

Part 27 Violence

Highlights

For the purposes of the OHS Code, violence means the threatened, attempted or actual conduct of a person that causes or is likely to cause physical injury.

- Section 390 requires employers to develop a policy and procedures respecting potential workplace violence. (Section 8 of the *OHS Regulation* requires that the procedures be in writing and available to workers.)
- Section 391 requires employers:
 - to instruct workers how to recognize workplace violence
 - to communicate the organization's policy and procedures related to workplace violence
 - to develop appropriate responses to workplace violence
 - to develop procedures for reporting, investigating and documenting incidents of workplace violence.
- Section 392 requires employers to investigate incidents of workplace violence, prepare a report of the incident that includes corrective actions to prevent a recurrence, and have the report readily available for inspection by an occupational health and safety officer. (Section 8 of the *OHS Regulation* requires that the incident report be in writing and available to workers affected by it.)

Requirements

Section 389 Hazard assessment

Prevention is preferable to intervention. Hazard assessment is a logical and organized method of identifying real and potential hazards, allowing the employer to better manage these hazards. The hazard assessment required by Part 2 of the OHS Code must include the possibility of injury to workers from physical violence as a potential hazard.

To manage the issue of workplace violence, each employer must determine the nature and extent of the problem. Employers need to consider such factors as the workers they hire, the sources of violence, work processes and the physical environment, and the level of organizational commitment towards the prevention of workplace violence. Considering each of these factors allows an employer to identify:

- (a) aspects of the workplace that may enhance opportunities for violence,
- (b) those individuals at highest risk, and
- (c) the need for controls.

Unfortunately, there is no single perfect prevention strategy. Employers vary in size, the types of workers they employ, corporate culture, and resources. Information specific to performing hazard assessments involving violence can be found in the Safety Bulletin *Preventing Violence and Harassment at the Workplace*, in the section titled "Prevention: Risk assessment and risk management". The Safety Bulletin provides some practical suggestions and identifies resources that may help employers create a program supporting a workplace free of violence.

Readers are referred to the "Overview" portion of this explanation for general and statistical information related to violence at Alberta workplaces.

For more information



http://employment.alberta.ca/documents/WHS/WHS-PUB_vah001.pdf

Preventing Violence and Harassment at the Workplace



Violence in the Workplace

Canadian Centre for Occupational Health and Safety, 1999.

Section 390 Policy and procedures

Having a clear policy and procedures creates a supportive work environment where violence is not tolerated. A worker's ability to cope with stressful situations improves if the worker feels supported by the employer's policy. Workers are more likely to report incidents where there is a clear and well-understood policy and procedures. An employer's written policy and procedures should, at a minimum, contain the following components.

Policy

Statement of belief

This describes the employer's values and beliefs with respect to workplace violence. It should include

- (a) ongoing support for a workplace free of violence,
- (b) a statement that any act of violence is unacceptable, and
- (c) a commitment to investigate and follow-up reported incidents.

Example:

(This organization) believes in the prevention of violence and promotes a violence-free workplace in which all people respect one another and work together to achieve common goals. Any act of violence committed by or against any worker or member of the public is unacceptable conduct and will not be tolerated.

We are committed to:

- (a) investigating reported incidents of violence in an objective and timely manner;*
- (b) taking necessary action; and*
- (c) providing appropriate support for victims.*

No action shall be taken against an individual for making a complaint unless the complaint is made maliciously or without reasonable and probable grounds.

No employee or any other individual affiliated with this organization shall subject any other person to violence.

Purpose

The purpose of the policy is to ensure that

- (a) individuals are aware of and understand that acts of violence are considered a serious offence for which necessary action will be imposed,
- (b) those subjected to acts of violence are encouraged to access any assistance they may require in order to pursue a complaint, and
- (c) individuals are advised of available recourse if they are subjected to, or become aware of, situations involving violence.

Definitions

This section outlines the organization's definition of violence in order to determine applicability. It must at least include the definition appearing in section 1 of the OHS Code.

Each organization needs to develop a definition reflecting its Statement of Belief.

General

A general section may be included in the policy to expand upon the employer's statement of belief or definition relating to the effects of violence.

Example:

Acts of violence can take the form of physical contact. Abuse in any form erodes the mutual trust and confidence that are essential to (this employer's) operational effectiveness. Acts of violence destroy individual dignity, lower morale, engender fear, and break down work unit cohesiveness.

Acts of violence may occur as a single event or may involve a continuing series of incidents. Violence can victimize both men and women, and may be directed by or towards (this organization's) workers, visitors and members of the public.

Procedures

The "procedures," as distinguished from the policy itself, outline the methods or processes required to make the policy operate on a day-to-day basis. The procedures may vary considerably from employer to employer depending upon size, role and local conditions. The following example is intended to serve as a general guideline of the basic information that the procedures should include:

(1) Right to assistance

A statement that any person who has been subjected to violence has the right to access assistance in communicating their objections and, if warranted, in pursuing the complaint more formally. This is particularly important in cases where the alleged offender is in a position of authority, or where there are communication barriers. As a minimum, assistance may be provided by a trained Human Resources representative and may also include support by a co-worker, a trained contact person, a union representative or a professional association representative.

(2) Steps prior to formal reporting

When incidents of violence occur, the procedure should encourage immediate reporting and initiation of formal investigating processes.

Procedures should include the following:

- (a) A requirement for the victim to make his or her feelings known verbally to the alleged offender, directly or with the assistance of a third party. This should be the first step in the procedure. It is very important that the alleged offender immediately be made aware that the conduct is offensive to the victim.
- (b) A requirement for the victim to carefully record details of the incident including the date and time, nature of the violence and names of any persons who may have witnessed the violence. This documentation is the victim's personal record and property. A specific form may be developed for recording complaints.

(3) Formal reporting

After providing assistance during or immediately after an incident, filing a report is the first step of the process. This requires the victim to document concerns, adding the written record to a record of any previous incidents.

The procedure should clearly indicate who is to receive the written complaint. Each employer needs to determine the appropriate individual depending on the employer's administrative structure. In cases where conflict of interest may exist, the procedure should identify an alternate recipient in order to ensure an impartial consideration of the complaint. Assistance of trained specialists in human resources or other trained counselors should be offered in preparing and submitting a written complaint.

No recriminations

It is the responsibility of all persons involved in the processing of a complaint to ensure that the complainant is neither penalized nor subjected to any prejudicial treatment as a result of making the complaint. The procedure should note that no correspondence pertaining to a complaint, other than that which is the complainant's personal property, is to be placed on the complainant's personal file.

Investigation

Details concerning investigation of the complaint are outlined in the Safety Bulletin *Preventing Violence and Harassment at the Workplace*, in the section titled "Intervention and follow-up".

Disposition of the complaint

Details concerning the disposition of the substantiated complaint of abuse should include, if appropriate, the range of disciplinary measures to be considered. These disciplinary measures need to be consistent with the employer's disciplinary practices and collective agreements where applicable. Alternatives are discussed in the Safety Bulletin *Preventing Violence and Harassment at the Workplace*, in the section titled "Intervention – managing the offender".

In the case of unsubstantiated complaints, the range of measures for dealing with complaints made with malicious intent should be outlined. The procedures should also explain the requirements to remove from the worker's record any reference to the complaint.

Confidentiality

The procedures should emphasize the need to maintain strict confidentiality. It is the responsibility of any individual who becomes aware of an incident of violence not to disclose details of the incident to any third party without prior consultation with the victim.

Evaluation

An evaluation process is required to monitor the effectiveness of the procedures. This evaluation process should be consistent with the employer's existing approach to evaluating policies and procedures.

Complaint resolution alternatives

The procedures should reinforce the principle that any individual has the right to pursue the concern through alternate forums. This may include exercising their rights through a collective agreement, or any law of Alberta or Canada. Considerations could also be given to providing a "help line", where questions, concerns and complaints regarding violence may be directed on a confidential basis.

Section 391 Instruction of workers

Workers must receive training in

- (a) how to recognize workplace violence,
- (b) the employer's policy and procedures,
- (c) the appropriate response to incidents, and
- (d) the procedures for reporting, investigating and documenting incidents of workplace violence.

This training should be a review or explanation of the employer's policy and procedures, and describe the employer's expectations of workers and their behaviour at the workplace.

Section 392 Response to incidents

Subsection 392(1)

An incident involving workplace violence constitutes an "accident that has the potential of causing serious injury to a worker" (a phrase used in section 18(3) of the *OHS Act*). As a result, the employer must investigate the incident, prepare a report, keep it on file for a period of two years from the date of the incident and have it readily available for inspection by an Occupational Health and Safety Officer.

The incident does not need to be reported to Alberta Employment and Immigration. Only those events listed in subsection 18(2) of the *OHS Act* need to be reported.

Subsection 392(2)

Workers who have been victims of violence need to be debriefed shortly after the incident. Workers need to understand that they are not to blame for aggressive behaviours directed at them and that being the victim of violence does not reflect on them.

Victims of incidents of workplace violence or other workers who may have been exposed to a violent incident require emotional support and reassurance. They need information about their rights and options. This subsection requires the employer to ensure that victims and other exposed workers are advised to consult a health professional of the worker's choice for treatment or referral.