## **Wood County Board of Developmental Disabilities**

## **PROCEDURE**

Procedure #: Effective Date: 02-ALL-ALL-0415 (SF) 07-01-94

Subject:

Last Revision:

OSHA – Refusal to Work ision: 07-01-14

Person Responsible: Approvals/Date:

Health and Safety Coordinator

Superintendent, WCBDD

Date

Department Director

Doto.

- 1. A public employee acting in good faith has the right to refuse work under conditions that the public employee believes presents an imminent danger of death or serious harm; provided that the condition is not such as normally exists or reasonably might be expected to occur in the normal and regular duties of the public employee. A public employee who refuses in good faith to perform assigned tasks shall take the following steps prior to the refusal of work:
  - Request their immediate supervisor or another supervisory representative of the employer to have the hazardous condition corrected.
  - b. If the employer's representative declines to correct the hazardous condition, or disputes that the condition is of such a nature as to pose an imminent danger of death or serious harm, the employee has the right to contact a representative with the Public Employee Risk Reduction Program at 614-644-2631 regarding the condition. If, from the description provided, there is reason to believe that a hazardous condition exists, the representative of the Public Employee Risk Reduction Program shall attempt to contact the Wood Lane Health and Safety Coordinator to eliminate the condition.
- 2. Once the public employee has followed Step 1 and found that the employer refuses to correct the condition or continues to dispute that a hazardous condition exists the employee may refuse to perform the assigned task. The employer shall not force the employee or coerce him/her in a way to perform the task while the above steps are being completed.
- 3. As soon as the employee exercises his/her right to refuse work, he/she will notify the Chief of the Public Employee Risk Reduction Program of the condition that presents an imminent danger of death or serious harm to the employee. The notification shall be in writing and signed by the employee and shall detail fully the nature of the condition. The notice must be sent as soon as practicable after exercising the right to refuse work. The address is: OSHA Director, Industrial Relations Department, 2323 West Fifth Avenue, PO Box 625, Columbus, OH 43216.
- 4. Upon receipt of the notice, the Chief or his designee shall contact the employer and inform the employer of the notification. The Chief shall also inform the employer that a representative of the division will immediately inspect the premises of the public employer.
- 5. If upon inspection of the claimed hazardous condition the chief or his designee finds that the condition is not an imminent threat of death or serious harm to the employee, the employer and the employee will be so advised and the employee must immediately perform the assigned task. The employer will not penalize in any manner the employee for a good faith refusal to work.
- 6. If upon inspection the chief or his designee finds that a hazardous condition exists the Chief shall within five (5) days of the receipt of the notification of the imminent danger and refusal to work, send the employer a letter outlining the recommended action required to correct the hazardous condition. Within thirty (30) days of receipt of the letter, the employer is required to respond in writing to the Chief regarding what measures they have taken to eliminate the hazard.
- 7. If the employer does not respond within the thirty (30) days or does not eliminate the hazard, the Chief shall petition the Court of common Plea to restrain any condition or practice in any place of employment that presents a danger that could reasonably be expected to cause death or serious harm to an employee.
- 8. The Chief or his designee determines that the imminent danger is such that immediate action is necessary and further determines that there is not sufficient time in light of the nature, severity, and imminence of the danger to seek and obtain a temporary restraining order or injunction, the Chief or his designee in telephone consultation with the Chief, shall issue an order which prohibits any further work associated with the hazard. This cease and desist order is effective for no more than fifteen (15) days. To extend such an order the Chief or his designee shall petition the Court of Common Plea to extend the order and to require corrective action by the employer.
- 9. A public employee who has refused in good faith to perform assigned tasks and who has not been assigned to other duties by the public employer shall retain a right to continued employment and receive full compensation for the tasks that would have been performed.
- 10. If a public employer reassigns the public employee, the public employer shall pay him/her the full compensation as if he/she were not reassigned.
- 11. A public employee who refuses to perform assigned tasks and fails to meet all of the conditions set forth above is subject to any disciplinary action provided by law, including but limited to suspension, non-payment of wages for the duration of the refusal of work, or discharge.
- 12. Any party may appeal to a Court of Common Plea any final order of the Chief within thirty (30) days of the issuance of the final order.