

BILL C-65 AND WORKPLACE HARASSMENT AND VIOLENCE (WHV) PREVENTION REGULATIONS - AN OVERVIEW

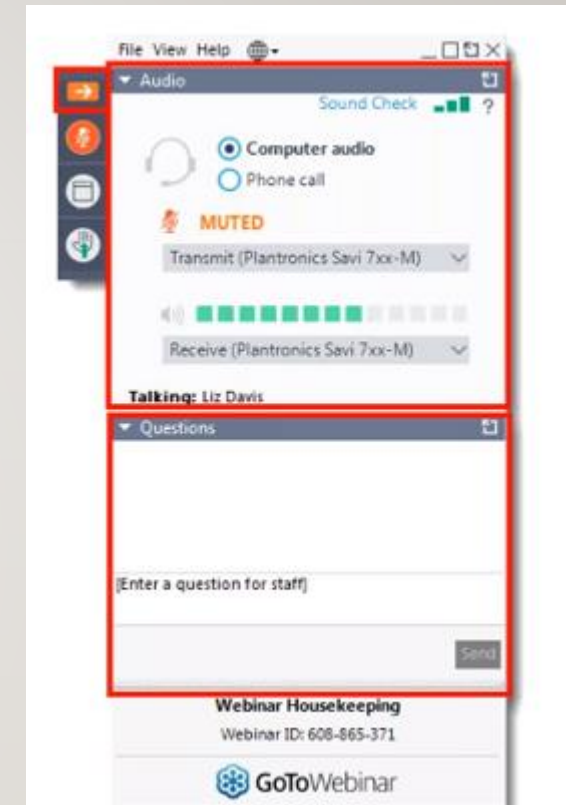
FEBRUARY 3, 2021



PSAC · Prairies
Public Service Alliance of Canada

USING GOTOWEBINAR

- Open and close your control panel using the orange arrow
- Join audio choose:
 - Microphone & Speakers to use VoIP; or
 - Telephone and dial using the information provided
- Submit questions and comments via the questions panel
- Today's presentation is being recorded and will be shared



WELCOME

- Traditional land acknowledgement
- Greetings from REVP



PSAC · Prairies
Public Service Alliance of Canada

AGENDA

- Basics of C-65
- Why it's important
- 3 pillars; Prevention, Response and Support
- Resources
- Q and A
- Closing- please fill out survey immediately afterwards



BASICS-HARASSMENT AND VIOLENCE IS DEFINED AS;

New-

“any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee including any prescribed action, conduct or comment.”

Old-

“Any action, conduct, threat or gesture of a person towards an employee in their workplace that can reasonably be expected to cause harm, injury or illness to that employee.”



WHY IS IT IMPORTANT?

- Violence in the workplace begins long before fists fly or lethal weapons extinguish lives. Where resentment and aggression routinely displace cooperation and communication, violence has occurred.”
- Bernice Fields – Arbitrator
- Nov 2000
- “We recommend that workplace violence be defined not only as physical violence but also as psychological violence such as: bullying, mobbing, teasing, ridicule...”
- OC Transpo Inquest
- Feb 2000

WHY IS IT IMPORTANT?

RESEARCH / STATISTICS SHOW;

- Incidents of harassment and violence escalate when they are not addressed
- When there is an emphasis on prevention of WHV there is a decline in the number of incidents over time
- WHV at work makes people sick, and sicker for longer
- Incidents of workplace WHV are increasing*
- Many incidents of WHV in the workplace are never reported
- Racialized, Indigenous and LGBTQ+ workers are at higher risk of WHV*

*Stats Can Harassment in Canada Dec 2018



PREVENTION

Key obligation of employer to work jointly with H&S committees to:

- Develop workplace WHV prevention policy;
- Conduct WHV risk assessments and develop/implement prevention strategies;
- Address circumstances external to workplace including domestic violence
- Create and post emergency procedures
- Develop / implement WHV prevention training; and,
- Implement recommendations stemming from WHV investigations etc.

RESPONSE

Step 1: Notification

- Notification orally or in writing (witnesses may notify anonymously)

Step 2: Negotiated resolution or Conciliation

- Parties make efforts to resolve the issue.
- Conciliation attempted if acceptable to all parties.



RESPONSE

Step 3: Investigation

- Must be conducted if requested by principal party
- Report to include; description of occurrence, conclusions and recommendations
- Investigator selected or appointed by Labour Canada

Step 4: Completion

- Investigator's report provided to all parties and H&S Committee
- H&S Committee jointly determine what recommendations will be implemented
- All joint recommendations must be implemented by employer



SELECTION OF INVESTIGATORS

- An investigator must be “impartial” and “competent”
- Agreed upon by parties or selected from jointly developed roster
- Joint rosters will be relied on where they exist. The parties will not have input.
- **NOTE:** When agreeing on a joint list of investigators, the H&S committee must consider the competencies of the candidates including related to equity / discrimination

DEALING WITH NON-COMPLIANCE

Internal Complaint Resolution Process

Section 127(1) of the Canada Labour Code.



WHAT WE LIKE IN NEW REGULATIONS

- Designated recipient receives H&V complaints
- Confidentiality of all parties protected
- 7 days to respond to notice of occurrence
- Clear timeframes for resolution
- Distinct process for occurrences involving third party
- Detailed Interpretation, Policy and Guideline (IPG) document
- Employer obligation to implement agreed upon recommendations of investigator
- Monthly status updates to all parties
- Definite timelines- **45** days to begin efforts to resolve concern, **60** days to agree to investigator, **One year** for completion of process

WHAT WE DON'T LIKE

- “The employer’s decision prevails in joint matters if a decision cannot be reached.”
- Must “reasonably attempt to agree” and record all incidents where agreement impossible including rationale for decision
- Road bumps in implementation
- Undue pressure applied at conciliation stage to discourage investigation process
- Employer could refuse to agree on implementing any recommendations

IMPORTANT - REMEDIES

The Canada Labour Code and WHVP regulations are prevention focused. They do not offer remedies for affected employees.

Canadian Human Rights Act and collective agreements prohibit harassment based on prohibited grounds of discrimination

Workers Compensation Act provides benefits to workers who suffer psychological injuries due to WHV

PSAC members should consider filing grievances, Human Rights complaints and/or WCB claims if employee is seeking

- Reimbursement of leave
- Health care
- Accommodation
- Human rights damages, etc.



A NOTE RE; PROVINCIALY REGULATED WORKERS

Harassment and violence are prohibited under provincial H&S legislation too!

Learn more at;

https://www.safemanitoba.com/Page%20Related%20Documents/resources/BL275_Harassment_19SWMB.pdf

<https://www.worksafesask.ca/resources/psych-health-safety-resource-centre/>

<https://www.alberta.ca/workplace-harassment-violence.aspx#jumplinks-1>

RESOURCES

- Updated PSAC Tool Kit for Preventing Harassment and Violence (coming soon!)
- Interpretation, Policy & Guideline document (attached)
- Labour Canada guides (coming soon)
- Employer sponsored training (coming some time in the next 12 months)
- PSAC education (coming soon!)



QUESTIONS? COMMENTS?



Clint Wirth

Regional Representative, Health and Safety- Prairie Region

Public Service Alliance of Canada

phone (204)815-5718

wirthc@psac-afpc.com