

CIRCULAR MEMORANDUM

File No. E: 19/1/15

Circular Memorandum No. 24 of 2017

FROM : Permanent Secretary
Ministry of Education

TO : School Supervisors III, II, I
Principals – All Public Primary and Secondary Schools

DATE : 21st September 2017

SUBJECT : **Procedure for Refusal to Work**

This circular replaces Circular Memorandum No. 6 of 2017.

Part III of the Occupational Safety and Health Act, Chap. 88:08 (OSHA) governs the right of an employee to refuse work where there is a danger to safety or health. Section 15 of OSHA states,

“An employee may refuse to work or do particular work where he has sufficient reason to believe that-

- (a) there is serious and imminent danger to himself or unusual circumstances have arisen which are hazardous or injurious to his health or life;*
- (b) any machine, plant, device or thing he is to use or operate is likely to endanger himself or another employee;*
- (c) the physical condition of the workplace or the part thereof in which he works or is to work is likely to endanger himself;*
- (d) any machine, plant, device or thing he is to use or operate or the physical condition of the workplace or part thereof in which he works or is to work is in contravention of this Act or the Regulations made under it and such contravention is likely to endanger himself or another employee.”*

If an employee has reason to believe that there is imminent danger or unusual circumstances that may be hazardous to his life or health, the following procedure for refusing to work applies:

Step 1

Upon refusing to work or do particular work, the employee must immediately report, preferably in writing, the circumstances of the refusal to the Principal and to a representative of the school's Safety and Health Committee (Section 16).

Step 2

The Principal, upon receiving the report of the employee shall cause the safety and health committee to forthwith investigate the report in his presence, in the presence of the employee and a representative of the Trinidad and Tobago Unified Teachers' Association (TTUTA), or in the absence of TTUTA, an employee selected by the reporting employee (Section 16).

Step 3

Where it is found, subsequent to the investigation at Step 2, that the employee has reasonable grounds to believe that there exists serious and imminent danger to himself or circumstances which are hazardous or injurious to his health or life, the employee may refuse to work and either the employer or the employee shall cause an Inspector of the Occupational Safety and Health Agency to be notified (Section 17).

Step 4

Within 24 hours from the time of the refusal to work an Inspector shall investigate the refusal in the presence of the Principal, the reporting employee and the TTUTA representative or in the absence of TTUTA, an employee selected by the reporting employee. The Inspector, pursuant to Section 18(2), is required to give his decision in writing to the Principal, the employee and the employee representative within 24 hours of the investigation. The decision of the Inspector must be complied with, subject to appeal to the Chief Inspector (Section 18).

Step 5

Pending and during an investigation, the reporting employee shall during normal working hours, be in a safe place in the school and available to assist, if necessary with the investigation. The Ministry of Education as the employer, may assign the employee to reasonable alternative work or give such other directions to the employee (Section 19).

Step 6

Where the matter is resolved subsequent to the investigation by the school's safety and health committee at Step 2 or pursuant to the investigation of the Inspector or decision of the Chief Inspector at Step 4, the employee shall return to work.

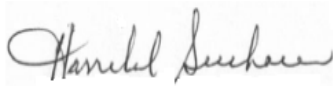
Any employee who refuses to work other than in accordance with the provisions of OSHA will be subject to appropriate action by the Ministry of Education.

Employees are required under Section 10(1) of OSHA:

1. To take reasonable care for their own safety and health and the safety and health of other persons who may be affected by their acts and omissions in the school;
2. To cooperate with the Principal and the Ministry of Education to ensure that the duties and requirements of OSHA are complied with;
3. To report to the Principal any contravention of OSHA of which an employee becomes aware;
4. To exercise the right to refuse to work under Section 15 in a responsible manner; and
5. To ensure that they are not under the influence of any intoxicant so as to endanger their own safety, health or welfare of themselves or others.

Pursuant to Section 10(1A) a person who refuses to comply with the above commits a safety and health offence and is subject to the jurisdiction of the Industrial Court.

Please be guided accordingly.

A handwritten signature in black ink, appearing to read "Hameed Sheikh", is written over a light blue rectangular background.

**Chief Education Officer
/f/ Permanent Secretary
Ministry of Education**