

SAFETY AT WORK

KNOW YOUR RIGHTS!

NAPE

Newfoundland and Labrador Association of Public and Private Employees

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WHS REP + OHS COMMITTEE

INTRO

As a worker and a member of NAPE, you have the right to a healthy and safe workplace.

Unions have fought long and hard to make our workplaces safer and to get policies, procedures, and legislation in place to protect workers and cover workers if they are injured on the job.

We have created this page to put key health and safety resources for workers and union activists (Local Officers, Shop Stewards, OHS Committee members, etc...) all in one place.

NAPE has a Workers' Compensation, Benefits & Accommodations Officer on staff who can help with questions about the workers' compensation process.

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Nobody wants to be injured on the job. But if a member has an accident at work, they have rights. It's important for members to know their rights and to put them to work.

THE 4 CORE RIGHTS

Every worker in Newfoundland and Labrador has the right to a healthy and safe workplace.

Occupational health and safety (OHS) is the responsibility of every person in the workplace.

The OHS Act and Regulations legislate these responsibilities by stating the fundamental rights, duties and obligations of all persons associated with the workplace.

Workers in Newfoundland and Labrador (and across Canada) are granted four rights:

These three rights are:

- **The Right to know;**
- **The Right to participate;**
- **The Right to refuse unsafe work; and**
- **The Right to protection from reprisal.**

The Right to Know

The right to know refers to workers being made aware of all present and potential hazards in the workplace. Workers also have the right to know how these hazards are being controlled. Workers are informed of these hazards through education, training, and communication activities, as well as regular coaching from supervisors.

The Right to Participate

The right to participate means that workers should be involved in the process of identifying and resolving OHS issues.

Participation may include reporting hazards, or discussing concerns, or suggestions for improvement with supervisors, and the OHS Committee, WHS Representative*, or Designate. Another effective way is to serve on the OHS Committee* or to act as a WHS Representative.

The Right to Refuse Unsafe Work

A worker may refuse to do work that the worker has reasonable grounds to believe is dangerous to the health or safety of the worker, or another person at the workplace.

The following three (3) step procedure applies:

Step 1: The worker shall immediately report the precise conditions of their refusal to their supervisor. [OHS Act, s. 46]

If the refusal is resolved to the worker's satisfaction, the worker must return to work.

If the refusal remains unresolved to the worker's satisfaction, the worker proceeds to Step 2.

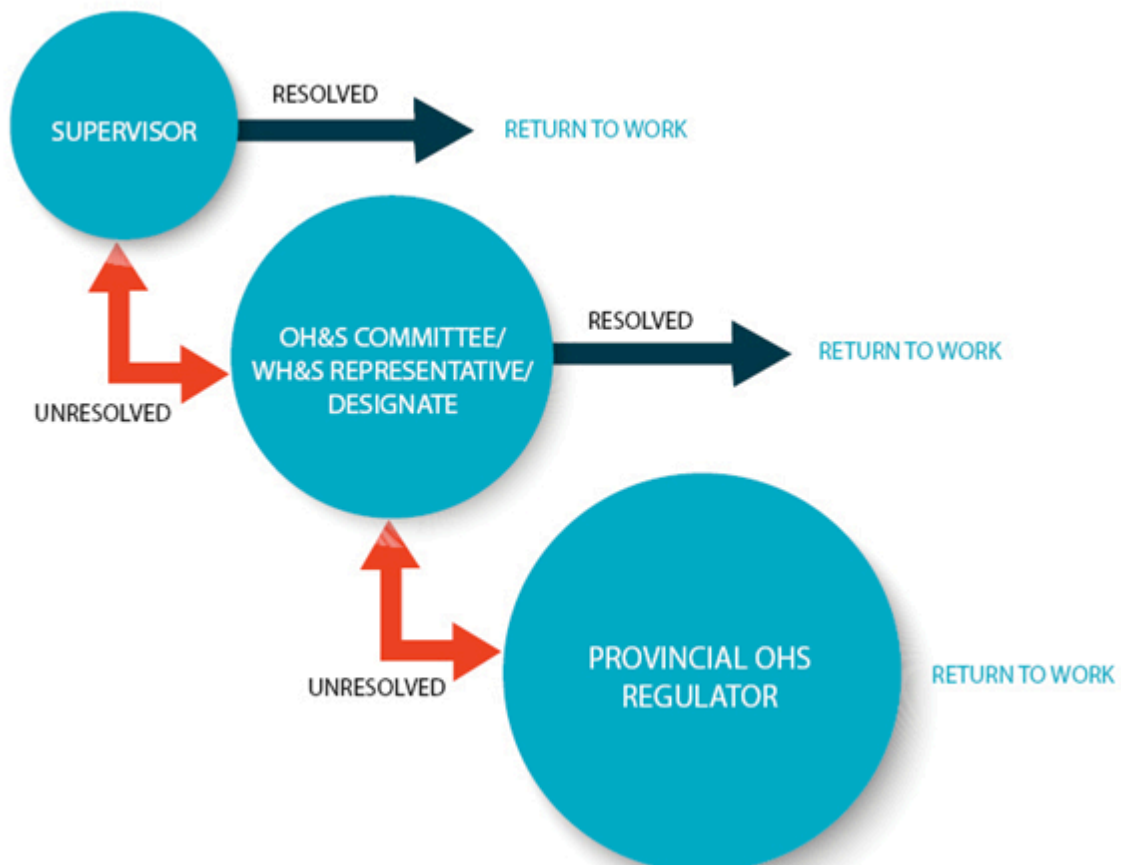
The Right to Refuse Unsafe Work (cont'd)

Step 2: The worker shall immediately report to a member of the Occupational Health and Safety Committee or the Worker Health and Safety representative for investigation. [OHS Act, s. 45.(1)(b)][OHS Regs., s. 5(1)]

If the refusal is resolved to the worker's satisfaction, the worker must return to work.

If the refusal is unresolved by the Occupational Health and Safety Committee or Worker Health and Safety Representative, the worker proceeds to Step 3.

Step 3: The worker shall report the work refusal, either in writing or orally, to the Occupational Health and Safety division or an OHS officer. When the report is made orally by a worker, the employer must follow up in writing within five (5) days of the oral notification. [OHS Act, s. 45.(1)(c)] [OHS Act, s. 47] [OHS Regs., s. 5.(2)]



The Right to Refuse Unsafe Work (cont'd)

While a work refusal is under investigation, the employer may reassign the worker to other work that is reasonably equivalent to work that is normally performed by the worker and the worker shall accept the reassignment until the worker is able to return to work under subsection (1). [OHS Act, s. 45.(2)]

Where a worker is reassigned to other work under their right to refuse work, the employer shall pay the worker the same wages or salary and grant the worker the same benefits the worker would have received had the worker continued in the worker's normal work. [OHS Act, s 45.(3)]

Where a worker has reasonably refused to work under the right to refuse work and has not been reassigned to other work, the employer shall pay the worker the same wages or salary and grant the worker the same benefits the worker would have received had the worker continued to work, until the worker is able to return to work under section 45.(1). [OHS Act, s. 45.(4)]

A worker shall not take advantage of the right to refuse to work under Section 45 without reasonable grounds. [OHS Act, s. 48]

Where a worker has exercised the right to refuse to work, the employer shall not assign another worker to perform those duties unless the substitute worker has been informed of the prior refusal and the reason or reasons for that refusal. [Part 1, OHS Regs., s. 5]



The Right to Protection from Reprisal

Workers are entitled to exercise their rights under the WHSC Act and Regulations without being penalized by their employer. Protection from reprisal is a fundamental right and the cornerstone of developing and maintaining a positive safety culture. It is crucial that workers feel safe when raising safety and health issues or exercising safety and health rights.

Discriminatory action prohibited

An employer or union shall not take a discriminatory action against a worker by dismissal the worker or by deducting wages, salary or other benefits, or by taking other disciplinary action against the worker because the worker has reasonably refused to work in accordance with section 45. [OHS Act, s. 49(d)]

Discrimination

Where disciplinary action is taken against a worker or the worker is dismissed following an act by the worker under section 49, the disciplinary action or dismissal shall be considered to be, in the absence of evidence to the contrary, discriminatory. [OHS Act, s. 50]





INJURY ON THE JOB

If a member is injured on the job, that's a workplace injury; and it requires medical attention. If a member has a workplace injury, they may or may not need to take time off work. Being injured on the job does not automatically mean you will receive workers' compensation benefits.

Here's what a member should do if they're injured on the job:

- 1.** Remove themselves from danger. If there's any risk of neck or back injury, or of electrical shock, they may need help from first responders to do this safely. So call 911.
- 2.** If the injuries are obviously serious, they should also call 911 and arrange immediate transportation to the nearest medical facility.
- 3.** If the injured member feels they are unable to continue working, they should seek medical assistance immediately.

Workers' Compensation recognizes the following 3 health care providers' Report of Injury: the Physician's Report (Form MD), the Chiropractor's Report (Form 8/10c), and / or the Physiotherapy Report (Form PR).

To be entitled to wage loss benefits under Workers' Compensation, a member cannot simply stop working. Only a health care provider can remove an injured worker from work.

4. The member **MUST** report their workplace injury to the employer. The employer has 3 days to complete an Employer's Report of Injury (Form 7) and submit it to Workplace NL.

5. Once the member has seen a health care provider and / or if they are going to lose time from work, they **MUST** complete and file a Form 6, Injured Workers' Report of Injury, with Workplace NL.

FORM 6 - [CLICK HERE](#)

A worker must notify the employer immediately after an injury has occurred and before the member has left the worksite; and the claim for compensation is made within 3 months from the occurrence of the injury.

A Form 6 can also be found on the WorkplaceNL website or by contacting your Local Executive, Shop Steward, or NAPE directly.

It is important to provide as much information as possible, including the names of any witnesses.

Any delay in submitting the Form 6 to Workplace NL may result in a delay in processing of their claim.

If the member is unable to complete the Form 6 themselves, they should ask someone they trust – a family member, a friend, a co-worker, an Occupational Health and Safety representative, or a NAPE representative like their Shop Steward – for help.

If the member's Form 6 isn't received within three months of their injury, Workplace NL may reject their claim.

6. Their health care provider's Report of Injury must be forwarded to Workplace NL before any decision is made on their claim. The doctor will give them two copies of their MD form – one for the employer and one for their own records. The two copies are different – the employer's copy does not have as much medical information as their own copy. The employer must receive their copy by the next working day.

MISSING WORK BECAUSE OF WORK-RELATED INJURY

If a member misses work because of a work-related injury other than on the day the injury happened, they **MUST** file a claim with Workplace NL to access workers' Injury On The Job / Workers' Compensation benefits. The employer won't pay their salary.

Workplace NL will notify the injured worker in writing whether their claim has been accepted or rejected. If their claim is rejected, the letter will also tell them how to appeal the decision.

If their claim is accepted, the member must work with their employer and health care provider on their early-and-safe return-to-work plan. Workplace NL may assign a case manager to help direct their medical treatment and assist in their safe return to work.

An injured worker may bring a family member, friend, or a workers' advisor to meetings at Workplace NL.

They are also entitled to consult a NAPE representative.

RECURRENCE OF WORK-RELATED INJURY

If they recover and / or return to work and their injury flares up, that's called a recurrence. They should report a recurrence to their employer immediately, including as much detail as possible.

To apply for a recurrence review, they must send a new Form 6 to WorkplaceNL.

The employer must send a new Form 7, and their health care provider must submit a new report of injury.

HELPFUL LINKS, GUIDES, AND FORMS

Injured Worker's Handbook – [Click Here](#)

Injury Report Form (Form 6) – [Click here](#)

Authorized Representative Form (Form 13) – [Click Here](#)

Witness Statement – [Click Here](#)

Non-specific incident report – [Click Here](#)

OHS Safety Guidelines and Info – [Click Here](#)

All of these forms are available on the WorkplaceNL website here: <https://workplacenl.ca/>

WORKPLACE HEALTH AND SAFETY REP

Where less than 20 workers are employed at a workplace, the employer shall ensure that a worker not connected with the management of the workplace is designated as the worker health and safety representative to monitor the health, safety and welfare of workers employed at the workplace.

[OHS Act, s. 41.(1)]

The employer shall provide and pay for training for the worker health and safety representative. [OHS Act, s. 41.(2)]

An employer shall compensate a worker for participating in training under this section as if the training were regular work. [OHS Act, s. 41.(5)]

The worker health and safety representative is to be elected by other workers at the workplace or appointed in accordance with the constitution of the labour union of which the workers are members. [OHS Act, s. 42]

The employer shall post the name of the worker health and safety representative or the workplace health and safety designate in a prominent place at the workplace. [OHS Act, s. 43]

A worker health and safety representative or the workplace health and safety designate has the same duties as those imposed upon a committee under section 39, where that is reasonably practical. [OHS Act, s. 44.(1)]

A worker health and safety representative or the workplace health and safety designate, where the workplace health and safety designate is not the employer, shall consult with the employer while performing duties under subsection (1). [OHS Act, s. 44.(2)]

OCCUPATIONAL HEALTH AND SAFETY (OHS) COMMITTEE

Where 20 or more workers are employed at a workplace, the employer shall establish an occupational health and safety committee to monitor the health, safety and welfare of the workers employed at the workplace. [OHS Act, s. 37]

A committee shall consist of the number of persons that may be agreed to by the employer and the workers but shall not be less than 2 nor more than 12 persons. [OHS Act, s.38.(1)]

At least half of the members of a committee are to be persons representing the workers at the workplace who are not connected with the management of the workplace. [OHS Act, s.38(2)]

The persons representing the workers on the committee are to be elected by other workers at the workplace or appointed in accordance with the constitution of the union of which the workers are members.
[OHS Act, s.38.(3)]

The employer shall appoint sufficient employer representatives to ensure that the committee may function. [OHS Act, s.38.(5)]

The employer and worker members of a committee shall elect a Co - chairperson from their respective groups. [OHS Act, s.38.(6)]

The employer shall post the names of the committee members in a prominent place at the workplace. [OHS Act, s.38(7)]

COMMITTEE TRAINING

Where 50 or more workers are employed at a workplace, the employer shall provide and pay for training for the members of the occupational health and safety committee at the workplace. [OHS Act, s.38.1(1)]

COMMITTEE TRAINING (CONT'D)

Where 20 to 49 workers are employed at a workplace, the employer shall provide and pay for training for the Co - chairpersons of the occupational health and safety committee at the workplace. [OHS Act, s.38.1(2)]

An employer shall compensate a worker for participating in training under this section as if the training were regular work. [OHS Act, s.38.1(5)]

DUTIES OF COMMITTEE

39. A committee established under section 37

(a) shall seek to identify aspects of the workplace that may be unhealthier or unsafe;

(a.1) shall participate in a workplace inspection that an employer is required by the regulations to conduct;

(b) may make recommendations to principal contractors, employers, workers, self-employed persons and the assistant deputy minister or an officer for the enforcement of standards to protect the health, safety and welfare of workers at the workplace;

(c) shall receive complaints from workers as to their concerns about the health and safety of the workplace and their welfare;

(d) shall establish and promote health and safety educational programs for workers;

(e) shall maintain records as to the receipt and disposition of complaints received from workers under paragraph (c);

DUTIES OF COMMITTEE (CONT'D)

(f) shall cooperate with the assistant deputy minister or an officer who is exercising duties under the Act; and

(g) shall perform those other duties and follow those procedures that may be prescribed by the regulations.

Meetings of a committee shall take place during regular working hours at least once every three months and a worker is not to suffer loss of pay or other benefits while engaged in a meeting of a committee. (OHS Act, s.40.)

DISCLAIMER

While every effort has been made to ensure the accuracy, currency and completeness of the information on this page, NAPE does not guarantee, warrant, represent or undertake that the information provided is correct, accurate or current. NAPE is not liable for any loss, claim, or demand arising directly or indirectly from any use or reliance upon the information.



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