



# VIOLENCE AND HARASSMENT TOOL KIT

A guide for PSAC locals and members



Public Service Alliance of Canada  
Alliance de la Fonction publique du Canada

# Prevent. Respond. Support.

The violence and harassment toolkit was created by the Public Service Alliance of Canada to deal effectively with individual and institutional workplace violence and harassment by preventing incidents, responding effectively, and supporting affected employees.

Any action, conduct, threat or gesture that causes harm, injury or illness could be workplace violence or harassment. And it can have serious physical and psychological consequences to a person's health.

Workplace violence and harassment is a health and safety issue. In some cases, it may also be a human rights violation or a crime. If the harassment is based on one of the prohibited grounds of discrimination or harassment under the Canadian Human Rights Act or other applicable human rights legislation, it is a human rights issue. You may have recourse under your collective agreement and/or human rights legislation. Please see your steward for further information on these processes. You can reach out to your [component](#) or [regional office](#) for details.

In this toolkit, you will find more information on the health and safety aspects of workplace violence and harassment.

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# 1. Introduction to workplace violence and harassment

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## What is workplace violence?

Any action, conduct, threat or gesture by a person toward an employee, in or outside their workplace, that can reasonably be expected to cause the employee harm, injury or illness.

## Work-related factors increasing risks of violence

- Working with the public
- Handling money, valuables or prescription drugs (e.g. cashiers)
- Carrying out inspections or enforcement duties (e.g. government employees)
- Providing services, care, advice or education (e.g. health-care workers, education sector workers)
- Working with unstable or volatile persons (e.g. social services, criminal justice system employees)
- Working alone, in small numbers (e.g. store clerks) or in isolated or low traffic areas (e.g. washrooms, storage areas, utility rooms)
- Working in community-based settings (e.g. nurses, social workers and other home visitors)
- Working during periods of intense organizational change (e.g. downsizing)
- Belonging to a human rights-protected group that is portrayed negatively or stereotyped (i.e. Indigenous, Black and racialized people, persons with disabilities, members of LGBTQ2+ communities, etc.)

## What is harassment?

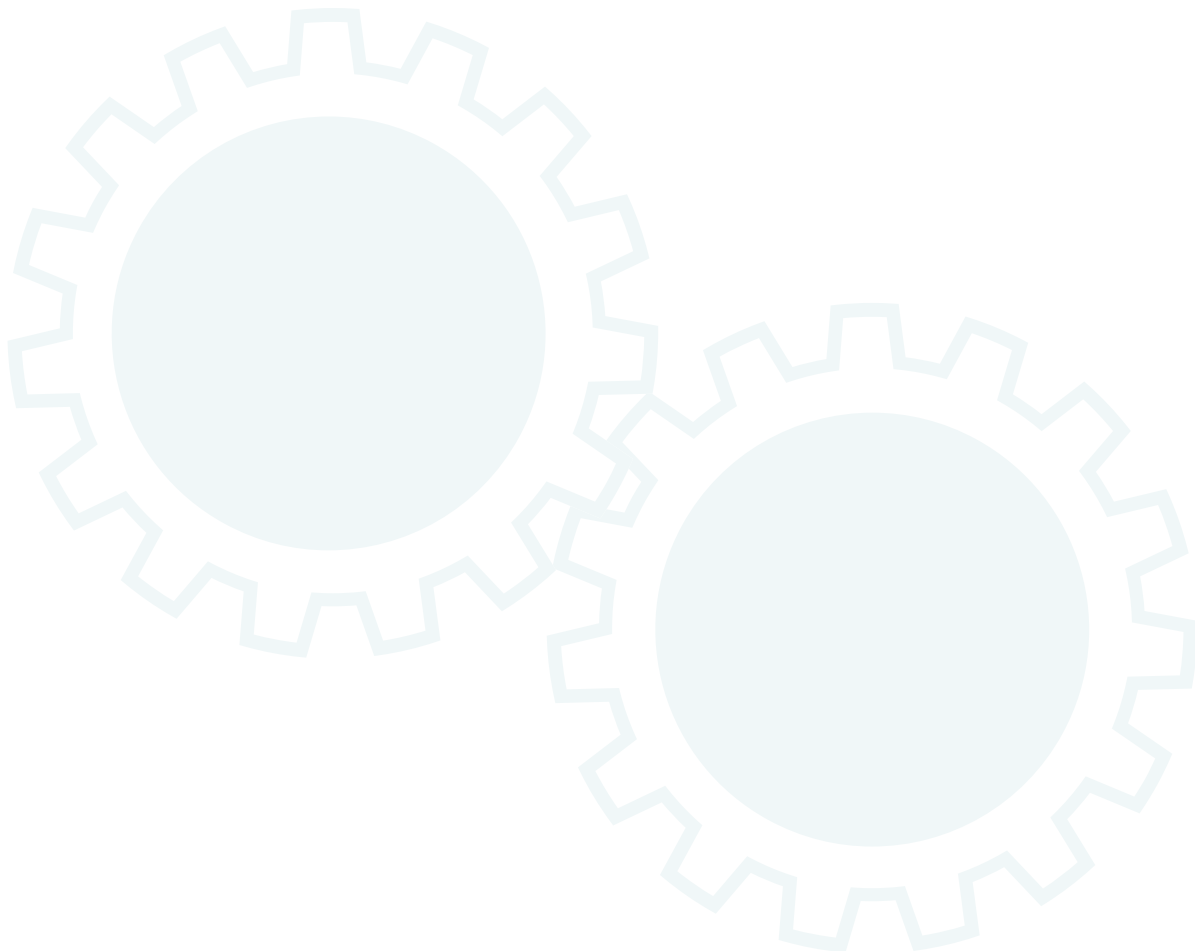
Harassment is characterized by an individual or group of individuals behaving in a certain way to gain power over another person. It usually involves a pattern of behaviour that is intended to intimidate, offend, degrade, humiliate or exploit a known vulnerability. In certain situations, it can also be a single significant incident.

## Examples of what constitutes harassment when repeated or one single severe event

- Unwanted sexual advances which may or may not be accompanied by threats or explicit or implicit promises.
- Making rude, degrading or offensive remarks.
- Making jokes verbally or through e-mail and/or any social media platform that are offensive.
- Making gestures that seek to intimidate.
- Engaging in reprisals for having made a harassment complaint.
- Discrediting a person by spreading malicious gossip or rumours, ridiculing them, humiliating them, criticizing them persistently or constantly, calling into question their convictions or their private life, belittling a person's opinions consistently, shouting abuse at them, unconsciously undermining or deliberately undermining a person's work.
- Preventing a person from expressing themselves, yelling at the person, threatening, constantly interrupting that person, prohibiting the person from speaking to others.
- Compelling the person to perform tasks that are inferior to their competencies that demean or belittle them, setting the person up for failure, name calling in private or in front of others.
- Excluding or isolating the person by no longer talking to them, denying or ignoring their presence, distancing them from others.
- Destabilizing the person by making fun of their beliefs, values, political and/or religious choices, and mocking their weak points.
- Harassing a person based on a prohibited ground of discrimination (as described in the [Canadian Human Rights Act](#) or other human rights legislation).

## Examples of what does not constitute harassment

- Normal exercise of management's right to manage such as the day-to-day management of operations, performance at work or absenteeism, the assignment of tasks, reference checks, and the application of progressive discipline, up to and including termination, constitute the legitimate exercise of management's authority. Note: While exercising the normal managerial functions is not harassment, how such functions are exercised can potentially give rise to the potential for harassment or perceptions of harassment. Workplace conflict in and of itself does not constitute harassment but could turn into harassment if no steps are taken to resolve the conflict.
- Work related stress in and of itself does not constitute harassment, but the accumulation of stress factors may increase the risk of harassment.
- Difficult conditions of employment, professional constraints, and organizational changes.
- A single or isolated incident such as an inappropriate remark or having an abrupt manner.
- A social relationship welcomed by both individuals.
- Friendly gestures among co-workers such as a pat on the back unless it was made clear that it was unwelcomed and unwanted.



## To help frame the situation, ask yourself:

- What was the context in which the incident(s) took place?
- Was the behaviour improper?
- Was the behaviour directed at me?
- Was I offended by the behaviour?
- Did the incident occur within the scope of the Policy?
- Was this the first incident or is it a series of incidents?
- What is my work relationship with this individual?
- Are individuals doing things, saying things to make me feel uncomfortable?
- Would a reasonable person well informed of all the circumstances and finding themselves in the same situation as yours view the conduct as unwelcome or offensive? The behaviour in question is not only assessed by the impact or effect on yourself, but it is also assessed against a reasonably objective standard.
- Did the behaviour exceed the reasonable and usual limits of interaction in the workplace? Would a reasonable person be offended or harmed by this conduct?
- As I describe and evaluate my work environment, are there other factors contributing to the situation (level of stress, workload, professional constraints, etc.)?
- Am I being singled out and treated differently than my colleagues, being given the “silent treatment”?
- Is the incident related to my work performance?
- Am I being criticized regularly even though my standards have not changed and my performance has always been satisfactory or better?
- Am I being blamed for mistakes I believe are not my fault?
- What impact(s) and/or consequences did this incident(s) have on me?
  - Physically?
  - Emotionally?
  - Professionally?
- Are the working relationships different from any I have previously experienced?
- Are individuals putting me at risk in some way?
- How would this behaviour be perceived by other work colleagues?
- Are there other factors in my life that could impact on my reaction to this event?
- Is this usual behaviour for the individual? Are there any personal or professional circumstances that are contributing to their behaviour?

- Have I spoken to the individual and tried to clarify the situation? Have I informed them of the impact the situation has had on me?
- Have I asked them to stop the behaviour?
- Has the other person expressed regrets and stopped or has the behaviour continued?
- Have I considered resolving the situation through informal means of conflict resolution, such as a facilitated discussion, coaching or mediation?
- If I choose to file a complaint, will it be done in good faith, characterized by the intention to honestly inform?

## Impacts

- Absenteeism
- Turnover and recruitment problems
- Risk for errors and accidents
- Stress and anxiety
- Decreased morale, productivity and motivation

## Suggestions for responding

- Try to stay calm.
- If possible, firmly tell the person that their behaviour is unacceptable and ask them to stop.
- Ask to have a supervisor, a union member or steward present when communicating with this person.
- Document the incidents (dates, witnesses, comments, etc.).
- Ask your union for help; they are there to help and support you.

## The employer's responsibilities

- The employer has a legal obligation to make sure the workplace is free from harassment, discrimination, violence and bullying.
- Assessing the workplace for potential harassment and violence.
- Advising respondents their actions will not be tolerated and if they continue, they will be disciplined.
- Providing supervision of employees in the workplace.
- Taking appropriate actions with respondents.
- Referring employees to an Employee Assistance Program (EAP) counsellor or any other service agency appropriate for the parties.
- Providing training where needed.
- Reporting to the police any threats of bodily harm or attacks by the respondent. An incident report should be completed and sent to the employer immediately.
- Taking appropriate steps to ensure similar incidents do not happen in the future.

## 2. Domestic violence at work

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### Can work be safe when home isn't?

In 2014, the Centre for Research and Education on Violence Against Women and Children (CREVAWC) and the Canadian Labour Congress (CLC) released the results of a comprehensive study on domestic violence in the workplace. Of the 8,429 respondents, more than one-third reported having experienced domestic violence in their lives.

Women, racialized, Indigenous and LGBTQ2+ people and persons with a disability experience the highest rates of victimization. Men also experience this type of violence, but to a lesser degree.

Domestic violence can have serious impacts on the workplace. In the study, 82 per cent of those who experienced domestic violence found that it negatively affected their work performance, whether it was through distraction, fatigue, lateness, interruptions at work from the abuser, poor concentration and/or absenteeism.

All the details of the study are in the report [CAN WORK BE SAFE, WHEN HOME ISN'T? Initial Findings of a Pan-Canadian Survey on Domestic Violence and the Workplace.](#)

Every worker has the right to feel safe. It is our obligation to stop domestic violence and protect those who are affected by it.

You can find more information on domestic violence at the [CLC Domestic Violence at Work Resources Centre.](#)

PSAC has negotiated, and continues to negotiate leave provisions in collective agreements to support employees who experience domestic violence. Check to see if your collective agreement contains these provisions.



## 3. What can locals do?

### Steps for locals to prevent, respond and support

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If you notice members are being affected by violence or harassment in the workplace, reach out and support them.

Educate members on policies and procedures to deal with violence and harassment.

#### Workplace violence and harassment prevention policy

The employer should develop and display a workplace violence prevention policy, setting out their obligations as an employer:

- to provide a safe, healthy, harassment-free and violence-free workplace.
- to dedicate sufficient attention, resources and time to address factors that contribute to workplace violence and harassment including, but not limited to bullying, teasing, abusive and other aggressive behavior.
- to communicate to employees information about factors contributing to workplace violence and harassment.
- to ensure that employees know the steps to take if someone is a victim of violence or harassment.
- to assist employees exposed to workplace violence or harassment.

#### Health and safety committees

It is the employer's responsibility to train members of workplace health and safety committees.

#### Grievances, complaints and claims

All workplace violence situations must be dealt with under the health and safety procedures of the *Canada Labour Code* or the provincial or territorial legislation/regulation that applies. However, there may be instances where grievances are also warranted because there are limited individual and systemic remedies under the health and safety process. The local should provide advice and guidance as well as representation.

##### 1. Corrective measures grievance

Employees who have lost pay, leave and/or benefits because of violence in the workplace should file a grievance as soon as possible. In general, the grievance will relate to the leave provisions in the collective agreement. As a result, corrective measures could include – but are not limited to – loss of wages, sick leave, vacation leave or compensatory leave.

## **2. No-discrimination grievance**

Harassment and/or violence based on a prohibited ground constitutes discrimination, which is contrary to the no discrimination article and/or harassment articles in the collective agreement and federal, provincial and territorial human rights acts. As with all violations of the no discrimination article, members should file a grievance within the prescribed timelines.

The prohibited grounds under the *Canadian Human Rights Act* are race, national or ethnic origin, colour, religion, age, sex, gender identity, sexual orientation, marital status, family status, disability, genetic characteristics and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered. There may be other grounds in provincial and territorial human rights legislation (e.g. social status, political belief or activity, etc.)

Visit the [Canadian Human Rights Commission](#) or your [provincial/territorial human rights commission](#) website for additional resources.

## **3. Member against member complaints**

It may happen that the person accused of violence and/or bullying is a union member. Your component or PSAC regional office can help with representation.

## **4. Human rights complaint**

Where harassment and/or violence is linked to a prohibited ground under the *Canadian Human Rights Act* or other applicable human rights legislation, members may also file a complaint with their respective Human Rights Commission or the tribunal that covers their workplace. This should be done at the same time as filing a discrimination or harassment grievance and any recourse mechanism pursued under the *Canada Labour Code* or the provincial or territorial legislation/regulation that applies. This is to protect timelines to file a human rights complaint in case the grievance process is not accessible (e.g. timeline to file a grievance has passed) or the grievance process is taking an unreasonable amount of time. Most human rights agencies –but not all – will not look at a human rights grievance in a unionized workplace unless the grievance process is exhausted.

## **5. Workers' compensation claim**

Members who are victims of an incident, where there is, or might be, a compensable injury related to their work, should file a worker's compensation claim (even if they did not take leave from work). The workers' compensation claim can protect them if they develop any physical or psychological problems. Locals should help with the wording as well as the procedure and the appeal of the claim if it is denied, with assistance from your PSAC regional office.

## 4. Filling a workers' compensation claim

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### Need help?

Ask a member of your local executive, your component or your PSAC regional office for assistance in the wording of your workers' compensation claim.

If you are a victim of harassment and or violence in the workplace ("psychological harassment" in Quebec), you should file a workers' compensation claim in your work jurisdiction.

According to a PSAC survey on violence in the workplace, less than 3% of victims of workplace violence filed a workers' compensation claim.

### What is a workers' compensation claim?

A workers' compensation claim is a form of insurance providing wage replacement and medical benefits to employees injured in the course of employment.

All PSAC members are covered by the compensation board in the province or territory in which they work, not on the province or territory where they live.

### How do I file a claim?

When you see your doctor or health-care practitioner, you must advise them that the injury occurred at work.

You must fill out a claim form to the workers' compensation board covering your workplace and send any relevant medical information. The name of the worker's compensation board is different in every province and territory. Contact your PSAC regional officer for advice.

Each province has a time period to file a claim so make sure that you file your claim before the deadline.

### What else do I need to know?

1. Should the claim be allowed, you may be entitled to benefits for lost time due to injury.
2. While all PSAC members are covered under a workers compensation board, some provinces and territories have policies on how to deal with mental stress claims as a result of violence, harassment and bullying, while others do not. (See the [Definitions under different laws and regulations section](#) for details.)
3. If your claim is denied (e.g. due to a lack of medical information or unclear wording on your claim), discuss your case with a PSAC regional health and safety representative to see if you should appeal your denial. All workers' compensation boards have an appeal process with a strict deadline, so do not wait.

Your PSAC regional office can help you. You can also visit your province or territory's workers' compensation website for further information.

**You are not alone, your union is here to help you.**

# 5. Violence and harassment risk factor checklist

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## Understanding violence and harassment

The language in this section is part of the [Work Place Harassment and Violence Prevention \(HVP\) – 949-1-IPG-104](#) regulations. Please note that these regulations only apply to workers in the federal sector. However, this is a useful checklist, regardless of the jurisdiction.

## Risk factors – workplace violence and harassment

There are various risk factors that may contribute to workplace harassment and violence. Some of these risk factors include: client characteristics, physical work environment, work activity/culture, job factors, and other external factors. Below are some examples of risk factors.

### Client (Third Party) characteristics

Working with clients that exhibit certain characteristics can put employees at greater risk of harassment and violence. This can include working with:

- Members of the public who are frustrated with the system, in shock, or angry for example, clients (or their relatives) who may lash out at the closest person.
- Clients who have a history of violence.
- Clients who are unable to control their behavior because of mental health conditions, emotional disorders, or a brain injury (such as resulting from a concussion, etc.).
- Clients who have racist, sexist, homophobic, transphobic, ableist, xenophobic, Islamophobic, or otherwise discriminatory attitudes and/or behavior.
- Clients who may be under the influence of drugs or alcohol.

### Physical work environment

Certain work environments and workplace designs can result in additional risks that may lead to harassment and violence. This can include:

- Working alone, in small numbers or in isolated or low-traffic areas (for example, isolated reception area, washrooms, storage areas, utility rooms).
- Working in community-based settings (for example, home visitors).
- having a mobile workplace.
- Working in an area that has poor visibility of clients.
- Working in an area that is cramped, requiring employees to work in close proximity to other employees or clients.
- Working in an environment with high noise levels.
- Working without required personal protective equipment.

## Work activity/culture:

- Working with the public.
- Handling money, prescription medication or items of significant value.
- Working with unstable or volatile persons (for instance, criminal justice system employees who work with inmates).
- Working on premises where alcohol is served.
- Working in an environment that tolerates or promotes racist, sexist, homophobic, ableist, or otherwise discriminatory attitudes and behaviours.
- Working in an environment that is not diverse or there are very few persons from groups covered under human rights legislation.
- Working in an environment where power is misused or abused.

## Job factors

Aspects specific to a job, such as the mental and physical demands of the job, can result in additional hazards that may lead to harassment and violence. This can include, working in an environment where there is:

- Limited control over how work is done.
- Excessive workload or inadequate resources to complete work.
- Unreasonable or tight deadlines leading to high stress.
- Confusing, conflicting or unclear job or roles.
- Limited job security.
- Limited or inadequate training and resources; and.
- Working during periods of intense organizational change (for example, strikes, privatization, restructuring, downsizing).

## Other external or internal factors

Other external factors that may result in harassment and violence include:

- Family or domestic violence, such as a family member or (ex) partner:
  - threatening an employee or co-workers either verbally or over the phone/email
  - stalking the employee
  - verbally abusing the employee or co-workers
  - destroying the employee or organization's property
  - physically harming the employee and/or co-workers
  - inadequate training on harassment and violence prevention, including the employer's workplace harassment and violence prevention policy

## 6. Glossary

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**Abuse:** To hurt or inflict damage on another person, either emotionally, physically or both.

**Accident:** An unplanned event that causes harm to people or damage to property.

**Assault:** Applying force intentionally on another person, directly or indirectly, without that person's consent or when a person attempts or threatens to apply force.

**Discrimination based on a prohibited ground:** Unequal, unfair and differential treatment of individuals who are members of particular social groups that have been historically disadvantaged. Discrimination based on human rights grounds or "prohibited grounds" listed in *Canadian Human Rights Act* include race, nationality, ethnicity, sex, gender identity, sexual orientation, genetic characteristics, age, religion, marital or family status, criminal conviction, or physical or mental health related disability. Some provincial and territorial human rights legislations include other grounds such as social status, political beliefs or association, as a "prohibited ground" as well.

Discrimination may be intentional or unintentional. It may be overt differential treatment. It may also be systemic or institutionalized in policies, procedures and practices. If a behaviour or practice has a disproportionate, negative effect on a particular prohibited ground, it is discrimination. Negative effect includes being deprived of benefits or opportunities or privileging others to those benefits and opportunities.

**Domestic violence:** Any form of physical, sexual, emotional or psychological abuse, including financial control, stalking and harassment. It occurs between opposite or same-sex intimate partners, who may or may not be married, common law, or living together. It can also continue to happen after a relationship has ended.

**Harassment:** Act of engaging in a course of vexatious comment or conduct against a worker that is known or ought reasonably to be known to be unwelcome.

Harassment includes:

- a. Verbal, physical or visual forms of harassment;
- b. Behavior or expression that could offend any reasonable person;
- c. Inappropriate conduct that may or may not be intentional;
- d. A series of conduct or comments that happens one time or over a period of time, if the incident is serious, egregious and/or constitutes a threat;
- e. Incidents where the victim does not expressly object to the harassment;
- f. Unwelcome comments or conduct which may or may not be directed at a specific person; and
- g. Comments or conducts that ridicule or disparage a group that could cause humiliation, insult, apprehension or disruption that poisons the environment.

**Harassment (human rights):** Harassment based on human rights grounds or “prohibited grounds” listed in Canadian Human Rights Act include race, nationality, ethnicity, sex, gender identity, sexual orientation, genetic characteristics, age, religion, marital or family status, criminal conviction, or physical or mental health related disability. Some provincial and territorial human rights legislations include other grounds such as social status, political beliefs or association, as a “prohibited ground” as well.

**Harassment (personal):** Also known as non-human rights harassment, is not limited to the “grounds” and is defined as repeated conduct which is hostile or unwanted, and includes verbal comments, actions or gestures that affect a member’s dignity, psychological integrity or physical integrity, resulting in a harmful environment.

**Harassment (psychological):** Any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures that affects an employee’s dignity or psychological or physical integrity and that results in a harmful work environment for the employee.

**Harassment (sexual):** Harassment of a sexual nature. It can include touching, comments, sexual jokes or unwanted sexual suggestions or advances.

**Mobbing:** A type of group behaviour by co-workers to exclude, punish or humiliate a targeted worker. It is best described as group bullying.

**Rudeness:** Offensive or undignified behavior that is deemed to be socially unacceptable or inconsiderate. It does not constitute bullying unless it is aimed towards a target with the intent to victimize.

**Workplace bullying:** Bullying is a form of harassment. Repeated, persistent aggressive behaviour between employees in or outside a workplace that escalates over time and leads to victimization of a person. It includes any inappropriate conduct or comments by a person toward a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated. It excludes any reasonable action taken by an employer relating to the management of workers.

**Workplace violence:** Any action, conduct, threat or gesture of a person toward an employee in their workplace that can reasonably be expected to cause harm, injury or illness to that employee.

# APPENDIX A –

## Definitions under different laws and regulations

Get to know how harassment is dealt with under human rights legislation and the different definitions of harassment and violence under occupational health and safety laws and regulations at the federal, provincial or territorial level in Canada. Note that if harassment is not specifically mentioned in human rights legislation, then it falls within the discrimination provisions of the Act.

### FEDERAL

#### *Canada Labour Code, section 122 (1), part II*

Harassment and violence means any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment.

#### *Canadian Human Rights Act*

##### Harassment

- **14 (1)** It is a discriminatory practice,
  - (a) in the provision of goods, services, facilities or accommodation customarily available to the general public,
  - (b) in the provision of commercial premises or residential accommodation, or
  - (c) in matters related to employment, to harass an individual on a prohibited ground of discrimination.

##### Sexual harassment

- **(2)** Without limiting the generality of subsection (1), sexual harassment shall, for the purposes of that subsection, be deemed to be harassment on a prohibited ground of discrimination.
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## ALBERTA

### *Occupational Health and Safety (OHS) Act, part I, section I, subsection (yy)*

#### **Violence**

Whether at a work site or work related, means the threatened, attempted or actual conduct of a person that causes or is likely to cause physical injury or harm, and includes domestic or sexual violence.

### *OHS Act, part I, section I, subsection (q)*

#### **Harassment**

Any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought reasonably to know will or would cause offence or humiliation to a worker, or adversely affects the worker's health and safety, and includes

- i. conduct, comment, bullying or action because of race, religious beliefs, colour, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression and sexual orientation, and
- ii. a sexual solicitation or advance, but excludes any reasonable conduct of an employer or supervisor in respect of the management of workers or a work site.

### *Alberta Human Rights Act*

#### **Discrimination re employment practices**

7 (1) No employer shall

- a. refuse to employ or refuse to continue to employ any person, or
- b. discriminate against any person with regard to employment or any term or condition of employment,

because of the race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person.



## BRITISH COLUMBIA

### *OHS Regulation, section 4.27*

#### **Violence**

means the attempted or actual exercise by a person, other than a worker, of any physical force so as to cause injury to a worker, and includes any threatening statement or behaviour which gives a worker reasonable cause to believe that he or she is at risk of injury.

WorkSafe BC

Prevention Manual

Policies Applying to the OHS Provisions of the Workers Compensation Act

Part 2 Division 4 – General Duties of Employers, Workers and Others

Employer Duties - Workplace Bullying and Harassment ITEM: P2-21-2

#### **Bullying and harassment**

- a. includes any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but
- b. excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.

### *British Columbia Human Rights Code*

#### **Discrimination in employment**

13 (1) A person must not

- a. refuse to employ or refuse to continue to employ a person, or
- b. discriminate against a person regarding employment or any term or condition of employment

because of the race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age of that person or because that person has been convicted of a criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that person.

(2) An employment agency must not refuse to refer a person for employment for any reason mentioned in subsection (1).

(3) Subsection (1) does not apply

- a. as it relates to age, to a bona fide scheme based on seniority, or
- b. as it relates to marital status, physical or mental disability, sex or age, to the operation of a bona fide retirement, superannuation or pension plan or to a bona fide group or employee insurance plan, whether or not the plan is the subject of a contract of insurance between an insurer and an employer.

(4) Subsections (1) and (2) do not apply with respect to a refusal, limitation, specification or preference based on a bona fide occupational requirement.

## MANITOBA

### *OHS Regulation, part 1, section 1 (1)*

#### Violence

- a. the attempted or actual exercise of physical force against a person; and
- b. any threatening statement or behaviour that gives a person reasonable cause to believe that physical force will be used against the person.

#### Harassment

##### Means

- a. objectionable conduct that creates a risk to the health of a worker; or
- b. severe conduct that adversely affects a worker's psychological or physical well-being.

### *The Domestic Violence and Stalking Act, section 2 (1.1)*

#### Domestic violence means:

- a. an intentional, reckless or threatened act or omission that causes bodily harm or property damage;
- b. an intentional, reckless or threatened act or omission that causes a reasonable fear of bodily harm or property damage;
- c. conduct that reasonably, in all the circumstances, constitutes psychological or emotional abuse;
- d. forced confinement;
- e. sexual abuse.

### *The Domestic Violence and Stalking Act, section 2 (2)*

#### Stalking

Stalking occurs when a person, without lawful excuse or authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, repeatedly engages in conduct that causes the other person reasonably, in all the circumstances, to fear for their own safety.

### *Manitoba Human Rights Code*

#### Discrimination in employment

##### 14(1)

No person shall discriminate with respect to any aspect of an employment or occupation, unless the discrimination is based upon bona fide and reasonable requirements or qualifications for the employment or occupation.

## **"Any aspect", etc. defined**

### **14(2)**

In subsection (1), "**any aspect of an employment or occupation**" includes

- a. the opportunity to participate, or continue to participate, in the employment or occupation;
- b. the customs, practices and conditions of the employment or occupation;
- c. training, advancement or promotion;
- d. seniority;
- e. any form of remuneration or other compensation received directly or indirectly in respect of the employment or occupation, including salary, commissions, vacation pay, termination wages, bonuses, reasonable value for board, rent, housing and lodging, payments in kind, and employer contributions to pension funds or plans, long-term disability plans and health insurance plans; and
- f. any other benefit, term or condition of the employment or occupation.

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## **NEW BRUNSWICK**

### ***OHS Regulation 91-191, section 2***

Harassment, in a place of employment, means any objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome, including bullying or any other conduct, comment or display made on either a one-time or repeated basis that threatens the health or safety of an employee, and includes sexual harassment, but does not include reasonable conduct of an employer in respect of the management and direction of employees at the place of employment;

**Violence**, in a place of employment, means the attempted or actual use of physical force against an employee, or any threatening statement or behaviour that gives an employee reasonable cause to believe that physical force will be used against the employee, and includes sexual violence, intimate partner violence and domestic violence;

### ***New Brunswick Human Rights Act***

#### **Discrimination in employment**

4(1) No person shall, based on a prohibited ground of discrimination,

- a. refuse to employ or continue to employ any person, or
- b. discriminate against any person in respect of employment or any term or condition of employment.

## Sexual harassment

**10 (1)** The following definitions apply in this section.

“association” means an employers’ organization, a trade union, a professional association or a business or trade association. (association)

“representative” means a person who acts on behalf of an association or another person. (représentant)

“sexually harass” means engage in vexatious comment or conduct of a sexual nature that is known or ought reasonably to be known to be unwelcome. (harceler sexuellement)

**10 (2)** No employer, representative of the employer or person employed by the employer shall sexually harass a person employed by the employer or a person seeking employment with the employer.

**10 (3)** No association or representative of the association shall sexually harass a member of the association or a person seeking membership in the association.

**10 (4)** No person who provides goods, services, facilities or accommodation to the public, nor any representative of that person, shall sexually harass a recipient or user, or a person seeking to be a recipient or user, of those goods, services, facilities or accommodation.

**10 (5)** No person who provides commercial or residential premises to the public, nor any representative of that person, shall sexually harass an occupant, or a person seeking to be an occupant, of those premises.

**10 (6)** For the purposes of this section

- a. an act committed by an employee or representative of a person shall be deemed to be an act committed by the person if the person did not exercise the diligence appropriate in the circumstances to prevent the commission of the act,
- b. an act committed by an employee or representative of an association shall be deemed to be an act committed by the association if an officer or director of the association did not exercise the diligence appropriate in the circumstances to prevent the commission of the act, and
- c. an act committed by an officer or director of an association shall be deemed to be an act committed by the association.

## NEWFOUNDLAND AND LABRADOR

### *OHS Regulation, section 22.1*

#### **Violence**

means the attempted or actual exercise of physical force to cause injury to a worker and includes threatening statements or behaviour which gives a worker reason to believe that he or she is at risk of injury.

#### **Workplace Harassment**

means inappropriate vexatious conduct or comment by a person to a worker that the person knew or ought to have known would cause the worker to be humiliated, offended or intimidated.

### *Newfoundland and Labrador's Human Rights Act*

#### **Discrimination in Employment**

14.(1) An employer, or a person acting on behalf of an employer, shall not refuse to employ or to continue to employ or otherwise discriminate against a person in regard to employment or a term or condition of employment on the basis of a prohibited ground of discrimination, or because of the conviction for an offence that is unrelated to the employment of the person.

#### **Harassment in establishment prohibited**

17. A person in an establishment shall not harass another person in the establishment on the basis of a prohibited ground of discrimination.

#### **Sexual solicitation prohibited**

18. (1) A person who is in a position to confer, grant or deny a benefit or advancement to another person shall not engage in sexual solicitation or make a sexual advance to that person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome.

(2) A person who is in a position to confer or deny a benefit or advancement to another person shall not penalize, punish or threaten reprisal against that person for the rejection of a sexual solicitation or advance.



## **NORTHWEST TERRITORIES and NUNAVUT**

### ***OHS Regulation, section 34 (1)***

#### **Harassment**

means, subject to subsections (2) and (3), a course of vexatious comment or conduct at a work site that

- a. is known or ought reasonably to be known to be unwelcome;
- b. and constitutes a threat at the work site to the health or safety of a worker.

### ***OHS Regulation, section 34 (2)***

To constitute harassment for the purposes of subsection (1), any one of the following must have occurred:

- a. repeated conduct, comments, displays, actions or gestures; or
- b. a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture, that has a lasting, harmful effect on the worker's health or safety.

### ***OHS Regulation, section 35 (1)***

#### **Violence**

means attempted, threatened or actual conduct of an individual that causes or is likely to cause injury, such as a threatening statement or behaviour that gives a worker a reasonable belief that he or she is at risk of injury.

### ***Northwest Territories Human Rights Act***

#### **Harassment**

14. (1) No person shall, on the basis of a prohibited ground of discrimination, harass any individual or class of individuals

- a. in the provision of goods, services, facilities or accommodation;
- b. in the provision of commercial premises or residential accommodation; or
- c. in matters related to employment.

Definition: (2) In subsection (1), "harass", in respect of an "harass" individual or class of individuals, means engage in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome by the individual or class.

### ***Nunavut Human Rights Act***

#### **Harassment**

7(6) No person shall, on the basis of a prohibited ground of discrimination, harass any individual or class of individuals

- a. in the provision of goods, services, facilities or contracts;
- b. in the provision of commercial premises or residential accommodation;
- c. in matters related to employment; or
- d. in matters related to membership in an employees' organization, trade union, trade association, occupational or professional association or society, employers' organization or co-operative association or organization.

## NOVA SCOTIA

### *Violence in the Workplace Regulations, section 2 (f)*

#### **Violence**

Means any of the following:

- i. threats, including a threatening statement or threatening behaviour that gives an employee reasonable cause to believe that the employee is at risk of physical injury,
- ii. conduct or attempted conduct of a person that endangers the physical health or physical safety of an employee.”

### *Human Rights Act, section 3 (ha)*

#### **Harassment**

means to engage in a course of vexatious conduct or comment that is known or ought reasonably to be known to be unwelcome.

### *Human Rights Act, section 3 (o)*

#### **Sexual harassment**

means

- i. vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome,
- ii. a sexual solicitation or advance made to an individual by another individual where the other individual is in a position to confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome, or
- iii. a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance.



## ONTARIO

### **OHS Act, section 1 (1)**

#### **Workplace Violence**

means

- a. the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
- b. an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
- c. a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.”

#### **Workplace Harassment**

means

- a. engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or
- b. workplace sexual harassment;

#### **Workplace Sexual Harassment**

means

- a. engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- b. making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

### **OHS Act, section 32.0.4**

#### **Domestic Violence**

If an employer becomes aware, or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker.

## **Ontario Human Rights Code**

“harassment” means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome;

### **Employment**

5 (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

### **Harassment in employment**

(2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

### **Sexual harassment**

#### **Harassment because of sex in workplaces**

7(2) Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression by their employer or agent of the employer or by another employee.

#### **Sexual solicitation by a person in position to confer benefit, etc.**

- (3) Every person has a right to be free from,
- a. a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
  - b. a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

## PRINCE EDWARD ISLAND

### *OHS Act, section 52.1*

#### **Violence**

means the threatened, attempted or actual exercise of any physical force by a person other than a worker that can cause, or that causes, injury to a worker, and includes any threatening statement or behaviour that gives a worker reasonable cause to believe that he or she is at risk of injury.

### *Workplace Harassment Regulations (under the Health and Safety Act), part 1, section 1 (b)*

#### **Harassment**

means any inappropriate conduct, comment, display, action or gesture or any bullying that the person responsible for the conduct, comment, display, action or gesture or the bullying knows, or ought reasonably to know, could have a harmful effect on a worker's psychological or physical health or safety, and includes

- i. conduct that is based on any personal characteristic such as, but not limited to, race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin, gender identity or pregnancy, and
- ii. inappropriate sexual conduct that is known, or ought reasonably to be known, to the person responsible for the conduct to be unwelcome, including, but not limited to, sexual solicitations or advances, sexually suggestive remarks, jokes or gestures, circulating or sharing inappropriate images, or unwanted physical contact.

#### **Section 2 (1)**

For greater certainty, harassment as defined in clause 1(b) includes both

- a. repeated inappropriate conduct, comments, displays, actions or gestures or incidents of bullying that have a harmful effect on the worker's psychological or physical health or safety; and
- b. a single occurrence of inappropriate conduct, comment, display, action or gesture or bullying that has a harmful effect on the worker's psychological or physical health or safety.

### *Prince Edward Island Human Rights Act*

#### **6. Discrimination in employment prohibited**

Discrimination in employment prohibited (1) No person shall refuse to employ or to continue to employ any individual

- a. on a discriminatory basis, including discrimination in any term or condition of employment;
- or
- b. because the individual has been convicted of a criminal or summary conviction offence that is unrelated to the employment or intended employment of the individual.

## QUEBEC

### *Labour Standards Act, section 81.18*

#### **Psychological harassment**

Means any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee's dignity or psychological or physical integrity and that results in a harmful work environment for the employee. For greater certainty, psychological harassment includes such behaviour in the form of such verbal comments, actions or gestures of a sexual nature.

A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment.

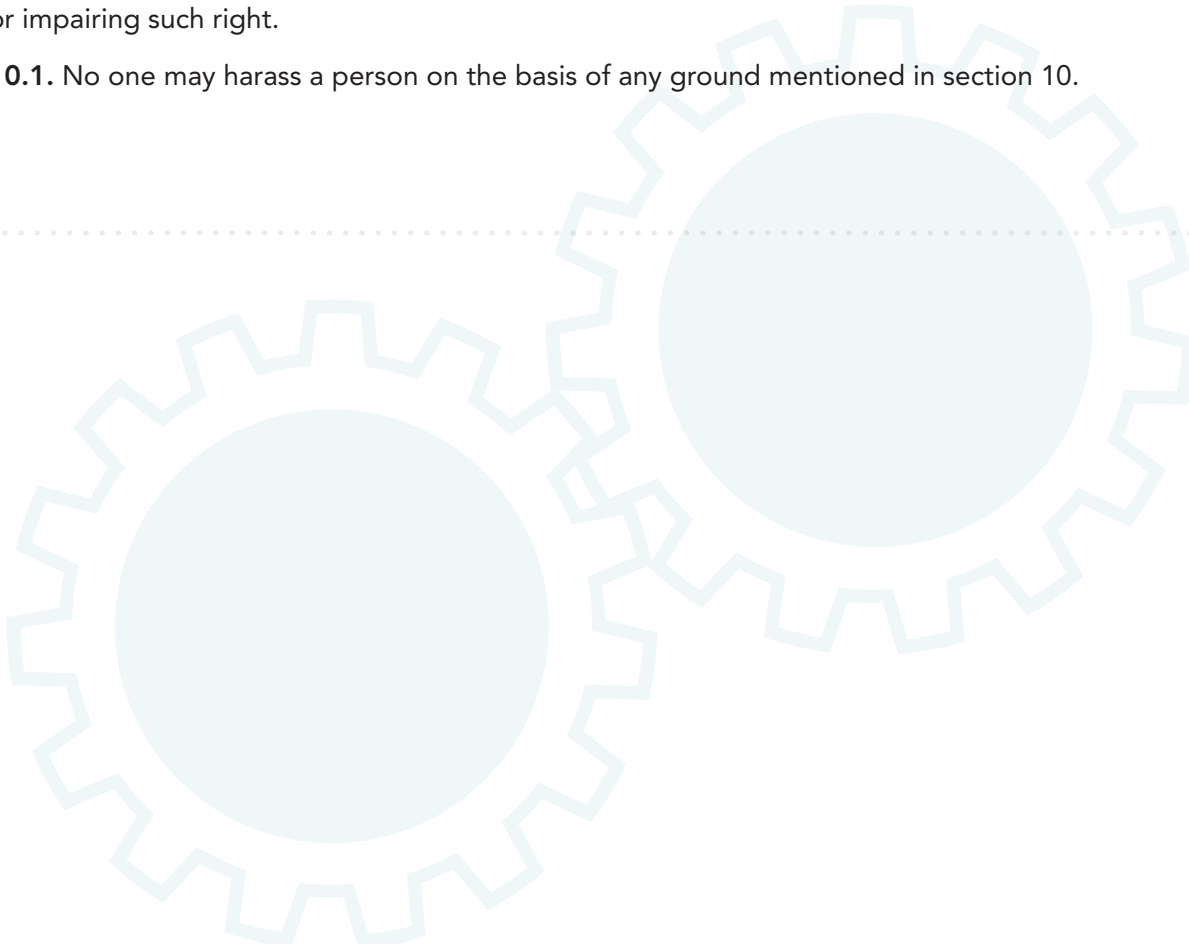
No formal definition of workplace violence.

### *Charter of Human Rights and Freedoms*

**10.** Every person has a right to full and equal recognition and exercise of their human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.

Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right.

**10.1.** No one may harass a person on the basis of any ground mentioned in section 10.



## SASKATCHEWAN

### *Employment Act, section 3-1 (1) (l)*

#### **Harassment**

Any inappropriate conduct, comment, display, action or gesture by a person:

(i) that either:

- a. is based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; or
- b. subject to subsections (4) and (5), adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated; and

(ii) that constitutes a threat to the health or safety of the worker;

### *OHS Regulation, section 37.1*

#### **Violence**

means the attempted, threatened or actual conduct of a person that causes or is likely to cause injury, and includes any threatening statement or behaviour that gives a worker reasonable cause to believe that the worker is at risk of injury.

### *Saskatchewan Human Rights Code*

Discrimination in employment prohibited

16 (1) No employer shall refuse to employ, refuse to continue to employ or otherwise discriminate against a person or class of persons with respect to employment, or a term or condition of employment, on the basis of a prohibited ground. (2) No employee shall discriminate against another employee on the basis of a prohibited ground.



## YUKON

Important: The following definitions will come into effect in September 2021.

### *Occupational Health and Safety Act, section 1.02*

#### **Violence**

Means any of the following that occurs in a workplace or is work-related:

- a. the threatened, attempted, or actual exercise of physical force by a person that causes, or is likely to cause, an injury to a worker; or
- b. a threatening statement made or any conduct engaged in by a person that gives a worker reasonable cause to believe that the worker is at risk of injury;

In these Regulations, **harassment** of a worker by a person

- a. means bullying, or any other objectionable conduct or inappropriate comment, by the person
  - (i) that occurs in a workplace or is work-related,
  - (ii) that the person knows, or ought reasonably to know, is likely to be unwelcome, and
  - (iii) that adversely affects the worker's physical or psychological well-being or constitutes a threat to the worker's health and safety;
- b. includes the person engaging in bullying or a course of inappropriate comments to, or in relation to, the worker, or a course of objectionable conduct against the worker
  - (i) that occurs in a workplace or is work-related,
  - (ii) that the person knows, or ought reasonably to know, is likely to be unwelcome, and
  - (iii) that relates to, or is motivated by, the worker's sex, sexual orientation, gender identity or gender expression; and
- c. does not include reasonable conduct of a person who is an employer or supervisor in respect of the management or workers or a workplace.

### *Yukon Human Rights Act*

#### **Harassment**

14 (1) No person shall (a) harass any individual or group by reference to a prohibited ground of discrimination; (b) retaliate or threaten to retaliate against an individual who objects to the harassment.

(2) In subsection (1), "harass" means to engage in a course of vexatious conduct or to make a demand or a sexual solicitation or advance that one knows or ought reasonably to know is unwelcome.

# APPENDIX B – Strengths and weaknesses of federal formal harassment recourse processes

## Summary

METHOD	STRENGTHS	WEAKNESSES
<p><b>Grievance Procedure</b></p>	<p>When a grievance is filed, the employer may initiate the harassment process including an investigation.</p> <p>A neutral third party with labour expertise can make ultimate decision if grievance is arbitral.</p> <p>Addresses the individual, and systemic forms of harassment, as well as discrimination. (Therefore, can address broader or all human rights issues other than harassment.)</p> <p>Can provide individual and systemic remedies, as well as damages. Can make the person whole.</p>	<p>Length of process if all steps are used.</p> <p>In some instances, the grievance is put into abeyance until an investigation is undertaken. The union may have limited input in selecting the investigator and process.</p> <p>There is limited time to file complaints after the harassment occurred.</p>

<p><a href="#"><u>Harassment and Violence Prevention Regulations and Legislation under the Canada Labour Code, including the Employer's Policy</u></a></p>	<p>A mandatory process in which the employer's designated recipient must engage with the principal party.</p> <p>Options are available for conciliation and resolving the matter with the parties and may lead to an investigation.</p> <p>The way the employer will protect the privacy of all parties (principal party, responding party and witnesses) is contained in the violence and harassment prevention policy.</p> <p>Workers are trained on understanding the process as well as understanding the policy.</p>	<p>Does not necessarily address systemic issues.</p> <p>Focused on prevention of further occurrences and offers no remedy.</p> <p>No investigation for third party violence or harassment, even if systemic.</p> <p>Does not apply to workplaces that are not federally regulated.</p>
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<p><b>Complaint under human rights legislation</b></p>	<p>Extensive expertise and experience in human rights.</p> <p>Force of a legal order to enforce the remedy.</p> <p>Addresses the individual, and systemic forms of harassment, as well as discrimination. (Therefore, can address broader or all human rights issues other than harassment).</p> <p>Can provide individual and systemic remedies, as well as damages.</p> <p>Some human rights agencies (e.g Ontario) mandate some form of mediation via the human rights commission as part of its process which may be more effective and faster. In mediation, remedies can be more creative and go beyond those prescribed by legislation.</p>	<p>May only be used in cases of human-rights related harassment.</p> <p>Limited role for the union unless the complainant agrees to have union representation.</p> <p>Formal procedures and processes that must be followed.</p> <p>Most (but not all) human rights commissions will require a complainant to exhaust internal/ formal workplace procedures, such as the grievance procedure, before the commission will investigate a human rights complaint.</p> <p>Length of time to hear complaints can be long.</p> <p>There is limited time to file complaints after the harassment occurred.</p>
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