

Respectful Workplace

Preventing Violence and Harassment

Bill 168

OHSA



**“respect for self
respect for others
responsibility for all your actions!”**

- the Dalai Lama

Participant Guide

TABLE OF CONTENTS

Learning Objectives	1
Introduction to Bill 168 and Bill 132	2
Violence and Harassment	3
OHRC	3
Types of Violence and Harassment	4
Quiz #1	5
Impact of Violence	6
Domestic Violence	6
Sexual Harassment	7
Poisoned or Hostile Work Environment	7
Right of Refusal	8
What to Do?	8
Quiz #2	9
Responsibilities and Liabilities	10
Employer Responsibilities	10
Supervisor Responsibilities	10
Union and Association Responsibilities	11
Worker Responsibilities	11
Tips and Warning Signs	12
Quiz #3	12
Summary	14
Glossary of Terms	15
Other Resources	19

Learning Objectives

At the end of this training, you should be able to:

- Recognize techniques that can help increase awareness of workplace violence and harassment.
- Identify harmful impacts that workplace violence and harassment have on organizations and their workers.
- Explain the potential legal ramifications of workplace violence and harassment.

Introduction to Bill 168

In December 2009, the Ontario government passed Bill 168, changing the *Occupational Health and Safety Act*. All employers with more than five workers will be required to conduct workplace violence risk assessments, and to reassess this risk as required. Employers must develop and post workplace violence and harassment policies, review them at least once a year, and develop a program to implement the policies.

Under Bill 168, Workplace Violence is:

The exercise of, or an attempt to exercise, physical force against a worker in a workplace that causes, or could cause physical injury to a worker. This includes a statement, or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force that could cause physical injury.

Introduction to Bill 132

In 2016, Bill 132 further amended the Occupational Health and Safety Act to expand the meaning of workplace harassment to include workplace sexual harassment.

The following definition of sexual harassment in Bill 132 echoes that of the Human Rights Code with respect to discrimination and harassment based on sex, sexual orientation, gender identity or gender expression:

“engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.”

Bill 132 amended various existing statutes with respect to sexual violence, sexual harassment and domestic violence. For employers, Bill 132 presents important workplace-related changes by amending the *OHS Act* to require employers to implement specific workplace harassment policies and programs and to ensure that incidents and complaints of workplace harassment are appropriately investigated.

Bill 132 also requires employers to conduct appropriate investigations in response to incidents or complaints of workplace harassment. Following an investigation, an employer must inform both the worker who has allegedly experienced harassment and the alleged harasser (if s/he is a worker of the employer) of the results and of any corrective action that has been, or will be, taken.

Notably, an inspector now has the power to order an employer to conduct an investigation by an impartial third party, and obtain a written report by that party, all at the employer's expense. Bill 132, however, does not specify the circumstances in which an inspector can, or will, order an employer to conduct such an investigation.

So you can see, *OHSA* and *Bill 132* make it clear that sexual violence and harassment is against the law and that your employer is responsible for having a workplace policy and process that prohibits and addresses how to respond to sexual violence and harassment in the workplace.

Violence and Harassment

OHRC

The Ontario *Human Rights Code* prohibits harassment based on specific grounds of discrimination. Bill 168 nevertheless still covers harassment that is not based on these grounds.

Bill 168 addresses all forms of harassment, including those that go beyond the prescribed grounds under the *Human Rights Code*, such as personal or psychological harassment, which can also be called bullying.

The legal definition of harassment in Bill 168 is: “engaging in a course of vexatious comment or conduct that is known or ought reasonably be known to be unwelcome.” This includes bullying and can involve unwelcome words or actions that are known, or should be known to be offensive, embarrassing, humiliating, or demeaning to a worker or group of workers.

Any behaviour that intimidates, isolates, or discriminates against a targeted individual or individuals can be interpreted as harassment. The definition applies to any person making comments, or behaving in a way that they know, or should know, is unwelcome.

Ideally, the person being harassed tells the offender not to do it anymore because they find it offensive, unwelcome, or unwanted. However, they are not under an obligation to do so, especially if they have reason to feel afraid of the harasser.

Even if the person being harassed does not verbally tell their harasser to stop, they can still express their discomfort or dislike through body language such as turning or walking away from their harasser, frowning, crying or even becoming angry or upset.

Workplace violence and harassment may occur outside the formal work space at work-related social functions, conferences or training sessions, in parking lots and other areas, and can include verbal, non-verbal, electronic or written communications.

If a worker is subjected to personal or psychological harassment, they can have their situation investigated and dealt with under their employer's workplace violence and harassment prevention policy.

Types of Violence and Harassment

Behaviour that can be considered violent or harassing includes yelling, spreading rumours, throwing things, arguments, malicious pranks, verbal abuse, bullying, pushing, swearing, physical assault, vandalism, theft, arson, sabotage, rape, sexual assault, and murder.

Workplace harassment can include: Unwelcome remarks, jokes, offensive gestures, innuendoes, taunting, leering, practical jokes, inappropriate physical contact; displaying or transmitting pornographic, racist, derogatory pictures or other offensive material; mimicking or teasing; condescending behaviour that undermines self-respect; and, refusing to converse or work with a worker because of their race or ethnic background.

Behaviours that are seen as personal or psychological harassment include, but are not limited to:

- Deliberately cutting a co-worker out of communications, such as not returning emails or phone calls, not sending relevant emails or passing on important information, or otherwise sabotaging a person;
- Ignoring a co-worker by giving them the silent treatment, bringing refreshments for everyone except the targeted co-worker, or similar exclusions;
- Making up new rules for a targeted person, while exempting others;
- Any attempt to embarrass or humiliate another worker by using inappropriate comments or jokes.

It is important to understand that a supervisor who provides direction, counsel, discipline, or performance reviews as part of his or her job, is not considered to be harassing their workers.

NOTES 
