



# ***Violence in the Workplace***

## ***Negotiating Collective Agreement Language***

### ***Version 3 – Winter 2020***

Tom McKenna

CUPE National Health and Safety Representative

Nothing in this presentation supersedes the Legislation, Regulations and Policy. There may also be Collective Agreement rights and obligations. This information is not legal, treatment or counselling advice. This information is for CUPE use only, cannot be used in any other proceeding and is without prejudice and precedent to any labour relations matter, bargaining, grievance, or arbitration. Each case is subject to the fact pattern and to the changing jurisprudence. Always adhere to Human Rights and to Privacy legislation.

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This Power Point is accompanied by a separate pdf document (see next Slide) which contains more information. Please read both documents.

# Violence in the Workplace

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Additional Materials for CUPE Power Point Presentation



## Violence in the Workplace

*Negotiating Collective Agreement  
Language – Version 3 – Winter 2020*

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Always use these materials in  
conjunction with  
CUPE National resources,  
the Collective Agreement,  
CSA Group Standards,  
Canadian Centre for  
Occupational Health and Safety  
resources and  
WorkSafeBC materials

The purpose of the Violence Prevention Guidelines is to provide CUPE members with resources to help protect them against violence in the workplace. It contains:

- Download the Violence Prevention Guidelines booklet
- Order copies of the Violence Prevention Kit
- Fact Sheet: Working alone
- Violence and harassment legislation in Canada by Jurisdiction
- Checklist: Sample violence hazard assessment/inspection
- CUPE's Code of Conduct
- CUPE's Equality Statement
- Violent Incident Report
- Checklist: Response to a violent incident
- Bargaining Guide: Domestic violence in the workplace
- Guideline: Stop harassment: a guide for CUPE locals
- Workplace harassment and mental injuries: examining root causes
- Fact Sheet: What is the duty to accommodate?



**NOTE: LOCALS MAY ORDER A MAXIMUM OF 16 KITS.**

\$0.00

ORDER

LANGUAGE

English ▼

QUANTITY

1

**ADD TO CART**





# Health And Safety Guidelines

Preventing violence and harassment in the workplace



## Developing a workplace violence prevention policy

Developing a workplace violence prevention policy



Working Alone



## Legislation Applying to Violence and Harassment in Canada by Jurisdiction

Legislation Applying to Violence and Harassment in Canada by Jurisdiction



CUPE Code of Conduct



Equality Statement



## Checklist: Response to a violent incident

Checklist: Response to a violent incident



# Health and Safety Guidelines

Preventing violence  
and harassment in the workplace

This presentation incorporates some humour – however –  
**violence should always be taken seriously.**  
Nothing in this presentation should detract from that.

# Introduction

- While this presentation uses the term “employees,” “workers” (which often refers to contract workers, interns, and in some cases volunteers) is used by WorkSafeBC.
- Changes to the Occupational Health and Safety Regulations, Policies and Guidelines may occur in the next year. See the BC Federation of Labour submission on amending the violence OHS Regulations.
- The Joint Health and Safety Committee has a very important role, yet as per WorkSafeBC, up to 90% of these committees are not properly functioning.



## Introduction cont'd.

- It is the primary responsibility of the Employer to provide a safe workplace by removing or controlling hazards and risks
- Strong Collective Agreement language improves the safety of employees and accountability of Employers.
- Many CUPE Locals have negotiated Collective Agreement language regarding violence. Also see the Hospital Employees' Union and the B.C. Government and Service Employees' Union Collective Agreements.

**3. Negotiate stand-alone language that recognizes domestic violence as an important workplace concern and requires follow up such as training, referrals and accommodation. For example:**

*Local 79-00 and The City of Toronto*

*Expiry December 31, 2011*

*Letter of Intent, Domestic Violence*

Local 79 and the City acknowledge that domestic violence is a significant social problem that affects the health and well-being of employees.

Local 79 and the City agree to establish and implement within 90 days of ratification a jointly developed program to accommodate employees who are victims of domestic violence as follows:

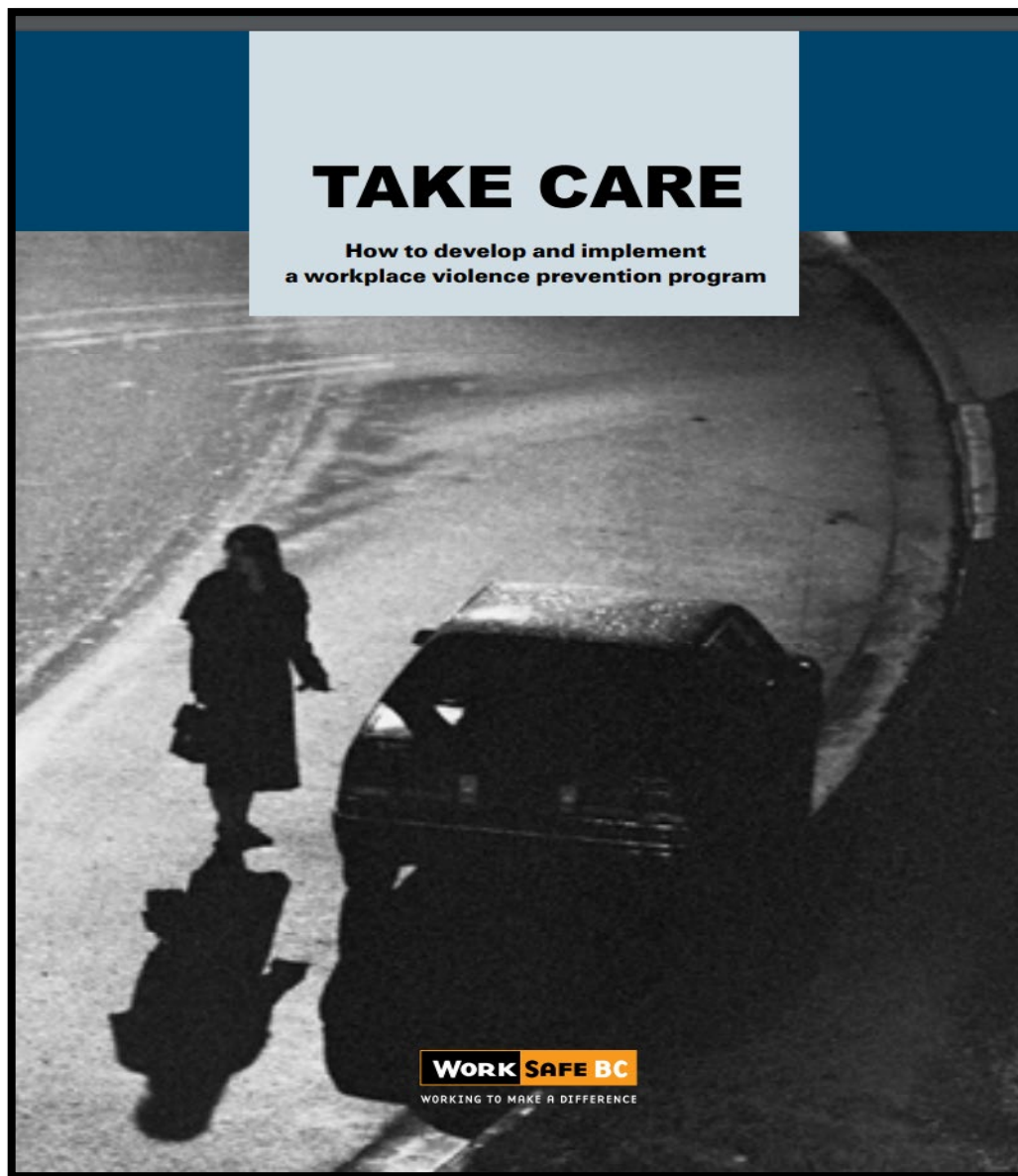
- i. The parties agree to the joint development of a work plan to deal with issues related to communication, education and training of Stewards and Supervisory personnel as identified in the Summary of Agreed to Items dated July 9, 2004.
- ii. The parties agree to the joint development of a pamphlet and other communication materials related to resources and supports regarding Domestic violence to be distributed to employees.
- iii. The City agrees to provide the Union with copies of all materials to be posted on Union bulletin boards and/or distributed to employees.
- iv. The City agrees to investigate the establishment of web-links and/or a website related to the domestic violence on the City's Intranet and to report its findings to the joint committee within ninety (90) days of ratification.
- v. The City agrees that staff who are victims of domestic violence may utilize the City's Intranet and/or Internet sites to obtain and access information related to this issue.
- vi. The parties agree to joint Labour/Management training and to incorporate into existing training programs for supervisors and management staff information related to domestic violence to increase awareness, how it may impact the workplace and the resources available to deal with this issue.
- vii. The Union will provide training to stewards regarding resources and information related to domestic violence.
- viii. The City agrees that requests for sick leave, vacation, lieu time and any other paid leaves of absence submitted by employees in order for them to deal with issues related to domestic violence shall not be unreasonably denied.
- ix. The City agrees that requests for unpaid leaves of absence submitted by employees in order to deal with issues related to domestic violence shall not be unreasonably denied.
- x. The City agrees that consideration will be given when issues related to work performance could be directly attributed to issues of domestic violence. Any remedial action to be taken by Management may be held in abeyance for an agreed to time frame. The Union agrees that it will not raise issues related to timeliness when the City takes this action.

## Introduction cont'd.

- Always check the WorkSafeBC website for the most current Legislation, Regulations, Policies, Guidelines and Practice Directives. They change often.
- Ensure that your CUPE National Representative is updated and involved at all levels of Occupational Health and Safety, Labour Relations and Collective Bargaining.
- If there are overlapping Collective Agreement, Human Rights, WorkSafeBC, Disability Plan and other requirements, how will these be coordinated?

# TAKE CARE

How to develop and implement  
a workplace violence prevention program



**WORK SAFE BC**  
WORKING TO MAKE A DIFFERENCE

## Introduction cont'd.

Remember:

- ❑ It is often within the exclusive and / or concurrent jurisdiction of WorkSafeBC to address Claims and Prevention issues. There have been at least 3 key arbitration decisions. Be careful of this when filing grievances and determining who has jurisdiction. Always speak with your CUPE National Representative.

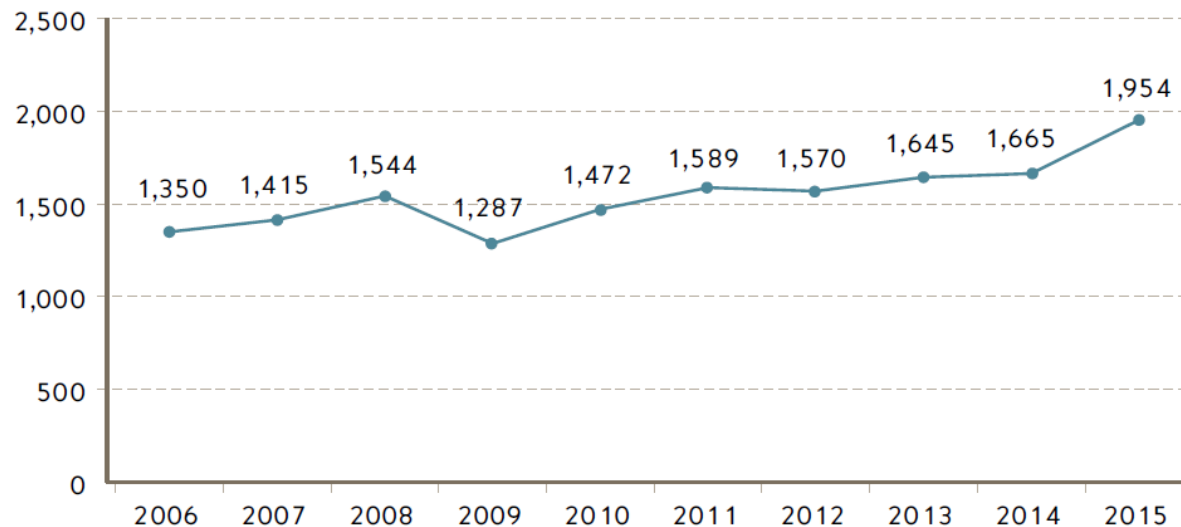


# Violence Statistics

- Violence is increasing across Canada, especially in K-12.
- WorkSafeBC statistics show that only a small number of serious injury claims result from violence – however, this does not reflect non-serious injury claims, bullying and harassment, claims that were not filed / unreported claims, etc. Under-reporting is rampant – especially by workers in precarious employment and in K-12 in general.
- Healthcare, Education / K-12, and Social Services all having much higher levels of violence.

## Violence Statistics cont'd.

Total number of workplace violence claims, 2006–2015

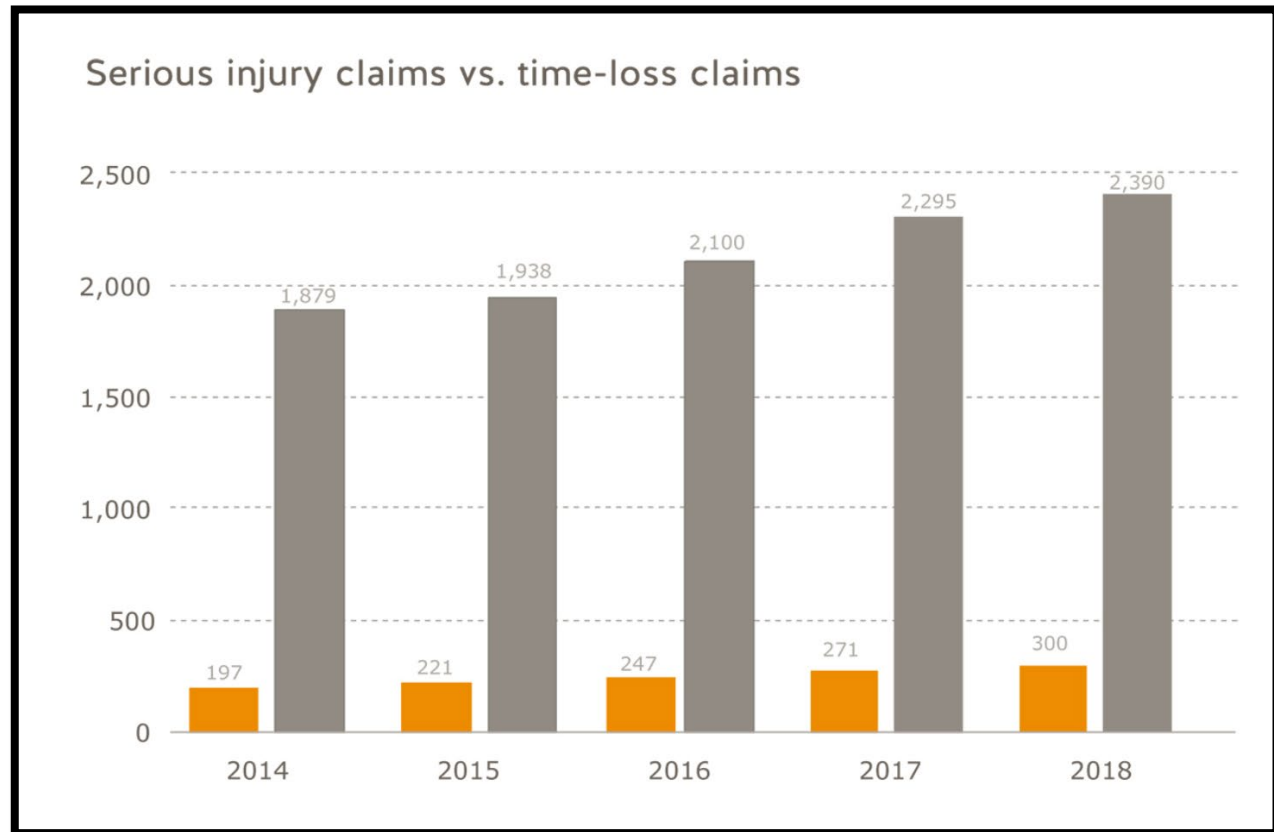


The majority of these claims were reported by workers in the service sectors, including nurses, health care assistants, teachers, education assistants, transit drivers, and clerks in retail, bars, and liquor stores. In fact, the top four industry subsectors — Health Care and Social Services, Education, Other Services, and Retail — account for 81 percent of all time-loss claims for workplace violence in B.C. from 2006 to 2015.

(See Trends and Statistics by Industry Subsector, page 18)

## Violence Statistics cont'd.

- The overall injury rate, all causes, has been increasing in Education, as per the most recent WorkSafeBC data:

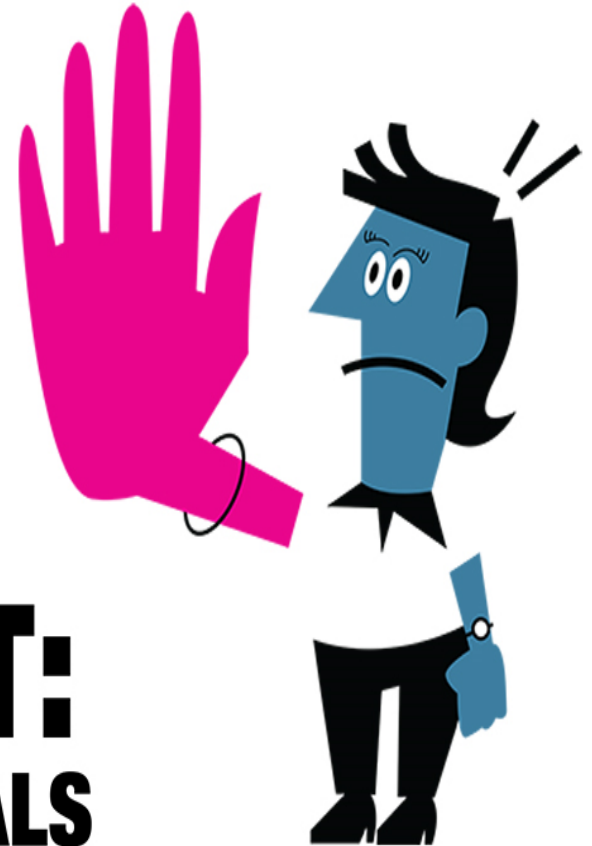


## Violence Statistics cont'd.

- Health care workers suffer a greater number of time-loss injuries due to violence than any other occupation.
- Healthcare and Social Services account for the majority of the time-loss claims as per WorkSafeBC for all types of injuries – not just violence.
- In the past 10 years there has been a 70% increase in violence-related claims in the Health Care Sector.

Violence includes harassment and bullying. **These are often precursors to physical violence**

# STOP HARASSMENT: A GUIDE FOR CUPE LOCALS





## Violence Statistics cont'd.

- In Ontario, 61% of Social Service and Institutional employees were verbally threatened.
- 42% of employees in Social Services were physically threatened
- 30% of employees in Social Services were physically assaulted.
- Women and workers in precarious employment are at higher risk and the risk is growing every year.

## Violence Statistics cont'd.

- In Montreal, 87.5% of Inside Municipal employees reported psychological violence
- 67% had been threatened 3 or more times
- 23% had been physically assaulted
- 12% had been sexually assaulted
- Nationally, 19% of violent incidents involved a weapon
- 66% of violent incidents were committed by someone known to the employee

# RISK FACTORS



## Where Violence Occurs

- Violence comes from many sources e.g. members of the public, managers, supervisors, co-workers, board members, students, patients, parents, clients or passengers.
- Employees who are most affected include new workers, young workers, working alone or in isolation, Healthcare, Education and Social Services.
- Employers must ensure new and young workers have received an orientation by the Union. See the resources on the CUPE BC OHS Committee website.

# How is Violence Defined

- The definition of violence should be as expansive as possible. The definition is always changing and may need to be updated annually.
- The *Workers Compensation Act* and Occupational Health and Safety Regulations, including the Guidelines, should only be the starting point.
- BC has some of the least protective language for workers regarding violence in Canada.



## How is Violence Defined cont'd.

- CUPE National defines violence as:

“Violence in the workplace is any incident(s) in which an employee is threatened, assaulted or abused during the course of their employment that may cause physical or psychological harm. This includes threats, attempted or actual assault, application of force, verbal abuse or harassment. Harassment is offensive behaviour that a reasonable person would consider unwelcome. The workplace is any location in which work-related activities under the control of the organization are performed.”

- This definition is subject to frequent change, as are the Legislation, Regulations, Policies and Guidelines.

**In one study in the Education Sector  
1/3<sup>rd</sup> of all forms of violence (such as  
bullying and harassment) involved  
management / excluded employees**



## How is Violence Defined cont'd.

- Violence occurs on a continuum and includes verbal violence, bullying and harassment, among many others.
- Violence often escalates from one form to another, and not necessarily in any particular order or sequence.
- Include categories and broad definitions of violence such as:

(See next slide for a partial list. The accompanying document identified on Slide 3 of this Power Point provides a much more detailed list)

# How is Violence Defined cont'd.

- Verbal abuse
- Verbal threats
- Threatening behaviours
- Written abuse
- Written threats
- Harassment and bullying
- Stalking
- Sexual harassment
- Physical assaults
- Domestic violence





STANDARDS RESEARCH

## Preventing Violence and Harassment in Canadian Workplaces

A Focus on Education, Healthcare, Government and Emergency Services,  
and Service Sectors

December 2019



# Legislation, Occupational Health & Safety Regulations, Policy and Guidelines

- Key areas of the current OHS Regulations include:

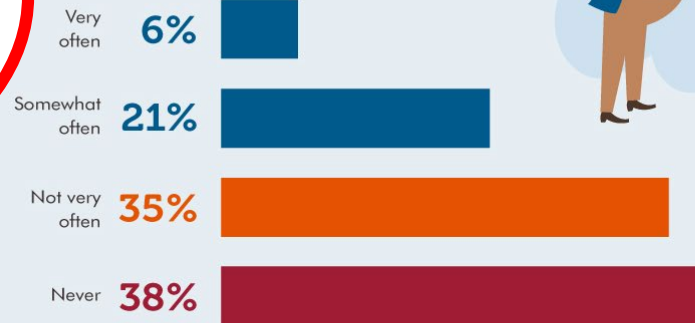
Occupational Health and Safety Regulation (“OHSR”) 4.27 -  
4.31 - Violence in the Workplace

“*“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.”

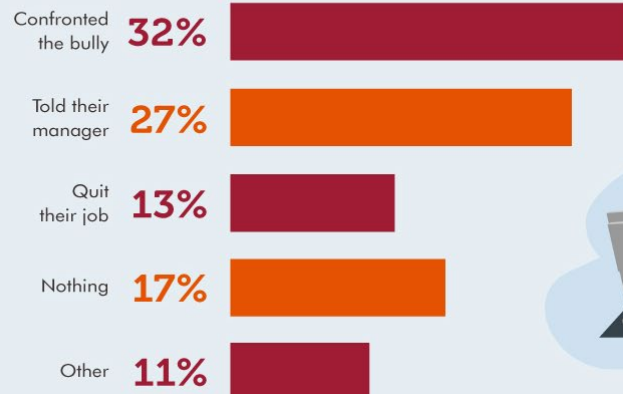
**Studies show that bullying occurs in over 40% of workplaces with over 2/3rds of employees witnessing bullying and harassment**

**35%** of workers said they have had an office bully.

More than **1/4** of HR managers think office bullying happens at least somewhat often at their company.



**How workers responded to office bullies:\***



# Legislation, Occupational Health & Safety Regulations, Policy and Guidelines cont'd.

- Other applicable Sections include (red underlined sections are key):
  - ❖ 3.9 – Remedy Without Delay
  - ❖ 3.10 – Reporting Unsafe Conditions
  - ❖ 3.11 – Emergency Circumstances
  - ❖ 3.12 – Refusal of Unsafe Work
  - ❖ 3.13 – No Discriminatory Action
  - ❖ 3.22 to 3.25 for Young Workers e.g. 3.23(2)(e)(f)

# Legislation, Occupational Health & Safety Regulations, Policy and Guidelines cont'd.

- ❖ 3.28 - Participation by Employer or Representative of Employer and Worker Representative
- ❖ 4.13 – Risk Assessment (pertaining to evacuations etc.)
- ❖ 4.13 – Risk Assessment (pertaining to evacuations etc.)
- ❖ 4.14 – Emergency Procedures
- ❖ 4.16 - Training
- ❖ 4.20.1 Definition (4.20.1 to 4.23 pertain to working alone, a risk factor and precursor to violence)

# Legislation, Occupational Health & Safety Regulations, Policy and Guidelines cont'd.

- ❖ 4.21 - Procedures for checking well-being of worker
- ❖ 4.22 - Training
- ❖ 4.23 - Annual reviews of procedures
- ❖ 4.24 - Definition (4.24 to 4.26 pertain to Workplace Conduct)
- ❖ 4.25 - Prohibition
- ❖ 4.26 - Investigation
- ❖ 4.28 - Risk Assessment (4.28 to 4.31 pertain to violence)

# Legislation, Occupational Health & Safety Regulations, Policy and Guidelines cont'd.

- ❖ 4.29 - Procedures and Policies
- ❖ 4.30 - Instruction of Workers
- ❖ 4.31 - Advice to Consult a Physician

Lobby for changes to the OHS Regulations regarding violence, bullying, harassment and working alone



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Violence

The potential for violence exists whenever there is direct interaction between workers and non-workers. Employers must provide a workplace as safe from the threat of violence as possible. If there is a risk of violence in a workplace, the employer must set up and instruct workers on procedures to eliminate or minimize the risks.

The risks

Resources

How to reduce the risks

The risks

The first step in preventing workplace violence is conducting a risk assessment. If the assessment shows that there is a risk of violence, the employer must develop and implement a workplace violence prevention program.

When assessing the risk of violence, take the following into account:

- The location, nature, and circumstances of the work you are engaged in
- The number and nature of previous incidents of violence at the workplace over a period of at least one year
- Experiences at similar workplaces

How to reduce the risks

A workplace violence prevention program should be part of your overall health and safety program. It should be developed and implemented in co-operation with the joint health and safety committee or worker health and safety representative. The nature and extent of the program should be based on the results of the risk assessment.

A violence prevention program should include the following components:

- Written policy to eliminate or minimize risk
- Regular risk assessments
- Prevention procedures
- Worker and supervisor training
- Procedures for reporting and investigating incidents
- Incident follow-up
- Program review

35

# Legislation, Occupational Health & Safety Regulations, Policy and Guidelines cont'd.

- Policy Items and Guidelines (which are not mandatory):
  - ❖ D3-115-2 - Employer Duties—Workplace Bullying and Harassment
  - ❖ D3-116-1 - Worker Duties—Workplace Bullying and Harassment
  - ❖ D3-117-2 - Supervisor Duties—Workplace Bullying and Harassment

# Legislation, Occupational Health & Safety Regulations, Policy and Guidelines cont'd.

- ❖ D4-140-1 - Participation of Worker Representative in Inspections
- ❖ D6-150/151/152-1 - Scope
- ❖ D6-153-1 - Investigation of Complaint
- ❖ D6-153-2 - Remedies
- ❖ D10-175-1 - Preliminary Incident Investigation, Report and Follow-Up Action
- ❖ D10-176-1 - Full Incident Investigation, Report and Follow-Up Action

# Legislation, Occupational Health & Safety Regulations, Policy and Guidelines cont'd.

- *Workers Compensation Act:*
  - ❖ Section 115 to 124 – General Duties of Employers, Workers and Others
  - ❖ Sections 150 to 153 – Prohibition Against Discriminatory Action
  - ❖ Section 172 to 177 – Accident Reporting and Investigation



CAN/CSA-Z1003-13/BNQ 9700-803/2013  
National Standard of Canada

## Psychological health and safety in the workplace — Prevention, promotion, and guidance to staged implementation

Disponible en français  
*Santé et sécurité psychologiques  
en milieu de travail —  
Prévention, promotion et lignes  
directrices pour une mise en  
œuvre par étapes*



Commissioned by the  
Mental Health Commission of Canada





# Assembling the Pieces

An Implementation Guide to the National  
Standard for Psychological Health  
and Safety in the Workplace





# Preparing for Bargaining

- Sample information gathering to prepare for bargaining:
  - ❑ Violent incident data. These include both informal reports and formal reports, as well as internal and external reports
  - ❑ Incidents of bullying and harassment
  - ❑ Employee surveys and complaints
  - ❑ WorkSafeBC claim data (redacted as required)
  - ❑ Joint Health and Safety Committee reports, recommendations and minutes
  - ❑ WorkSafeBC Orders.
  - ❑ Sick leave data where sick leave or unpaid absences have arisen due to violence (redacted as required)

# Areas in the Collective Agreement to Address

- Areas of the Collective Agreement that need to be addressed include (not an exhaustive list):
  - ❑ Definitions
  - ❑ Employee benefits, including Extended Health Benefits
  - ❑ Employee training and education
  - ❑ Grievance process language, including investigations
  - ❑ Hazard and Risk assessments, including access to information, privacy, roles of the parties, etc
  - ❑ Employee orientations
  - ❑ Discrimination, discipline or retaliation



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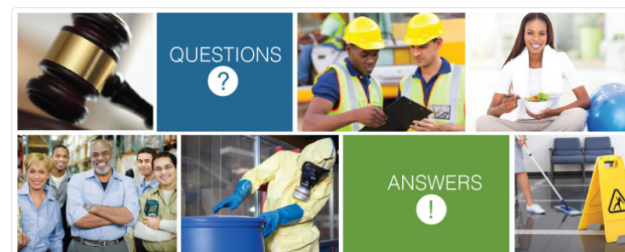
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Easy-to-read, question-and-answer fact sheets covering a wide range of workplace health and safety topics, from hazards to diseases to ergonomics to workplace promotion. [MORE ABOUT >](#)

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Type a word, a phrase, or ask a question

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## Violence in the Workplace

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### ▼ What is workplace violence?

Most people think of violence as a physical assault. However, workplace violence is a much broader problem. It can be defined as any act in which a person is abused, threatened, intimidated or assaulted in his or her employment. While exact definitions vary in legislation, generally speaking workplace violence includes:

- **Threatening behaviour** – such as shaking fists, destroying property or throwing objects.
- **Verbal or written threats** – any expression of an intent to inflict harm.
- **Verbal abuse** – swearing, insults or condescending language.

### ▼ What can I do to prevent violence in my workplace?

The most important component of any workplace violence prevention program is management commitment. Management commitment is best communicated in a written policy. The policy should:

- Be developed by management and employee representatives.
- Apply to management, employee's, clients, independent contractors and anyone who has a relationship with your company.
- Define what you mean by workplace violence in precise, concrete language.
- Provide clear examples of unacceptable behaviour and working conditions.
- State in clear terms your organization's view toward workplace violence and its commitment to the prevention of workplace violence.
- Precisely state the consequences of making threats or committing violent acts.
- Outline the process by which preventive measures will be developed.
- Encourage reporting of all incidents of violence.
- Outline the confidential process by which employees can report incidents and to whom.
- Assure no reprisals will be made against reporting employees.
- Outline the procedures for investigating and resolving complaints.
- Describe how information about potential risks of violence will be communicated to employees.
- Make a commitment to provide support services to victims of violence.
- Offer a confidential Employee Assistance Program (EAP) to allow employees to seek help.
- Make a commitment to fulfill the violence prevention training needs of different levels of personnel within the organization.
- Make a commitment to monitor and regularly review the policy.
- State applicable regulatory requirements.

### ▼ Where can I find more information about workplace violence from CCOHS?

Other OSH Answers on this topic include:

- [Violence in the Workplace – Domestic Violence](#)
- [Violence in the Workplace – Negative Interactions](#)
- [Violence in the Workplace – Parking Lot Safety](#)
- [Violence in the Workplace – Warning Signs](#)
- [Violence in the Workplace – Working Late](#)
- [Working Alone – General](#)
- [Working Alone – Handling Money](#)
- [Working Alone – Off site](#)
- [Working Alone – Working With Patients](#)

CCOHS has produced a guide called [Violence Prevention in the Workplace](#). This guide is written for anyone who wants to learn about workplace violence and its prevention. It is especially useful to individuals involved in the development and implementation of workplace violence prevention programs.

We also have created the following three e-learning courses based on the best selling pocket guide:

- [Violence in the Workplace: Awareness \(FREE\)](#)
- [Violence in the Workplace: Recognize the Risk & Take Action](#)
- [Violence in the Workplace: Establish a Prevention Program](#)



**Know your bargaining  
environment.  
Do the parties have  
similar goals and  
understanding of what  
violence is?**





# Specific Collective Agreement Articles to Address

- WorkSafeBC legislation and Regulations form the basis for rights and entitlements - but these must be expanded.
- It is not enough to have language stating that the Employer agrees to comply with the current WorkSafeBC Legislation and Regulations because they may change, and they are not sufficient to protect workers.
- The language of the Collective Agreement should not be inferior to existing Legislation and Regulations.
- The Collective Agreement should reflect that the existing Legislation and Regulations are the minimum standard.

# Specific Collective Agreement Articles to Address cont'd.

## Key Considerations:

Consider the needs of workers in precarious employment.

Safeguard and secure all private information. Comply with all privacy legislation. See FOIPPA and PIPA.

Be very careful to avoid negotiating language that may be discriminatory or a Human Rights violation.

Coordinate all overlapping legislation, obligations, rights and entitlements.



**Are the Employer and  
Union equal  
participants in the  
Joint Health and Safety  
Committee?**

# Problems and Barriers to Bargaining Collective Agreement Language

- Common problems and barriers to negotiating Collective Agreement language that protects employees includes:
  - Lack of Reporting / Under-reporting. Employees frequently under-report incidents of violence. This is especially prevalent in employees in precarious employment e.g. casuals, temporary employment etc.
  - No “serious” injury occurring. Definition of injury.
  - Past practices and workplace culture.

# Problems and Barriers to Bargaining Collective Agreement Language cont'd.

- Expectations that violence is “Part of the job” e.g. First Responders, K-12, Social Services and Healthcare
- Lack of information, statistics or incorrect data
- Retaliation, discipline, retaliation, claims suppression, and reprisal by Employers
- Unclear or poorly enforced reporting processes
- No follow-up by Employers or the Joint Health and Safety Committee
- Lack of training and education

**Lack of clarity  
on what  
violence  
includes...**



**Verbal violence,  
Violence takes  
many forms –  
violence is violence**





# Problems and Barriers to Bargaining Collective Agreement Language cont'd.

- Literacy issues
- Lack of information in multiple languages
- Confusion over what is confidential. Employers have frequently sought to limit the information given to the Joint Health and Safety Committee and employees by referring to confidentiality or Management Rights
- Non-functioning Joint Health and Safety Committees
- Confusion over forms and overlap of processes e.g. grievance vs. OHS vs. WorkSafeBC claim

# Resources and Links

- See the Word version of this document for an extensive list of resources



# Questions?



These materials are for education purposes only and are without prejudice and precedent to any other proceeding.

cope491

tm/jd

Reps\_T-McKenna\_Workshops\_Presentations\_Violence-Bargaining-Negotiating-CA\_Language-Part-2-of-2-Revised-01-30-2020