

# ***REPORTING VIOLENCE***

## ***A guide for CUPE Education***

## ***Workers***



***CUPE·SCFP***





# REPORTING VIOLENCE

## A guide for CUPE Education Workers

### **It's Your Right and Our Duty!**

One of our fundamental rights in occupational health and safety is the right to participate in the system that protects individuals at work. Participation involves reporting hazards and unsafe conditions, and resolving them in collaboration with the workplace parties (e.g., supervisors and the employer).

The prevalence of daily incidents of workplace violence in the education sector has, unfortunately, left many staff members overwhelmed and unwilling to report incidents and unsafe conditions that never seem to resolve. Too often, the lack of time to fill out multiple and confusing forms has left staff frustrated. Many are too afraid or traumatized. However, reporting incidents is our right and a duty.

Ontario's *Occupational Health and Safety Act (OSHA)* sets out, among others, duties for workers<sup>1</sup> to report to their employer or a supervisor. Those duties include:

- reporting the absence of or defect in any equipment or protective device of which the worker is aware and which may endanger themselves or another worker
- reporting the existence of any hazard of which they know
- reporting any contravention of the *Act* or the regulations of which they know

Specific to reporting workplace violence, the *Act* imposes duties<sup>2</sup> on employer school boards. Those duties, among others, include developing a program with measures and procedures for workers to report incidents of workplace violence to the employer or supervisor.

To ensure workers can carry out their duty to report without interference, the OHS Act prohibits anyone acting on behalf of the employer from exercising reprisals against employees who make a report. A reprisal can include termination, discipline, or penalties, as well as threats of termination, discipline, or penalties, or intimidation or coercion. Contact a steward or union representative if you believe this has happened.

When hazards and unsafe conditions are not resolved directly with your supervisor or the employer, a worker can turn to the Joint Health and Safety Committee or a Health and Safety Representative to help fix them. The Committee or Representative has the power to examine and identify hazards, gather information about those hazards, and make recommendations to resolve them.

If none of these options are successful, a worker can discuss the issue with their Union or raise it with the Health and Safety Branch of the Ministry of Labour, Immigration, Training and Skills Development (MOL).

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<sup>1</sup> *Occupational Health and Safety Act, RSO 1990, c.0.1 – s. 28*

<sup>2</sup> *Occupational Health and Safety Act, RSO 1990, c.0.1 – s. 32.0.2 (2)*

## **Duty to report under the Education Act**

The *Education Act* sets out an obligation<sup>3</sup> for all school board staff to report serious student incidents to their principal. In turn, the school principal must<sup>4</sup> investigate and report on those incidents. These obligations are clarified in the Ministry of Education's (EDU) [PPM 145](#).

In 2020, the government introduced [O.Reg. 440/20](#), which set out restrictions when suspending students in kindergarten to grade 3 following a serious incident. However, the new regulation did not change the obligations for reporting, investigating, and reporting requirements under Section 300.2 of the *Education Act*.

There are many reasons why school staff should report an SSI. Most importantly, when staff document incidents, it creates a paper trail that highlights possible unsafe conditions for workers and unmet student needs. Using this documentation, workers can better advocate for improvements in safety plans, staffing, and resources.

**Remember, the motivation for reporting is not to suspend or remove a student from the school, although that may be an outcome. Our shared goals with school boards include creating a space that fosters a physically and psychologically healthy and safe work environment and an ideal learning environment.**

## **Why is it important to report hazards?**

Written reports of hazards and unsafe working conditions are important for the following reasons:

- It creates a timeline and a paper trail
- It can serve to support evidence in a WSIB compensation claim
- It creates a record of who reported the issue and to whom it was reported
- It places a responsibility on the employer or supervisor to address the hazard
- It may give the JHSC or HSR a chance to address it
- It provides the Ministry of Labour evidence that workers have attempted to resolve things
- It starts the process of protecting you and other workers exposed to the same hazard
- It creates change!

**Remember: An employer won't turn their mind to a problem if no one reports it.**

## **Known issues with reporting**

Here are common barriers and issues that prevent workers from reporting and possible solutions.

**NOTE:** The suggestions below are ranked in no particular order and may not be appropriate for every issue.

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<sup>3</sup> *Education Act R.S.O. 1990, C. E.2, s. 300.2 (1)*

<sup>4</sup> *Education Act R.S.O. 1990, C. E.2, s. 300.2 (3), (4), (5)*

Issue	Suggestion
<p><b>Workers don't know or are unclear what to report and who to report to.</b></p>	<p>Bring this to the attention of the MOL. The Act, under section 32.0.5 (2) requires the employer to provide workers with information and instruction on the contents of the Workplace Violence policy and program, including how to report incidents.</p> <p>Bring this to the attention of your JHSC representatives so they can</p> <ul style="list-style-type: none"> <li>➤ audit how the employer provides staff with information and instructions for reporting,</li> <li>➤ identify potential language or disability barriers, and</li> <li>➤ make recommendations to improve the program.</li> </ul>
<p><b>Employer policies are confusing or not clear about what to report</b></p>	<p>Bring this to the attention of your JHSC representatives so they can</p> <ul style="list-style-type: none"> <li>➤ Survey staff about their comprehension of reporting mechanisms,</li> <li>➤ audit the measures and procedures for reporting, and</li> <li>➤ make recommendations on how the employer provides staff with information and instructions for reporting.</li> </ul>
<p><b>Administration minimizing or normalizing workplace violence</b></p>	<p>There are several reasons why this might happen. It is often due to conflicting information within various board policies and procedures. Remind your employer that you are exercising your duty under the Act and following the workplace violence policy and program. If you don't like the response, seek assistance from your Union or JHSC representative.</p>
<p><b>Administration discouraging workers from reporting through coercion or intimidation</b></p>	<p>Coercing or intimidating (actively discouraging) workers from reporting is a reprisal. Racialized, disabled and injured workers, and those facing precarious employment experience higher rates of reprisal. Bring the issue to your Union representative to see if a grievance is appropriate.</p>
<p><b>Workers afraid to report</b></p>	<p>Racialized and injured workers, and those facing precarious employment and disability experience higher rates of reprisal. Bring the issue to a Union representative to see if there is merit to filing a grievance or addressing issues using the equity department at your Board.</p>
<p><b>Workers don't have access to forms or time to report</b></p>	<p>There should be no barriers to a worker's right and duty to report workplace hazards. Administration should support workers in fulfilling their obligations. Bring the issue to a Union representative who can explore options such as filing grievances or addressing it with management. Raise the issue at the bargaining table and confirm with your employer that time spent fulfilling your duties under Board policies and the Act is paid time.</p>

<p><b>Workers don't feel there is a point to reporting</b></p>	<p>This is common when issues of violence take too long to fix or are never solved. In many cases, employers don't carry out proper investigations and debrief workers for solutions. When this happens, root causes are not addressed and workers experience more critical stress and are prone to burnout. The JHSC can use its legislated powers to gather information, reports, notices and risk assessments for workplace violence, identify gaps in procedures and make recommendations for change. Unaddressed cyclical violence can be investigated by the MOL.</p>
<p><b>Workers may be experiencing stress or are too traumatized to report</b></p>	<p>Workers who have experienced a significant incident or have cumulative stress from multiple incidents may not be in the right space to fill out forms. The Board should already have a debriefing and critical stress response and management plan to support workers in distress. The JHSC can be instrumental in developing, implementing and maintaining these programs. The Union can bargain language to ensure this happens.</p>

## **APPENDIX A**

### **Reporting Guide Flyer**

#### **Resources:**

[Occupational Health and Safety Act](#)

[O.Reg. 420/21 – Notices of Reports under Sections 51 to 53.1 of the Act – Fatalities, Critical Injuries, Occupational Illnesses and other Incidents](#)

[Workplace Violence in School Boards: A Guide to the Law](#)

[Reporting workplace violence in Ontario school boards](#)

[Road map to reporting workplace violence in Ontario school boards: workflow appendices](#)

[Education Act](#)

[O.Reg 440/20 – Suspension of Elementary School Pupils](#)

[O.Reg 472/07 – Behaviour, Discipline and Safety of Pupils](#)

[Policy/Program Memorandum 120](#)

[Policy/Program Memorandum 144](#)

[Policy/Program Memorandum 145](#)

[Workplace Safety and Insurance Act](#)

[Regulation 1101 – First Aid Requirements](#)

# Reporting Violence: A Guide For CUPE Education Workers

## It's Your Right and Our Duty!

The prevalence of daily incidents of workplace violence in the education sector has, unfortunately, left many staff members overwhelmed and unwilling to report incidents and unsafe conditions that never seem to resolve. Too often, the lack of time to fill out multiple and confusing forms has left staff frustrated. Many are too afraid or traumatized. However, reporting incidents is our right and a duty.

## Here are the steps to take where there is potential for workplace violence and the resources to help you:

**1. Talk to your supervisor** – Your supervisor or manager is the first link in the chain leading to the decision makers. They need to know so that they can take corrective action.

**Resource:** [Sample Health and Safety Concern Form](#)

**2. Report and document incidents**

**3. Were you injured and took time away from work?**

**Resource:** [See the injured workers toolkit to find more about WSIB forms](#)

**4. Are you being asked to do something that will endanger you or another worker's health and safety?** If you feel the work is likely to endanger your health and safety, you have the right to refuse unsafe work.

**NOTE:** Some limitations on the right to refuse work apply to specific workers, such as teachers, in certain circumstances and conditions.

**Resource:** [Work Refusal Flowchart](#)

**5. Talk to a Health and Safety Representative or Committee member**

They have legislated powers and functions to resolve potential or existing hazards and sources of danger.

**Resource:** [Guideline for Health and Safety Representatives and Committees](#)

**6. Talk to your co-workers or Union** – This step is about building solidarity and ensuring that everyone goes home safe. You are not alone; the collective powers of the Union can help.

**7. Connect with CUPE Staff** – CUPE Locals have access to staff representatives who can provide education, assistance, support and advice.

**8. Raise the issue with the Health and Safety Branch of the Ministry of Labour, Immigration, Training and Skills Development (MOL).**

Before contacting the MOL, it is recommended that you go through steps 1-5 first

**Resource:** [Tip sheet for dealing with Governmental Health and Safety Inspectors](#)

