

	TITLE: Work Refusal Procedure
	SPONSOR: Vice-President, Finance & Administration
	ACCOUNTABILITY: Office of Accountability: Safety and Risk Management Administrative Accountability: Director, Safety and Risk Management
PREVIOUS VERSIONS: <input type="checkbox"/> December 2009 <input type="checkbox"/> February 2006 <input type="checkbox"/> January 2011 <input type="checkbox"/> January 2014	

1. Purpose:

The purpose of this procedure is to describe the process to address work refusals should they occur; it identifies the various workplace parties involved in a work refusal and the process which must be followed to assure that the safety concern, which triggered the work refusal process, is adequately addressed.

It also ensures that OCAD University (“OCAD U” or the “University” complies with the *Occupational Health and Safety Act (OHSA), R.S.O. 1990, Section 43 (“The Act”)*.

2. Scope:

This procedure applies to all employees

3. Definitions:

- a) ***Certified member:*** a Joint Health and Safety Committee (JHSC) member who is certified in accordance with the OHSA.
- b) ***Dangerous circumstance:*** a situation in which a provision of the Act is contravened; the contravention poses a danger or a hazard to a worker and the danger or hazard is such that any delay in controlling it may seriously endanger a worker.
- c) ***Safety hazard:*** something that has the potential to cause physical harm to people or damage to property.

4. Procedure:

4.1 Application of OHSA Work Refusals

- All OCAD U employees can exercise their right to refuse unsafe work when they believe a safety hazard or dangerous circumstance exists in the workplace.
- Supervisors and employees must distinguish this work refusal procedure from every day due diligence associated with the recognition, reporting and correcting of workplace safety hazards.

4. 2 Initiating OSHA Work Refusals

The employee shall:

- Notify his or her supervisor that he or she is refusing to perform unsafe work because he or she has reason to believe that performing the work may endanger themselves or another worker.
- Specifically explain in detail their reason for refusing work.
- Remove themselves from the perceived unsafe work conditions, but remain onsite until the investigation takes place.

4. 3 OSHA Work Refusal Investigation

Step 1: Internal Resolution:

- a) Upon an employee reporting a work refusal, the Supervisor must ask the employee to *specifically explain* why he or she is refusing work.
- b) If the work refusal is not safety related, the work refusal stops, and the employee returns to work, and addresses the concern using other appropriate venues.
- c) If the work refusal is safety related, the Supervisor must immediately contact:
 - JHSC worker member (preferably a certified member)
 - Director, Safety and Risk Management (or designate)
- d) Supervisor leads a joint investigation of the matter with the refusing employee, the JHSC worker member, and the Director Safety and Risk Management.
- e) Following the investigation, the corrective measures are recommended and implemented to the satisfaction of the employee and the JHSC.
- f) If the employee feels that their safety is no longer threatened with the results and corrective measures implemented following the investigation, they shall return to work.

Step 2: External Resolution:

- a) The employee may not be satisfied with the remedial action that is taken, and they may continue to refuse work if he or she has reasonable grounds to believe that the work is still likely to endanger someone at OCAD U.
- b) At this point, a Ministry of Labour inspector must be called in to investigate. The Director, Safety and Risk Management in the presence of the JHSC will contact the Ministry of Labour (MOL) and report the work refusal.

- c) Pending the arrival of the Ministry of Labour inspector:
 - The refusing employee removes themselves from the perceived unsafe work condition, but remains onsite during their working hours.
 - The refusing employee may be assigned reasonable alternate work.
 - The Supervisor may ask another employee to perform the work that was refused. However the Supervisor and the JHSC must advise this employee that there is a work refusal underway and the reasons for the refusal beforehand. This prospective employee also has the right to refuse to do the job.
- d) Once the Ministry of Labour Inspector is onsite, a joint investigation will be carried out with the MOL inspector, the employee, the Supervisor, the JHSC member, and the Director, Safety and Risk Management.
- e) The MOL inspector will issue a directive which must be complied within the time specified, pending appeals (if necessary):
 - The employee's refusal is justified by the inspector's written decision; the employer is required to rectify the safety concern, or
 - The inspector may dismiss the continued refusal as unjustified for safety reasons and decide that it is not likely to endanger a worker. At this point there is no legitimate reason why the employee should not return to work
- f) A follow up walk through shall be conducted in order to ensure and approve compliance by all members of the investigation
- g) The employee, Supervisor, JHSC member, and Director Safety and Risk Management must complete the "Work Refusal Report"

5. **Reprisals**

The University will not discipline any worker for the initial refusal of work even if the MOL inspector states it was unjustified. Specifically, the employee may not be:

- dismissed or threatened with dismissal;
- disciplined, suspended, or threatened with dismissal or suspension;
- penalized in any way; or
- intimidated or coerced

5. **Related Documents**

- a) Work Refusal Report (Appendix 1)
- b) Work Refusal Flow Chart (Appendix 2)

Appendix 1

(Work Refusal Form)

SECTION A: WORKER INFORMATION (to be completed by employee)	
Employee Name:	Employee #:
Department:	
Supervisor Reported to:	Date & Time Reported:
Location of work refusal:	Task Assigned:
Employee's reason for work refusal (please provide specific details):	
Employee's Signature:	Date:

SECTION B: SUPERVISOR INFORMATION (to be completed by Supervisor)	
Supervisor Name:	Date & Time Notified of Work Refusal:
Immediate action taken (if any):	
INVESTIGATION DETAILS: (STEP 1 - INTERNAL RESOLUTION)	
Date and Time of Investigation:	
JHSC Worker Member:	Office of Safety and Risk Mgmt:
Supervisor's observations of existing conditions and hazards during investigation (please provide specific details):	
Does Supervisor agree that hazardous conditions exist?	
<input type="checkbox"/> YES-Complete Section C Action Plan <input type="checkbox"/> NO-PROCEED TO SECTION D(2)	
Supervisor's Signature:	Date:

SECTION C: RECOMMENDED ACTION PLAN TO RESOLVE CONCERN (completed by Supervisor and Employee)

Action	Target Date	Completion Date

This Action Plan agreed upon by both the worker and Supervisor on (Date):

Employee's Signature:

Supervisor's Signature:

Once Action Items are complete, proceed to Section D1 below for signature.

If this Action Plan is not agreed upon by Employee and Supervisor, proceed to Section D2.

SECTION D: RESOLUTION OF WORK REFUSAL (completed by Safety and Risk Mgmt. and JHSC Worker Member)

D1) COMPLAINT RESOLVED - Employee is satisfied that the work is no longer hazardous

Date:	Time:
Employee Signature:	JHSC Worker Member Signature:
Supervisor Signature:	Safety and Risk Mgmt. Signature:

D2) COMPLAINT IS NOT RESOLVED – (STEP 2: EXTERNAL RESOLUTION)

Explain why work refusal is not resolved:

Date:	Time:
Employee Signature:	JHSC Worker Member Signature:
Supervisor Signature:	Safety and Risk Mgmt. Signature:

MINISTRY OF LABOUR INSPECTOR TO BE CONTACTED FOR INVESTIGATION & DECISION 1-877-202-0008

Time MOL contacted:	Time MOL Inspector arrived:	Time MOL Inspector departed:
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MOL Investigation Notes (Findings, Decision, Orders Written, etc.):

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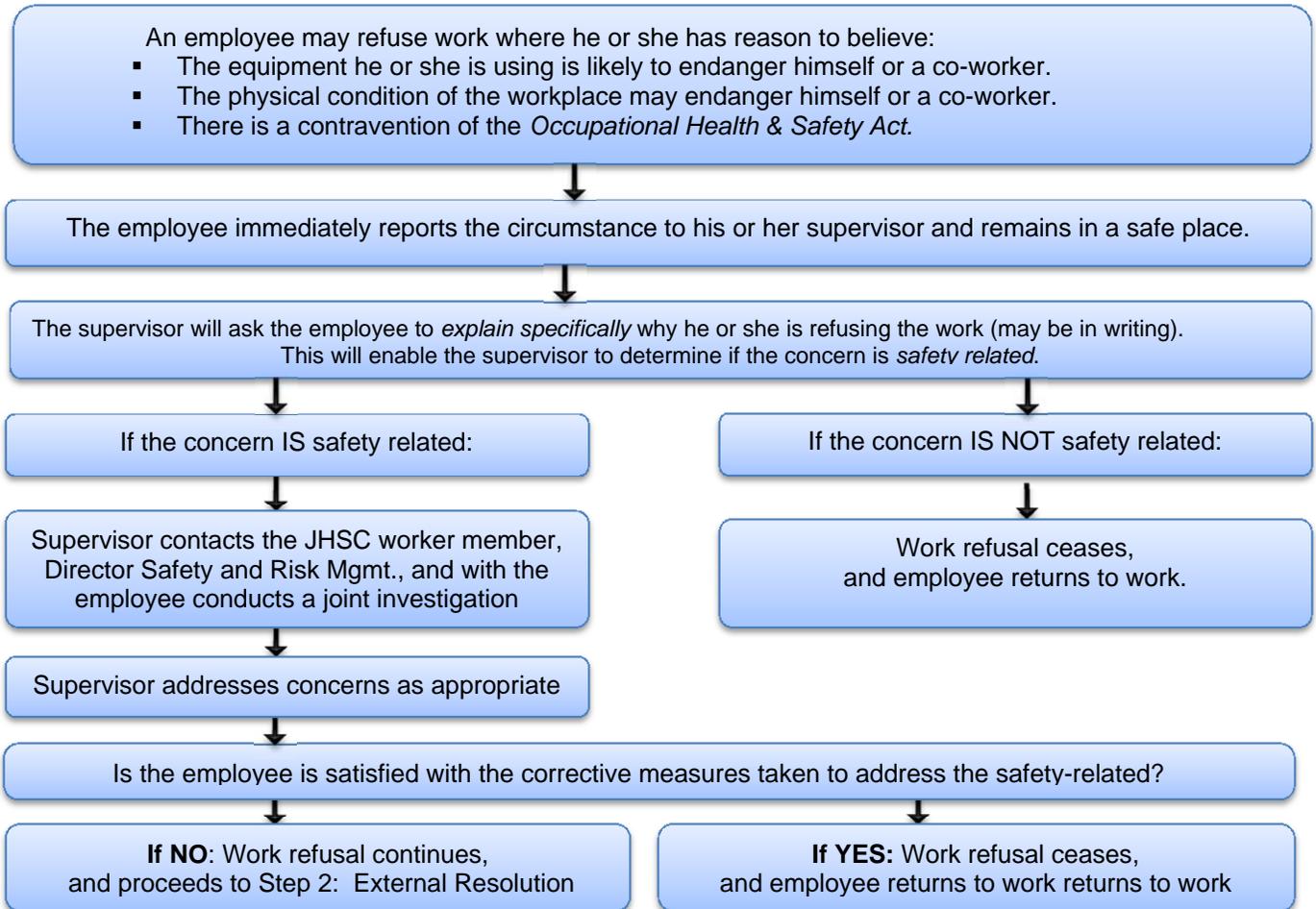
Appendix 2

(Work Refusal Flow-Chart)

Using your right to refuse unsafe work

The *Occupational Health and Safety Act*, Section 43, gives an employee the right to refuse unsafe work. The flowchart below outlines the procedure to follow when this right is exercised in the workplace.

STEP 1: Internal Resolution



STEP 2: External Resolution

