	Approved by: ACC
	Authorizer: Director, Safety and Security
	Effective Date: May 12, 2010
Procedure Title: Work Refusal Procedure	

1.0 **PROCEDURE STATEMENT**

It is the policy of Conestoga College that workers are provided with a safe work environment and that hazardous or dangerous circumstances are promptly corrected for the protection and safety of the workers. This procedure is developed to;

- Reduce the potential for personal injury at the workplace;
- protect and uphold a worker's right to refuse work that may pose a danger; and
- ensure reporting, investigating and resolution of work refusals comply with the statutory requirements and procedural steps outlined in Section 43 of the Occupational Health and Safety Act (OHSA).

2.0 **SCOPE**

This procedure applies to all Conestoga workers who refuse work where they have reason to believe that;

- a) any equipment, machine, device or thing he/she is to use or operate is likely to endanger oneself or another person;
- b) the physical condition of the workplace or the part thereof in which he/she works or is to work is likely to endanger oneself; or
- c) workplace violence is likely to endanger himself or herself; or
- d) any equipment, machine, device or thing he/she is to use or operate or the physical condition of the workplace or the part thereof in which he/she works or is to work is in contravention of the Act or the Regulations and such contravention is likely to endanger oneself or another person.

3.0 **DEFINITIONS**

Work Refusal


Workers have the right to refuse work, if they believe that a specific task requested of them is unsafe or hazardous to them or others, under the OHSA (Section 43, (3)).

Workplace Violence means,

- a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
- b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
- c) a statement or behavior that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

4.0 **LEGISLATION**

Occupational Health and Safety Act
 Section 43 – Work Refusal Process
 Section 48 – Ontario Labour Relations Act
 Bill 168 – Workplace Violence

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5.0 **RESPONSIBILITIES**

5.1 **WORKERS:**

- Workers will promptly and clearly report the intent to refuse unsafe work to their Supervisor;
- participate and cooperate fully with all parties involved in the work refusal process, including completing *Part A of the Work Refusal Report Form*;
- Remain at a safe location during the work refusal process.

5.2 **SUPERVISORS:**

- Supervisors will promptly investigate the refusal of unsafe work by a worker;
- Complete the *Work Refusal Report Form*;
- participate and cooperate with all parties involved in the work refusal process;
- contact a certified Joint Occupational Health and Safety Committee (JOHSC) Representative if required;
- contact the Occupational Safety Office for assistance if required;

5.3 **JOHSC MEMBER:**

- Participate and cooperate fully with all parties involved in the work refusal process;
- recommend actions to resolve the work refusal;
- complete the Work Refusal Report Form.


5.4 **OCCUPATIONAL SAFETY OFFICE:**

- Act as a resource to all parties involved in the work refusal process;
- Recommend solutions to resolve the work refusal;
- Act as the point of contact with the Ministry of Labour if necessary;

6.0 **PROCEDURE**

Stage 1


- 1) A worker who has reason to believe that he or she is in danger and has decided to refuse work shall report the circumstances of the refusal to his/her supervisor or designate immediately. The worker should clearly state that he or she is refusing unsafe work or work conditions.
- 2) The employer or supervisor shall immediately investigate the circumstances in the presence of the worker and the worker member of the Joint Occupational Health and Safety Committee or health and safety representative. The committee member or representative must be made available and must attend without delay. The work refusal investigation should take place as quickly as possible. Until the investigation is completed, the worker must remain in a safe place as near as possible to his/her workstation and be available for investigation.

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- 3) In the case where the refusal is with respect to a learning environment, the class will have to be cancelled or relocated for the duration of the investigation.
- 4) During the investigation, supervisors must record as many details as possible regarding the refusal, using the *Work Refusal Report Form*.
- 5) If the situation is resolved, the worker returns to work. If the worker has reasonable grounds to believe that the danger still exists, he/she can continue to refuse to work. Reasonable grounds means there must be some evidence that supports the refusal.

Stage 2

- 6) If the worker is dissatisfied with the results of the investigation and has reasonable grounds to believe that the circumstances are still such that the work is dangerous then he/she may continue to refuse to work. The supervisor must notify the Occupational Health and Safety Office who will notify the Ministry of Labour.
- 7) The Ministry of Labour inspector will investigate the refusal in the presence of the supervisor, the worker, and the worker member of the Joint Occupational Health and Safety Committee or representative. During the investigation, the employer may assign another worker to the refused work only when the worker has been advised of the other worker's refusal and reason for it, in the presence of the worker Joint Occupational Health and Safety Committee member or health and safety representative.
- 8) Pending the investigation and decision of the inspector, the worker shall remain in a safe place during normal working hours, unless the employer assigns the worker reasonable alternative work during such hours.
- 9) After the investigation, the inspector shall decide whether the circumstance of the work refusal is likely to endanger the worker or another person. The decision will be given in writing, as soon as practical, to the employer, the worker and the worker's representative.
- 10) If the inspector agrees that there are reasonable grounds for the work refusal and orders are issued to correct the hazardous circumstances. The employer and supervisor must comply with the orders as outlined by the inspector prior to the worker returning to the work refused.
- 11) If the inspector does not consider the refusal to be based on reasonable grounds, the worker is expected to return to work. If, however, the worker maintains that he/she has reasonable grounds for refusing such work and refuses to return to work, the worker will be subject to disciplinary action by the employer.

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12) Workers may also be subject to disciplinary action by the employer for various reasons, which may include, but are not limited to:

- Worker not promptly reporting the hazard and reporting a work refusal;
- not following the OSHA procedure or internal procedures;
- inappropriate behaviour during a work refusal;
- insubordination /grandstanding;
- improperly breaching privacy of another worker;
- unnecessarily harming customer relations or public image of the employer.

NOTE: Workers cannot refuse hazardous or dangerous work that is inherent in the work or is a normal condition of employment.

7.0 EMPLOYER REPRISAL PROHIBITED

If a worker has acted in compliance with the Act, its regulations or an order made under them, the employer (Conestoga) may not take reprisal action against any worker for exercising their right to refuse work. A Supervisor may not;

- a) Dismiss or threaten to dismiss the worker;
- b) discipline or threaten to discipline the worker;
- c) impose any penalty on the worker;
- d) intimidate or coerce a worker.

If a worker complains that the employer (Conestoga) has improperly taken any of these actions, he/she may file a grievance.

8.0 ENTITLEMENT TO BE PAID

The person refusing the unsafe circumstance and the JOHSC member or Health and Safety Representative carrying out the duties of the work refusal process shall be deemed to be at work and shall be paid at premium or regular rate (as appropriate) by the employer.

9.0 RELATED DOCUMENTS

OSF-031 Work Refusal Process Chart
OSF-032 Work Refusal Report Form

10.0 REVISION HISTORY

Revision Date	Summary of Changes
May 6 2010	Policies and Procedures Committee - Approved
May 12 2010	Academic Coordinating Committee - Approved