

4167-2-01 Refusal to work.

This rule is promulgated pursuant to division (A) of section 4167.06 of the Revised Code.

- (A) A public employee acting in good faith has the right to refuse work under conditions that the employee reasonably believes present an imminent danger of death or serious harm to the employee if all of the following conditions are met:
- (1) The working conditions are not as normally exists or reasonably might be expected to occur in the normal and regular duties of the employee.
 - (2) There is insufficient time to eliminate the danger through the inspection and enforcement procedures provided by section 4167.10 of the Revised Code.
 - (3) The working conditions are such that a reasonable person would conclude an imminent danger exists.
 - (4) The employee has requested that their immediate supervisor or other supervisory representative of the employer correct the hazardous condition, but the supervisor or representative declines to correct the hazardous condition.

(B) Notice to superintendent required.

An employee who exercises his right to refuse work under this rule must notify the superintendent in a written statement, as soon as practical, of the working conditions under which the employee has refused to work. An employee may provide initial notice to the superintendent via telephone if the employer declines to correct the hazardous working conditions.

(C) Inspection by superintendent.

Upon receipt of the notice, the superintendent shall immediately contact the public employer and inform the employer of the notification. The superintendent shall also inform the employer that a compliance officer will immediately inspect the premises of the employer, pursuant to rule 4167-8-01 of the Administrative Code. If, upon inspection, the superintendent finds any condition or practice which presents an imminent danger to the safety and health of a public employee, the superintendent shall issue a "notice of imminent danger" pursuant to rule 4167-8-02 of the Administrative Code.

(D) Public employee rights.

A public employee who has refused in good faith to perform assigned tasks and who has not been reassigned to other tasks by the public employer shall, in addition to retaining a right to continued employment, receive full compensation for the tasks that would have been performed. If the public employer reassigns the public employee, the public employer shall pay the public employee's full compensation as if the public employee were not reassigned.

(E) Public employer rights.

A public employee who refuses to perform assigned tasks under paragraph (A) of this rule and fails to meet all of the conditions set forth in that paragraph for the refusal is subject to any disciplinary action provided by law or agreement between the public employer and public employee for a refusal to work, including, but not limited to, suspension, nonpayment of wages for the duration of the refusal to work, and discharge.

Effective: 1/1/14

Prior Effective Dates: 7/1/94, 11/15/96, 8/15/01, 2/15/09