

Bullying, Harassment and Violence in the Workplace: Part One

Beginning January 1, 2021, the Government of Canada is introducing new workplace harassment and violence prevention regulations. The AMTA has composed this two-part bulletin shedding light on the subject of bullying, harassment and violence in the workplace.

Harassment and violence are defined as workplace hazards in Alberta's updated [Occupational Health and Safety \(OHS\) Act](#).

Amendments to Alberta's Occupational Health and Safety legislation, as well as the approach to bullying in the workplace by WCB, require scrutiny by employers. From June 2018 to March 2019, 773 complaints about workplace harassment and violence were logged with the Alberta OH&S. 17 additional OHS officers were hired last year to conduct inspections and to enforce the new legislation, including bullying complaints. Bullying can no longer be ignored. Changes came into effect June 1, 2018.



Bullying and sexual harassment

Workplace bullying or harassment is negative behavior aimed at a person or group of people. It can be defined as a single or repeated incident and involves objectionable or unwanted comments or conduct, bullying or any act which intimidates, offends, degrades, humiliates or adversely affects the health and safety of any one person or group. It can come in various physical or verbal forms, including sexual harassment and discrimination. Some jokes can also be interpreted as harassment.

Workplace bullying and harassment can have lasting psychological impacts on victims. Furthermore, can diminish workplace culture for all staff, prompt OH&S investigations, Human Rights Claims or, lawsuits.

Examples of harassment

Examples of harassment include:

- Verbal or physical abuse, threats, derogatory remarks, jokes, innuendo or taunts about appearance or beliefs
- The display of pornographic, racist or offensive images
- Practical jokes that result in awkwardness or embarrassment
- Unwelcome invitations or requests, either indirect or explicit
- Intimidation, leering or other objectionable gestures
- Condescension or paternalism that undermines self-confidence
- Unwanted physical contact such as touching, patting, pinching, punching and outright physical assault

Bullying, Harassment and Violence in the Workplace

Workplace violence

Violence, whether at a work site or work related, is defined as the threatened, attempted or actual conduct of a person that causes or is likely to cause physical or psychological injury or harm. It can include:

- Physical attack or aggression
- Threatening behaviour
- Verbal or written threats
- Domestic violence
- Sexual violence

What is sexual harassment?

Sexual harassment is a form of discrimination based on the ground of gender, including transgender, which is prohibited under the [Alberta Human Rights Act \[1\]](#). Sexual harassment is any unwelcome sexual behaviour that adversely affects, or threatens to affect, directly or indirectly, a person's job security, working conditions or prospects for promotion or earnings; or prevents a person from getting a job, living accommodations or any kind of public service. Sexual harassment is usually an attempt by one person to exert power over another person. It can be perpetrated by a supervisor, a co-worker, a landlord or a service provider.

Sexual harassment is unwanted, often coercive, sexual behaviour directed by one person toward another. It is emotionally abusive and creates an unhealthy, unproductive atmosphere in the workplace. Sexual harassment in the workplace can be costly for employers in terms of financial costs and employee morale, particularly for employers who do not have an effective sexual harassment policy and who do not treat such complaints seriously. Employees, customers or clients can make sexual harassment complaints to the Alberta Human Rights Commission.

What constitutes sexual harassment?

Sexual harassment can be expressed in many ways, from very subtle to very obvious, through any of the following:

- Suggestive remarks, sexual jokes or compromising invitations
- Verbal abuse
- Visual display of suggestive sexual images
- Leering or whistling
- Patting, rubbing or other unwanted physical contact
- Outright demands for sexual favours; and
- Physical assault

Bullying, Harassment and Violence in the Workplace

Who is legally responsible?

The Supreme Court of Canada has decided that in cases of proven harassment, employers are responsible for the actions of their employees. Lack of awareness by management does not necessarily eliminate this liability.

Obligations of all worksite parties

- Employers must ensure workers are not subject to or participate in harassment or violence at the work site
- Supervisors must ensure workers under their supervision are not subject to harassment or violence at the work site
- Workers must refrain from causing or participating in harassment or violence

Employer responsibilities

Employers are required to help prevent workplace harassment and violence and address incidents when they do occur. The new rules:

- Define workplace harassment and violence in all forms, including domestic and sexual violence
- Require employers to investigate incidents of violence and harassment and take corrective action
- Require employers to develop separate violence and harassment prevention plans
- Require review of plans at least one every three years
- Require employers to advise workers of treatment options if harmed by violence or harassment; workers are entitled to wages and benefits while attending treatment programs

Potential WCB issues

In addition to the OH&S issues and legislation changes identified above, WCB has also stated that bullying or harassment (in all forms), has given rise to WCB claims. Under workers compensation, the WCB can provide compensation coverage when bullying or harassment leads the employee to develop a diagnosable injury or illness. Some related diagnoses can include depression, anxiety, adjustment disorders, addiction or PTSD. If work has contributed to an employee's diagnosable injury, WCB can provide compensation coverage for treatment, time of work, etc. These claims are also recorded against an employer's WCB account. The adjudication process for a claim against bullying, will require requests for documentation, emails, videos or other evidence, as well as, employer's past investigation reports (now required by OH&S), together with interviews and statements from workers.

- Oriana Kolonsky, AMTA Industry Workforce Advisor