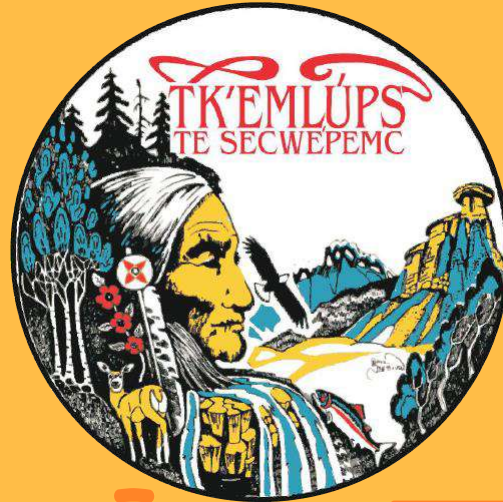


Workplace Bullying and Harassment

Training and Legal Duties

Tk'emlúps te Secwépemc
April 2024



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Agenda

Training Overview

- *Relevant Codes, Regulations, and Legislation*
- Recognizing Workplace Bullying and Harassment
- Employer Obligations
- Responding to an Incident
- Reporting procedures
- Investigating incidents or complaints
- What co-workers can do to stop bullying and harassment
- Talking to a bully
- Additional information

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Relevant Codes, Regulations, and Legislation

Employers must take reasonable steps to prevent bullying, harassment, and violence in the workplace.

Both bullying and harassment are potential hazards that risk the health and safety of employees and are not tolerated under employment law.

Specific legislation and regulations that cover health and safety in the workplace, including bullying, harassment, and violence, are:

- Canada Labour Code
- Workers Compensation Act
- BC Employment Standards Act
- Canadian Human Rights Act / BC Human Rights Code

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Relevant Codes, Regulations, and Legislation

Canada Labor Code (CLC)

The Canada Labor Code is an Act that dictates federal employers' requirements for three specific parts of labour:

- Industrial Relations,
- Occupational Health and Safety, and
- Employment Standards.

Harassment and violence falls under the Health and Safety section of the CLC.

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*Relevant
Codes,
Regulations,
and
Legislation*

Workers Compensation Act

Establishes the Workers' Compensation Board of BC (WorkSafeBC / WSBC). The WCA provides WSBC the authority and framework to create and enforce Occupational Health and Safety (OHS) laws and requirements.

Specifically, duties of employers, workers and supervisors:

- To ensure or protect health and safety

And this includes workplace bullying and harassment. Comprehensive OHS policies on workplace bullying and harassment came into effect November 1, 2013

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*Relevant
Codes,
Regulations,
and
Legislation*

BC Employment Standards Act (ESA)

The ESA is provincial legislation that protects the rights of working people. Specifically, the Act states its purposes are:

- a) to ensure that employees in British Columbia receive at least basic standards of compensation and conditions of employment;
- b) to promote the fair treatment of employees and employers;
- c) to encourage open communication between employers and employees;
- d) to provide fair and efficient procedures for resolving disputes over the application and interpretation of this Act;
- e) to foster the development of a productive and efficient labour force;
- f) to contribute in assisting employees to meet work and family responsibilities.

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Relevant Codes, Regulations, and Legislation

Canadian Human Rights Act (Federal)

BC Human Rights Code (Provincial)

Both of these pieces of legislation protect persons from discrimination in various circumstances.

- Workplace treatment and compensation
- Communications
- Providing services, access to facilities

Protected characteristics when it comes to discriminatory practices are typically race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability or conviction for an offence for which a pardon has been granted or suspension ordered.

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What Is Bullying and Harassment?



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Bullying and Harassment Defined

Canada Labor Code Definition

The CLC defines “harassment and violence” together as any action, conduct, or comment, including of a sexual nature, that can **reasonably be expected** to cause offense, humiliation, or other physical or psychological injury or illness to an employee.

A worker is bullied and harassed when someone takes an action that he or she **knew or reasonably ought to have known** would cause that worker to be humiliated or intimidated.

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Bullying and Harassment Defined

Ttes Employee Policy 2023

Bullying and harassment includes actions or behaviours by an individual towards another, that would **reasonably be unwelcome** by the recipient.

This also 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.

Bullying and Harassment also applies to cyberbullying, which occurs through the use of electronic communication, including email, text messaging, and social media.

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What is
workplace
bullying and
harassment?

Behaviour that humiliates or intimidates or would otherwise reasonably be seen as unwelcome. Often there is a pattern of behaviour but that is not a requirement.

Examples might include:

- Verbal aggression or name-calling
- Vandalizing personal belongings
- Sabotaging work
- Spreading malicious rumours
- Humiliating initiation practices / hazing
- Personal attacks
- Aggressive / threatening gestures
- Cyber-bullying

Can come from co-workers, supervisors, employers, external sources.

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What *is not* bullying and harassment?

General unpleasant interactions do not necessarily constitute bullying and harassment, things like:

- Expressing differences of opinion
- Offering constructive feedback
- Making a legitimate complaint about another worker's conduct

Additionally, reasonable management action, including decisions about:

- Job duties and work to be performed
- Workloads and deadlines
- Layoffs, transfers, promotions, and reorganizations
- Work instruction, supervision, or feedback
- Work evaluation
- Performance management
- Discipline, suspensions, or terminations

Does not constitute bullying or harassment, provided these actions are respectful and fair.

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Continuum of Bullying and Harassment

There are a wide range of behaviours that can constitute bullying and harassment. These behaviours can vary in frequency, impact or severity, and visibility.

Bullying and harassment has changed over the years and actions that were previously not recognized as causing harm or affecting individuals have now been recognized in updated legislation and case law.

Largely the focus is on the **IMPACT** on the complainant, as opposed to the **INTENT** of the person committing the act / behaviour.

This is important when considering patterned behaviour or frequent and subtle instances of inappropriate workplace behaviour.

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Continuum of Bullying & Harassment

Created by the Canadian National Defence

| | VERBAL ABUSE | ONLINE ACTIONS | PSYCHOLOGICAL HARM | PHYSICAL ACTIONS | CRIMINAL ACTIONS |
|------------------------------|--|--|--|---|---|
| DISRESPECT | Swearing, using condescending language (tone, sarcasm), cutting someone off, grand standing, boasting. | Purposefully leaving someone out of group emails; cc'ing others when pointing out someone's mistakes; continuously ignoring someone's contributions. | Interrupting or dismissing someone when they are speaking; purposefully excluding or leaving someone behind; belittling someone's efforts. | Rolling eyes, smirking, snickering, turning away from a conversation, laughing or putting down someone's opinions/thoughts. | Stalking; making death threats. |
| INTIMIDATION | Making statements that instill fear or alarm. | Sharing someone's personal photos or other material about them without consent; slandering someone publicly. | Causing fear; diminishing someone's value; making insults; betraying trust. | Shaking fists, banging on tables, standing over someone or invading their personal space. | Stalking; sharing intimate photos on social media/the internet. |
| THREATENING BEHAVIOUR | Making statements that elicit alarm or threaten a person's welfare. | Making public personal or defamatory material online to undermine someone's confidence, credibility and professional reputation. | Causing fear; betraying someone's trust; creating disquiet and uneasiness in others. | Throwing objects or damaging property. | Making death threats; threatening to damage property; stalking, committing voyeurism. |

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| | VERBAL ABUSE | ONLINE ACTIONS | PSYCHOLOGICAL HARM | PHYSICAL ACTIONS | CRIMINAL ACTIONS |
|---|---|---|---|--|---|
| HAZING | Causing public and personal humiliation to someone using degrading words and abusive language. | Recording and/or posting humiliating events online. | Humiliating, degrading or causing emotional and/or physical harm to someone. | Torturing someone physically: binding, capturing, hitting, spitting, making them wear inappropriate attire. | Committing sexual assault; physical violence; bullying. |
| BULLYING | Criticizing, insulting or denouncing someone's character; overbearing supervision; repeating behaviour with the aim to humiliate. | Trolling; deliberate, repeated and hostile online communication by an individual or group through words or pictures. | Repeating demeaning behaviours that are known to cause fear and require someone to defend oneself. | Exhibiting persistent and deliberate physical acts that are hostile and aggressive: beating, mobbing, knocking someone's hat off, etc. | Stalking, committing vandalism, assault; asserting power through physical aggression. |
| VIOLENCE (verbal, sexual, psychological, physical) | Making threats, yelling, cursing, making sexual insults or innuendos, or offensive jokes. | Making online threats of physical violence; verbally attacking someone to intimidate them; posting pictures of a sexual nature. | Acting in a way that causes fear; betraying trust; risking the emotional and/or physical safety of yourself and others. | Using physical aggression; sexual gestures or touching, or direct threats to cause bodily harm. | Committing physical assault, sexual assault, or committing vandalism. |
| OVERT AGGRESSION | Using extremely abusive, vicious expressions during face to face communication. | Using extremely abusive, vicious online communication. | Causing fear; diminishing someone's value; making insults; betraying trust. | Committing physical assault, sexual assault, or weapons offences. | Committing physical assault, sexual assault, weapons offences, arson or vandalism. |

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The effects of workplace bullying and harassment can include:

- Health and safety issues
- Distracting someone who is performing dangerous tasks
- Physical and/or psychological injury
- Lower productivity
- Lower morale
- Higher absenteeism
- Staff turnover — targets of bullying and harassment and their co-workers

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Employer obligations

- Draft a workplace policy statement
- Prevent or minimize bullying and harassment
- Develop reporting procedures
- Develop procedures for dealing with / investigating incidents or complaints
- Train workers and supervisors

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TteS Policy - 2023

K 1.0 Respectful Workplace (Bullying and Harassment)

- Workplace bullying, harassment, and discrimination is not acceptable or tolerable in any of Tk'emlúps te Secwépemc departments or corporations.
- All employees are to participate in a minimum of one Workplace Violence and Harassment Training and a minimum of one Workplace Bullying Training annually.
- TteS provides protection for complainants, confidentiality in the review of complaints, and proper redress in respect of bullying and harassment. This Respectful Workplace Policy shall be administered in accordance with WorkSafeBC, the Canada Labor Code, and BC Employment Standards.
- Respectful behavior displays personal integrity and professionalism, practices fairness and understanding, demonstrates respect for individual rights and differences and encourages accountability for one's actions. Our relationships with each other (including our guests and business partners) are critical to the success of a positive workplace and practice.

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Training supervisors and workers

TteS will provide training on this policy, ensuring that:

- Employees understand the contents of the policy;
- Employees, supervisors, and managers recognize bullying and harassment in the workplace;
- Employees know how they can respond to and report incidents of bullying, harassment, violence, discrimination, and improper activity or behavior;
- Employees understand how the company will respond to and investigate reports of bullying, harassment, violence, discrimination, and improper activity or behavior;
- Supervisors and managers are adequately trained on how to respond to and investigate reports of bullying, harassment, violence, discrimination, and improper activity or behavior; and
- Supervisors and managers are adequately trained in how to provide support for employees who may suffer from adverse symptoms as a result of bullying, harassment, violence, discrimination, or improper activity or behavior.

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Duty to prevent or minimize risks

When we become aware of circumstances that present risks of bullying and harassment, we are required to take steps to prevent or minimize that risk.

Examples of risk mitigation could be:

- Providing locked doors or fob-systems
- Installing cameras
- Providing contact numbers for security
- Training
- Implementing check-in systems

TteS will jointly conduct a workplace assessment to identify risk factors related to harassment and violence in the workplace and develop and implement preventative measures to protect the workplace from these risks.

This assessment process will be reviewed and updated every three years.

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Resolution Processes

Informal

Formal

Investigations



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Reporting procedures – Informal Resolution

Informal Resolution:

If you are being bullied or harassed, or have been a victim of violence, discrimination, or improper activity or behaviour:

- Inform the person perpetrating the actions that their actions are unacceptable, and they need to stop.
 - Describe the specific actions that they took that caused you to feel uncomfortable.
 - Sometimes a person is unaware that they are acting unacceptably.

Keep a record of dates and times where you have spoken to the individual and inform your manager, supervisor, or human resources of what occurred.

If the actions continue, use the formal reporting process (filing a report).

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Informal Resolution - Situations

Examples of when an informal conversation might be appropriate:

Mild or isolated incidents:

- A one-time occurrence or a minor incident. Address the issue promptly and directly, focusing on understanding each person's perspective and finding a resolution.

Lack of intent:

- When there is no malicious intent, and it seems like a misunderstanding or unintentional behavior.

Informal settings:

- If the issue is small and doesn't involve serious consequences.

Suitable for peer-to-peer conflict:

- When the conflict is between peers and there is no power imbalance.

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Reporting procedures – Formal Resolution

Formal Resolution:

If bullying, harassment, violence, discrimination, or improper activity or behavior either continues to occur after a conversation with the individual or is extreme or dangerous in nature, employees must report it immediately.

- Speak with your supervisor or manager or with human resources and report the incident.
- If your supervisor or manager is the cause of the concern, report the situation to the next person in the reporting hierarchy, according to the organizational chart.
- Write out a statement detailing the incidents including the names of the parties involved; any witnesses to the incident; the location, date, and time of the incident; details about the incident (behavior or words used); and any additional details that would help with an investigation.
- An investigation will be initiated.
- Where it is determined that the person has breached the law, the appropriate authorities will be contacted.

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Formal Resolution - Situations

Examples of when a formal investigation may be required:

Repeated incidents:

- Occurs repeatedly, continues, or worsens, it requires investigation, as it indicates an ongoing problem that needs to be addressed.

Serious or harmful behavior:

- Any actions that cause or could cause physical, emotional, or psychological harm.

Power imbalance:

- Refer to situations where there is an unequal distribution of authority between one employee and another. For example, a supervisor harassing a subordinate.

Violation of policies:

- When the behavior violates organizational or legal policies, a formal investigation is necessary to ensure compliance and proper consequences.

Involvement of multiple parties:

- If multiple individuals are involved or affected by the situation, an investigation can help uncover the underlying issues and implement appropriate measures.

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Process – Prior to an Investigation

Steps Taken in Resolving a Complaint

Once an incident is reported, the following occurs:

- HR will acknowledge receipt of the complaint
- The complainant and HR will meet and review the incident to determine if the actions or behaviours constitute bullying, harassment, or violence.
- Attempt at Negotiated Resolution
 - Meetings with relevant parties to determine actions or accommodations if needed. Try to resolve at this stage.
- If no resolution is found, parties may attempt Conciliation with a mutually agreed upon facilitator.
- If there is no resolution and/or the complainant requests it, an investigation will be started.

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Investigating Complaints – Formal Investigation

Investigating Reports of Bullying, Harassment, Violence, Discrimination, or Improper Activity or Behavior

- If no resolution is achieved, an investigation may be started at the request of the complainant.
 - If the complaint is against a member of the Executive, Chief, and Council, an HR employee, or if there is a conflict of interest between the HR department and the complainant or respondent, a 3rd party will complete the investigation.

Investigations will include:

- Informing the respondent of the complaint;
- Interviewing the complainant, any person involved in the incident, and any identified witnesses.
- Interviewing any other person who may have knowledge of the incidents related to the complaint or any other similar incidents.

Both Complainant and Respondent will be provided with one-another's statement regarding the incident.

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Protection
for Targets

Whistleblower Policy

We are committed to ensuring that concerns can be surfaced without fear of reprisal or retaliation or negative impact on their job status.


If an allegation is made in good faith, whether or not the investigation confirms it, no action will be taken against the originator.

- However, if the investigation reveals that an individual has made deliberately false or malicious or vexatious allegations, such instances will be viewed as serious offences.

Retaliation against any person who voices a concern files a report or participates in any subsequent related investigation is prohibited.



This protection is offered to all who report workplace wrongdoing. For example, conflicts of interest, fraud, discrimination, safety issues, and all types of workplace harassment and violence.


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Scenario:

What Can
You Do?







Someone at work comes into my personal space and strokes my arm.




I feel uncomfortable.




What can I do?

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Scenario: What Can You Do?






If you feel safe to do so, tell them you're uncomfortable and ask them to stop the unacceptable behaviour.



If they don't stop, and/or to report the incident, speak to your supervisor or manager.



If you are uncomfortable bringing this up to your supervisor / manager, report to HR.

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As an Employee, what is required?

Under Workplace Regulations and Legislation, Employees have a duty to:

- Report if they observe or experience bullying and harassment.
- Not engage in workplace bullying and harassment.
- Apply and comply with workplace policies and procedures on bullying and harassment.



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As a Supervisor, what is required?

Under Workplace Regulations and Legislation, Supervisors have a duty to:

- Not engage in bullying and harassment.
- Report instances of bullying, harassment, or violence.
- Apply and comply with workplace policies and procedures on bullying and harassment.
- Participate in and encourage conflict resolution
- Take all reasonable steps to ensure the health and safety of workers under their supervision.
- Take all reasonable steps to prevent where possible, or otherwise minimize, workplace bullying and harassment.

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What can co-workers do to stop workplace bullying and harassment?

- If you are nearby and someone tells another person to stop, reiterate their stance – tell the bully to stop as well.
- Listen to the target, demonstrate care and empathy for their experience.
- Discourage rumour spreading and do not participate in gossip.
- Offer support (e.g., employee assistance program, counsellor, conversations).
- Document details of what you see, to share in an investigation.
 - Dates
 - Details
 - Witnesses

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Talking to an alleged bully

If you are the target of, or witness to, bullying and harassment:

- Tell the bully what behaviour was inappropriate
 - Call out specific actions or statements and how it made you feel.
- Make it clear the behaviour is unwanted, unacceptable, and/or will not be tolerated.
- Stay calm
- Don't retaliate
- Document the conversation and report it

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YOU Shape Our Workplace Culture – Be that Change





Be Active

Don't Be a Bystander.
Don't look the other way when it comes to bullying or harassment.



Speak up

Speak up when you feel that discomfort feeling while observing unacceptable behaviour.



Care

Demonstrate support and care which will discourage unacceptable behaviours.


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Additional
Information

TteS Employee Policy; Section K
1.0 – 4.0

- 1.0 Respectful Workplace (Bullying and Harassment)
- 2.0 Incident Reporting
- 3.0 Workplace Violence and Abuse Policy
- 4.0 Whistleblower Protection


Thank you



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We Value Your Feedback!

To help us improve our training programs, please take a moment to share your thoughts by scanning the QR code below. Your feedback is important to us and will help us enhance future sessions.



Thank you for your time!

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