



Health & Safety Reccomendations Toolkit



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Important Note:

This kit is intended to provide information to help guide you when making recommendations as a member of the Joint Health and Safety Committee or a Health and Safety Representative under the provisions set out in the Occupational Health and Safety Act (Ontario). The guide does not constitute legal advice or replace existing legislation or professional health and safety advice. If you have any questions about health and safety law, speak to your Local Executive, CUPE National Servicing representative, or CUPE National Health and Safety Specialist.

Introduction

The Occupational Health and Safety Act (Ontario) provides a Joint Health and Safety Committee (“JHSC” or “committee”) or the Health and Safety Representative (“HSR” or “representative”) with the function of identifying work hazards and the power to obtain information about those hazards. Once information is obtained, a JHSC or HSR will be in a better position to exercise one of its leading powers; making recommendations to improve occupational health and safety (“OHS”).

The following toolkit provides a step-by-step approach to assist the members of the JHSC or the HSR in making effective recommendations to the employer. Although there may be varying job tasks and hazards in CUPE sectors of work, the law and process for making a recommendation are consistent across all workplaces in the province. NOTE: Your collective agreement or terms of reference may expand and improve upon the existing process set out in the OHSA.

Why make a recommendation?

A formal written recommendation from a committee or representative introduces accountability for an employer. It produces a paper trail demonstrating the efforts made within the internal responsibility system (“IRS”) to resolve a health and safety issue. A recommendation can address any means of eliminating or properly controlling hazards. It can include:

- Improvements to OHS policies and programs.
- Improvements to safe work measures, procedures, and processes (SOPs)
- Effective education (information) and training (instruction) programs
- Better protective equipment, materials, and devices
- OHS testing strategies and hazard monitoring.
- Investigate a specific issue or trend.

Regardless of the nature of your recommendation, it is essential that the proposed solution to address the OHS issue effectively corrects the root causes and follows the hierarchy of controls.

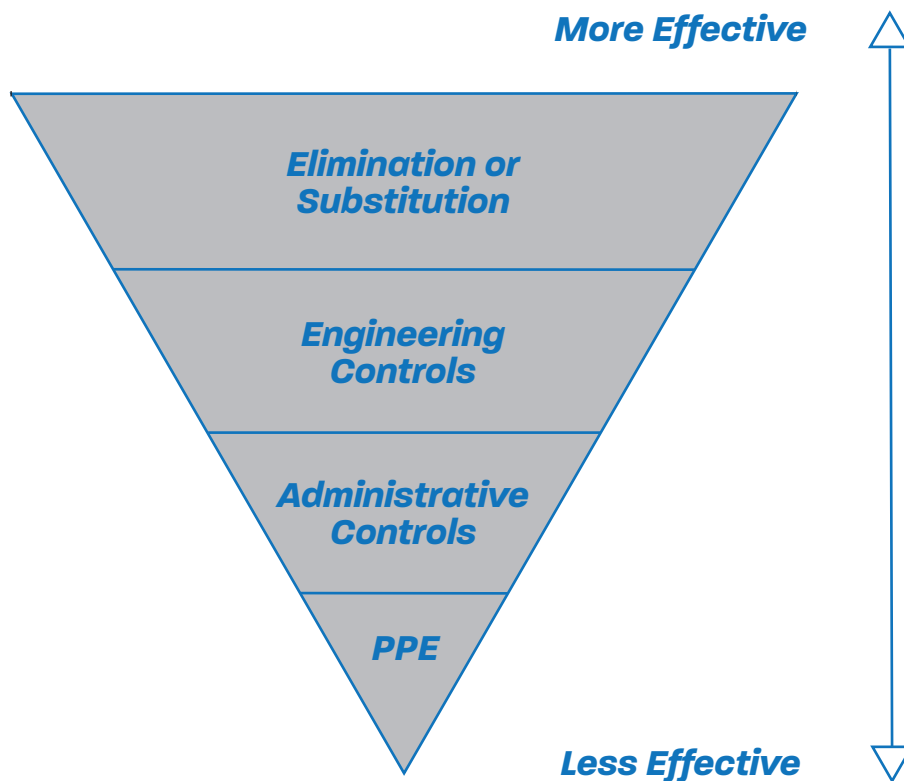
Hierarchy of Controls

Elimination or Substitution simply means to remove the hazard from the work or replace it with something that isn't hazardous

Engineering Controls mean reducing exposure to the hazard by putting in place or modifying physical structures, barriers, guarding, ventilation, and processes in the workplace.

Administrative controls limit a worker's exposure to a hazard by controlling how the work is done.

Personal protective equipment ("PPE") is the materials and equipment worn to reduce exposure to the hazard.



Making the Recommendation

Steps to take before writing a recommendation

Step 1

Make sure you bring the issue to management or at a committee meeting. If you are the HSR, address the issue with senior management. This step gives your employer a chance to address through the internal responsibility system or gives you a better understanding of their position on the issue. If the problem isn't fixed at the IRS level, a formal recommendation is the next step.

Step 2

If you are on a committee, bring your recommendation to the meeting or have it circulated with the agenda ahead of the meeting. One recommendation for each issue you want to address is best. Make sure to caucus with other worker members on the committee before the meeting so that everyone is on the same page about making the recommendation.

Documenting your recommendation

Step 3

There is no formal way to write the recommendation. Yet, all recommendations should:

- Be made in written form
- State the facts about the health and safety concern
- Give the reason for the recommendation(s)
- State the recommendation(s) (one of them could be a temporary measure if you must wait for a permanent measure)
- Describe the intended immediate outcome(s)
- Describe the intended long-term impact(s)
- Point out potential legal non-compliance with H&S law
- Include any supporting documents (reports, assessments, safety data sheets)
- Be dated and signed by the JHSC co-chairs* (see *making a unilateral recommendation*)
- Have an individual identification code.

TIP: Be careful of unintended consequences. Ensure a proposed solution in your recommendation does not create an additional hazard or leave other workers vulnerable. Additionally, a solution shouldn't have a significant negative impact on service delivery.

A written recommendation is addressed to the senior management person responsible for health and safety in the organization.

It's a good practice to have each recommendation separate from the others, with its own unique identification code. Using a unique code on separate forms for each recommendation allows the committee to help track progress and ensure timelines are met.

Committee recommendations must be tracked on the minutes of the committee meeting. They should appear on the agenda until they are resolved, or there is a response from management. It's also a good practice to keep all the recommendations on one master document so that they can be more easily tracked.

Making a unilateral recommendation

In addition to a committee and representative, the OHSA grants either committee co-chair the power to put forward a recommendation. When doing so, the issue must first be brought to the committee's attention and given the opportunity to come to a consensus on making a recommendation.

Following up on recommendations

Step 4

The employer has a legal duty to respond in writing to a recommendation from a JHSC, the HSR or a co-chair within 21 calendar days. Moreover, the written response must include the following:

- A timetable for implementing the recommendation or the elements with which the employer agrees, **OR**
- Reasons why the employer disagrees with any part of the recommendation it does not implement.

What happens when the employer disagrees with a recommendation?

There are many reasons why an employer may disagree with all or part of a recommendation. Each reason must be evaluated to determine the best “next steps.” Before making the next move, it’s a good practice to consult with the other worker members on the committee. Those steps could include the following:

- Bring the recommendation back to the committee to clarify a misunderstanding in the employer’s interpretation of the recommendation.
- Bring the recommendation back to the committee to clarify an ambiguity in the employer’s response.
- Contact the Provincial Occupational Health and Safety Enforcement Branch (Ministry of Labour), especially when there is continuing non-compliance with OHSA.
- Get the Local Executive/Bargaining Unit Chair involved. They may want to file a grievance or develop a campaign around the issue.
- Bring the response to your CUPE National Representative for further advice.
- Consult with labour-friendly health and safety associations for information (e.g., Occupational Health Clinics for Ontario Workers, Workers Health and Safety Association).

Take action if the unresolved issue leads to additional accidents, injuries and illness and the employer continues to deny implementation of your recommendation.

Legal Summary of OHS Requirements

The following table summarizes the power of a representative or committee to make a recommendation and what an employer must legally do in response to a recommendation.

Legislation Related to Recommendations in the OHS	Description
Section 8 (10)	A health and safety representative has the power to identify situations that may be a source of danger or hazard to workers and make recommendations to the employer, the workers and the trade union(s).
Section 8 (12) and (13)	An employer must respond in writing within 21 days of receiving a written committee recommendation, giving a timetable for implementing recommendations it agrees with or reason(s) why it disagrees.
Section 9 (18) (b)	A joint health and safety committee has the power to make recommendations to the employer and the workers for the improvement of the health and safety of workers.
Section 19.1	Either co-chair of the committee has the power to make written recommendations to the employer if the committee has failed to reach a consensus about making recommendations after attempting in good faith to do so.
Section 9 (20) and (21)	The employer must respond in writing within 21 days of receiving a written committee recommendation, giving a timetable for implementing recommendations it agrees with or reason(s) why it disagrees.

Example of information found in a written health and safety recommendation

Recommendation Log (dd/mm/yyyy) and number: _____

Location/Workplace: _____

I am responsible as a Health and Safety Representative... **OR**

We are responsible as a Health and Safety Committee...

for identifying situations that may be a hazard or danger to workers and for making recommendations to the employer and the workers for improvement to their health and safety.

As such, we have identified the following danger or hazard at (Insert Name of Employer) and provide the following recommendation:

1. Reason for recommendation (Describe the hazard or potential hazard and explain why it is a hazard. Each hazard should get a separate recommendation.)

NOTE: In this section, give a detailed description of what the problem is. This could be anything you believe can cause harm to workers. It is very important that you do not list many different hazards on the same form. If you do, you may end up “losing” a recommendation that doesn’t get addressed because something else in that recommendation was. Below are 2 separate examples of what hazards and recommendations may look like. Remember, if both situations were happening at the same time where you work, they would be on separate written recommendations.

Example A

There is a client/patient/resident/student that has a specific trigger that causes them to lash out. The workers that could encounter this person don’t know about the trigger and the program to prevent incidents of workplace violence does not have a way to inform those workers.

Example B

There is a staircase close to the main entrance. This staircase is the location of many slip-and-fall incidents, some resulting in injuries to individuals. A closer look at the dates of the incidents and further discussion with the workers has revealed that most of the incidents occurred when workers were coming in from the outdoors and the soles of their shoes were wet from snow, rain etc. The area inside the main entrance does not have a carpet/mat on which people may wipe their feet, and the staircase treads do not have anti-slip strips. Additionally, the lighting in that staircase is poor.

2. The Health and Safety Committee/ Representative recommends the following:
(include recommended timelines as applicable.)

NOTE: There is no obligation on the part of the workers to have a specific recommendation or solution to a problem. The obligation to make the work safe for the workers rests with the employer. Your recommendation could simply be “fix the identified hazards as soon as possible.” This is perfectly acceptable. However, if you have a suggestion that you would like implemented for your workplace, put it down. Often, the employer will take this suggestion because it’s already been researched and is acceptable to the workers – you just might get it. Even if you don’t, you’ve given your employer a starting point, and you might get something that is a lot more acceptable to your workers than a proposal that your employer would have come up with on their own.

Example A

In the case of the violence problem, the recommendation could be that a review of the triggers with the staff should be done. The employer has an obligation to inform workers of hazards in their work and an obligation to provide relevant information about a person with a history of violence to their workers. There could also be a recommendation to assess or re-assess the risk of violence and communicate the results to workers. Don’t let an employer tell you that you can’t ask for a risk assessment on a person because violence comes from people. Once the assessment is done, any identified risks must be controlled.

3. The Health and Safety Committee/Representative is attaching the following:
incident/hazard/near miss reports (if applicable.)

Date of report: _____

Date of report: _____

Date of report: _____

Date of report: _____

Response to recommendation

An employer who receives a written recommendation from the committee/representative or a co-chair must respond in writing within 21 calendar days with a timetable for implementation or provide reasons for disagreement with any recommendations that are not implemented.

4. Signed and dated (dd/mm/yy): _____

Worker Co-Chair or
Health and Safety Representative

Employer Co-Chair

Is this a unilateral co-chair recommendation (please circle one)? Yes No

Response to Recommendations due on (dd/mm/yy):

CC: CUPE Local _____ Executive.

Post to the Health and Safety Board

Template recommendation *Joint Health and Safety Committee*

Recommendation Log (dd/mm/yyyy) and number: _____

Location/Workplace: _____

Attention: (Name of Senior Manager)

(Name of Employer/Organization)

Pursuant to section 9 (18) of the Occupational Health and Safety Act, the functions of a Joint Health and Safety Committee include the identification of existing or potential hazards and situations that may be a source of danger to workers, and the power to make recommendations for the purpose of improving the health and safety of workers.

Pursuant to section 9 (19.1) of the Occupational Health and Safety Act, a co-chair of a committee has the power to put forth a recommendation under section 9 (18) if the committee has failed to reach consensus after attempting in good faith to do so.

As such, we have identified the following hazard (hazardous condition, danger, or contravention of the Act):

and make the following recommendation:

to be completed by: _____

Pursuant to sections 9 (20) (21), an employer who receives a written recommendation from the committee or a co-chair must respond in writing within 21 calendar days with a timetable for implementation or provide reasons for disagreement with any recommendations that are not implemented.

Worker Co-Chair or
Health and Safety Representative

Employer Co-Chair

Is this a unilateral co-chair recommendation (please circle one)? Yes No

CC: CUPE Local _____ Executive.

Post to the Health and Safety Board

Template recommendation *Health and Safety Representative*

Recommendation Log (dd/mm/yyyy) and number: _____

Location/Workplace: _____

Attention: (Name of Senior Manager)
(Name of Employer/Organization)

Pursuant to section 8 (10) of the Occupational Health and Safety Act, the functions of a Joint Health and Safety Committee include the identification of existing or potential hazards and situations that may be a source of danger to workers, and the power to make recommendations for the purpose of improving the health and safety of workers.

As such, we have identified the following hazard (hazardous condition, danger, or contravention of the Act):

and make the following recommendation:

to be completed by: _____

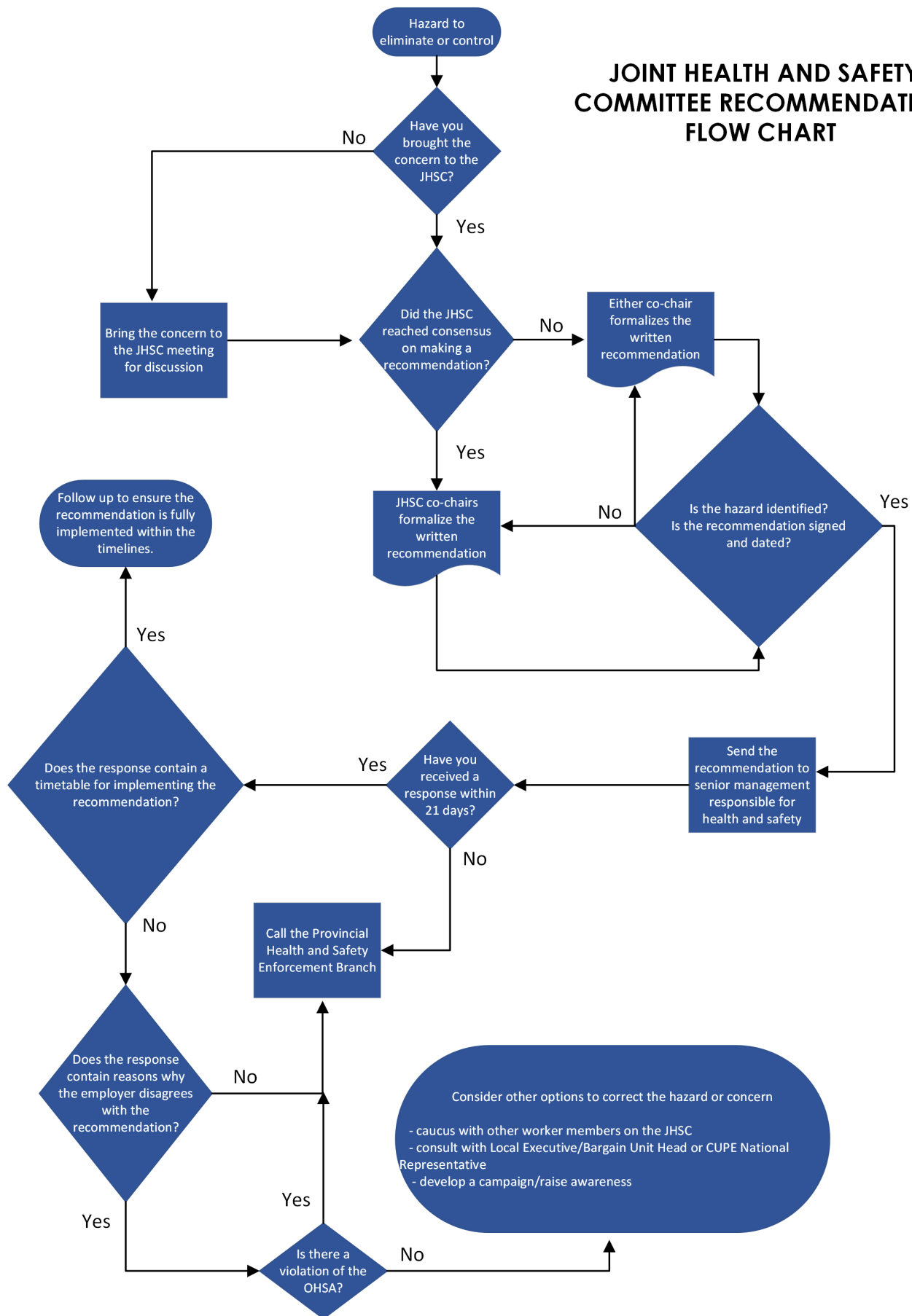
Pursuant to sections 8 (12) and (13) an employer who receives a written recommendation from the committee or a co-chair must respond in writing within 21 calendar days with a timetable for implementation or provide reasons for disagreement with any recommendations that are not implemented.

Health and Safety Representative

CC: CUPE Local _____ Executive.

Post to the Health and Safety Board

JOINT HEALTH AND SAFETY COMMITTEE RECOMMENDATION FLOW CHART



HEALTH AND SAFETY REPRESENTATIVE RECOMMENDATION FLOW CHART

