

VICTORIA UNIVERSITY HEALTH AND SAFETY PROCEDURE

Date of Issue: May 19, 2023

Review/Revise Date

REFUSAL TO WORK

PURPOSE

This Procedure will identify and describe steps to be taken in case of a Work Refusal by an employee, as prescribed by the Occupational Health and Safety Act and applicable regulations. See *OHSA, RSO 1990 C.O.1 Section 43(3) (work refusal), 45-48 (work stoppage)*

SCOPE

The University accepts its responsibilities and is committed to compliance with all the requirements of applicable Health and Safety legislation. To this end we will endeavor to ensure that management, the Joint Health and Safety Committee and individual employees are knowledgeable of those sections of the health and safety legislation that directly affect them.

This procedure is applicable to all members of Victoria University.

STANDARDS/PROCEDURES

Refusal To Work Definition:

A worker may refuse to work or do particular work where he or she has reason to believe that,

- (a) any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself, herself or another worker;
- (b) the physical condition of the workplace or the part thereof in which he or she works or is to work is likely to endanger himself or herself;
 - (b.1) workplace violence is likely to endanger himself or herself; or
- (c) any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself, herself or another worker. R.S.O. 1990, c. O.1, s. 43 (3); 2009, c. 23, s. 4 (2).

Procedure:

Stage 1

1. A worker has reason to believe that the work they are doing may endanger (based on definition above) them and initiates a refusal to work. The worker must report that they are refusing to work and include the reason to the manager/supervisor immediately.
2. The supervisor shall inform a worker member of the JHSC and along with them the worker must investigate the circumstances of the work refusal.
 - NOTE: If no JHSC worker member is available then another worker who because of knowledge, experience and training may be used.Note: the worker who reported the work refusal must remain in a safe place that is near their work station and be available for the purposes of the investigation.
3. Once the investigation is complete, the findings of the investigation will be shared with the worker and JHSC, including any corrections and a written report sent to the applicable manager, department head and the JHSC co-chairs.
4. If following the investigation and any steps taken to deal with the hazard, the worker still has grounds to believe that the work is likely to endanger them or other workers, the worker or supervisor/applicable manager/department head will contact the Ministry of Labour, Immigration, Training and Skills Development (MLITSD).

Stage 2

5. An MLITSD inspector shall investigate the refusal to work in the presence of the investigating supervisor/ manager/ department head, the JHSC worker representative and the worker and/or the union representative.
6. The worker is to remain at a safe place near the work station, pending decision of the MLITSD inspector. The worker may be assigned reasonable alternative work, or be given other directions.
7. Pending the MLITSD inspector investigation, no worker is to operate the equipment, machine or device being investigated unless, the worker has been advised of the other worker's reasons for refusal in the presence of the JHSC.
8. The MLITSD inspector shall give their decision, in writing as soon as is practicable, to the employer, worker and JHSC worker representative.
9. If the inspector determines that no hazard exists, the worker shall immediately return to regular duties.

10. If the inspector determines the hazard is likely to endanger the safety of a worker, the Manager shall order the process to be stopped until appropriate corrective actions are applied.
11. Once the hazards are corrected the supervisor/ manager/ department head and JHSC worker representative shall inspect the process to ensure that the potential for injury has been eliminated. The worker shall return to regular duties.

Bilateral Work Stoppage: Certified JHSC only (1 from Workers and 1 from Management)

See OHSA RSO 1990 C.0.1 Sections, 44, 45, 46, 47, 48, 49

dangerous circumstances” means a situation in which,

- (a) a provision of this Act or the regulations is being contravened,
- (b) the contravention poses a danger or a hazard to a worker, and
- (c) the danger or hazard is such that any delay in controlling it may seriously endanger a worker.

Procedure

- a) A certified member who has reason to believe that dangerous circumstances exist at a workplace may request that a supervisor investigate the matter and the supervisor shall promptly do so in the presence of the certified member.
- b) A certified member may request that a second certified member representing the other workplace party investigate the matter if the first certified member has reason to believe that dangerous circumstances continue after the supervisor’s investigation and remedial actions, if any.
- c) The second certified member shall promptly investigate the matter in the presence of the first certified member.
- d) If both certified members find that the dangerous circumstances exist, the certified members may direct the supervisor to stop the work or to stop the use of any part of a workplace or of any equipment, machine, device, article or thing.
- e) The supervisor shall immediately comply with the direction and shall ensure that compliance is effected in a way that does not endanger a person.
- f) If the certified members do not agree whether dangerous circumstances exist either certified member may request that a MLITSD inspector investigate the matter. The MLITSD inspector shall provide both certified members with a written decision.

Appeals

Any appeals may done as per the Act.

ROLES & RESPONSIBILITIES

Senior Management

- Promote and encourage safety awareness

Managers/Supervisors/ Department Heads

- Address worker's health and safety concerns, conduct the work refusal investigation and make recommendations for correcting hazardous situations
- Assign the worker to alternative duties for duration of investigation
- Implement recommended corrective actions
- Notify the MLITSD if stage 2 of the work refusal is required

Joint Health & Safety Committee Worker Representative:

- Participate in work refusal investigation
- Provide recommendations for corrective actions
- Accompany MLITSD inspector for duration of investigation

Employee:

- Report all unsafe practices/conditions to shift supervisor, JHSC or the Health and Safety Officer
- Report to a supervisor/manager a work refusal and participate in the investigation process as required
- Work in accordance or conform with Victoria University Health and Safety Policies and Procedures

COMMUNICATION

- All staff will be advised of this procedure during orientation. This procedure will be reviewed annually by senior management or more frequently if the JHSC determines such a review and revision is necessary or if there is a change in circumstances that may affect the health and safety of a worker.
- Any changes to the Work Refusal Procedure will be communicated to all JHSC members, employees, supervisors, and managers.

TRAINING

- All supervisors and managers, and JHSC members shall receive appropriate Legislative Requirements Training.

EVALUATION

- The procedure will be reviewed as per the review schedule or when updated legislation to ensure compliance to current legislation. The frequency and outcomes of work refusals will also be monitored and evaluated on both an ongoing and annual basis with an emphasis on safety and improvement strategies.

FORMS

- Work Refusal Report

RELATED PROCEDURES

- Hazard Recognition
- JHSC
- Health & Safety Responsibilities
- Workplace Violence and Harassment

REFERENCE MATERIALS

- Occupational Health and Safety Act, Industrial Regulations 851,

Definitions and Terminology

- JHSC- Joint Health and Safety Committee
- MLTSD- Ministry of Labour, Immigration, Training and Skill Development

Appendix
Refusal to Work algorithm

Approval signature:	Date:
Distribution to: All Management, JHSC	

**VICTORIA UNIVERSITY
WORK REFUSAL REPORT**

To be completed by the Supervisor/ Manager / Department Head

Section A. Details of Work Refusal		
Name of Employee:	Time:	Date:
Name of Supervisor/ Manager/ Department Head:		
Location of Work Refusal:		
Task Assigned:		
Section B. Work Refusal Investigation and Actions Taken		
Date of Investigations:	Time of Investigation:	
Supervisor's Observations after Investigation:		
Action Recommended:		
After investigation completed and any steps taken does the worker still refuse to work? YES <input type="checkbox"/> NO <input type="checkbox"/>		
<i>If YES call the MLITSD Inspector to investigate the circumstances of the work refusal</i>		
Ministry of Labour, Immigration, Training and Skills Development Required ? YES <input type="checkbox"/> NO <input type="checkbox"/>		
Date Called:	Time Called:	
MLITSD Investigator:	Orders written: YES <input type="checkbox"/>	NO <input type="checkbox"/>
Ref. #		

	Print Name	Signature
Worker		
JHSC Worker Member		
Supervisor		

Refusal to Work Flow Chart

***NOTE:** Workers should always report a hazard first*

