



## Information Related to Right to Refuse Dangerous Work

Both the *Occupational Health and Safety Act* & Regulations and our Collective Agreement make provisions for workers to refuse dangerous work. This page provides information about the process you must follow should you believe your work to be dangerous or constitute a hazard (e.g. teaching a class, a laboratory or other teaching activities on campus).

### A. Refusing Dangerous Work under the Occupational Health and Safety Act (2017)

According to the *OH&S Act, SA 2017, c O-2.1, s 31(1)* **\*\*\*See Note Below** reads:

*Subject to this section and section 5, a worker may refuse to work or to do particular work at a work site if the worker **believes on reasonable grounds that there is a dangerous condition at the work site or that the work constitutes a danger to the worker's health and safety or to the health and safety of another worker or another person.***

The Act contains the following definitions that you should know:

- “harmful substance” means a substance that, because of its properties, application or presence, creates or could create a danger, including a chemical, biological or radiological hazard, to the health and safety of a worker exposed to it;
- “hazard” means a situation, condition or thing that may be dangerous to health and safety;
- “health and safety” includes physical, psychological and social well-being

If you have objectively reasonable grounds to believe that there is a “dangerous condition” at your work site, or that your work constitutes a danger to a person’s health and safety, s 31(2) reads:

*A worker who refuses to work or to do particular work under subsection (1) shall promptly report the refusal and the reasons for it to the worker's employer or supervisor or to another person designated by the employer or supervisor.*

**For MRFA members, this provision means that:**

1. You must promptly report your refusal to teach a particular class and along with reasons you feel the class is dangerous to your Chair and your Dean, preferably in writing, citing Section 31(1) of the *OH&S Act*. Include
  - a. your name, e-mail address;
  - b. the date and time (of your class/lab/instructional activity);
  - c. the specific location including the building and room location (e.g. Riddell Library and Learning Center, ELL-2020);
  - d. a description of the danger/hazard.
2. Before sending your report, be sure to read, and append a copy of the provisions of the Act to your report available [here](#). MAKE SURE YOU HAVE CONFIRMED WHICH ACT IS IN EFFECT.  
**\*\*\*See Note Below**
3. Be sure to provide a copy of your report to the Association’s Labour Relations Officer ([labourrelations@mrfa.net](mailto:labourrelations@mrfa.net)) and your representatives on the OHS Committee (Scharie Tavcer [stavcer@mtroyal.ca](mailto:stavcer@mtroyal.ca), Stephanie Zettel [szettel@mtroyal.ca](mailto:szettel@mtroyal.ca), and Helena Myllykoski [hmyllykoski@mtroyal.ca](mailto:hmyllykoski@mtroyal.ca))

4. Submit an incident report to Environment Health and Safety (EH&S). The form is available on the [MRU website](#) or on the [MRFA return to campus resource page](#).

### **What happens next?**

According to the Act, s. 31(4), the employer, in our case the University, is required to inspect the work site and take actions to remedy the dangerous condition:

The employer required to inspect under subsection (3) shall take any action necessary to remedy any dangerous condition, or ensure that such action is taken.

### **Note that the Act, s 31(5) reads:**

Until the dangerous condition is remedied, the worker who reported it may continue to refuse to work or to do particular work to which the dangerous condition may relate.

## **B. Provisions in Article 22.3 - Occupational Health and Safety**

The Collective Agreement also contains provisions for faculty to report unsafe work conditions. This provision echoes the Occupation Health and Safety legislation. According to Article 22.3.3, you must report any situation that you believe to be unsafe or unhealthy to the Chair and/or to the Dean.

22.3.3 It shall be the responsibility of the Employee to report to his/her immediate supervisor, or Dean, any situation in the workplace which the Employee believes to be unsafe or unhealthy.

Describe the reasons you believe the situation is unsafe and healthy and send the report to the Chair and the Dean. Note that Article 22.3.4 reads:

22.3.4 No Employee shall be disciplined or discharged for refusal to work on a job or in any workplace or to operate any equipment where they believe that it would be unsafe or unhealthy to do so, or where it would be contrary to applicable federal, provincial and municipal legislation or regulations...

This provision ensures that you cannot be disciplined for refusing to work if you believe the classroom to be unsafe. However, the Association's legal counsel has identified a conflict between the Act s 33(1) and the following language in Collective Agreement Article 22.3.4:

*An Employee who does not work under such circumstances shall not suffer a loss of pay provided that the Employee's decision is upheld by the University Occupational Health and Safety Committee. The decision of the University Occupational Health and Safety Committee shall be binding upon both the Employee and the Board.*

The *italicized* portion of article 22.3.4 is inconsistent with the Act, and the Act prevails provided the statute is invoked and followed:

### **Worker entitled to be paid despite refusal**

33(1) *If a worker has refused to work or to do particular work under section 31(1),*

*(a) the worker is entitled to the same wages and benefits that the worker would have received had the worker continued to work, and*

*(b) the employer may reassign the worker temporarily to alternate work.*

*(2) A work reassignment under subsection (1)(b) is not considered discriminatory action for the purposes of section 35.*

## What happens next?

If you report the situation to the Dean and Chair, and if no action is taken to ameliorate the situation, it is possible to begin a grievance on the matter similar to any other grievance. Article 20-Grievance outlines the process you must follow.

1. You must ask the Dean for a Step One grievance meeting to discuss your concerns. An Association representative can accompany you and the Association encourages you to exercise this right.
2. If the matter is unresolved, the Grievance Committee will consider the grievance and recommend a course of action to the Executive Board to Step Two.

In addition, the Association is considering a policy grievance under Article 22.3.

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## **PLEASE READ: IMPORTANT NOTE REGARDING OHS ACT CHANGES:**

***Occupational Health and Safety Act, SA 2020, c O-2.2*** received Royal Assent on December 9, 2020, and it is awaiting Proclamation to become effective. You can find it [here](#).

Once proclaimed into force, the new Act (2020) will replace *Occupational Health and Safety Act, SA 2017, c O-2.1* in its entirety.

Once SA 2020, c O-2.2 is effective, there are some significant changes to definitions as outlined next. After the Act is proclaimed, the relevant provisions will read, in part:

*“hazard” means a situation, condition or thing that may be dangerous to health and safety;*

### **Right to refuse dangerous work**

17 (1) In this section, “**undue hazard**” in relation to any occupation includes **a hazard that poses a serious and immediate threat to the health and safety of a person.**

(2) Subject to this section and section 5, a worker may refuse to work or to do particular work at a work site if **the worker believes on reasonable grounds that there is an undue hazard at the work site or that the work constitutes an undue hazard to the worker’s health and safety or to the health and safety of another worker or another person.**

**Before you invoke the right to refuse dangerous work, ensure which version of the *Occupational Health and Safety Act* is in force, and follow the applicable statutory requirements. If you are unsure, contact the Association.**