

WELCOME

Bill C-65 and Workplace Harassment and Violence (WHV) Prevention Regulations - An Overview

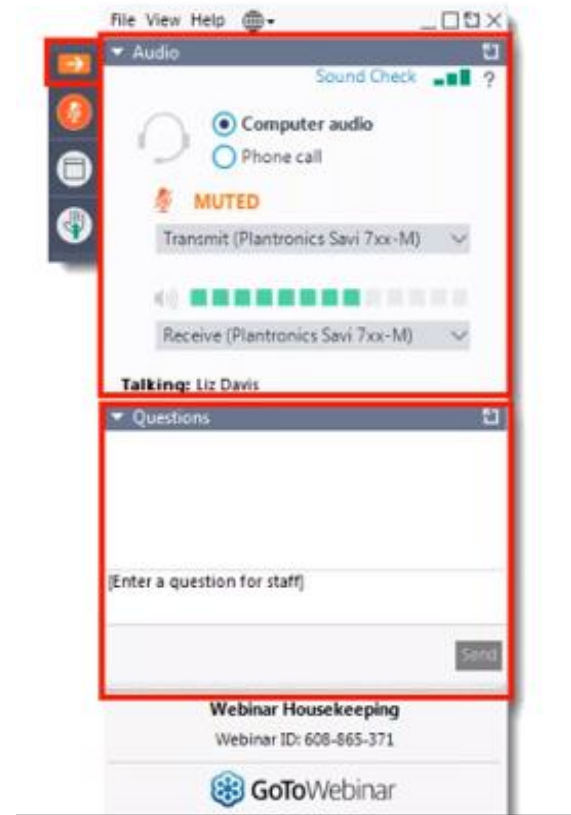


PSAC · BC

Public Service Alliance of Canada

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WELCOME

Traditional land acknowledgement

Greetings from REVP



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AGENDA

- ❖ Basics of C65
- ❖ Why it's important
- ❖ 3 Pillars
 1. Prevention
 2. Response
 3. Support
- ❖ Resources
- ❖ Q&A
- ❖ Closing



POLL

What level of knowledge do you have about Bill C65 and the new WHV Prevention Regulations?

I am very familiar with these upcoming changes

I am somewhat familiar with these upcoming changes

I am aware of but don't know much about this

There are upcoming changes about WVH ?

Basics

Bill C-65 amends the Canada Labour Code to;

- Make psychological injuries and WHV part of health and safety hazards / incidents employers are required to prevent and act on under H&S responsibilities

Workplace Harassment and Violence Prevention Regulations

- New standalone regulations replacing Part XX of the Canada OHS Regulations

Requiring federally regulated employers to;

- **Prevent** against
- **Respond** to occurrences
- **Support** affected employees

Effective January 1, 2021

Basics

Harassment and Violence is defined as: “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.”

Why is this important?

Feel free to share comments / reactions to these quotes in the questions box

“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 this 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
- 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



Prevent



Respond



Support

Three Pillars

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.

STRETCH BREAK



What we like in new regulations ☺

Designated recipient receives H&V complaints

Clear timeframes for resolution

- 7 days to respond to notice of occurrence
- 45 days to begin efforts to resolve concern
- 60 days to agree to investigator
- One year for completion of process
- Monthly status updates to all parties

Confidentiality of all parties protected

Distinct process for occurrences involving third party

Employer obligation to implement agreed upon recommendations of investigator

Detailed Interpretation, Policy and Guideline (IPG) document

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; provincially regulated workers

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

Learn more at;

<https://www.worksafebc.com>

Resources

Updated PSAC Tool Kit for Preventing Harassment and Violence (coming soon!)

Interpretation, Policy & Guideline document

Labour Canada guides (coming soon)

Employer sponsored training (coming some time in the next 12 months)

PSAC education (coming soon!)

Questions?

Comments?

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