

In Ontario, violent incidents have occurred in workplaces as diverse as hospitals, offices, factories, and nursing homes. In addition to the tragedy of the incidents themselves, they often attract wide media attention and additional trauma for victims, co-workers and families. Specific actions have been required by Ontario employers since 2010 to help reduce the instances of workplace violence and harassment. However, most of those requirements centered around workplace violence. The requirements for workplace harassment were very general.

Fast-forward to September 8, 2016, where Ontario has introduced Bill 132, extending the definition of workplace harassment in the Occupational Health and Safety Act (OHSa) to specifically include sexual harassment. The legislation also provides an explanation of what is not workplace harassment.

Workplace Violence:

- a) *the exercise of a physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,*
- b) *an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,*
- c) *a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.*

Workplace Harassment:

- a) *engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or*
- b) *workplace sexual harassment.*

Workplace Sexual Harassment:

- a) *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*
- b) *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.*
- c) *engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known as unwelcome.*

Note: *A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.*

New Program Requirements Effective September 8, 2016

Expanded duties for employers respecting workplace harassment:

- Prepare the policy in writing and post it in a conspicuous location in the workplace (applies to employers with five or more employees);
- Ensure that the policy for workplace harassment includes sexual harassment;
- Consult with the joint health and safety committee or health and safety representative on the development and maintenance of a written program to implement the workplace harassment policy;
- Review the policy and program as often as necessary, but at least annually;
- Conduct investigations into incidents and complaints of workplace harassment that are appropriate in the circumstances;
- Inform the involved parties in writing of the results of the investigation and of any corrective action that has or will be taken;
- Provide information and instruction for workers on the contents of the policy and program.

Workplace harassment programs must now include the following elements:

- measures and procedures for workers to report incidents of workplace harassment to the employer or supervisor;
- measures and procedures for workers to report incidents of workplace harassment to a person other than the employer or supervisor, if either are the alleged harasser;
- setting out how incidents or complaints of workplace harassment will be investigated and dealt with;
- setting out how information obtained about an incident or complaint of workplace harassment will not be disclosed unless necessary for the purposes of investigation or taking corrective action;
- setting out how the parties of an alleged harassment will be informed of the results of the investigation and of any corrective action that will be taken.



Workplace Violence Program Checklist

Worker rights and duties under the workplace violence legislation include the following:

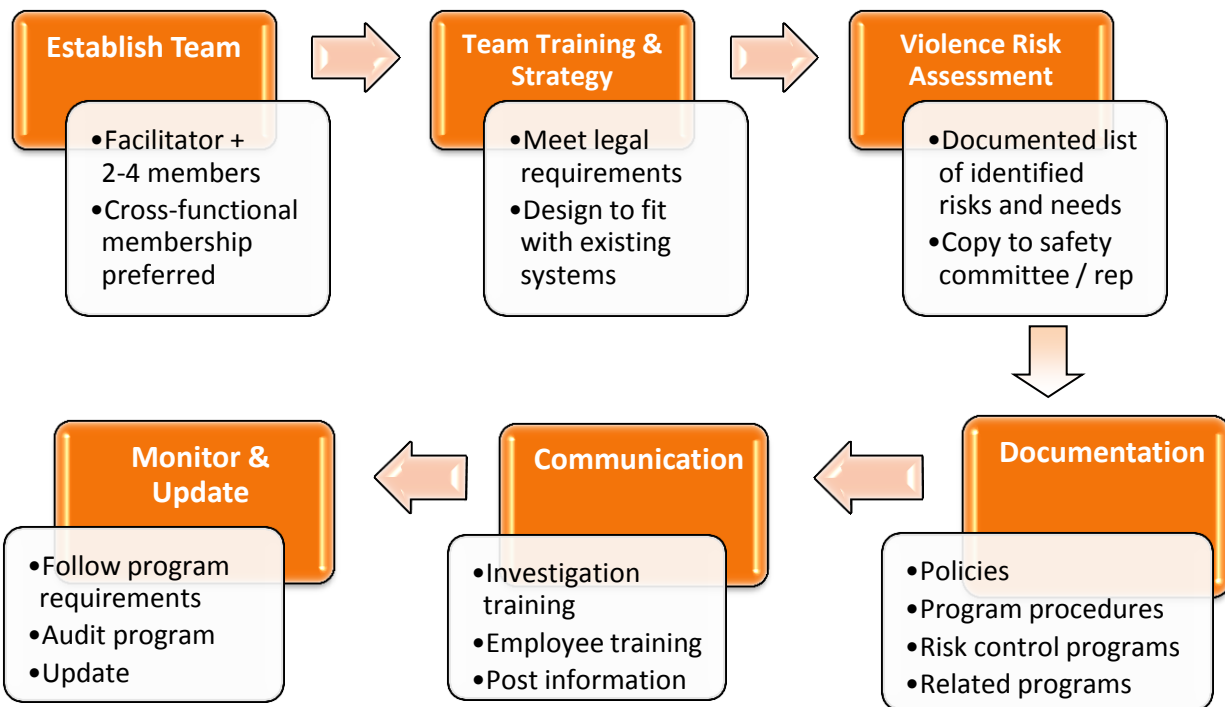
- A workers' right to refuse work is extended to situations involving risk of physical injury due to the possibility of workplace violence
- Workers must report incidents of workplace harassment to their employers or supervisors

Employers with more than five workers and regulated by the OHS Act are required to.

- Develop and update at least annually, a policy for workplace violence;
- Post the policy in a conspicuous place in the workplace;
- Develop programs to implement the policy;
- Assess the risks of workplace violence based on the nature of the workplace and type or conditions of work, considering circumstances that would be common to similar workplaces and specific to their workplace;
- Develop measures and procedures to control identified risks;
- Share results of the workplace violence assessments with the joint health and safety committee, worker representative, or workers;
- Reassess the risks of workplace violence as often as is necessary to ensure that the related policy and program continue to protect workers from workplace violence;
- Take every reasonable precaution to protect a worker if domestic violence is likely to expose a worker to physical injury in the workplace;
- Alert certain workers of the risk of workplace violence from persons with a history of violent behaviour. This may include personal information that is necessary to protect the worker from physical injury;
- Develop measures and procedures for workers to report incidents of workplace violence to the employer or supervisor;
- Set out how to investigate and deal with incidents or complaints of workplace violence;
- Prepare measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur;
- Notify the Ministry of Labour in cases of violent workplace incidents;
- Provide information and instruction on workplace violence policies and programs

Program Implementation

Prevention and Regulatory Solutions Ltd. recommends the following approach to ensure that the violence and harassment program effectively meets the requirements of the legislation while fitting the culture and existing systems of the organization.



Prevention and Regulatory Solutions has helped numerous clients design and implement policies, practical compliance programs, and facilitate risk assessments. Call for an estimate of how we can assist with a violence and harassment prevention program for your organization.

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