

Procedure Title	Work Refusal		
Date of Issue	June 15, 2010	Related Policy	BP 7523-D
Revision Dates	October 19, 2011; April 23, 2013; February 22, 2017; November 25, 2020	Related Forms	AF 7525; AF 7520 (online incident report)
Review Date		Originator	Administrative Council
References			
Charter of Human Rights and Freedoms; Human Rights Code; Criminal Code of Canada; BP 7520-D "Human Rights"; Occupational Health and Safety Act; Municipal Freedom of Information and Protection of Privacy Act; BP 6820-D "Safe and Accepting Schools"; AP 6820-D "Suspensions and Expulsions"			

1.0 RATIONALE

- 1.1 Bluewater District School Board is committed to the protection of its employees, the environment, and its physical assets. Bluewater District School Board will endeavour to maintain a safe work environment in order to prevent occupational injuries, illnesses, and violent incidents.
- 1.2 Under the Occupation Health and Safety Act (OHSA) all employees have the right to refuse to work when they have reason to believe their health or safety is in danger. The OHSA is specific about the requirements to be followed when an employee indicates that they are refusing to work. A board employee must notify their principal/supervisor if they are refusing to do work and the principal/supervisor must determine if the refusal meets the criteria defined by section 43(3) of the OHSA.
- 1.3 A worker may refuse to work, or do particular work, if they have reason to believe that:
 - a) any equipment, machine, device, or thing the worker is to use or operate is likely to endanger themselves or another worker;
 - b) the physical condition of the workplace or part thereof in which they work, or is to work, is likely to endanger them;
 - c) workplace violence is likely to endanger them;
 - d) any equipment, machine, device, or thing that the worker is to use or operate, or the physical condition of the workplace, or part thereof in which they work or is to work, is in contravention of the OHSA or the applicable regulations and as such the contravention is likely to endanger themselves or another worker.
- 1.4 If an employee has acted in compliance with the OHSA, its regulations, or an order made under them, the employer (or any person acting on behalf of the employer) may not, because the employee so acted:
 - a) dismiss or threaten to dismiss the employee;
 - b) discipline or threaten to discipline the employee;
 - c) impose any penalty on the employee; or
 - d) intimidate or coerce an employee.

2.0	PROCEDURE
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- 2.1 If the nature of the refusal meets the above requirements, the principal/supervisor must:
 - a) Immediately contact the health and safety officer and/or superintendent of education responsible for human resources services and indicate that they are dealing with a work refusal.
 - i. The health and safety officer and/or superintendent of education responsible for human resources services will inform the appropriate union/federation representative of the refusal. Without delay, the union/federation representative will investigate the refusal, along with the health and safety officer and/or superintendent of education responsible for human resources services and the principal/supervisor.
 - b) Document the work refusal by completing form AF 7525 "Work Refusal".
 - c) Notify the area superintendent /immediate supervisor.
 - d) Take the necessary steps to ensure the safety of students and employees.
 - e) Pending the investigation, the employee (complainant) must stay in a safe place and be available to the investigator. The complainant may be assigned other work while the work refusal is being investigated. If another employee is asked to work in the employee/complainant's place, the employee must be informed of the reasons for the work refusal (OHSA, s.43(11)).

- 2.2 If the nature of the work refusal does NOT meet the requirements in section 1.3 a), b), c) or d), then this incident does not constitute a legitimate work refusal situation, in which case, the complainant will be informed that it was not a proper refusal to work, and be instructed to return to work. The health and safety officer, superintendent of education responsible for human resources services, area superintendent or union representative should be contacted if more information is needed.

- 2.3 If the refusal to work meets the requirements in section 1.3 a), b), c) or d), then steps should be taken to rectify the situation so that it is deemed safe to return to work. Once the situation has been rectified, the complainant should be informed of the steps taken, and directed to return to the work area. If the complainant continues to refuse to work, the union, the complainant, or the employer should contact the Ministry of Labour.

- 2.4 Where the circumstances are such that the life, health or safety of a pupil is in imminent jeopardy, a teacher cannot refuse to work, as per R.R.O. 1990, Reg. 857, s.3 under the OHSA.

- 2.5 Any questions about this process should be directed to the health and safety officer and/or superintendent of education responsible for human resources services.