

Health and Safety Basics NCR

Participant Kit: Module 3



Scenario #1 – Compliance and Enforcement

Read the scenario and discuss the following questions. In your report to the group, include the sections of the *Labour Code* that support your answers.

1. With regard to their duties and responsibilities, in this scenario; how is the employer in contravention of the *Code*?
2. What section of the *Code* provides for redress in this scenario?
3. Under what circumstances would a third party get involved in this scenario?

Your Local Executive has discovered that the employer recently developed a new health and safety policy on violence in the workplace. This policy could result in the video monitoring of the entire work space. To date, there has been no consultation with any union representative on this policy. The Local has requested a meeting to discuss the policy but the employer has refused; noting that they feel it is such an important issue, they want to launch the policy immediately. They have already scheduled information sessions with staff for the coming week.

Scenario #2 - Enforcement

Read the scenario and discuss the following questions. In your report to the group, include the sections of the *Code* that support your answers.

1. Is this a health and safety issue? Why?
 2. What right does the employee have to protect himself under these circumstances?
 3. Under what circumstances would a third party get involved in this scenario?
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Sasha works as a General Services Officer in an old warehouse. His supervisor asks him to clean out and reorganize the storeroom located in the basement. The basement is dank and smelly so Sasha is not happy about this assignment. When he opens the light in the storeroom, Sasha sees opened boxes with bottles of un-marked, foul smelling, chemicals. He complains to his supervisor who responds by giving Sasha a direct order to complete the job, including the clean-up and organization of the boxed chemicals.

Scenario #3 - Enforcement

Read the scenario and discuss the following questions. In your report to the group, include the sections of the *Code* that support your answers.

1. What section of the *Code* provides for protection in this scenario?
 2. Under what circumstances would a third party get involved in this situation?
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You are at your workplace and someone walking close to your workstation suddenly falls down and hits their head hard on the floor. You notice that there is some bleeding coming from their nose, but the person now appears to be unconscious.

You want to help but you just don't know what to do. You look around and ask for immediate assistance, but nobody else knows what to do. After what seemed like a very long time, the supervisor comes around and calls for urgent paramedic's assistance.

Workplace Health and Safety Committees

Every employer who normally employs 20 or more people must **set up a workplace health and safety committee** and, subject to section 135.1, select and appoint its members. [s. 135 (1)]

These committees do not have to be set up on some ships, in places that apply for and get an exemption, or where a collective or other employer-employee agreement sets up a committee to deal with health and safety.

Requirement	It's important to us because ...	Step(s) in the process
Consider and efficiently deal with complaints relating to worker health and safety.		
Participate in the implementation and monitoring of the required workplace programme.		

Requirement	It's important to us because ...	Step(s) in the process
<p>If the programme does not cover hazards unique to a workplace, participate in the development, implementation and monitoring of a programme to prevent those hazards. The programme must also cover education of employees about health and safety related to those hazards.</p>		

Requirement	It's important to us because ...	Step(s) in the process
<p>Where there is no policy committee, participate in the: development of health and safety policies and programmes;</p> <p>development, implementation and monitoring of a programme to prevent hazards in the workplace. It must also provide for employee education about health and safety related to those hazards;</p> <p>development of the programme to provide personal protective equipment, clothing, devices or materials;</p> <p>planning about implementation of changes that may affect occupational health and safety, including work processes and procedures.</p>		
<p>Participate in implementation and monitoring of a programme to provide personal protective equipment, clothing, devices or materials.</p>		
<p>Participate in all inquiries, investigations, studies and inspections about worker health and safety. This includes consultations that may be needed with people who are professionally or technically-qualified to advise the committee about those issues.</p>		

Requirement	It's important to us because ...	Step(s) in the process
Ensure that adequate records are maintained about work-related incidents, injuries and health hazards. Regularly monitor data relating to them.		
Participate in the implementation of changes that may affect occupational health and safety, including work processes and procedures.		
Help the employer to investigate and assess employee exposure to hazardous substances.		
Each month, inspect all or part of the workplace, so that every part is done at least once a year.		
May ask the employer for any information it considers necessary to identify existing or potential hazards, in terms of materials, processes, equipment or activities in the workplace.		
Have full access to all government and employer reports, studies and tests related to worker health and safety in that workplace, or to the parts of those materials that relate to worker health and safety. Access to individual medical records requires the person's consent.		
Meet at least nine times a year at regular intervals, and during regular working hours. If other meetings are needed because of an emergency or other special circumstances, the committee shall meet as required whether or not it's during regular working hours.		

Requirement	It's important to us because ...	Step(s) in the process
Co-operate with health and safety officers		

Provisions - Scenario 1

Task:

- Read the following scenario and answer the questions posed. You will want to refer to The Canada Labour Code Part II - sections 134.1; 135; 135.1, 136 and 125 (1) (z.07) & 125 (1) (z.08), to assist you in your discussions.

Questions:

1. WHAT ARE THE ISSUES THAT NEED TO BE ADDRESSED IN THIS SCENARIO?
 2. WHAT SHOULD THE UNION DO?
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Scenario #1 - The Policy Health and Safety Committee

- You work for a national employer who has a large concentration of employees in all seven regions in the country. The employer has struck Policy Health and Safety Committees in six regions; plus a National Policy Health and Safety Committee in Ottawa. Your union is unable to find enough appointees for representation on all seven committees. Therefore, you are represented on only four of the regional committees. You still haven't found a union appointee from the workplaces in Ottawa to represent you on the National Policy Health and Safety Committee.

Provisions - Scenario 2

Task:

- Read the following scenario and answer the questions posed. You will want to refer to The Canada Labour Code Part II - sections 134.1; 135; 135.1, 136 and 125 (1) (z.07) & 125 (1) (z.08), to assist you in your discussions.

Questions:

1. WHAT ARE THE ISSUES THAT NEED TO BE ADDRESSED IN THIS SCENARIO?
 2. WHAT SHOULD THE UNION DO?
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Scenario #2 - The Health and Safety Workplace Committee

- You are union members in a workplace that includes non-managerial employees who are NOT part of the bargaining unit. Your Workplace Health and Safety Committee meetings are scheduled, on a regular basis, during the afternoon shift. This is done to convenience the key management appointee who works afternoons. In addition, the meetings are held across town from the workplace, in a hotel. This decision was made by management in order to minimize distractions during the meeting.
- There has been an employee vacancy on the Workplace Health and Safety Committee for over 3 months now. The trade union is having difficulty finding a union member to fill the vacancy. They have no health and safety activists on afternoons and their day shift health and safety activists do not want to travel across town, after work, to attend a meeting. The non-unionized employees are pressuring the union executive to appoint a non-unionized employee on afternoon shift who is a well-known, management “wannabe”. In the meantime, management has written the union stating they will fill the vacancy with a management appointee if the union doesn’t nominate someone within a 3 day deadline.

Provisions - Scenario 3

Task:

- Read the following scenario and answer the questions posed. You will want to refer to The Canada Labour Code Part II - sections 134.1; 135; 135.1, 136 and 125 (1) (z.07) & 125 (1) (z.08), to assist you in your discussions.

Questions:

1. WHAT ARE THE ISSUES THAT NEED TO BE ADDRESSED IN THIS SCENARIO?
 2. WHAT SHOULD THE UNION DO?
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Scenario #3 - Common Provisions for Compensation

- You are union appointees to a Workplace Health and Safety Committee. At your last regular committee meeting, the committee decided to hold a one day retreat, scheduled for the following Saturday. Saturday is a regular day of rest for all employees. At this meeting, you also decided to choose a union appointee and a management appointee who would meet and develop an agenda for the one day retreat. The date for that planning meeting was scheduled the Thursday afternoon preceding the retreat. At no time during your discussions did you broach the subject of compensation for committee members to attend the meeting.
- It is now one week following the retreat and you are having a follow-up H&S union meeting. In the course of your discussions, you are discovering that your appointee who participated in planning the agenda was told by management to take unpaid union leave to cover the Thursday afternoon planning meeting. In addition, all union appointees who attended the retreat have been denied overtime and travel expenses for the day. The only compensation you have received for participation in the retreat was in the form of lunch, which was provided on-site.

Provisions - Scenario 4

Task:

- Read the following scenario and answer the questions posed. You will want to refer to The Canada Labour Code Part II - sections 134.1; 135; 135.1, 136 and 125 (1) (z.07) & 125 (1) (z.08), to assist you in your discussions.

Questions:

1. WHAT ARE THE ISSUES THAT NEED TO BE ADDRESSED IN THIS SCENARIO?
 2. WHAT SHOULD THE UNION DO?
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Scenario #4 - The Health and Safety Representative

- You are unionized workers in a workplace with a total of 15 employees. 8 out of the 15 employees are unionized. None of the unionized employees is knowledgeable about health and safety issues in the workplace. The employer has appointed a management representative as the “Workplace Health and Safety Officer.”
- The worksite is in a sealed building. Employees have been complaining about poor air quality for months now. Many have reported symptoms of headache, nausea, tiredness and fatigue. There has been a considerable rise in the use of sick leave. Despite complaints, the Workplace Health and Safety Officer refuses to investigate further. Union members are not satisfied and want to follow-up but do not know what to do.

DISCUSSION SHEET

Scenario #1 - The Policy Health and Safety Committee

It is important to know that **Section 134.1(3)** of the act allows employers to establish more than one policy committee only if the trade union agrees. In this case, the trade union cannot meet the demand for appointees to this many policy committees and should therefore officially notify the employer that they do not agree to the existence of this many committees.

The policy committee situated at HQ is where the union should focus its energies. When dealing with a national employer, this is where primary decision-making authority usually rests. **Section 135.1(2)** allows unions to appoint non-employees to a policy committee. In this case, it may be prudent to send a union staff-person or high ranking officer to sit on the National Policy Health and Safety Committee.

DISCUSSION SHEET

Scenario #2 - The Health and Safety Workplace Committee

The main problem for the union is related to the hours of meeting and the venue. Section **125(1) (z.07)** of the Act states that the employer must ensure availability of workplace premises, equipment and personnel for the operation of the policy and workplace committees. **Section 125(1) (z.08)** states that the employer must cooperate with the policy and workplace committees in the course of their duties. In this case, the union can argue that the employer is violating these sections of the code by;

1. holding meetings across town, off site; and
2. making unilateral decisions regarding hours of meeting that have an adverse affect on union participation. This could be interpreted as non cooperative behaviour.

The union is compelled under **section 135.1 (1) (b)** of the Act to consult with non-unionized employees regarding appointees to H&S committees. The union however, **(135.1(1) (b) (ii))** has the final decision-making power with regards to selection of employee appointees to the H&S Workplace committee. Sections **135.1(4) & (5)** outline the process for notifying the parties of a vacancy on the H & S Workplace committee AND allows the employer to appoint in the interim, where a vacancy has not been filled.

In this case, if the union focuses on changing the time and venue for the meetings, they will probably be able to resolve the other issues outlined in this scenario.

DISCUSSION SHEET

Scenario #3 - Common Provisions for Compensation

It is important to highlight that the main problem here has to do with poor communication and the lack of terms of reference for committee members. The fact that a decision was made to hold a retreat and joint planning was underway with NO discussion about compensation points to a fairly major breakdown in communication. The committee should be addressing this issue, as such, in the very near future.

The immediate issues however, rise out of the employer's refusal to adequately compensate union appointees to the H&S Workplace committee for their work on behalf of the committee. **Section 135.1 (10) (b)** of the Act, obliges the employer to compensate committee members for both travel and preparation time for committee work. **Section 135.1 (11)**, obliges the employer to compensate committee members for work,

"during or outside the working hours...as specified by the collective agreement..."

In this case, although compensation was not discussed by the parties, provisions for payment are outlined in the Act itself.

DISCUSSION SHEET

Scenario #4 - The Health and Safety Representative

The main problem here lies both with the union and the employer. Neither party has ensured that employees in the workplace are adequately trained on their rights with regards to health and safety issues. Nor are they acting to ensure employee rights are being invoked. The Union has failed to exercise its right to appoint a Health and Safety Representative per **sections 136 (1) and 136 (2)** of the Act. The employer is obliged to notify the union of its failure to select and can only appoint as an interim measure per **sections 136 (3) and 136 (4)** of the Act.

We can only assume that the underlying problem regarding air quality would be better dealt with if the Health and Safety Representative were an employee, as outlined in the Act.