

COVID-19 and the right to refuse unsafe work

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Frequently Asked Questions (FAQs)

Important: COVID-19 does not change your right to refuse to perform work in conditions that have the potential to harm you or others.

This FAQs document answers some of the most common questions about the right to refuse unsafe work in light of the COVID-19 outbreak. For general questions on the right to refuse, see our [Refusing Unsafe Work](#) fact sheet.

The right to refuse unsafe work is one of three basic health and safety rights achieved by the labour movement – along with the right to know about the hazards in your workplace, and the right to participate in workplace health and safety decisions. Procedures and circumstances around the right to refuse vary from province to province, but all workers have the legal right to a healthy and safe workplace.

The right to refuse allows workers to protect their own safety by refusing to perform work that they believe has the potential to harm themselves or others at the worksite. Notably, some provinces *oblige* workers to refuse unsafe work.

IF I AM DEEMED AN ESSENTIAL SERVICE WORKER, CAN I REFUSE TO PERFORM DANGEROUS WORK?

Yes. The designation of essential services does not limit your right to refuse dangerous work. Workers have the right to refuse to perform **any specific job or task which they have reasonable grounds to believe is dangerous** to you or to any other person. This could include:

- A danger that is not addressed by normal hazard controls;

- A danger that would normally stop work; or
- A situation for which you are not properly **trained, equipped, or experienced** to do the work assigned.

Employers have a duty to protect workers health and safety. CUPE believes that if the work is essential, employers should go above and beyond normal operating procedures by following the precautionary principle to make sure workers are protected – especially workers who are tasked with helping others.

CAN I REFUSE WORK BECAUSE OF THE COVID-19 PANDEMIC?

No. You can't refuse work simply because COVID-19 exists. There must be a link between COVID-19 and your reasonable belief that you are at risk for injury or illness. In the case of COVID-19, a potential danger would include a risk of exposure that is not being properly managed, such as an employer failing to provide you with appropriate personal protective equipment or the training to use it.

CAN I INVOKE THE RIGHT TO REFUSE UNSAFE WORK IF I AM NOT PROVIDED THE PROPER PERSONAL PROTECTIVE EQUIPMENT (PPE) REQUIRED TO BE SAFE?

Yes. Employers must provide you with the PPE you need to perform your job safely. Different jobs and tasks have different requirements for PPE depending on the likelihood for exposure (*see next two sections*). There may be stronger controls in place that negate the need for PPE in some circumstances (like an engineering control that keeps workers separated from those who may be carrying the virus). The bottom line is that employers are required to provide training on the proper use and care of PPE before it is used for the first time. If the training is not provided, you have the right to refuse the work or task.

CAN MY EMPLOYER MAKE ME USE ONLY ONE SET OF PPE FOR AN ENTIRE SHIFT EVEN IF I'M DEALING WITH DIFFERENT PATIENTS/RESIDENTS/CLIENTS?

Your employer must take all reasonable precautions to keep you safe while at work. During the ongoing pandemic, it may be necessary to wear PPE longer than normal, but CUPE continues to advocate for safe conditions. If your PPE becomes soiled in any way

that renders it unable to provide you with the protection it has been designed for, then you will need to replace it.

If your employer is seeking to impose arbitrary rules around PPE that prevent you from working safely, and a situation becomes dangerous, you have the right to refuse to perform the work or task.

Any restrictions on PPE use should be lifted when stocks are replenished. We cannot permanently accept a lesser safety standard because of a temporary supply shortage.

A NOTE ON RESPIRATORY PROTECTION REFUSALS

Following the precautionary principle, CUPE continues to advocate for airborne protections for workers who must work in proximity for extended periods with people who have suspected or proven cases of COVID-19. This is at odds with most public health agencies across Canada who are only recommending droplet precautions. Currently, public health agencies are not recommending N95 respirators for any situation other than aerosol-generating medical procedures.

If you have a reason to believe your health and safety is in danger, you can, in good faith, refuse to work. However, it is unlikely that a government inspector will find reasonable grounds for your work refusal where you identify a respiratory hazard which is not an aerosol-generating medical procedure.

That said, you should submit a health and safety complaint form every time you are forced to use equipment that you don't think is enough to protect your safety. Provide this form to your employer and make sure to send a copy to your health and safety committee [a sample reporting form can be found [here](#)].

CAN A GROUP OF WORKERS REFUSE WORK WHERE HEALTH AND SAFETY IS IN DANGER?

The right to refuse unsafe work is an individual process. Multiple workers can refuse to perform work they think could cause injury or illness, but each worker must make their own refusal and give their own reason when they report the refusal. You are not

protected from discipline if you stop working “in solidarity” or for “sympathetic reasons” because your co-worker has refused to perform unsafe work.

WHAT IF MY EMPLOYER IS SAYING THAT MY RIGHT TO REFUSE DANGEROUS WORK IS “INSUBORDINATION”, OR THREATENS ME WITH DISCIPLINE?

It’s important to clearly make the distinction between an unsafe work refusal and insubordination. To do this, indicate from the outset that your refusal is based on a concern for your health and safety (or that of others). CUPE recommends putting the refusal in writing as soon as you can. There are no required phrases or words to initiate the process, but you should clearly state your reasons, so it is not confused with being insubordinate.

You cannot be subject to reprisals or threats of reprisal by the employer, or by anyone acting on behalf of the employer, for exercising your right to refuse work that you believe endangers your health and safety or that of another worker. Reprisals or threats can include, but are not limited to: disciplinary actions or warnings, penalties, withholding of pay, demotions, suspension, and termination.

WHERE CAN I FIND SPECIFIC INFORMATION ABOUT THE RIGHT TO REFUSE?

Many jurisdictions have information on the right to refuse to the health and safety sections of government websites. Go to an online search engine and try searching: “Right to Refuse COVID-19 [name of province]”.

For a full list of right to refuse legislation and for other general right to refuse questions, please see our fact sheet [here](#).

Stay safe.