Harassment & Discriminatory Action Prevention Unit
Legal Affairs Branch
Occupational Health and Safety Division
Workplace Harassment
&
The Saskatchewan Employment Act
The Menu

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- New Legislative Definition of Harassment
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Why Occupational Health & Safety?

- Harassment is a workplace health & safety issue

- Saskatchewan has had anti-harassment legislation based on prohibited grounds since 1993

- The Act provides minimum standards for workplace health & safety
Harassment

- The Act & regulations require employers to:
  - Prevent harassment
  - Stop harassment when it occurs
  - Develop & implement a policy that complies with regulation 36
Prohibited Grounds

- In 2007, the definition of harassment expanded to include ‘personal harassment’
  - Personal harassment is ‘bullying’
  - The new, expanded part of the definition for harassment is not retroactive
  - Saskatchewan’s model is similar to Quebec’s model

- How does the definition read now?
Prohibited Grounds

- Any inappropriate conduct, comment, display, action or gesture by a person that:
  - Is made on the basis of race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin
  - Constitutes a threat to the health or safety of the worker
Prohibited Grounds

• One incident is enough to form the basis of a complaint
• It must be established the harassment arose out of the worker’s employment
• It is not restricted to conduct that occurred at the place of employment or was perpetrated by other employees
Prohibited Grounds

- The display of a poster or comments overheard by a worker, but not directed towards a worker, also fit the definition

- Reasonable managerial actions are not harassment
Personal Harassment

- Any inappropriate conduct, comment, display, action or gesture by a person that:
  - Adversely affects a worker’s psychological or physical well-being
  - The perpetrator knows or ought reasonably to know would cause a worker to be humiliated or intimidated
  - Constitutes a threat to the health & safety of the worker
Personal Harassment Includes

- Verbal or written abuse or threats
- Insulting, derogatory or degrading comments, jokes or gestures
- Personal ridicule or malicious gossip
- Work sabotage
- Refusing to work or co-operate with others
- Interference with or vandalism of personal property
- Unwelcome physical contact
What is Bullying?

• Bullying, is the act of intentionally causing harm to others through:
  ✓ Verbal harassment
  ✓ Physical assault, or other more subtle methods of coercion such as manipulation

• Bullies poison their work environment with low morale, fear, anger & depression
Bullies

- Workplace bullying includes: verbal, nonverbal, psychological abuse & humiliation

- It is characterized by:
  - Repetition
  - Duration
  - Escalation
  - Power disparity
  - Intent
Common Bullying Tactics

- Falsely accuses victim of errors
- Silent treatment
- Creates rules ‘on the fly’
- Disregards quality work
- Criticizes constantly
- Sets different standards for the victim
- Uses confidential information to humiliate the victim
- Makes unrealistic demands
- Ignores, overrules, isolates & excludes the victim
Victims

- Victims of bullying can suffer from:
  ✓ Long-term emotional problems (loneliness, depression)
  ✓ Physical problems (stress, anxiety, weakened immune system)
  ✓ Behavioral problems (loss of confidence, missing work, isolation)
  ✓ Academic problems (poor concentration)

- At work bullying causes less productivity, an increase in absenteeism & disgruntled employees
Victims

- Victims’ personal relationships suffer from the unhealthy work relationship leading to:
  - Marital pressure caused by the victim’s anxiety & anger
  - Loss of friends as the victim obsesses about the situation
  - = more loss
What to Do?

- The victim needs to:
  ✓ Address their concerns with the perpetrator
  ✓ Let the perpetrator know the behavior is not acceptable & it should stop

- If the behavior continues, the victim should bring the harassment to the attention of their employer/supervisor

- The employer will explain the resolution options
Types of Conflict at Work

• Whether you like it or not, you are going to face conflicts at work

• Ask yourself - Is this harassment or a personality conflict?

• These two are often confused
Diversity at Work

- Cultural diversity has become the norm in Saskatchewan

- The workplace is a significant segment of our society where cultural differences are established

- At work, strong leadership is needed to ensure diversity is understood & embraced as a good thing
Harassment is NOT

- Any reasonable action taken by an employer or supervisor relating to the management and direction of the employer’s workers or the place or employment.
Harassment is NOT

• At work, employers must manage & supervise workers

• Reasonable managerial action is not harassment, even if it involves unpleasant consequences
Examples of Reasonable Action

- Work assignments
- Appraisals of performance & attendance
- Progressive discipline
- Training
- Supervision
- Establishing deadlines
- Establishing dress codes & hygiene standards
Examples of Reasonable Action

- Enforcing occupational health & safety standards
Harassment Is

- Mistreatment perpetrated by another employee
e.g., supervisor to worker; worker to worker; worker
to supervisor
- Mistreatment perpetrated by someone, other than
an employee, with whom the worker is required to work
e.g., clients, the public
Harassment

- Covers incidents that occur at work & during work hours

- Extends to incidents that happen outside the usual workplace or work hours, but are connected to, or arise out of the worker’s employment
e.g., work sponsored social event, conference
Duties

- Role of Employer
- Role of Worker
- Role of OHS Division
Employers Must

- Take action to prevent & stop harassment
- Fulfill their legal duty under section 3-8(d) of the Act
- Develop & implement a harassment policy that meets the requirements of regulation 36
Employers’ Legal Duty

• Section 3-8(d) of the Act:
  Every employer shall ensure, insofar as is reasonably practicable, that the employer’s workers are not exposed to harassment with respect to any matter or circumstance arising out of the worker’s employment.
How to Meet this Duty

- Commit to preventing and stopping harassment
- Train workers, supervisors & managers about harassment prevention
- Use the harassment policy & be consistent and timely
- Document training & complaints
Regulation 36

- An employer, must, in consultation with the OHC or employee representative, develop & implement a harassment policy

- The policy must be posted & readily available to workers
- Employers must implement effective policies to prevent & end harassment when it occurs

- Actions include:
  ✓ Preventative measures
  ✓ Investigating complaints fairly
  ✓ Stopping harassment when it occurs
The Worker

- Under the Act, section 3-10(b), workers have a duty to refrain from causing or participating in harassment
What Should the Victim Do?

- If a worker is being harassed, he or she should:
  - ✅ Ask the perpetrator to stop
  - ✅ If the perpetrator does not stop, report it to a supervisor or other person named in the policy
  - ✅ Contact an Occupational Health Officer
OHS

- Officers enforce the OHS legislation, educate & inform workplaces

- Anti-harassment legislation applies only to workers as defined in the Act

- OHS has jurisdiction over Saskatchewan’s non-federal workplaces
Reporting Harassment

- Workers can contact OHS to report they are being harassed

- Employers can contact OHS for assistance

- Depending on the situation, an informal or formal process may be used
Informal Process

- An Officer can provide information or coaching
- An informal complaint can be anonymous
- Informal steps might include:
  - Meeting with the various people involved to see if the concerns can be resolved without a formal investigation
Formal Process

• OHS issues a Harassment Questionnaire

• The worker fills the questionnaire with a description of the events that occurred, witnesses etc.

• In the event of a formal investigation, confidentiality is important, but the complainant cannot remain anonymous
Enforcement Measures

- In writing, an occupational health officer will direct the employer to:
  
  ✓ Develop & implement a harassment policy that meets the requirements of regulation 36
  ✓ Require the employer to investigate the complaint
  ✓ Require the employer to ensure the worker is not exposed to harassment
Officers **Cannot**

- Require the perpetrator of the harassment to be disciplined, terminated or moved

- Require the payment of compensation or damages
Protection from Reprisals

- The Act, section 3-35, forbids *discriminatory action* (e.g., discipline, termination, suspension) for victims who raise health & safety concerns or seek enforcement.

- Workers who raise harassment concerns & witnesses who give information during investigations are also protected.
Protection from Reprisals

- When it happens, employers are asked to provide ‘good & sufficient other reasons’ for discriminatory action

- If an occupational health officer determines the employer has taken a discriminatory action, the officer may order reinstatement & payment of lost wages
Appeals

- An officer’s written decision may be appealed to the Special Adjudicator who is independent of the Ministry

- The Special Adjudicator can use mediation or other dispute resolution techniques to assist the parties with a settlement
Need Help?

- A worker needing help or information can go to their:
  - Supervisor,
  - Human Resource Branch
  - Occupational Health Committee
  - Local Union official Human Rights Commission
  - The Employee & Family Assistance Program Occupational Health and Safety
  - Workers Advocate
  - Immigration Integrity Unit
  - The police
Questions?
Contact Us

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