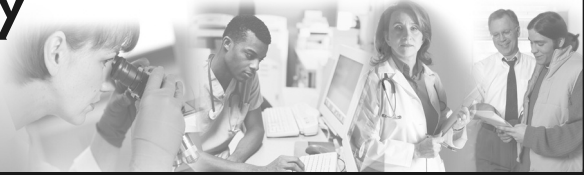


CAUT Health and Safety Fact Sheet



Workplace Investigations Fact Sheet

ISSUE 29

Academic staff associations can help protect their members health and safety by ensuring that legislatively mandated joint health and safety committees (JHSCs) use their power under occupational health and safety legislation to identify and properly investigate workplace injuries, deaths and occupational disease.

This fact sheet will cover effective basic investigative techniques and critical injury, death and occupational disease investigations that require the JHSC members to work with ministries of labour and police forces.

JHSC's Right to Participate

Participating in a workplace health and safety investigation is the JHSC's right in law in most provinces. In those jurisdictions where it is not specifically spelled out, academic staff associations must ensure that right is specified in their collective agreements and their institution's JHSC Terms of Reference.¹ The association's reps on the JHSC must know their rights as committee members under occupational health and safety legislation. Work with other campus unions/associations to ensure that all worker representatives on your workplace JHSC are clear about their right to investigate workplace health and safety issues and have the training and resources to do so properly.

Legislation

Most provincial or federal jurisdictions require the employer to notify the JHSC when an accident, injury or death takes place in the workplace. Ensure that this requirement is understood by your employer and where it is not specifically required in the legislation, that your workplace JHSC worker members have the right to know and participate in a workplace investigation.

All provincial and federal legislation specifically identifies whom the employer must notify when an accident, injury or death, structural collapse or failure, explosion, hazardous spill and other serious workplace incidents occur in the workplace. Know what the triggers are and whom the employer must report them to for your workplace.

When and How

Each jurisdiction has its own protocols on when and how investigations take place. It is the JHSC's responsibility to know what that protocol is and ensure that the employer follows it. Appendices 1 and 2² provide the jurisdictional requirements.

A clear
and precise
investigative
process is
essential

For more information:

Laura Lozanski
Health and Safety Officer
CAUT
Tel.: (613) 820-2270
Fax: (613) 820-7244
Email: lozanski@caut.ca

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An internal protocol between the JHSC and the employer to facilitate a prompt and efficient joint response while awaiting the ministry inspector, emergency medical assistance, and/or police should be developed, as well:

- incident reported immediately to supervisor
- supervisor advises JHSC to attend immediately
- pre-determined “who does what” protocol implemented
- scene contained until ministry inspector and/or police release it
- accurate and continual documentation assigned until scene released
- post-incident meeting of JHSC
- joint final report

Training

JHSC members must have appropriate training in order to carry out their workplace health and safety duties. Most occupational health and safety legislation specifically addresses training, although some does not. Where training is not specifically identified, training is still necessary. Academic staff associations must ensure that entitlement of JHSC members to training is written into JHSC Terms of Reference and in the collective agreement. The training must include workplace investigations. Contact CAUT’s Health & Safety Department at www.caut.ca, or local labour council or provincial federation of labour for worker-based health and safety training.

First Steps

The most productive and efficient health and safety investigations include worker JHSC members who are familiar and knowledgeable about their workplace and how it functions.



Consulting with workers in how they do their jobs gives greater understanding to work processes, prevention and investigations.

Consider these points when doing regular JHSC inspections:

- tasks (how work is performed)
- equipment and materials used in work processes
- physical environment (noise, temperature, light, gases, dust, fumes)
- training (WHMIS³ and WHMIS needs-specific; other training)
- work organization
- management systems (employer obligations)

Most importantly, speak to those who are performing the work in and around the area that is being inspected for detailed information on the impact of work on the surrounding environment and vice-versa.

Effective Investigating

Having a clear and precise investigative process is essential for accurate

identification of cause(s), obtaining useful information, and developing effective prevention tools.

The following factors⁴ are core components for an investigation protocol:

- basic investigation questions
- determination of the cause (accident, critical injury or occupational disease)
- details about type of injuries and accidents
- physical evidence (record)
- containing and preserving the scene
- information from other workers
- interviewing skills
- accurate documentation
- awareness of pitfalls
- analysis & report
- making recommendations

Interviewers should become practiced and skilled in interviewing witnesses by listening, asking open-ended questions, letting them speak, asking for clarification, and taking their words literally. Do not try to interpret or second-guess what the

witness may or may not have seen or experienced. Simply document verbatim what they say.

Assisting the Ministry of Labour & Police

When a workplace health and safety incident occurs that requires a provincial or federal inspector to investigate, the JHSC should be prepared to participate and assist the inspector competently. Initial securing of the incident scene will fall to the JHSC and/or police until the inspector arrives. Depending on the circumstance, police may also be

called in to participate in the investigation and potentially lay charges.

All three parties – the JHSC, the ministry of labour and the police will need to work together to ensure that:

- everyone knows their role and works together
- evidence is preserved in case charges will be laid
- witness information is gathered fully in a timely manner
- written reports are submitted by all parties in a timely manner

Resources

Canadian Labour Congress – ‘Westray: Eight Years Later’ Symposium, November 9, 2011

Provincial and Federal Occupational Health & Safety Acts

Workers Health & Safety Centre
www.whsc.on.ca

Notes

1 CAUT JHSC Terms of Reference
http://www.caut.ca/uploads/HealthSafetyAdvisory2_en.pdf

2 With permission from the Workers Health & Safety Centre, Level 1 – Investigating and Reporting Participant’s Manual, Version 5.0

3 Workplace Hazardous Materials Information System (WHMIS)
www.hc-sc.gc.ca/ewh-semt/occup-travail/whmis-simdut/index-eng.php

4 Adapted from the Workers Health & Safety Centre, Level 1 – Investigating and Reporting Participant’s Manual, Version 5.0

Appendix 1

Events Triggering Investigations

Jurisdiction	Triggering Event
Alberta	An injury or accident resulting in death or a worker hospitalized for more than two days; an unplanned or uncontrolled explosion, fire or flood causing serious injury or with the potential to cause serious injury; or the collapse upset or failure of certain machinery or a building or structure. [Occupational Health and Safety Code, 18(2)]
British Columbia	Any accident resulting in serious injury or death, injury requiring medical attention, had potential to cause serious injury, major structural failure or collapse, major release of a hazardous substance or was a regulated incident. [Workers Compensation Act, 173(1)]
Manitoba	Serious incident or accident or other dangerous occurrence that injures a person resulting in medical treatment or had the potential to cause a serious incident. [Workplace Safety and Health Regulations, 2.9(1)]
New Brunswick	Complaints respecting the health and safety of employees [Occupational Health and Safety Act, 15]
Newfoundland and Labrador	Hazardous occurrences [Occupational Health and Safety Regulations, 12]

Events Triggering Investigations cont'd

Jurisdiction	Triggering Event
Northwest Territories	<p>An accident of a serious nature including structural failure or collapse; spill or escape of toxic or hazardous substance; electrocution; accidental explosions; incident with heavy equipment; or injuries including a fatality, concussion, major blood loss, serious fracture, unconsciousness or amputation.</p> <p>[Consolidation of General Safety Regulations, 35]</p>
Nova Scotia	<p>Hazardous occurrences [Occupational Health and Safety Act, 28(1)]</p>
Nunavut	<p>An accident of a serious nature including structural failure or collapse; spill or escape of toxic or hazardous substance; electrocution; accidental explosions; incident with heavy equipment; or injuries including a fatality, concussion, major blood loss, serious fracture, unconsciousness or amputation.</p> <p>[Consolidation of General Safety Regulations, 35]</p>
Ontario	<p>Worker killed or critically injured. [Occupational Health and Safety Act, 8(14), 9(31)]</p> <p>Critical injury is defined by O.Reg. 834, see resource sheet.</p>
Prince Edward Island	<p>Accident causing serious injury or fatality, including an injury likely to cause a fatality.</p> <p>[Occupational Health and Safety Act, 36(1), 37]</p> <p>[Accidental explosion, 37]</p>
Quebec	<p>Death, serious injury preventing one worker from working for 10 consecutive working days, or serious injury preventing several workers from working for one day, or material damage of 50,000 or more.</p> <p>[An Act Respecting Occupational Health and Safety, 62]</p>
Saskatchewan	<p>Accident causing death or may cause death or hospitalization or dangerous occurrence.</p> <p>[Occupational Health and Safety Regulations, 29, 31(1)]</p>
Yukon	<p>Serious accident including uncontrolled explosions; failure of safety devices; collapse, upset or failure of a structure, work vehicle or machine; flood; accidental release of a controlled product; and any accident that likely would have caused serious injury but for safety precautions, rescue measures, or chance. [Occupational Health and Safety Act, 30(1)]</p> <p>Serious injury including death; fracture of a major bone; amputation (other than toe or finger); loss of site; internal bleeding; third degree burns; dysfunction resulting from concussion, electricity, oxygen deprivation, or poisoning; or paralysis.</p> <p>[Occupational Health and Safety Act, 30(1)]</p>
Federal	<p>All accidents, occupational diseases and other hazardous occurrences.</p> <p>[Canada Labour Code, Part II, 125.1(c)]</p>

Source: Appendix B from the Workers Health and Safety Centre's Level I Investigating and Reporting Module, Version 5.0

Appendix 2

Who Investigates and Reports

Jurisdiction	Mandated to complete investigation	Mandated to report on investigation
Alberta	Employer, prime contractor or contractor alone [Occupational Health and Safety Act, 18(3)]	Employer, prime contractor [Occupational Health and Safety Act, 18(3)]
British Columbia	Employer, with participation of employer and worker representatives [Workers Compensation Act, 174(3)]	Employer must provide a copy of the report to the joint committee or representative [Workers Compensation Act, 175(2)]
Manitoba	Co-chairs of joint committee or representative [Occupational Health and Safety Regulations, 2.9(2)]	Report must be prepared in consultation with JHSC co-chairs or representative [Workplace Safety and Health Regulations, 2.9(3)] Employer must provide report to JHSC or representative [Workplace Safety and Health Act, 41.2]
New Brunswick	Joint committee or representative may participate in any investigation [Occupational Health and Safety Act, 15, 18(1)]	No requirement
Newfoundland and Labrador	Employer alone [Occupational Health and Safety Regulation, 12]	No requirement
Northwest Territories	Chief Safety Officer Implied*	Employer, [Consolidation of General Safety Regulations, 3(d)(g), 35(2), (3)]
Nova Scotia	Joint committee or representative may participate in any investigation [Occupational Health and Safety Act, 31(1), 33(6)] Employer with 20 or more employees, or who are otherwise required to have a health and safety program, must investigate all hazardous occurrences [Occupational Health and Safety Act, 28(2)] An inspector may make any investigation considered necessary [Occupational Health and Safety Act, 47]	Employer must provide reports on hazardous occurrences to joint committee members and representatives [Occupational Health and Safety Act, 28(2), 31(1), 33(6)] Any written orders, such as those which may follow from an investigation must be provided to the joint committee or representatives [Occupational Health and Safety Act, 39(1)]

Who Investigates and Reports cont'd

Jurisdiction	Mandated to complete investigation	Mandated to report on investigation
Nunavut	Chief Safety Officer Implied*	Employer, [Consolidation of General Safety Regulations, 3(d)(g), 35(2), (3)]
Ontario	Worker member of joint committee or representative may [Occupational Health and Safety Act, 9(31), 8(14)]	Worker member of joint committee or representative [Occupational Health and Safety Act, 9(31), 8(14)]
Prince Edward Island	Officer* [Occupational Health and Safety Act, 7(1)]	Employer [Occupational Health and Safety Act, 36.1]
Quebec	Inspector [Occupational Health and Safety Act, 62]	Employer [An Act Respecting Occupational Health and Safety Act, 62]
Saskatchewan	Co-chairpersons of a committee, employer and worker rep. or employer. [Occupational Health and Safety Regulations, 29(1)]	Employer, [Occupational Health and Safety Regulations, 8(1), 9(2), 29(2) and 31(2)]
Yukon	Safety Officer accompanied by worker committee member or worker representative. [Occupational Health and Safety Act, 12(10) and 13(8)] Health and Safety Representative [Occupational Health and Safety Act, 30(4)]	Employer, [Occupational Health and Safety Act, 30(2)]
Federal	Employer, Code, 125(1) Work place committee, [Canada Labour Code, Part II, 135(7)] Health and safety representative, [Canada Labour Code, Part II, 136(6)] Health and safety officer, [Canada Labour Code, Part II, 140(4)] Qualified Person, Regulation, 10.4(1), 15.4(1) Police, Regulation, 15.4(2)	Employer, [Canada Labour Code, Part II, 125(1)] [Canada Health and Safety Regulation, 15.4(1), 15.6(1)]

Source: Appendix C from the Workers Health and Safety Centre's Level I Investigating and Reporting Module, Version 5.0