

Leveraging Legislative Tools



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Legislative tools are best used interactively with other health and safety strategies, such as mobilizing members and JHSC training.

The worker health and safety toolkit has several tools available to assist worker Joint Health & Safety Committee (JHSC) reps and their academic associations with the practical aspects of workplace health and safety: the 3 Rights (Right to Know, Right to Participate, Right to Refuse), training, personal protective equipment (PPE), collective agreement language, political strategies, and legislative obligations and requirements.

This fact sheet will focus on leveraging legislative tools that assist other tools in the toolkit to function more effectively. While occupational health and safety legislation and regulations are key elements to workplace health and safety, they are used interactively with strategies like mobilizing members, working in concert with other campus unions and associations, and most importantly, health and safety awareness and training.

For more information:

Laura Lozanski
 Health & Safety Officer
 Tel. (613) 820-2270
 Fax (613) 820-7244
 2705 Queensview Drive
 Ottawa, Ontario K2B 8K2

Mandatory Requirement

All parties must adhere to legislation and regulations that pertain to workplace health and safety. It is important to note, however, that legislation and regulations are the *minimum* requirements, and parties should strive for more and stay current with evolving best practices to ensure maximum workplace safety.

Where It Fits

Legislative requirements form the basic umbrella of protection for workers and others in the workplace. They form the fundamental core building blocks to make appropriate and successful remediation and prevention models.

They are the primary source tool for the employer who is tasked with ensuring the workplace is healthy and safe.

They are the primary source tool for JHSC's in order to carry out their duties in identifying workplace hazards, making recommendations to the employer and developing

comprehensive prevention mechanisms to assist the employer with protecting all workplace parties.

They provide the basis for workplace health and safety protocols and policies.

As such, they should be incorporated and included in collective agreements to strengthen and protect worker rights.¹

Being Strategic

Workplace health and safety should be straightforward — follow the law and prevent occupational disease and accidents.

However, health and safety often becomes political with the employer either explicitly refusing to meet their legislative obligations, or working around the edges to frustrate and compromise safety as a control or cost issue.

Health and safety provides equal legal footing through the JHSC and worker rights. Workers and their unions have long learned that

thinking and acting strategically — member mobilization, collective agreement language, working with other unions — can often move the identification, remediation and prevention of hazards more effectively than just referencing legislation or regulations.

A new guide called “Health and safety representation: Writing the Workers Back In”² is an excellent resource for thinking and working strategically regarding health and safety in the workplace. It is based on an extensive survey of JHSC members (union and non-union workers and employers) by the Labour Occupational Health Clinics Academic Research Collaboration (LOARC) group. The study focused on barriers and support mechanisms for a healthy functional JHSC.

Two useful mechanisms were identified from the study — one is using member mobilization and political strategies to move health and safety issues, and the other was strategically leveraging legislation into that mix.

When to Leverage

There are obvious times that legislation should be referenced and looked to for requirements and guidance by all workplace parties:

- JHSC Terms of Reference³
- developing policies and protocols
- as resources for workplace hazards
- work refusal
- health & safety grievance⁴
- filing a complaint with the Ministry of Labour



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Thinking and acting strategically can often move identification, remediation and prevention of hazards more effectively than just referencing legislation or regulations.

One of the most important times to reference legislation is in the documentation of health and safety issues in the workplace. Inspection reports, JHSC meeting minutes, daily log books, incident and accident reports, correspondence with the employer, and any other time a health and safety issue is being captured in “print” form. Referencing legislation that is applicable or may have been breached is important as these documents are often used as evidence by an inspector, during an arbitration hearing or other types of court proceedings. Documentation chronologically outlines how the issue evolved, and in the case of inspection and JHSC reports, provides notice to the employer that they should take proactive action.

Referencing legislation is also very useful in moving a concern up the workplace hierarchy when attempting to deal with an issue at lower levels proves difficult or fruitless. It will clearly lay out legal

obligations that are not being met by the employer or their agents. It lays that all-important paper trail for triggering enforcement.

In the Loop

Academic staff associations should ensure that their JHSC representatives and their members are aware of and understand their legislative rights and obligations. Training, awareness and support are key processes that ensure everyone can individually and collectively identify hazards and hazardous processes and know who to go to for assistance.

Other initiatives that can be taken include using general or special meetings, guest speakers, health and safety events, joint campus union events, newsletters and other creative ideas as opportunities to

engage your members in general or issue-specific health and safety concerns that highlight workplace legislation. Use a current asbestos abatement, chemical spill or violence incident to highlight pertinent legislative and regulatory requirements.

Your members, your association and your workplace will be all the better for it.

Notes

1. CAUT Bargaining Advisory, No. 29, May 2008, *Health & Safety*. www.caut.ca.
2. *Health and safety representation: Writing the Workers Back In*, LOARC, April 2014 www.caut.ca.
3. CAUT Health & Safety Advisory, No. 2, April 2012, *Terms of Reference for JHSC's*. www.caut.ca.
4. CAUT Health & Safety Advisory, No. 1, May 2010, *Enforcing Workplace Health & Safety Rights*. www.caut.ca.

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