herself; or
- d) Any equipment, machine, device or thing that the staff member is using or the physical condition of the workplace is a contravention of the OHSA or the regulations and such contravention is likely to endanger himself or herself or another employee of the board.

2.1.2 There is a limitation on a teacher's right to refuse unsafe or unhealthy work. Teachers may not exercise this right if in doing so; the teacher places the life, health or safety of a student in imminent jeopardy.

##### **2.2 Stage 1**

2.2.1 All staff members are responsible for reporting to their principal/supervisor, the absence of or defect in any equipment or protective devices, any contravention of the *Occupational Health and Safety Act* or regulations and the existence of any hazard of which they are aware.

2.2.2 The principal/supervisor, once notified, along with the staff member who raised the health and safety concern, will investigate the concern, as soon as possible. Refer to Administrative Procedure 411 Workplace Hazard Notification and Investigation.

- 2.2.3 If the health and safety concern is not investigated as soon as possible and the staff member has "reason to believe" that he or she is in danger, he/she may inform the principal/supervisor that **he/she is refusing to work**. The staff member must explain the circumstances of the refusal. See Appendix A.
  - 2.2.4 The principal/supervisor will document the work refusal circumstances and any outcome of the refusal.
  - 2.2.5 The principal/supervisor will notify the Superintendent of Education (Human Resources) of the work refusal.
  - 2.2.6 When **an employee of the board** has exercised the right to refuse work, the principal/supervisor shall immediately notify the designated certified worker member of the Joint Health and Safety Committee and the environmental health and safety officer. The appropriate union or federation representative(s) should be involved.
  - 2.2.7 The certified worker member and the environmental health and safety officer shall attend the investigation without delay.
  - 2.2.8 The principal/supervisor shall immediately investigate the circumstances of the refusal in the presence of the staff member and the certified worker member.
  - 2.2.9 Until the investigation is completed, the staff member refusing work shall remain in a safe place that is as near as reasonable possible to his or her work area; and be available to the employer/principal/supervisor for the purposes of the investigation. The staff member should not be sent home or assigned to other work. No other staff member may be asked to perform the work that has been refused.
  - 2.2.10 If the situation is resolved, the staff member returns to work.
- 2.3 **Stage 2**
- 2.3.1 If the principal/supervisor does not agree that an unsafe or unhealthy condition exists, or continues to exist, and the staff member has "reasonable grounds to believe" that the danger still exists, he or she may continue to refuse to work. The staff member shall state what the "reasonable grounds" are for continuing the refusal. "Reasonable grounds to believe" means there is supportive evidence to back up the staff member's belief.
  - 2.3.2 The principal/supervisor must notify a Ministry of Labour inspector (1-800-265-1676) to report a work refusal.
  - 2.3.3 While waiting for the inspector, the staff member shall remain in a safe place and may be assigned other reasonable work. No other staff member may be asked to perform the refused work.
  - 2.3.4 The Ministry of Labour inspector will investigate the refusal in the presence of the refusing staff member, certified worker member and environmental health and safety officer.
  - 2.3.5 The inspector will make a written decision that will be given to the staff member, the certified worker member and the environmental health and safety officer. The environmental health and safety officer will provide a copy of the decision to the principal/supervisor and the superintendent of business.
  - 2.3.6 If the inspector finds that no danger exists, the refusing staff member must return to work.
  - 2.3.7 If the inspector finds that a danger exists, he or she can issue orders to resolve the problem.
  - 2.3.8 The principal/supervisor shall ensure that all orders written by the inspector and any other corrective actions are carried out. Nothing herein precludes the board from appealing the orders in accordance with the *Occupational Health and Safety Act*.

## 2.4 Reprisals Prohibited

- 2.4.1 No person acting on behalf of the Avon Maitland District School Board shall:
- a) Dismiss or threaten to dismiss an employee of the board;
  - b) Discipline or suspend or threaten to discipline or suspend an employee of the board;
  - c) Impose any penalty upon an employee of the board; or
  - d) Intimidate or coerce an employee of the board, because the employee has exercised the right to refuse unsafe work in accordance with the *Occupational Health and Safety Act*.
- 2.4.2 Note: If a staff member continues to refuse work without justification or cause, the appropriate discipline procedures will be followed.

**Work Refusal Procedure**

