

Form 1 – Complaint of Discriminatory Action

For New Brunswick Employees

Complete this form if your employer, supervisor or union has retaliated against you for:

- complying with workplace safety legislation, or
- asking your employer, supervisor or union to comply with workplace safety legislation (may include asking your employer to investigate an incident of workplace harassment)

Do not complete this form if:

- Your employer investigated a harassment complaint and you are dissatisfied with the outcome, or
- You have an immediate health and safety concern that could cause an injury or illness. Instead, contact WorkSafeNB immediately at 1 800 999-9775 to report the concern.

About workplace harassment:

As per the *Occupational Health and Safety Act*, New Brunswick employers must create and maintain a culture that supports harassment-free workplaces. Employers are required to have a code of practice for workplace harassment and investigate any report of workplace harassment.

Legislation does not give WorkSafeNB authority to investigate workplace harassment complaints nor does WorkSafeNB mediate workplace harassment complaints. WorkSafeNB health and safety officers can require an employer to develop and implement a code of practice for workplace harassment. If you've reported an incident of workplace harassment to your employer and the employer refuses to investigate the incident, contact WorkSafeNB at 1 800 999-9775.

ABOUT THE PROCESS

- When WorkSafeNB receives a complaint, we assign an independent, external arbitrator to gather information and make a decision. Arbitrators are experienced labour and employment lawyers throughout the province.
- You are entitled to a hearing in either English or French. It's your preference.
- WorkSafeNB contacts both you and your employer, supervisor, or union (as necessary) in writing to inform them that a complaint has been received and that an arbitrator has been appointed. The employer, supervisor or union is given a copy of your complaint form.
- Soon after receiving a letter from WorkSafeNB, the arbitrator contacts you and your employer, supervisor or union in writing to inform you that they have been appointed and to ask for available dates to conduct an arbitration.
- WorkSafeNB must remain neutral as your complaint is addressed. We do not participate in the arbitration process.
- The arbitration may be held in person or virtually, as determined by the arbitrator. If the arbitration is held in person, the arbitrator will choose a location convenient to you and your employer, supervisor or union. Any costs associated with travelling to a hearing are the responsibility of the individual parties to the complaint.
- In this complaint, you are alleging that your employer, supervisor or union took retaliatory action against you because you raised a workplace health and safety issue. The allegation must be proven by you and accepted by an arbitrator.
- You do not need to be represented by a lawyer during an arbitration, though you can be represented by one at your own cost if you wish.
- The arbitrator has no authority to issue orders for non-compliance of health and safety requirements. For these concerns, call WorkSafeNB at 1 800 999-9775.
- When the arbitration starts, you are given the opportunity to explain your allegation to the arbitrator. You can bring and question any witnesses you wish. If required, the arbitrator can issue a summons for any witness(es). You can also bring any documents you feel are relevant to the arbitration. The arbitrator determines the admissibility and relevance of any witness testimony or documents.
- Once you have presented your information to the arbitrator, the arbitrator, employer, supervisor, or union have an opportunity to ask questions.
- Your employer, supervisor or union has the same opportunity that you had to explain their side. Witnesses and documents may also be entered into evidence, with the arbitrator determining the admissibility and relevance of this evidence.
- After your employer, supervisor or union has presented information to the arbitrator, both the arbitrator and you have an opportunity to ask questions.
- After the arbitration hearing is finished, the arbitrator issues a written decision, usually within 30 days.
- If you are dissatisfied with the ruling or want any part of it clarified, instructions for doing so are provided at that time.



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BEFORE YOU START: Save this form to your computer or network drive and complete from that version.
Do not complete in an online browser. Please see page 1 for information on the complaint process.

1. Qualification

This process only applies where an employee has sought the enforcement of the *OHS Act* (or complied with it) and this caused the retaliatory action.

Examples:

- An employee is directed by the employer, supervisor or union to do a task that requires specific personal protective equipment, such as a respirator, fall protection, head protection or hearing protection, and asks that this personal protective equipment be provided to them. The employee is issued a letter of reprimand because they asked for the protective equipment.
- An employee wears personal protective equipment required for a task and the employer, supervisor or union tells them to remove that protective equipment because it will slow down the job. Because the employee insists on wearing the protective equipment required, they are demoted to a different role with a reduction in wages.
- An employee who is not trained to operate a specific piece of equipment is directed to do so by their employer, supervisor or union. The employee refuses to operate this equipment as it places themselves and others in danger. The employee is given a three-day suspension without pay.
- An employee is directed by their employer, supervisor or union to clean or service a machine that is required to be de-energized and locked out before it is worked on. That employee tells their supervisor of this requirement and refuses to work on the machine. The employee is told that the promotion they are in line to receive will be held back unless the employee complies with the direction to work on the machine immediately.

Is the retaliatory action you experienced related to you seeking enforcement of the *OHS Act* or complying with it?

Yes No

This process only applies where the employer has taken one of the retaliatory actions listed below. Please select the retaliatory action you experienced:

- Loss of opportunity for promotion
- Loss of opportunity for membership in a union
- Dismissal/termination
- Layoff
- Suspension
- Demotion
- Transfer of job location
- Reduction in wages
- Change in hours of work
- Letter of reprimand
- Something similar? Please explain.



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2. Your Information

First name		Last name	
Street address			Apt. no.
Town/City	Postal code	Preferred language <input type="checkbox"/> English <input type="checkbox"/> French	
Phone number (primary)	Phone number (secondary)	Email address	

3. Employer/Supervisor or Union Information

Name of employer, supervisor or union you are making a complaint against			
If a company/union named above, indicate person to contact on behalf of the employer or union.			
First name		Last name	
Street address			Apt. no.
Town/City		Postal code	
Phone number (primary)	Phone number (secondary)	Email address	

4. Event/Action

Date (or dates) of the retaliatory action:
<p>Describe how you sought to enforce or comply with <i>OHS Act</i> legislation that caused the retaliatory action. Examples include:</p> <ul style="list-style-type: none"> • I was directed by my supervisor to undertake a task that requires specific personal protective equipment and asked that this personal protective equipment be provided to me. The employee is issued a letter of reprimand because they asked for the protective equipment. • I wore personal protective equipment required for a task and the union lead told me to remove that protective equipment because it will slow the job down. Because I insisted on wearing the protective equipment required, I was demoted to a different role with a reduction in wages. • I was directed to operate a specific piece of equipment by my employer but did not have the training to do so. I refused to operate this equipment as it placed me and others in danger. I was given a three-day suspension without pay. • I was directed by my supervisor to clean or service a machine that is required to be de-energized and locked out before it is worked on. I told my supervisor of this requirement and refused to work on the machine. I was told that the promotion I'm in line to receive will be held back unless I comply with the direction to work on the machine immediately. <p>Consider writing in this format: "I was asked to do _____. I requested / tried to do / refused to do _____. Because of this, my employer/supervisor/union did _____."</p>



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5. Requested Corrective Action

The outcome from the complaint process must be specific. If you successfully show that your employer, supervisor or union took retaliatory action against you because you sought to enforce or comply with *OHS Act* legislation, an arbitrator can order:

- Ceasing the retaliatory action
- Reinstating you if you have been dismissed or demoted
- Paying reasonable lost wages
- Removing any letter of reprimand from your record
- Something similar, aligning with your situation

What result are you requesting?

Examples:

"I want the arbitrator to order that my employer reinstate me."

"I want the arbitrator to order that my supervisor remove the letter of reprimand from my file."

"I want the arbitrator to order that the wages I lost during my suspension be paid back to me."

6. Declaration and consent

I declare that that all the information provided by me is true and correct to the best of my knowledge.

Name	Signature	Date

7. Submission

Here are your options for submitting your *Form 1 – Complaint of Discriminatory Action*:

Email

legal.services@ws-ts.nb.ca

WorkSafeNB reminds you that submitting documents through unsecure email networks increases privacy concerns. For more information, please read WorkSafeNB's [Access to Information and Privacy](#).

Mail

WorkSafeNB, 1 Portland Street
PO Box 160, Saint John, NB E2L 3X9

Fax

Toll-free 1 888 629-4722

Questions? Call us at 1 800 999-9775.