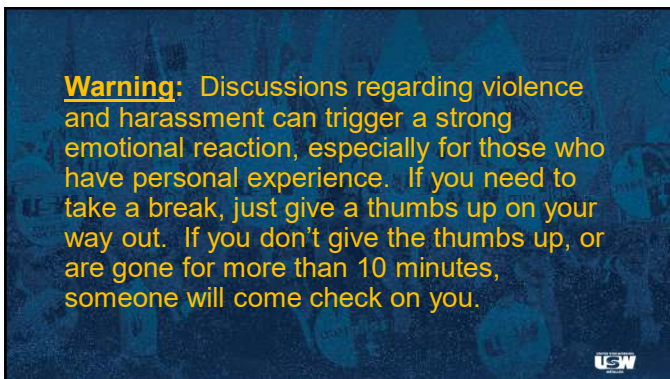




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Harassment

Harassment is when someone says or does something that offends or humiliates another person. Usually, the harasser must say or do these offensive things many times, but a serious one-time incident, may also be harassment. Harassment can be direct or indirect, obvious or subtle, physical or psychological. It can occur in many ways, such as through spoken words, text, gestures, and images.


Even if an individual did not harass someone on purpose (with intent), their behaviour can still be harassment. The question is whether a reasonable person would have known that the behaviour in question was unwelcome.



5

Workplace violence

Workplace violence includes actions, conduct, threats or gestures that can be reasonably expected to cause harm, injury or illness.



6



7

Is it harassment?

Marty says that this is the year for the Toronto Maple Leafs to win the Stanley Cup.

Andy replies that it hasn't been the Leafs' year since 1967, and it doesn't look like that will change any time soon.

Marty isn't happy and wants to know what can be done.




8

Is it harassment?

Rick always assigns any outdoor tasks to John; John is a person of colour.

A coworker, Jason, asks Rick why he always assigns those tasks to John and his answer was that John's skin colour provides him with natural protection from sunburn.

John overhears this answer and comes to you for advice.



9

Is it harassment?

George works at a Union shop, and they are adding a night shift due to increased production demands.

George is part of a visible minority, but he's also the person with the least amount of seniority.

He is the first to have his schedule changed and wants advice.



10

Is it harassment?

Jeff is an Indigenous worker who has been subjected to race-based comments, jokes and names (like Chief) from supervisors and coworkers.

Jeff has sometimes just played along, but now he's fed up.

Jeff's coworkers insist that the fact that he played along means that it wasn't wrong.



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Workplace Violence and Harassment Statistics



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Canadian Government Survey

In 2017 the Government of Canada conducted a survey and invited submissions regarding harassment and sexual violence in the workplace for the federally regulated sector.

Over a thousand people participated in the survey with:

- 60% reported experiencing harassment in the workplace
- 30% reported experiencing sexual harassment
- 3% reported sexual violence.



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Survey results cont'd

Only 44% of harassment cases were between coworkers.

Those reporting any type of harassment or violence said that they experienced it more than once in the two years prior to the survey.

Among respondents who experienced an incident in the past two years, men were more likely to have experienced harassment than women, and women were more likely to have experienced sexual harassment. Women were also more likely to have experienced violence.



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Survey results cont'd

Respondents who experienced sexual harassment tended to work in environments with a higher ratio of men in positions of power than respondents who experienced non-sexual harassment or violence.

People with disabilities and members of a visible minority group were more likely to experience harassment than other groups



15



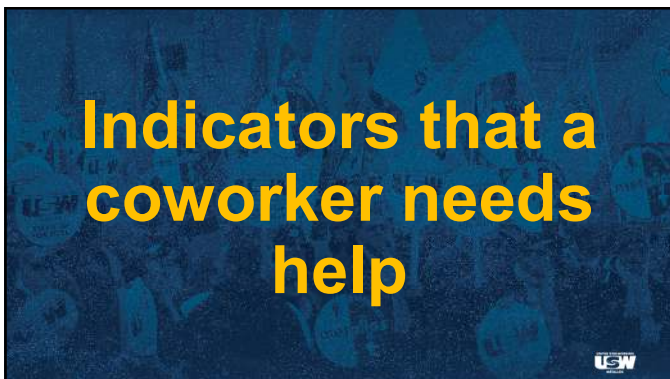
16

Impacts of violence and harassment on the workplace

- Increased absenteeism.
- Increased turnover.
- Increased stress.
- Bullying in the Workplace CCOHS
- Increased costs for employee assistance programs (EAPs), recruitment, etc.
- Increased risk for incidents.
- Decreased productivity and motivation.
- Decreased morale.
- Reduced corporate image and customer confidence.
- Poor customer service.

UAW

17



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General Indicators

Always take particular note if:

- There is a change in the worker's behaviour patterns.
- The frequency and intensity of the behaviours are disruptive to the work environment.
- The worker is exhibiting many of these behaviours, rather than just a few.



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Specific warning signs include:

- Crying, sulking or temper tantrums.
- Excessive absenteeism or lateness.
- Pushing the limits of acceptable conduct or disregarding the health and safety of others.
- Disrespect for authority.
- Increased mistakes or errors, or unsatisfactory work quality.
- Refusal to acknowledge job performance problems.
- Faulty decision-making.
- Testing limits to see what they can get away with.
- Swearing or emotional language.
- Handling criticism poorly.
- Making inappropriate statements.



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Specific warning signs include:

- Forgetfulness, confusion, or distraction.
- Inability to focus.
- Blaming others for mistakes.
- Complaints of unfair personal treatment.
- Talking about the same problems repeatedly without resolving them.
- The insistence that they are always right.
- Misinterpreting communications from supervisors or co-workers.
- Social isolation.
- Sudden and/or unpredictable change in energy level.
- Complaints of unusual or non-specific illnesses.
- Holding grudges, and verbalizing hope that something negative will happen to the person against whom they have the grudge.



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Non-verbal warning signs

- Flushed or pale face.
- Sweating.
- Pacing, restless, or repetitive movements.
- Signs of extreme fatigue (e.g., dark circles under the eyes).
- Trembling or shaking.
- Clenched jaws or fists.
- Exaggerated or violent gestures.
- Change in voice.
- Loud talking or chanting.
- Shallow, rapid breathing.
- Scowling, sneering or use of abusive language.
- Glaring or avoiding eye contact.
- Violating your personal space (they get too close).



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Characteristics of a potentially violent person



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Potential warning signs for violence

- History of violence.
- Threatening behaviour.
- Intimidating behaviour.
- Increase in personal stress.
- Negative personality characteristics.
- Marked changes in mood or behaviour.
- Socially isolated.
- Abuses substances, such as drugs or alcohol.



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25

How can bullying affect an individual?

- Shock.
- Anger.
- Feelings of frustration and/or helplessness.
- Increased sense of vulnerability.
- Loss of confidence.
- Physical symptoms such as:
 - Inability to sleep.
 - Loss of appetite.

Psychosomatic symptoms such as:

- Stomach pains.
- Headaches.
- Panic or anxiety, especially about going to work.
- Family tension and stress.
- Inability to concentrate.
- Low morale and productivity.



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Violence and Harassment Laws & Policies

- Human Right's legislation
- Criminal Code of Canada
- Health and Safety legislation
- Worker's Compensation legislation and policies
- USW policy and/or workplace/employer policy



28

Burden of proof

- Criminal offence = beyond a reasonable doubt
- All others should employ the balance of probabilities test, and according to the definition provided in several jurisdictions, the reasonable person test for harassment and/or bullying



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Interpreting Legislation

Enactments deemed remedial

12 Every enactment is deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.

<https://laws-lois.justice.gc.ca/eng/acts/i-21/index.html>



30

Issues with legal recourse

- Time it takes to have a hearing.
- High bar to meet for Criminal Code of Canada.
- Human Rights complaints are required to be based on prohibited ground.
- Lack of proof.



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The law is flawed

- It lacks language regarding victim protection.
- Too many jurisdictions provide employer control over the risk assessment, policies and procedures for violence and harassment.
- No language about unsubstantiated claims.
- Compensation is only wage loss benefits and healthcare but doesn't include prevention.



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**How can we reduce
or prevent workplace
violence and
harassment?**



33

Ideas to help reduce workplace violence and harassment

- Education and training.
- Negotiate better workplace policies and procedures.
- Lobby the government to improve the legislation.
- Workplace violence and harassment is a hazard in the workplace that needs to be included in the workplace inspection process.



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Education and training

Education: in this context it should be viewed as providing general knowledge about what harassment is, and isn't, and the existence of a workplace policy.

Training: should be mandatory and specific to the workplace policies for harassment and violence. It shouldn't be a one and done type of training either; there should be a schedule of training at least every three years and more often if legislation changes. The effectiveness of the training should be evaluated to determine the future training needs.



35

Bargaining Better

Legislation provides the bare minimum and where there is no legislation, or it's lacking, then workers can negotiate language in their collective agreement that's better than the legislation.

Increased input and participation for workers is an example of negotiating better when it comes to risk assessments, policy development and procedures to implement policies.

Clarifying definitions for violence and harassment to be sure that domestic violence and/or intimate partner violence is included is another example. Harassment should also include all forms (sexual, racial, and personal) and methods (speech, writing, text or email, etc.). It could also provide clarification about when bullying is harassment and when it's violence.



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Lobbying

Bargaining better only protects workers covered by that contract, but legislation protects more workers.

Improvements in legislation give an elevated floor from which to negotiate better.

History has shown that relying on the employer and/or supervisor general duty clause to take reasonable precautions in the circumstances to protect workers hasn't eliminated workplace hazards which include violence and harassment.

Steelworkers can be proud of our successes in lobbying the government for better health and safety language, amendments to the Criminal Code of Canada for criminal negligence and should continue the fight to make workplaces safer for all.



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Workplace Hazard Inspections

Violence and harassment are workplace hazards and nothing in health and safety legislation prohibits a worker representative or committee member from having that as part of their inspection.

Workers can be reluctant to report such issues to their supervisor, but more likely to talk to another union member.

Hazard inspections aren't a substitute for reporting serious issues but are an effective way to keep the union health and safety committee informed.



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Prevention as part of workplace policy



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Key Components

1. Develop an action plan
2. Design and implement a policy
3. Conduct a workplace assessment
4. Provide mandatory training



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Best Practices

- Access to a reporting mechanism
- Eliminate any barriers to reporting
- Notification process once a complaint has been filed
- Alternate resolution processes
- Investigation
- Substantiated complaints
- Unsubstantiated complaints vs. false accusations
- Appeal process
- Restoring the workplace
- Supports and accommodation



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Writing a workplace violence and harassment policy



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Time to practice

Use Annex B in the Canadian Human Rights Commission's *Preventing and addressing workplace harassment and violence, A guide for federally regulated employers* as a template to practice writing a workplace violence and harassment policy for your workplace.

Don't limit the policy to protected grounds and adapt it to the applicable legislation for your workplace.

This can be a rough draft done in point form.



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Questions?



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