



ONA Equity Bulletin

News Bites from the Human Rights and Equity Team

ONTARIO NURSES' ASSOCIATION

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Did You Know?

Workplace harassment means 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.

Bullying may be characterized as persistent behaviour that is offensive, insulting, intimidating, humiliating or abusive towards an employee or a group of employees. Workplace bullying is usually intentional in nature and an attempt to exert power or control over the target.

In most cases, harassment refers to a **pattern of objectionable behaviour** involving a series of incidents that may be similar or different in nature. In some cases, there may be a single incident of vexatious behavior that occurs, but it is serious enough to amount to harassment.

Intention is not a necessary element of harassment. Even if a person is not aware that his or her behaviour is unwelcome, the behaviour may constitute harassment if it can be said that a *reasonable person* in the same situation would have known that the behaviour was unwelcome. In such a case, the person "**ought reasonably to have known**" that his or her behaviour was unwelcome.

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416-964-1979, press 0 and follow the operator's prompts to access the voicemail boxes:

- English: 7768
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Message from Andy Summers



I hope everyone is having a relaxing summer vacation. As you start to contemplate your activities for this fall, please plan to attend **ONA's Human Rights and Equity Caucus meeting on Monday, November 8, 2010 at the Royal York Hotel in Toronto.**

This full-day event is a great opportunity to learn about human rights in the workplace and in our union, network with your peers, and share your ideas about how we can become an even stronger union as we work to eliminate discrimination and harassment, and create safe and respectful workplaces for all ONA members.

This year's Human Rights and Equity Caucus education themes are "Empowering your Equity Group" and "Bridging the Gaps amongst Equity

Groups and Allies." More information about the event, registration and subsidies will be available this fall on the ONA website.

We are devoting this issue of the bulletin to the topic of harassment in the workplace. On June 15, 2010, amendments to Ontario's *Occupational Health and Safety Act (OHSA)* came into force, addressing both workplace violence and harassment. Also, the Ontario Federation of Labour has released an important new educational video and information kit called "Climb the Hill: Sexual Harassment in the Workplace."

We review what has changed under the new law, address some of the myths and facts relating to sexual harassment, and highlight important education workshops for ONA representatives and front-line members.

**Andy Summers, ONA Vice-President,
Human Rights and Equity Team**

Bill 168: Amendments to the Occupational Health and Safety Act

What has Changed?

ONA's persistent efforts to end workplace violence have paid off in the form of significant amendments to the *Occupational Health and Safety Act (OHSA)*. The new legislation took effect on June 15, 2010, and it is now clear in Ontario that:

- Employers must develop programs with specific steps, such as ongoing risk assessments and violence prevention programs, to prevent physical injury from workplace violence, including domestic violence spillover from home to work.
- Workers who believe they are at risk of physical injury due to possible workplace violence may refuse to work, and the Ministry

of Labour (MOL) will respond as needed in accordance with the work refusal section 43 of the *OHSA*.

- Employers must develop policies with respect to workplace harassment and programs, including reporting requirements and explanations of how they will investigate and handle reports of harassment.

The amendments include:

- A requirement for employers and supervisors to alert certain workers of the risk of workplace violence from persons with a history of violent behaviour.
- Employers and supervisors must provide workers who may encounter such persons at work

with as much information as needed, including personal information, to protect the workers from physical injury.

- A clearer requirement for the workplace's Joint Health and Safety Committee (JHSC) and others to be notified by the employer if a worker is disabled or needs medical attention due to workplace violence.

While there are many improvements in the area of workplace violence, there are disappointingly few protections relating to workplace harassment. And these few amendments focus narrowly on the area of employer policies.

Employers are now required to establish a workplace harassment

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policy and a program for implementing the policy. The program must include measures and procedures for reporting, investigating and dealing with incidents and complaints of workplace harassment. The new law also requires that the employer provide information and instruction on the content of the policy and program to all workers.

While many employers will already have policies and programs dealing with harassment prohibited by the *Ontario Human Rights Code*, these will not be sufficient to meet their obligations under the OHSA. The employer's policy and program must address all forms of harassment, not only harassment that is based on a prohibited ground of discrimination such as race, religion, disability and sex.

In some cases, it may be appropriate for an ONA member to file complaints under both the employer's human rights harassment policy and the "workplace harassment" policy. ONA members should request the assistance of a union representative when making a complaint of harassment. The Union will ensure that the appropriate policies are utilized and the full range of remedies is requested. The Union will also determine whether a grievance should be filed.

SEND US YOUR FEEDBACK!

The Human Rights and Equity Team would like to hear what's going on at your Bargaining Unit or Local and how we can provide support or assistance.

Contact us at:

asummers@ona.org

Want to Learn More about Identifying and Preventing Harassment and Bullying in Your Workplace?

ONA offers an ideal education workshop for ONA representatives and front-line members called "Harassment, Mobbing and Bullying (Non-Code)." Other human rights and equity-related workshops scheduled in 2010 include "Basic Introduction to the *Human Rights Code*" and "Obligations in Representing Members under the *Human Rights Code*." Check the ONA website for what has been scheduled in your region and talk with your Local Coordinator or Bargaining Unit President to express your interest in attending any of these sessions.

Some Myths and Facts about Sexual Harassment

Myth 1: Sexual harassment is not very common.

Recent surveys have indicated that 80-90 per cent of women in the labour force have experienced sexual harassment at some time in their working lives. In Canada, that represents 3.6-million women.

Myth 2: So-called sexual harassment is just natural, normal behavior. Women should feel complimented that they are considered desirable and attractive.

Sexual harassment is a power play using sexually directed behavior as a weapon. It is inappropriate action to try and control another person through degradation and humiliation. It is not "sexy" and not part of healthy human relationships based on mutual respect.

Myth 3: Women who object have no sense of humour.

This statement implies that sexual harassment is "harmless fun." It is not; it is degrading and humiliating. Sexual harassment means being treated as a sex object, not as a worker. It is a vivid reminder that the harasser has higher status and more power than the victim. Sexual harassment has the potential to threaten the victim's job, working conditions, training and career opportunities. Any behaviour with such potential is certainly not "harmless."

Myth 4: If a worker asks another worker for a date, suddenly a sexual harassment complaint will be filed.

Some people confuse sexual harassment with workplace flirtation. It is important to make the distinction. Workplace flirtation can be harmless and fun. But, the

prerequisite is that the interest must be mutual and there must be no intimidation involved. When the interest is one-sided, and instigated by one in authority, it becomes harassment. When the harassment is enforced by threats to economic security, it is anything but "harmless."

Myth 5: Sexual harassment doesn't hurt anyone.

Besides the threat to economic security, sexual harassment can severely affect the victim's health. Victims of sexual harassment suffer tension, anxiety, anger, fear and frustration. These psychological effects often manifest themselves in physical ailments such as headaches, ulcers and other nervous disorders. Some of these ailments become so serious that they require medical treatment, even hospitalization. The effects of the harassment are often carried over to the victim's family life as well. And coworker harassment has the additional effect of dividing and weakening the working class.

Myth 6: A firm "no" is enough to discourage any man.

This statement ignores another, more serious myth that "a woman's 'no' means 'yes.'" As long as this myth survives, women have no credibility in refusing sexual advances. Even if a woman's refusal is understood as meaning "no," it does not mean it will be respected. Sexual harassment usually does not occur between equals. In most cases, the harasser has greater physical and/or economic power, which is often accompanied by the control of reprisal. This authority enables the harasser to override the firmest "no."

Myth 7: Women who enter a predominately male field should expect to put up with rough language, off-colour jokes and hazing. The women will be treated the same as new male hires.

Women working in a previously all-male environment are often not just treated as "one of the boys." Many times these workplaces will see an escalation of foul language, sexual conduct or direct barriers to women doing their jobs.

Myth 8: Women often make false claims of sexual harassment.

Victims of sexual harassment often face a credibility problem. False claims of sexual harassment are the exception, not the rule. Yet, because these false claims receive such attention, legitimate claims are automatically questioned. Women who report sexual harassment are subject to ridicule, disbelief, accusations of entrapment and further humiliation. Reprisals may follow the reports, ranging from creating intolerable working conditions to firing the woman and labelling her as a troublemaker.

Conclusion

Myths about sexual harassment are based on outdated and incorrect assumptions and sex role stereotypes. Because sexual harassment has such a devastating impact on the victim, it must be eliminated. Trade unionists must take action to dispel these myths and ensure a workplace and a union free of sexual harassment.

Source "Issue Sheet #4 – Climb the Hill: Sexual Harassment in the Workplace," OFL 2010.