

**For a Healthy Work
Environment
Free From Violence
and Harassment**

POLICY
for the Prevention
of Violence and
Harassment at Work

This policy contains the elements that should be the building blocks of a policy for the prevention of violence and harassment at work.

It is designed in such a way that it can be proposed to your employer and adapted to the realities of your workplace.

It is accompanied by a complete prevention guide, which explains the sections of the policy in greater detail to improve understanding of the issues covered. In some cases, the guide refers to other documents that deal with more specific subjects. You can consult the guide in order to find out more.

PREAMBLE

This policy is founded on union values of respect, fairness, and protection of physical and psychological integrity. It is based on prevention and alternative approaches to managing conflicts. Its aim is to raise awareness about the factors that can harm people's dignity and their physical and psychological integrity. Response to complaints is based on a conflict management approach.



1. Policy objectives

The aim of this policy to prevent violence and harassment at work is to allow everyone to enjoy a workplace that is free of violence and harassment. The primary goal of this policy is not to punish, but rather to prevent and respond to incidents.

In order to accomplish this, the policy has the following objectives:

- to ensure that the workplace promotes the physical and psychological integrity of individuals and protects their dignity;
- to promote equitable, healthy, and harmonious relationships;
- to encourage a culture of respect and civility;
- to contribute to raising awareness and providing information and training in the workplace to prevent instances of violence and harassment at work;
- to develop intervention procedures to prevent and end these situations; and
- to establish help and support procedures.



2. Definitions

VIOLENCE AT WORK

DEFINITION

Violence at work is when the behaviour (attitudes, actions, or words) of an individual or group of individuals intentionally or unintentionally has an adverse effect on the physical or psychological safety or well-being of another individual or group of individuals.

EXAMPLES¹

Grabbing a person by the throat, punching, kicking, or pushing someone, throwing objects of any kind, saying hurtful things (insults), making threats, damaging workplace equipment by kicking it, etc.

1. The examples presented in this document are not intended to be comprehensive. When responding to complaints, do not limit yourself to these examples. Refer to the guide for the prevention of violence and harassment at work for more information.

It is worth mentioning that expressing anger is not synonymous with violence. Anger is an emotion that can sometimes seem aggressive when expressed. Aggressivity and anger become violent when they are expressed with the intention to coerce or dominate another person.

PSYCHOLOGICAL HARASSMENT²

DEFINITION

Psychological harassment is any vexatious repeated behaviour in the form of verbal comments, actions or gestures that are hostile or unwanted, and that affect an employee's dignity or psychological or physical integrity by rendering the work environment harmful for the employee. Psychological harassment also includes behaviour such as comments, acts or gestures of a sexual nature.

EXAMPLES

Preventing someone from expressing themselves, isolating, destabilizing, demeaning, discrediting or threatening a person.

A single act of this nature may be considered to be psychological harassment if it has an ongoing harmful impact on the employee.

EXAMPLES OF A SINGLE SERIOUS ACT

During a team meeting, Suzanne confronts her co-worker Michelle, criticizing her work in condescending terms in front of their other co-workers, casting doubt on Michelle's ability to do this sort of work. The direct supervisor in attendance does not intervene at any time.


The term mobbing, another form of psychological harassment, refers to hostile acts or words expressed by one or more people over a period of time against another individual who is scapegoat and who, with no apparent reason or because they are different, is target of persecution.

2. We have reproduced the definition in the Act respecting labour standards, amended in June 2018.

Discriminatory harassment

DEFINITION

Behaviour that can include, among other things, repeated unwanted vexatious or demeaning words or gestures that could harm the dignity or physical or psychological integrity of a person or could lead to creating unfavourable working conditions or to dismissal on the basis of one of the grounds enumerated in section 10 of Quebec's Charter of Human Rights and Freedoms.³



The grounds enumerated in section 10 of the Charter are race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.


EXAMPLES

Caricatures, jokes, biased insinuations, humiliating comments, insults, isolation, hurtful omissions, demeaning attitudes, vandalizing someone's things or workspace, assault or other forms of aggression.

Sexual violence and harassment

DEFINITION

Sexual harassment is behaviour that takes the form of words, acts or gestures with a sexual connotation, and which, by their repeated and unwanted nature, have the effect of violating the dignity or physical or psychological well-being of an individual or result in unfavourable working conditions. Sexual harassment can also involve only one act.



3. Commission des droits de la personne et des droits de la jeunesse du Québec. 2004. "A policy against discriminatory harassment in the workplace." www.cdpcj.qc.ca/Publications/discriminatory_harassment_workplace.pdf. Consulted on the CDPDJQ website on November 29, 2018.

EXAMPLES

Non-verbal examples

Staring, whistling, displaying pornographic material, or sending email or text messages with sexual connotations.

Verbal examples

Sexist jokes, comments concerning a person's body or proportions, or asking for sexual favours.

Physical examples

Rubbing against, touching, gestures with sexual connotations, etc.

Examples of a single serious act

Kissing in a sexual way, sexual touching (genital area, breasts, buttocks), attempted rape, rape.

Abuse of power or authority

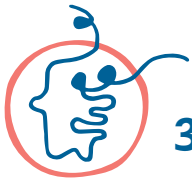
DEFINITION

Abuse of authority is a form of harassment that occurs when a person makes undue use of the authority or power inherent in his or her position with the intention of jeopardizing another person's job, hindering such a person's job performance, endangering the person's means of subsistence or interfering in the person's career in any other way. It includes intimidation, threats, blackmail and coercion.

EXAMPLES

Excessively controlling an employee, treating an employee unfairly, giving false information, refusing to help an employee, casting doubt on the employee's competence, deliberately placing the employee in a situation in which the employee will fail, spreading unfounded criticism.





3. Civility

In the workplace, everyone has the responsibility of being civil in order to maintain a healthy work environment. Civility refers to the rules of behaviour that ensure respect and allow people to live together as a community. Incidents of incivility must be taken seriously because they have a negative impact on the workplace environment. Incivility is often part of a growing conflict and can lead to psychological harassment if nothing is done to manage the situation. Incivility can be defined as low-level negative interpersonal behaviour for which the intention to harm is ambiguous (the intention of the perpetrator to do harm is not clear) and which defies the standards of mutual respect in the workplace. Incivility refers to impolite, vulgar, disrespectful behaviour and shows a lack of respect for the other person.⁴

EXAMPLES OF INCIVILITY

Not using normal greetings, using an impatient tone of voice, making sudden gestures, using vulgar or impolite language, gossiping or making disrespectful remarks, speaking in a condescending tone.



4. Framework for implementation

This policy draws specifically on Quebec's *Charter of Human Rights and Freedoms*, the *Canadian Human Rights Act*, Quebec's *Act respecting labour standards*, the *Act respecting occupational health and safety*, the *Act respecting industrial accidents and occupational diseases*, and collective labour agreements.

Other laws can also be invoked in situations of violence or harassment and can provide means for further recourse such as filing a complaint under the *Criminal Code* or the *Civil Code of Québec*, or pursuant to the *Crime Victims Compensation Act*.

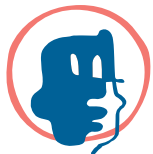
4. Andersson, Lynne, and Christine M. Pearson. 1999. "Tit for Tat? The Spiraling Effect of Incivility in the Workplace." *Academy of Management Review* 24, pp. 452–471.



5. Scope of the policy

This policy applies to all of the organization's staff—men and women, and both unionized and non-unionized workers. It applies to relations between supervisors and workers, between co-workers, and between staff and clients. It also applies to subcontractors, suppliers, clients or users, visitors and others who are involved.

It applies to the workplace context or any other activity related to the job, regardless of the nature of the relationship between the person who engages in the violent or harassing behaviour and the victim. It applies inside and outside of the business or establishment if work activities are involved.



6. Commitments and responsibilities

The employer is responsible for enforcing this policy.

The employer must prohibit all forms of violence and harassment because such behaviour compromises the right to equality, dignity, and fair and reasonable working conditions. The employer recognizes that workers have the right to be protected, assisted and defended with appropriate means of recourse.

Situations of violence and harassment at work must be treated impartially, fairly and confidentially, and complainants must be shielded from any harm or reprisal.

All groups concerned by the policy (managers, unions or others) must, in the course of their respective work, inform their peers or members of the content of the policy and participate in activities aimed at providing information about, raising awareness of and preventing situations of violence and harassment.

Every person has the right to be protected against violence and harassment, but also the obligation not to perpetrate violence or harassment. As such, every employee has individual and collective responsibilities that include refraining from acts of aggression, intimidation, harm, harassment or violence against any other person. In addition, it is the responsibility of all to behave civilly when interacting with others.

Remaining silent is not being neutral in situations of violence or harassment. On the contrary, silence fuels violence. As witnesses of unhealthy situations, we also have the responsibility to contribute to re-establishing working conditions that are favourable for the well-being of all and for collaboration, whether through supporting victims or denouncing such situations. Everyone has the right to dignity, physical and psychological integrity, and health.



7. Committee for the prevention of violence and harassment at work

COMPOSITION AND NOMINATION

The committee for the prevention of violence and harassment at work is composed of representatives of the employer and of every union and group or association of people connected to the organization that wish to participate in the formulation and implementation of this policy. The committee must be known to everyone and ensure fair representation of both men and women.

In workplaces with few employees, a pre-existing committee could perform this role (a labour relations committee, a workplace health and safety committee, or a status of women committee).

Each group involved will use its own procedure to appoint its representative. It is important for procedures to be specific, transparent and known to all. The term of office is two years, with half of the committee members being appointed each calendar year to ensure continuity within the committee.

ROLE OF THE COMMITTEE

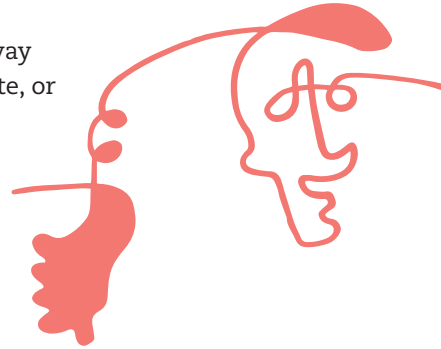
The committee for the prevention of violence and harassment at work is the guardian and champion of the policy's objectives. It is responsible for proposing whatever means are needed for the full implementation of this policy. Its work is performed in the spirit of peace and collaboration.

The committee's role is solely one of prevention. The committee is in no way involved in handling complaints (it does not receive complaints, investigate, or apply measures with regard to individuals).

The following are some of the roles of the committee:

- ensuring complete and wide communication of the policy;
- assuming responsibility for providing information and training on violence and harassment at work;
- promoting and organizing activities related to the prevention of incivility, violence and harassment at work;
- selecting by consensus the resource person or people and establishing a simple process for dealing with situations of violence and harassment at work;
- ensuring that support mechanisms are available for victims, within or outside of the organization;
- receiving and assessing reports from resource people (these reports do not contain information identifying specific individuals);
- preparing and distributing an annual report; and
- updating the policy.

To do its work, the committee must have the resources needed to hold meetings with its members and organize prevention activities that it deems relevant to its mission. All members of the committee receive the same training on violence and harassment at work.



8. Actions

The committee for the prevention of violence and harassment at work is committed to implementing means to increase awareness, offer training, and prevent violence and harassment at work.

The committee's actions may include:

- organizing activities to train those present in the workplace to detect, de-escalate, prevent, or report violence and harassment at work; and
- identifying practical prevention techniques aimed at eliminating, modifying or limiting organizational risk factors for violence and harassment at work.



9. Complaint process

INFORMAL PROCEDURES

Individual actions

Some conflicts stem from communication problems. With clarification, some conflicts can be resolved quickly to the complainant's satisfaction. It is strongly recommended that the individuals involved explain themselves and be open to establishing a respectful dialogue in order to resolve the conflict.

This process can be difficult for some people. The Employee Assistance Program (EAP) can be a resource in helping to prepare for a meeting, particularly in order to give the people involved the means to describe the problematic situation, formulate their expectations, etc.

Intervention by a manager or the union

When an individual intervention is not successful, or if the victim does not feel it would be possible, the victim can ask for the help of an immediate supervisor or of the union in order to facilitate communication with the person or people involved. If the immediate supervisor is part of the problematic situation, the victim should address the resource person directly.

ROLE OF THE RESOURCE PERSON

The resource person plays a key role in applying the policy for the prevention of violence and harassment at work. The resource person opts for alternative approaches to conflict resolution in order to deal with the situations that are brought to his or her attention. The person receives requests for information, reports and complaints of harassment or violence.

The resource person acts with impartiality, diligence, judgment, and the utmost confidentiality, and shows a capacity for attentive listening and empathy.



Appeals to the resource person

One can appeal to the resource person at any time and for many reasons:

- To request information and clarification regarding incivility, violence and harassment at work or possible procedures for dealing with a difficult situation;
- To report a problem situation in order to seek a solution. After receiving a report of a problem, the resource person confirms with the alleged victim his or her consent to having the problem addressed; or
- To engage in mediation or any other form of conflict resolution.

Depending on the situation brought to his or her attention, the resource person will

- meet with, accompany and give support to the alleged victim of violence or harassment at work;
- inform the alleged victim of his or her rights and the various means available, including mediation, to resolve the problem;
- inform the alleged perpetrator of the accusations made against him or her, inform the alleged perpetrator of his or her rights and of the means available for resolving the problem, as well as provide support;
- assess the situation in order to clearly identify the nature of the problem;
- propose potential means to find a solution for the people involved (alternatives such as mediation or conflict resolution);
- begin mediation if the situation lends itself to mediation and if the people concerned have provided their consent;
 - If the problem can be resolved through mediation, the resource person writes, if need be, an agreement, while respecting the collective agreements in force;
 - In the event that mediation fails to resolve the problem or if one of the parties refuses to engage in mediation, the resource person will ask the alleged victim if he or she wishes to lodge an official complaint. The formal complaint must be written by the complainant on a form provided by the resource person. The refusal to participate of one of the people concerned will not be held against him or her in the inquiry process. In this case, the resource person will file the complaint with human resources and with the union as quickly as possible and will inform the people involved that the filing of a formal complaint ends the resource person's role in the process;

- The resource person provides the committee for the prevention of violence and harassment at work with a report (without identifying names) suggesting desirable prevention strategies to be implemented in the workplace; and
- He or she submit an annual statistical report to the committee for the prevention of violence and harassment at work, while respecting the anonymity of the individuals concerned.

In a case of violence or harassment of a sexual nature against a woman, one must make sure to offer the alleged victim the possibility of having the file handled by a woman or a person of the same gender at every step of the process.

OFFICIAL PROCEDURES

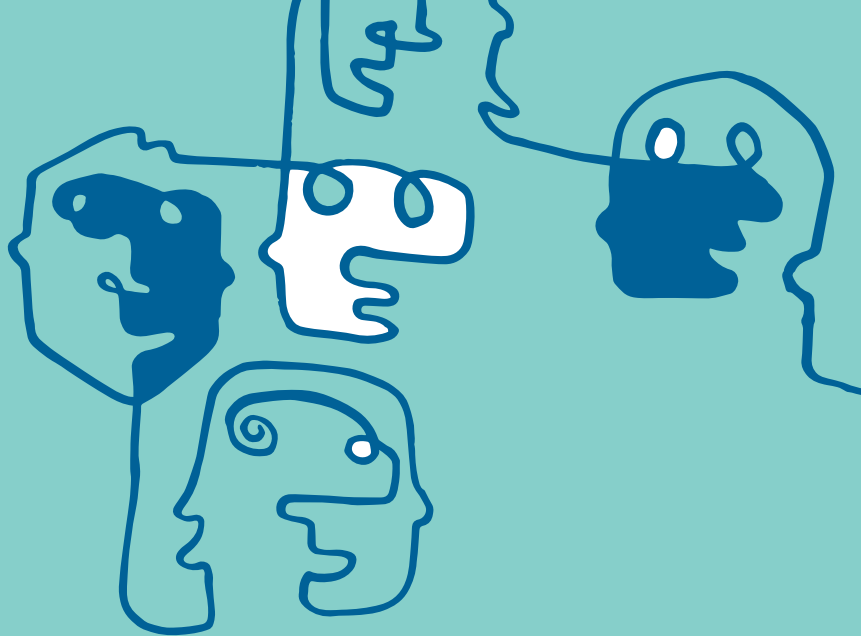
In cases in which an official complaint is filed, all parties involved (employer and union) will assume their specific responsibilities. Any information collected by the resource person, whether or not mediation occurred, cannot be used in any way during the handling of a formal complaint.



10. Implementing and reviewing the policy

The concerned parties agree to ensure the policy is implemented by their respective decision-making groups and that all of their members understand and comply with it.

The committee for the prevention of violence and harassment at work or the committee responsible for the file will ensure that this policy is reviewed as needed.



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Information Form for the Resource Person

SECTION 1

Information about the alleged victim of violence or harassment

Last name: First name:

Position:

SECTION 2

Description of the incidents or event (add pages if necessary)

Date: Time:

Location:

Name of the accused individual:

Witness(es):

Details about the incident or event (gestures, words, attitudes, behaviour):

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Action taken: Yes No

If yes, describe:

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Desired solutions:

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Remarks—Comments:

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Date:

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Statistical Information Form

INFORMATION FOR USE BY RESOURCE PERSONS:

- Form to be used exclusively by resource persons.
- No identifying information must be written on this form.
- One form must be completed for each situation.

1. TYPE OF VIOLENCE OR HARASSMENT

- | | |
|---|--|
| <input type="checkbox"/> Violence at work | <input type="checkbox"/> Discriminatory harassment |
| <input type="checkbox"/> Sexual violence and harassment | <input type="checkbox"/> Mobbing |
| <input type="checkbox"/> Psychological harassment | <input type="checkbox"/> Unfounded |
| <input type="checkbox"/> Abuse of power or authority | |

Summary description:

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2. ENVIRONMENT: WHERE DID IT HAPPEN?

Physical location where the violence or harassment occurred (department, elevator, stairwell, meeting room, external meeting, etc.)

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3. GENDER OF THE PERSONS INVOLVED

	MAN	WOMAN
Gender of the victim or the alleged victim of violence or harassment	<input type="checkbox"/>	<input type="checkbox"/>
Gender of the accused individual	<input type="checkbox"/>	<input type="checkbox"/>

4. RELATIONSHIP BETWEEN THE PERSONS INVOLVED

The victim or alleged victim of violence or harassment

- Co-worker
- Immediate supervisor
- Hierarchical supervisor
- Employee
- Other

The accused individual

- Co-worker
- Immediate supervisor
- Hierarchical supervisor
- Employee
- Other

5. IMPACT ON THE VICTIM OR ALLEGED VICTIM OF VIOLENCE OR HARASSMENT

Summary description of the impact of the violence or harassment on the victim or alleged victim (physical and psychological health, other unpleasant effects, etc.)

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6. INTERVENTIONS CARRIED OUT

- Meeting with the victim or alleged victim of violence or harassment
- Meeting with the accused individual
- Co-operative conflict resolution or other alternative solutions
- Filing of an official complaint
- Filing of a grievance or engaging in other recourse
- Filing of a claim with the CNESST

7. OUTCOMES

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Date

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Benchmarks

TO HELP YOU DETERMINE WHETHER CONDUCT CONSTITUTES PSYCHOLOGICAL HARASSMENT, ASK YOURSELF THE FOLLOWING QUESTIONS:

- 1** | Would a reasonable person, who is familiar with the circumstances and in a similar situation to that described by the employee, consider this conduct to be vexatious (hurtful, humiliating)?
- 2** | Were there several (repeated) incidents or a single serious incident?
If there was a single serious incident, did it have a lasting harmful effect?
- 3** | Were the conduct, words, actions or gestures hostile (with aggressive intent, acting as an adversary) or unwanted?
- 4** | Did the conduct affect the person's dignity or physical or psychological integrity?
- 5** | Did the conduct create a hostile working environment?

Complaint Form—Violence and Harassment at Work

I AM FILING A COMPLAINT.

My contact information

Last name: First name:

Position:

Telephone (work):

Telephone (home):

Cell phone:

Contact information for person accused of the behaviour

Last name: First name:

Position:

Telephone (if known):

WHAT HAPPENED

What? How? (Describe the facts, incidents, words and gestures)

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When? (Specify the dates of each incident.)

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Where? (Specify the location(s).)

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Witnesses:

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In your own words, describe why you feel you have experienced harassment, as well as the lasting physical and psychological effects you are experiencing.

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What are your expectations at this stage?

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Signature:

Date:

APPENDIX E

Analysis Grid of Risk Factors for Conflict, Violence or Harassment at Work

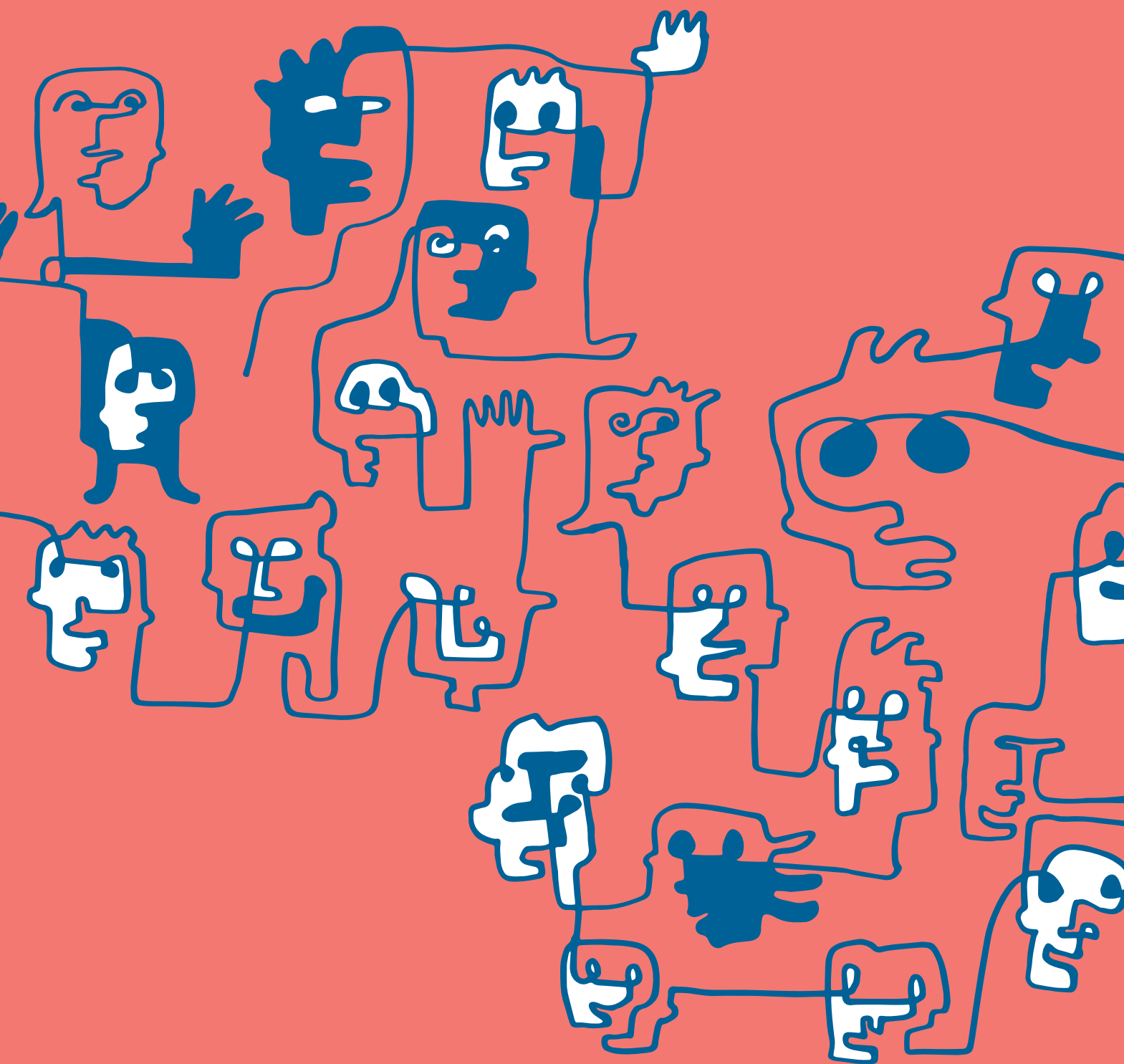
Risk factors and appropriate measures					
RISK FACTORS	RISK LEVELS			APPROPRIATE MEASURES	SCHEDULE FOR IMPLEMENTING MEASURES
	LOW	MODE-RATE	HIGH		
Ambiguity or lack of details with respect to assigned tasks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> - Clarification of expectations and misunderstandings - Clearly defined roles and tasks - Consulting with individuals specifically about work methods 	
Poor distribution of the workload	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> - Clearly defined roles and tasks - Consultation with staff members - Promoting collaboration 	
Work tools not adapted to the execution of tasks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> - Appropriate skills, personal abilities and requirements for the position - Consultation about work methods 	
Lack of respect	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> - Asserting the value of respect - Open communication - Promoting collaboration - Promoting teamwork - Meeting to discuss the work atmosphere 	
Authoritarian or lax supervision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> - Manager training on various aspects of management 	
Excessive competition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> - Promoting collaboration - Asserting the value of team spirit - Team expectations: multidisciplinary team project - Open communication 	

Risk factors and appropriate measures					
RISK FACTORS	RISK LEVELS			APPROPRIATE MEASURES	SCHEDULE FOR IMPLEMENTING MEASURES
	LOW	MODE-RATE	HIGH		
Unmanaged or poorly managed conflicts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> - Demonstrating leadership in conflict management - Asserting the value of reporting and requests for assistance - Quick intervention - Organizational diagnosis - Atmosphere (diagnostic tool) 	
Envy, jealousy or rivalry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> - Open communication - Fair workload distribution - Promoting collaboration - Promoting teamwork - Clearly defining roles and tasks - Holding meetings as forums for discussion 	
Lack of communication	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> - Open communication - Promoting collaboration - Promoting teamwork - Discussion forums (to encourage social support) 	
Normalization or denial of violence or harassment in the organization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> - Raising employee awareness - Inviting employees to speak about problematic situations - Asserting the value of reporting 	
Facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> - Consultation with staff members (satisfaction) - Training on workstation adjustment - Promoting awareness of proper posture - Making necessary corrections - Providing appropriate furnishings 	

Grid adapted from the *Guide de prévention à l'intention des employeurs de la grande entreprise*, Commission des normes du travail, 2004.

Definitions of violence and harassment at work

Violence at work	Harassment at work	Psychological harassment	Discriminatory harassment	Abuse of power or authority	Sexual violence and harassment
<p>There is violence at work when the behaviour (attitudes, actions, or words) of an individual or group of individuals intentionally or unintentionally has an adverse effect on the physical or psychological safety or well-being of another individual or group of individuals.</p> <p>INVOLVES A WIDE RANGE OF INDIVIDUALS:</p> <ul style="list-style-type: none"> managers and employees; clients and their loved ones; volunteers; subcontractors; others. <p>CHARACTERISTICS</p> <ul style="list-style-type: none"> actions or behaviour that is insidious or sneaky; violent gestures and remarks. <p>HARMFUL EFFECTS ON</p> <ul style="list-style-type: none"> personal safety; physical or psychological integrity. <p>EXAMPLES</p> <ul style="list-style-type: none"> saying hurtful words (insults); grabbing someone by the throat; punching or kicking someone; shoving someone; throwing things at someone. 	<p>The different types of harassment</p> <ul style="list-style-type: none"> psychological harassment; discriminatory harassment; abuse of power and authority; sexual violence and harassment. <p>COMMON CHARACTERISTICS</p> <ul style="list-style-type: none"> vexatious behaviour that is degrading, offensive, and humiliating; behaviour that is generally repeated*, hostile or unwanted. <p>HARMFUL EFFECTS ON</p> <ul style="list-style-type: none"> dignity; physical or psychological integrity. <p>IMPACT</p> <ul style="list-style-type: none"> leads to unpleasant working conditions. <p>* A single act that affects an individual's dignity, health or safety may constitute harassment.</p>	<p>“Any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee’s dignity or psychological or physical integrity and that results in a harmful work environment for the employee. For greater certainty, psychological harassment includes such behaviour in the form of such verbal comments, actions or gestures of a sexual nature. A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment.”</p> <p>EXAMPLES</p> <ul style="list-style-type: none"> continuously discrediting or criticizing a person or his or her work, isolating a person or preventing the person from expressing himself or herself; undermining, threatening or assaulting a person; and offensive words or gestures. <p>Mobbing</p> <p>Mobbing refers to a series of hostile remarks and behaviour, expressed or engaged in over a fairly long period of time by one or more persons directed at a third person who is spacegoat.</p> <p>EXAMPLES</p> <ul style="list-style-type: none"> preventing the person from expressing himself or herself; isolating the person; disparaging the person; discrediting the person; and compromising the person’s health. 	<p>“Behaviour characterized by repeated and unsolicited words, actions or gestures of a vexatious or contemptuous nature, that could either undermine the dignity or the physical or psychological integrity of the individual or lead to unfavourable working conditions or dismissal, based on any of the grounds enumerated in [section] 10 of the Charter of Human Rights and Freedoms.”</p> <p>GROUND S</p> <p>The grounds enumerated in the Charter are race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.</p> <p>EXAMPLES</p> <ul style="list-style-type: none"> racist, sexist, homophobic or intolerant comments intentionally made toward an employee; racist jokes; sexist behaviour and stereotypes; and intolerant gestures (for example, in relation to LGBT+). 	<p>Abuse of authority is a form of harassment that occurs when a person makes undue use of the authority or power inherent in his or her position with the intention of jeopardizing a person’s job, hindering a person’s job performance, endangering his or her livelihood or interfering in his or her career in any other way. It includes intimidation, threats, blackmail and coercion.</p> <p>SPECIFIC CHARACTERISTICS</p> <ul style="list-style-type: none"> behaviour that falls under this type of harassment involves abuse of trust or abuse of power or authority toward another person; mainly involves relationships between executives and employees; and may also occur between co-workers. <p>EXAMPLES</p> <ul style="list-style-type: none"> constantly interrupting an employee; ignoring an employee’s presence and only addressing a third party; treating one employee differently than all the others; and putting an employee in a humiliating or embarrassing situation, deliberately or out of neglect. 	<p>“Behaviour characterized by [generally] repeated and unsolicited sexually connotative [remarks], acts or gestures that could undermine the dignity or the physical or psychological integrity of the individual or lead to unfavorable working conditions.” A single serious incidence can also constitute sexual harassment.</p> <p>SPECIFIC CHARACTERISTICS</p> <p>The remarks, acts or gestures have a sexual connotation.</p> <p>EXAMPLES</p> <ul style="list-style-type: none"> words, whistling, leering, gestures with sexual connotations; sexual advances or propositions, sexist or sexual jokes; sexual emails or texts, posting of pornographic material; and various unsolicited acts up to and including assault.



**For a Healthy Work
Environment
Free From Violence
and Harassment**

**A GUIDE
for the Prevention
of Violence and
Harassment at Work**

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FOR WORKPLACES FREE OF VIOLENCE AND HARASSMENT

Supported by union values and practices based on justice, respect and dignity, the CSN has been addressing issues related to violence and harassment at work for several decades. As far back as the 1980s, the issue of sexual harassment was analyzed by status of women committees, resulting in, among other things, the adoption of a sexual harassment policy in 1993. A few years later, in 1997, the CSN published “La violence en milieu de travail : tolérance zéro” [violence in the workplace: zero tolerance], a pamphlet that was widely distributed among affiliated unions. In 2001, through the publication of a guide entitled “Taking Action Before the Storm—A Preventive Approach to Violence and Harassment at Work,” the CSN recommended to its unions an approach based on a diagnostic model and the tools for implementing an action plan against violence and harassment at work.

Backed by its numerous works and publications on these issues, in 2003, the CSN adopted a “Policy on the prevention of violence and harassment at work.” One year later, in June 2004, the right of every person to work in an environment free of psychological harassment was incorporated into the *Act respecting labour standards*.

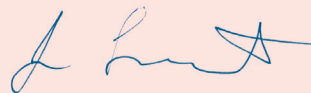
Now more relevant than ever, this kit, composed of a policy model and prevention guide, is the result of the reform efforts that followed the introduction of a provision on sexual harassment in Quebec’s *Act respecting labour standards* in 2018. The events that made headlines in 2017 and 2018 raised significant awareness, particularly the #MeToo movement that has unfurled, which has led women to publicly denounce violence against them, including that which has taken place at work.

The objective of the policy model and prevention guide is to equip unions to manage issues of violence and harassment at work through the development of a local policy adapted to the specific needs and operations of various workplaces. Unions must attempt to develop a climate conducive to the success and well-being of all workers, promote relationships that are egalitarian, healthy and harmonious, develop a culture of respect, and protect the dignity and physical integrity of all.

There are many causes of violence and harassment at work, which have various effects on the physical and psychological health of the victims, not to mention negative repercussions for the workplace. The policy model and guide offer concrete actions for prevention, supporting the victims, and increasing worker awareness about these matters. The CSN believes that by acting together we can prevent and combat all forms of violence and harassment at work.



VÉRONIQUE DE SÈVE
CSN Vice-President
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I. Definitions of violence and harassment at work

Violence and harassment at work are concerning topics and require special attention on the part of employers and unions. The definitions proposed in this section provide benchmarks for union officials and employers to better identify situations of violence and harassment at work. Specifications regarding the definitions of violence and harassment at work will be provided, along with supporting examples.

Violence and harassment at work may take on different forms and be referred to by different names. Sometimes, there is a single occurrence; at other times, there are multiple occurrences with gradual escalation.

Violence and harassment at work can occur as violent actions or words that are easily identifiable. However, other forms, such as psychological, sexual, or discriminatory harassment and the abuse of power or authority are more insidious.

Violence and harassment at work can also occur in relationships between all categories of people at work: employees, management, clients (users, beneficiaries, family members), subcontractors, suppliers, and outside parties (any person from outside the organization who is not associated with the organization's operations, for example, a violent spouse or a thief). Anyone can be involved, whether as a victim, witness, accomplice or aggressor.

We will also refer to violence and harassment at work, rather than in the workplace, to avoid confusion between incidents that occur at physical work locations (institutions or businesses) and incidents that occur in connection to the job.

VIOLENCE AT WORK

There is violence at work when the behaviour (attitudes, actions, or words) of an individual or group of individuals intentionally or unintentionally has an adverse effect on the physical or psychological safety or well-being of another individual or group of individuals.

This definition encompasses a wide range of individuals: clients and their friends and relatives, staff members (supervisors, employees and others), volunteers, subcontractors, etc.

Behaviour includes expressions, actions and conduct that can be observed even if it is insidious or sneaky. Violent behaviour and remarks are probably the most obvious expressions of violence at work.

EXAMPLES

Grabbing someone by the throat; punching or kicking someone; pushing someone; throwing objects; saying hurtful words (insults); making threats; destroying work equipment by kicking it, etc.

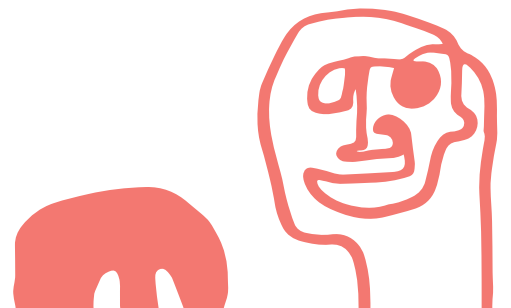
Violent behaviour and remarks can have harmful effects on personal safety and can compromise physical or psychological integrity. Numerous effects on physical and mental health have been reported by workers who have been the victims of violence at work, including digestive problems, headaches, injuries, insecurity, anxiety, guilt, professional burnout, use of drugs, alcohol or medications, etc.

HARASSMENT AT WORK

Harassment can take many forms: psychological harassment, discriminatory harassment and abuse of power or authority. No matter what form it takes, harassment includes behaviours with common characteristics:

- **Behaviour that is generally repeated and unwanted**
Hostile actions, words or gestures that are repeated over a period of time; it should be noted that a single act that has a negative effect on a person's dignity, health or safety can be considered harassment.
- **Vexatious behaviour**
Harassment presents as vexatious behaviour that is degrading, offensive and humiliating.
- **Behaviour that has an effect on the dignity or physical and psychological integrity of a person**
Behaviour associated with harassment at work can alter the physical and mental health of persons and have a negative effect on their dignity; the harmful effect on dignity, respect and self-esteem is in violation of basic human rights: "Every person has a right to the safeguard of his dignity, honour and reputation."¹
- **Actions that can create unfavourable working conditions, including job loss, resignation, or dismissal.**

1. These notes can be found at the end of this publication.



TYPES OF HARASSMENT

Psychological harassment

“Any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee’s dignity or psychological or physical integrity and that results in a harmful work environment for the employee. For greater certainty, psychological harassment includes such behaviour in the form of such verbal comments, actions or gestures of a sexual nature.

A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment.”²

The definition of psychological harassment comprises five criteria.³

- **Vexatious behaviour**

Vexatious behaviour is demeaning, offensive or abusive and affects a person’s dignity and causes torment. Vexatious behaviour refers to the combination of behaviour, gestures, words and actions. It is outside the realm of what a reasonable person believes to be acceptable at work. A “reasonable person” is defined as a person with sound intelligence and regular, objective, informed judgment, who is aware of all circumstances and is in a situation similar to that described by the employee.

Vexatious behaviour is assessed from the perspective of the person who experiences it, without taking into consideration the intentions of the person perpetrating the behaviour. The harasser’s malicious intent does not have to be proven. An assessment must relate to the nature, intensity and repetition of unwanted gestures and the impact these have on the victim.

- **Repeated behaviour**

If viewed as isolated incidents, the gestures may seem benign. Their accumulation may constitute harassment. A single incident may also constitute harassment. In this case, the harmful effects of the severity of the gesture may be lasting for the victim. The incident is not really isolated because it has lasting harmful effects. Accordingly, the more serious the behaviour, the less likely it is to be repeated, and vice versa.

- **Hostile or unwanted behaviour**

The conduct, words, gestures and actions must be perceived as hostile or unwanted. Hostility is not necessarily blatant, and it is not imperative for the behaviour to be aggressive for it to qualify as hostile. Hostility can be defined as the conduct of a person acting as an adversary. Viewed as isolated incidents, acts may seem benign; however, their accumulation may constitute harassment.

The unwanted nature does not necessarily mean the victim expressed refusal and referred to all of the behaviour. The reported facts must objectively qualify as “unwanted.”

- **Effects on dignity or on physical or psychological integrity**
Effects on dignity or on integrity are two concepts that are closely intertwined with respect to the harmful effects of the vexatious behaviour. This inseparable link is relevant in cases of both isolated and repeated incidents. Human dignity refers to the concepts of self-respect and self-esteem. Dignity is affected when a person is marginalized, ignored and undervalued. The negative impact of the harassment may affect the person on two levels:
 - Effects on dignity: feeling personally or professionally belittled, undervalued or denigrated;
 - Effects on integrity: deterioration of physical or psychological health.
- **A harmful work environment**
A harmful work environment creates stress and affects the victim’s health and dignity. The workplace becomes harmful when various behaviours create a lasting effect that is toxic to the work atmosphere.

EXAMPLES

Monitoring the same person constantly; always denigrating a person with negative evaluations; relaying daily verbal messages to a woman working in a sector predominately made up of men, stating that she has no place in the sector and that she is taking a man’s job; relocating a person without warning; physically isolating a person in a remote location; frequently commenting on physical attributes, etc.

EXAMPLE OF A SINGLE INCIDENT OF MISCONDUCT

At a team meeting, Suzanne lashes out at her co-worker Michèle, criticizing her work in front of their other co-workers using derogatory terms and questioning her skills. The immediate supervisor in attendance does not intervene at any time.

The insidious and sneaky aspect of behaviour has the greatest negative effect on psychological integrity.

Mobbing—Another form of psychological harassment

Mobbing refers to a series of hostile remarks and behaviour, expressed or engaged in over a fairly long period of time by one or more persons directed at a third person.

It is quite common in workplaces to find individuals who are scapegoats and who, with no apparent reason or because they are different, are targets of persecution by their colleagues, line supervisors, and sometimes even their subordinates, who have united against them.

There are five main categories of mobbing behaviour:

- preventing the person from expressing himself or herself;
- isolating the person;
- disparaging the person;
- discrediting the person; and
- compromising the person's health.

Discriminatory harassment

“Behaviour characterized by repeated and unsolicited words, actions or gestures of a vexatious or contemptuous nature, that could either undermine the dignity or the physical or psychological integrity of the individual or lead to unfavourable working conditions or dismissal, based on any of the grounds enumerated in [section] 10 of the Charter of Human Rights and Freedoms.”⁴

The grounds enumerated in the Charter are race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.

Apart from the grounds listed above, the same characteristics and consequences inherent to harassment are present here.

- Behaviour (words, actions, gestures) is vexatious or contemptuous.
- In addition to harassment, discrimination can be found in an organization's standards, for example, in hiring selection procedures, task assignments, and invisible barriers in place within certain professions.

EXAMPLES

Racist, sexist, homophobic or intolerant comments intentionally made toward an employee; racist jokes; sexist behaviour and stereotypes; and intolerant gestures (for example, in relation to LGBT+).

Sexual violence and harassment

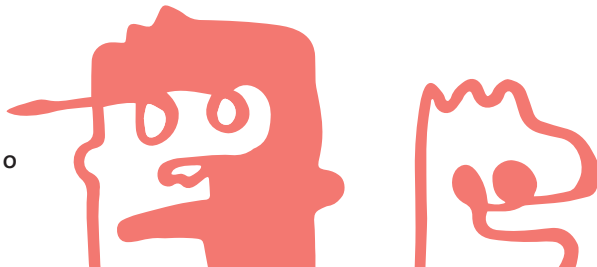
“Behaviour characterized by [generally] repeated and unsolicited sexually connotative remarks, acts or gestures that could undermine the dignity or the physical or psychological integrity of the individual or lead to unfavorable working conditions.” A single serious incidence can also constitute sexual harassment.

A major overhaul of the Act respecting labour standards, carried out in 2018 by the Quebec government, introduced the concept of sexual harassment to specifically identify this form of violence that can occur at work. Sexual harassment previously constituted a form of psychological harassment under the Act, as did other forms of harassment and violence at work. It is important to remember that sexual violence and harassment, on which light has been shed by women for decades, has been the topic of numerous debates and has led to success in terms of advancements. The wave of people coming forward associated with the #MeToo movement has also had a positive effect, bringing the issue into question once again and raising awareness about unacceptable behaviour. However, these remain major issues and have brought a number of cases of abuse at work to light.

The extensive research on sexual harassment shows that most victims are women, while the majority of harassers are men. Nonetheless, sexual harassment cases where the victims are men and the harassers are women or men have also been reported.⁵

The characteristics of sexual harassment include the following:

- behaviour (words, actions, gestures) that have a sexual connotation;
- behaviour that is unacceptable in society or at work, and that is equally unacceptable between colleagues;
- although harassment involves the concept of repetition, a single isolated act that is serious enough may have effects that are felt in the future and may constitute harassment; and
- unwanted sexual behaviour also has a negative effect on the workplace and has adverse effects on victims' jobs.



EXAMPLES

Non-verbal harassment

Leering or looks that make a person uncomfortable, whistling or licking lips, explicit signs with a sexual connotation, posting of pornographic material, sexual graffiti, drawings or caricatures; sexual emails, texts or letters.

Verbal harassment

Sexist or sexual jokes, comments about physical traits or appearance, questions about private or intimate lives, nicknames (e.g., sweetheart, honey), propositions, solicitation of sexual favours, sexual coercion (blackmail for favours).

Physical harassment

Unwanted and invasive familiar physical contact or discrete brushing that seems accidental, exhibitionism, fondling of any kind, cornering, sexual assault.

Single serious acts

Sexual kissing, fondling (genitals, breasts, buttocks), attempted rape, rape.

Some workplaces may be more at risk for such situations, such as those with jobs held predominantly by men. Awareness, information and training are even more useful in these environments to mitigate risk factors.

Abuse of power or authority

Abuse of authority is a form of harassment that occurs when a person makes undue use of the authority or power inherent in his or her position with the intention of jeopardizing a person's job, hindering a person's job performance, endangering his or her livelihood or interfering in his or her career in any other way. It includes intimidation, threats, blackmail and coercion.

Behaviour that falls under this type of harassment involves abuse of trust or abuse of power or authority toward another person. This type of abuse occurs, for instance, when an individual abuses his or her privileged status or position of authority to the detriment of a subordinate. Abuse of power mainly involves relationships between managers and workers, but it may also occur between co-workers. Abuse of power is the inappropriate use of official or unofficial power. Sexual harassment is one form of abuse of power.

EXAMPLES

Constantly interrupting a person; ignoring a person's presence and only addressing a third party; no longer entrusting duties to a person and seeing to it that he or she no longer has anything to do; treating one person differently than all the others; putting a person in a humiliating or embarrassing situation, deliberately or out of neglect; constantly requiring someone to prove himself or herself; exerting excessive control with malicious intent.

MULTIPLE CONSEQUENCES FOR VICTIMS

There are different types of violence and harassment at work, and there are many consequences for victims. In fact, the damage can be considerable, and the effects can be overwhelming: depression and psychological distress, anxiety, suicidal thoughts, loss of self-esteem, feelings of guilt, shame and doubt, feeling of being permanently damaged, underestimation, somatization, etc. Sexual violence and harassment can also have a lasting effect on physical health. Moreover, it is not unusual for victims to be absent from work, transfer to another department, or consider quitting their jobs. Relationship and family problems may also occur.

For victims, talking about the violence they experienced causes extreme anxiety. For example, in situations of harassment, having to talk about the events, which when considered independently may seem benign, is extremely painful for victims. Fear of judgment is almost always present.

It is important to keep these things in mind when intervening with victims.



*respect
civility
dignity*



2. Twelve types of potentially psychologically violent behaviour

In work relationships, as in life in general, not all negative interactions constitute harassment or violence. It would be wrong to claim the contrary. A study⁶ commissioned by the Fédération des professionnelles–CSN identified twelve types of behaviour that could potentially be psychologically violent, in order from most insidious to most visible.

1 Words as camouflage—Indirect verbal strategies are very common. They create uncertainty with respect of the true meaning conveyed by the words. This can have different forms such as exaggerations, ambiguous requests, insinuations or sarcastic comments. An example would be compliments given to someone to harm a third person who is witness to the conversation, such as: “It’s nice working with you. You should be proud, you’re always on time.”

2 Refusal to communicate other than for instrumental purposes—Harmful behaviour can take the form of refusal to communicate. Conversations only relate to work, and informal discussions are kept to a minimum or absent. All forms of acknowledgement are withheld, including standard greetings. This behaviour is more insidious; however, it can be destructive over time and result in a total communication breakdown.

3 One-sided conversation—One-sided conversation can be particularly harmful. Accordingly, the behaviour of the targeted person and his or her actions, past or present, are judged based on hearsay, half-truths, or even lies or comments with a negative connotation about the person’s competence, or using facts taken out of context.

4 Exclusion from group activities or training—The rules for taking part in group activities or training may be vague or arbitrarily applied so as to disadvantage a person or group of people.

5 Refusal to provide professional support—For example, during task assignments, an employee returning from sick leave may be at a disadvantage. Another may be overloaded without being given the necessary help.

6 Casting doubt on skills, creating a sense of worthlessness and belittling—These types of behaviour can result in the denigration of an individual. An example of this would be telling someone that everything he or she does is wrong and never providing encouragement. At a meeting, this would involve mocking a person’s opinion, snubbing him or her, or completely ignoring what he or she has to say. A person may also feel worthless or belittled when constantly made to feel that his or her opinions have far less value than those of his or her colleagues.



7 Lack of respect or contempt—This includes criticizing someone for how they act, how they look, or for another personal trait. For example, this could involve imitating someone’s walk, voice or actions in order to ridicule or mock them. Another example is saying something hurtful about someone, then telling them they do not have a sense of humour or are too sensitive, or saying they are overreacting when they attempt to address the conflict.

8 Administrative harassment—In a context of work overload, administrative harassment occurs when tasks are multiplied, employees are told to put other tasks aside, and the victim is blamed for the situation. It is also present when demands increase, and the necessary resources to meet such demands are not provided. Another example is the multiplication of administrative measures and written communications such that the individual develops the impression that there is a case against him or her.

9 Excessive control—This affects professional autonomy. Abusive control is exercised when the time allotted for certain tasks is the subject of meticulous, insidious and unexpected verifications.

10 Threats—Another unacceptable behaviour involves trying to obtain a favour or benefit from someone by threatening negative consequences in the event of refusal. For example, “You’d better get this job done by the end of the week, or else...”

11 Intimidation—Intimidation may be physical (e.g., hitting, shoving, throwing things, slamming doors), but can also take the form of yelling, threatening gestures, blocking access to an exit during an argument, destroying the individual’s personal items, or refusing to leave in response to a clear request.

12 Exclusion—A person’s exclusion from social activities can result from not informing them of informal gatherings, concealing event locations or flat-out ignoring them.



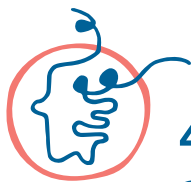


3. Civility

In the workplace, everyone is responsible for exhibiting civility in order to maintain a healthy work environment. Civility refers to a set of rules of conduct that ensure respect and foster community. Incidents of incivility must be taken seriously because they have a negative impact on the work atmosphere. Moreover, incivility is often a component of a conflict that is deteriorating and that could result in psychological harassment if nothing is done to manage the situation. Incivility is defined as follows: low-intensity personal interactions for which malicious intent is ambiguous (the aggressor's malicious intent is unclear) and that are incompatible with the standard of mutual respect at work. Examples of incivility include behaviour that is impolite, rude, or discourteous, and that demonstrates no consideration for others.⁷

EXAMPLES OF INCIVILITY

Not using normal greetings, glaring, an impatient tone of voice, making noise, sudden gestures, rude or impolite language, negative or condescending attitude, gossiping or badmouthing, disparaging comments, withholding information, ignoring or excluding a colleague, and inappropriate use of social media.



4. Committee to prevent violence and harassment at work

Within any business or institution, the implementation of a policy for the prevention of violence and harassment at work can be placed under the responsibility of a committee to prevent violence and harassment at work. This committee must, to the greatest extent possible, represent all members of the workplace and have fair representation of men and women.

In workplaces with fewer employees, an existing committee could perform this role (labour relations committee, joint occupational health and safety committee, status of women committee).

If the employer and union decide to establish a new committee, the union must use its own mechanisms to appoint its representative. This appointment can be made at the general assembly. It is important for the appointment process to be accurate, transparent and known to all parties. The person appointed to the committee must, at least once a year, provide a report at the union's general assembly. The terms for the committee's members must be determined by the parties.

ROLE

The committee shall ensure the prevention of violence and harassment and recommends the means necessary to introduce and sustain a healthy work environment that is free of violence and harassment. Accordingly, the committee will approach its work in the spirit of peaceful collaboration.

The main objective of the policy is not to control or punish, but to prevent situations of violence or harassment and support individuals who are victims. To do so, the committee must assess the organizational, social and cultural risk factors that may be at the source of situations involving violence and harassment. The committee is also responsible for recommending prevention measures.

The committee and the resource person will not be involved in processing official complaints in any way. The union must conduct its own investigation in compliance with the rules in effect for confidentiality and the rights of the members it represents.



5. Means of action

The means of action we are suggesting below must be adapted for each workplace. Some may be suited to certain environments, while others may not be. The following are the three means of action we suggest:

1. Raising awareness and providing information and training
2. Eliminating, monitoring or reducing organizational risk factors
3. Planning for changes

RAISING AWARENESS AND PROVIDING INFORMATION AND TRAINING

One of the best ways to prevent situations of violence and harassment at work is to ensure that all staff members and all persons with ties to the institution or business are aware of, adhere to or at the very least comply with the mission, philosophy, values and rules governing said work environment. The policy for the prevention of violence and harassment at work constitutes one application of these standards. Furthermore, to increase workers' awareness of issues relating to sexual harassment, we need to challenge mentalities and present an egalitarian vision of relationships between women and men. We need to stand up against the mainstreaming of sexist and sexual words and behaviour.

Here are a few examples of possible actions for achieving this goal:

- Circulating the policy:
 - holding an official launch with several tools: posters, brochures, and articles in the institution, business or union newsletter;
 - distributing it to each staff member;

- raising awareness about other policies: code of ethics, bylaws; and
- explaining the policy on the prevention of violence and harassment at work to small groups (teams, services, departments);
- o Providing training on psychological and sexual harassment, specifically on the concept of consent and on sexual gestures and remarks;
- o Informing new staff members about the policy;
- o Benefiting from opportunities at certain events (National Occupational Health and Safety Week, held in October every year, action day against racism, the commemoration of December 6, mental health week, etc.) to explain issues that may be related to violence and harassment of all types;
- o Providing information on various potential manifestations of violence (see “Twelve types of potentially psychologically violent behaviour,” pp. 14 and 15); and
- o Broadly circulating the annual report with regard to the policy.

ELIMINATING, MONITORING OR REDUCING ORGANIZATIONAL RISK FACTORS

Incidences of violence and harassment at work may be carried out by persons with disorders relating to mental health or deviant behaviour. But these situations are relatively rare; incidences of violence and harassment are often symptoms of deteriorating work organization or working conditions (organizational communication, work schedule, workload, job insecurity, etc.).

According to studies cited by the Institut national de santé publique in its *Rapport québécois sur la violence et la santé (2018)*⁸, “interventions to identify and eliminate situations in which there are risks of harassment and violence, as well as interventions to improve work management and organization on teams and the development of managers’ knowledge and skills with respect to harassment prevention are examples of effective organizational interventions.”

The Institut national de santé publique also notes that according to an expert report on violence, “identifying the psychosocial risks at work that are related on one hand to the environment and organizational structure of the workplace and on the other, to a specific work situation and working conditions, significantly helps to prevent violence. Explicitly including risks of violence in health and safety management systems would likely make workplaces safer.”⁹

To fight against organizational causes of violence and harassment at work, the procedure and tools recommended on the CSN’s web portal for training on occupational health and safety [formationsst.csn.info] can be extremely helpful.



Here are some aspects of work organization that can help with identifying organizational risk factors.

Some studies¹⁰ indicate that there are specific features in institutions or businesses that promote the emergence of violence or harassment at work:

- Rooms or spaces that are overcrowded, poorly ventilated, dirty or noisy;
- Vague definitions of each person's roles and responsibilities;
- A poor workload distribution;
- Excessive bureaucratic procedures and a lack of autonomy with regard to decision-making among staff members or with clients;
- A centralized and impersonal organizational culture often linked with large organizations, where management-related risks are greater than in small organizations;
- A very authoritarian or non-participatory management style, with too large a gap between conception and execution of the work;
- A work environment that isolates employees and groups of employees, encourages suspicion, and deliberately turns a blind eye to various forms of discrimination at work; and
- Lack of job security due to precarious work and deteriorating working conditions.

Some work situations also entail a greater risk of violence from clients or third parties:

- Working alone: parking lot attendants, taxi drivers, family and social assistants;
- Working with the public: police officers, restaurant workers, public transit workers;
- Handling valuables: retail sales, security agencies;
- Treating people in distress and helping those close to them: ambulance services, home care, social services, detox or psychiatric centres, nursing homes;
- Working in education: schools, especially in underprivileged neighbourhoods.

Potential solutions

Solutions for eliminating or monitoring organizational risk factors will vary depending on the workplace assessment. Below are several solutions based on the type of relationship involved in situations of violence or harassment.

- **If violence or harassment is related to clients, their friends and relatives, or strangers**

The work should be organized so as to reduce or monitor these situations: employee training to identify problems with clients and how to respond; training on pacification techniques, team case studies and discussions about the most effective methods of work; reviewing work organization (workload, equipment, facilities); working in pairs; more effective communication tools; procedures and responsibilities in the event of violent incidents.

○ **If violence or harassment occurs between co-workers or between management and employees**

The following should be reviewed and improved upon:

- working conditions: precarious work, job insecurity, work schedules, arrangements to facilitate work-family balance, etc.;
- work environment (noise, temperature, work space, work tools);
- workload and distribution of work;
- clear definition and understanding of each person's roles and responsibilities;
- circulation of information;
- management methods (authoritarian or lax, bureaucratic, focused on internal competition, etc.);
- fairness and equality in the application of policies, procedures and rules; and
- relevance, clarity, accuracy and cohesiveness of the institution or business's mission statements, rules, and policies, as well as of their application.

The committee to prevent violence and harassment at work must identify situations that involve risks and assess organizational risk factors. To do this, existing committees and structures in the workplace (labour relations committee, joint health and safety committee, status of women committee, etc.) must collaborate to assess and implement actions to be taken in their respective areas of expertise.

PLANNING FOR CHANGES

The modern working world faces changes that often occur rapidly, with little planning. Sometimes the changes are major (mergers, acquisitions, restructuring, moves, closures), but a number of less obvious changes (new layout of a work area, new tools) also occur. Such changes have repercussions for people who, in addition to their regular work, must give up certain practices and adapt to new realities. Gauging the impact of such changes, by planning for enough time for workers to adapt, is a way to prevent situations of violence and harassment at work. It is in the employer's best interests to collaborate with the union on these matters.

Planning for cultural changes

Several occurrences, such as women holding jobs traditionally held by men, intergenerational conflicts, or the presence of a number of cultural communities in the same workplace may be sources of conflict that can degenerate into violence and harassment at work.

Providing information and raising awareness about different realities will help improve the working environment. Recreational events or activities (plays, concerts, group meals) can be opportunities to get to know others, overcome biases, and develop a common language.

Planning for structural changes

Mergers, acquisitions and major transformations of businesses or institutions deeply disturb habits, beliefs and ways of doing things that, until recently, had been valued. Moreover, the transition from one form of work organization to another may lead to the emergence of situations of abuse of power or role conflicts because former standards have been changed and new ones are still being defined.

Planning for structural changes can help reduce their impact. This includes

- providing regular, clear, pertinent and timely information about transformations to help reduce uncertainty and the circulation of contradictory rumours that lead to frustration;
- training staff in conflict resolution to deal with issues as they arise;
- allowing rites of passage; and
- offering debriefing activities and a special employee assistance program to help people better come to terms with certain transitions, etc.



6. Individual support mechanisms

IMPLEMENTING AN EMPLOYEE ASSISTANCE PROGRAM

Research carried out with CSN unions highlights the negative effects that violent behaviour has on work performance and on all aspects of workers' lives.

The establishment of an employee assistance program (EAP)¹¹ is a good way to provide appropriate support to employees faced with these types of issues.

A number of businesses and institutions have set up EAPs that offer employees professional individualized assistance. Some of them are established unilaterally by the employer, without any union participation. In other cases, the union may be involved.

Experience shows us that workers are reassured by effective union presence in the administration of an assistance program. The creation of a joint committee that defines the assistance program's goals and monitors its overall functioning is the most worthwhile type of union involvement.

Union members who sit on a joint EAP committee report back on their mandate to the executive committee, as well as at the general meeting of the union. Committee members must never have access to the names and records of the individuals taking part in the program; the committee's work is to deal with general policy issues in order for the program to run smoothly.

When a union negotiates an assistance program with the employer, the union must ensure that

- the program provides a range of services (psychological, social, spousal, financial, legal) determined based on workers' needs;
- the EAP offered by the employer is covered by the group insurance policy;
- prevention and awareness activities are offered;
- the program's resource people do not have ties to the personnel department of the business or institution;
- appointments and treatment take place outside of the workplace;
- confidentiality is guaranteed;
- the worker has a choice of various therapeutic solutions;
- participation in the program is voluntary and cannot be used for disciplinary purposes; and
- a non-identifying report of interventions made through the EAP (statistics on support requests, types of problems encountered, etc.) is produced every year.

For more information, see the CSN booklet on drug addiction and union action, *Les toxicomanes et l'action syndicale*.

PEER ASSISTANCE AND PEER ASSISTANCE NETWORKS

Peer assistance—it's only natural!

Peer assistance is a natural form of support that people or groups engage in to cope with issues that they encounter. Such issues may be personal, psychological, social, economic, etc.

Peer assistance, or mutual assistance, is a simple, flexible form of support. It is based on mutual voluntary involvement. Forms of peer assistance are present in families and relationships with friends, neighbours, and people in the workplace.

Peer assistance in the workplace

Peer assistance in the workplace takes on simple forms: examples include carpooling, providing help to complete a work assignment, and actively listening to co-workers who feel the need to share their concerns or issues. In some workplaces, there are more elaborate forms of peer assistance. The union, which has a primary responsibility of developing solidarity among workers, may encourage the creation of peer assistance networks.

Peer assistance networks

Peer assistance networks are networks of people who want to improve quality of life at work and develop mutual assistance and solidarity, in order to create a more humane workplace. To ensure its longevity, the peer assistance network, whether a joint or union

endeavour, must be formalized by the organization. The addition of clauses relating to the peer assistance network in the collective agreement helps to ensure that it is recognized by the employer and, as such, offers the possibility of receiving financial and logistical support from the employer (work releases at the employer's expense, meeting rooms, training for peer assistants during business hours, etc.).¹²

Peer assistance, an alternative to supplement the employee assistance program (EAP)

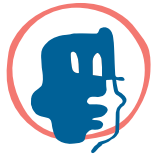
In most cases, EAPs are limited to strictly individual professional work with persons experiencing difficulties. Furthermore, these programs are usually not found in the small and medium businesses in which many CSN unions represent employees. Peer assistance networks are both alternatives and complements to employee assistance programs.

Peer assistance networks may also fulfill a desire on the part of workers to develop solidarity in their workplace on an autonomous basis. The union should encourage such initiatives.

Peer assistance does not require extensive training

Peer assistance can be effective without extensive training of those interested in getting involved, so it is fairly easy for unions to create peer assistance networks. Three toolkits are available for those who wish to provide peer assistance: their own life experience, their experience providing assistance, and minimal theoretical training.

Those who wish to provide peer assistance in their workplace must learn basic listening techniques and be able to refer co-workers experiencing difficulties to institutional and community resources available in their region. This training is given by most CSN central councils.¹³



7. Role of the resource person

The resource person plays a very important role. The resource person's work gives credibility to the policy for the prevention of violence and harassment at work. The resource person must fulfill his or her role with both the alleged victim and the person(s) allegedly involved.

Right from the start, however, it is important to clearly identify the qualities this person should have and the limits of the role.

The resource person's credibility

Above all, the resource person must have credibility in the workplace. This means choosing a person with the ability to listen, as well as the ability to assess situations calmly and objectively.

The resource person must be recognized for his or her capacity to successfully follow through with the cases for which he or she is responsible, while being respectful of those involved.

The role of resource person may be assigned to someone within the business or institution, or to an external person or organization working in the region or municipality. The resource person is appointed by the committee to prevent violence and harassment.

The resource person is available and ready to listen to people who may have experienced issues related to violence or harassment, even if it is not present in the workplace. This person will receive reports, requests for information, and complaints of violence and harassment. A 1-800 number would be an effective way to respond to various requests.

The amounts required to ensure the availability of the resource person or organization must be negotiated with the employer. The budget negotiated must be enough to pay the salary or cost of leave for the resource person and to reimburse all expenses (travel, meals, equipment rental).

This is an important measure that requires our full attention right at the beginning of discussions about establishing a committee. The same applies if the resource person works at the workplace.

Confidentiality

Employees will be called on to speak about, share, and identify issues they are experiencing.

The resource person will be on the front line. He or she must know how to listen to and respect a person who is going through a difficult situation, even if what he or she hears is very surprising or shocking. Above all, he or she must be discreet and not disclose the information received; he or she must never make comments that could be linked to specific situations.

The resource person must have a good understanding of his or her role as well as of its limits with respect to the responsibilities of the union and the employer or of the committee to prevent violence and harassment at work. The information gathered while listening to alleged victims and perpetrators is confidential and will not be passed along to the parties.

THE RESOURCE PERSON INTERVENES MAINLY ON FOUR LEVELS:

1. INTAKE AND ACCOMPANIMENT OF THE ALLEGED VICTIM OF VIOLENCE OR HARASSMENT AT WORK

Intake and accompaniment are summarized as follows:

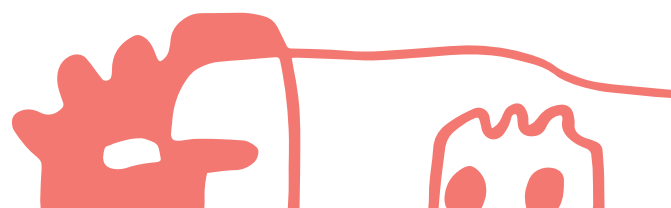
- Meeting with the victim or alleged victim of violence or harassment;
- Becoming informed about all elements related to the situation;
- Accompanying the alleged victim by providing all relevant information about his or her rights, the process of enforcing the prevention policy of the institution or business, and developments in his or her case;
- Informing the alleged victim about the support measures available (specialized assistance from health professionals or the EAP, referral to support groups or people in the peer assistance network of the business or institution, etc.); and
- For cases of sexual violence or harassment, ensuring that the alleged victim is given the opportunity for the case to be handled by a woman or a person of the same gender at all stages, and, as necessary, referring the alleged victim to external support groups such as the Centres d'aide et de lutte contre les agressions à caractère sexuel (CALACS).

The quality of the initial welcome and of the listening is extremely important during the first contact. Situations of violence or harassment can trigger physical and psychological reactions in victims. They are often in a state of extreme vulnerability. Above all, it is important to give them the opportunity to speak, by listening and showing empathy.¹⁴

2. MEETING WITH AND ACCOMPANYING THE ACCUSED PERSON

The resource person meets with those accused and supports them through the process:

- By informing them of the allegations;
- If applicable, by helping them express and write down their version of the facts;
- By acquainting himself or herself with all of the elements related to the situation;
- By working on the case with impartiality and respect for those accused by providing them with all relevant information about their rights and the process of enforcing the prevention policy;
- By recommending different methods for resolving the situation; and
- By proposing support measures (specialized assistance from health professionals or the EAP, referral to support groups or people in the peer assistance network of the business or institution).



The resource person must carefully assess the situation of violence or harassment at work with the persons involved.

Apart from engaging in sympathetic listening, the resource person must also take very accurate notes and collect all the facts, clearly distinguishing them from opinions and feelings.

To ensure that you have clearly understood what a person wants to say, you must restate what he or she has just said. In reformulating the person's statement, you are proposing another way of saying the same thing, while helping the person to distinguish between actual behaviour and opinions or judgments that may cloud the reality of the situation because they are too personal and subjective.

3. ANALYSIS OF THE SITUATION AND POTENTIAL SOLUTIONS

The resource person then analyzes the situation and proposes alternative methods of conflict resolution to the people concerned and follows up if necessary.

The resource person ensures that mechanisms (co-operative conflict resolution, mediation, third-party intervention, etc.) and potential solutions (apologies, reorganization of work, coaching of the work team, better communication techniques, etc.) are proposed for the people involved in situations of violence or harassment at work.

He or she may assign the mediation to an outside organization or undertake the process himself or herself, with the consent of the involved persons, if applicable.

4. PRODUCING A NON-IDENTIFYING REPORT

The resource person must submit a non-identifying report to the committee. The report must stipulate the suggested prevention measures to establish in the business or institution. It should indicate how and why the working conditions or organization of work may be the cause of situations of violence or harassment at work.

Each year, the employer must submit a statistical report to the committee that respects the anonymity of those involved and emphasizes appropriate preventative measures to be implemented.

If an official complaint is filed, the resource person's work is done, and each of the groups involved (union, employer, association) must fulfill their specific responsibilities.



8. Legal framework for enforcing the policy

LEGAL BASIS FOR THE POLICY

The policy is inspired by Quebec's *Charter of Human Rights and Freedoms*, which prohibits the harassment of a person for one of the reasons identified in section 10.

“Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.

Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right.”

Section 46 of Quebec's *Charter* also stipulates the obligation to respect the health, safety and physical integrity of persons:

“Every person who works has a right, in accordance with the law, to fair and reasonable conditions of employment which have proper regard for his health, safety and physical well-being.”

For organizations that fall under federal jurisdiction, section 14 of the *Canadian Human Rights Act* stipulates the following: “It is a discriminatory practice [...] to harass an individual on a prohibited ground of discrimination.” Prohibited grounds are listed in sections 3 and 14 (2) of the Act.

The *Canada Occupational Health and Safety Regulations* include a provision on the prevention of violence in the workplace:

“20.3 a) to provide a safe, healthy and violence-free work place.”

In Quebec, the employer's responsibility may also be stipulated in various forms of legislation, including the *Civil Code of Québec*, the *Act respecting labour standards*, the *Act respecting occupational health and safety*, and collective agreements. Article 2087 of the *Civil Code of Québec* stipulates that “[t]he employer is bound not only to allow the performance of the work agreed upon and to pay the remuneration fixed, but also to take any measures consistent with the nature of the work to protect the health, safety and dignity of the employee.”

The *Act respecting labour standards* includes provisions for psychological harassment in sections 81.18 and 81.19. It provides a definition of psychological harassment, a guarantee that every employee has the right to work in an environment free from psychological and sexual harassment, and a requirement for employers to take reasonable action to prevent and put an end to psychological harassment.

Since January 1, 2019, employers have been required to implement and make available a policy for the prevention of psychological harassment and the handling of complaints, including a component on behaviour of a sexual nature.

The policy is also based on the *Act respecting occupational health and safety*, other legislation, and collective agreements.

Sections 9 and 10 of the *Act respecting occupational health and safety* stipulate that “every worker has a right to working conditions that have proper regard for his health, safety and physical well-being,” and accordingly, the right to appropriate information, training and supervision, as well as “to receive the preventive and curative health services relating to the risks to which he may be exposed.” Under the terms of the Act, the term “health” includes psychological health.

Section 12 of the Act states that “[a] worker has a right to refuse to perform particular work if he has reasonable grounds to believe that the performance of that work would expose him to danger to his health, safety or physical well-being, or would expose another person to a similar danger.” However, section 13 states that this right of refusal to perform work cannot be exercised if it puts the life, health, safety or physical well-being of another person in immediate danger or if the conditions under which the work is to be performed are ordinary conditions for such work.

For workers, these rights are coupled with the obligation to take the necessary precautions to ensure their protection and that of others.

For the employer, section 51 requires that every employer take the necessary measures to protect the health and ensure the safety and physical well-being of its workers, specifically with respect to the layout of the institution or business, its equipment, the provision and maintenance of safety equipment, and the provision of information, training, coaching and supervision for staff members.

OTHER LEGISLATION

Generally speaking, situations of sexual violence and assault are covered by the *Criminal Code*, which allows victims to press charges, or, if they have suffered personal losses, they can take legal action under the *Civil Code*.

Any person who is the victim of sexual violence or assault can also make use of the provisions of the *Crime Victims Compensation Act* and receive compensation related to the application of the Act administered by the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST).

EMPLOYEE OBLIGATIONS

The obligation of employees to behave with civility in their relationships with both their supervisors and their co-workers is not explicitly stipulated in law, but has been developed through doctrine and jurisprudence.

Under this obligation of civility, employees must conduct themselves with politeness appropriate to the workplace, refrain from bringing about interpersonal conflicts, and strive to maintain harmonious working relations.

COLLECTIVE AGREEMENTS

Since the provisions related to psychological harassment in the *Act respecting labour standards* have come into force, all collective agreements are also deemed to contain them.

Accordingly, all collective agreements must include

- the definition of psychological harassment;
- the employee's right to a workplace that is free of psychological harassment;
- the employer's obligation to take reasonable measures to prevent and put an end to psychological harassment;
- the employer's obligation to implement and circulate a policy for the prevention of psychological harassment and the processing of complaints, including a component on behaviour that takes the form of words, actions or gestures of a sexual nature;¹⁵ and
- the fact that recourse may only be sought within a period of two years of the last incidence of psychological or sexual harassment.

It is important to negotiate clauses for the collective agreement that promote a culture of respect and civility, as well as include a commitment to treat employees fairly.

What can be negotiated

1. Preamble or policy statement

The addition of a clause, in which the parties recognize that the protection of employees' physical and psychological health is a general employer prevention obligation under the provisions of the *Act respecting occupational health and safety* (section 51 and subsequent sections) and the *Act respecting labour standards* (sections 81.18 and 81.19), will formalize the importance the parties place on the prevention of violence and harassment at work.

2. Policy on mutual respect and the prevention of violence and harassment at work

- a) The parties develop a joint policy favouring the protection of physical and psychological health of staff members and oversee its application.
- b) The parties agree to collaborate in all possible ways to encourage respect and civility at work and prevent all types of violence and harassment.
- c) The parties agree on the definitions of the different types of violence and harassment at work (refer to the previous sections containing definitions).
- d) The parties agree to implement support mechanisms for the victims of violence and harassment at work, such as a peer assistance network in the workplace, while providing logistical and financial support for said network as well as an employee assistance program (EAP) based on the specific needs of victims.¹⁶



9. Various forms of legal recourse

The following are the various forms of legal recourse available to victims of harassment or violence at work.

THE COMMISSION DES NORMES, DE L'ÉQUITÉ, DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL (CNESST)

In cases of employment injury within the meaning of the *Act respecting industrial accidents and occupational diseases*, a victim of harassment or violence at work has only one form of recourse to obtain compensation: a claim to the CNESST.

To receive compensation from the CNESST, the victim of harassment or violence must demonstrate having experienced an employment injury either as a result of a work accident or an occupational disease. Generally speaking, the CNESST agrees to compensate victims of harassment or violence on the grounds of an employment injury.

The *Act respecting industrial accidents and occupational diseases* defines, in section 2, the concept of “industrial accident” as follows:

“A sudden and unforeseen event, attributable to any cause, which happens to a person, arising out of or in the course of his work and resulting in an employment injury to him.”

Based on jurisprudence, if there is an employment injury as defined under the Act, the CNESST has exclusive jurisdiction, which cannot be circumvented through a failure to file a claim.

All cases of absence (and all cases requiring care without absence) resulting from harassment or a climate of violence at work must be addressed in a claim to the CNESST to determine whether or not an employment injury has occurred.

Victims of harassment have six months to file a claim with the CNESST.

According to jurisprudence (the Genest decision and subsequent decisions), it is possible, even in cases of employment injury, for the victim to bring proceedings through other administrative tribunals (Human Rights Tribunal, grievance arbitrator, Administrative Labour Tribunal) for a remedial order such as a letter of apology, the implementation of a policy against harassment, or any other order to prevent or put a stop to the psychological harassment. Nonetheless, it is not possible to bring proceedings through these tribunals for damages (material damages and moral injury).

RIGHT OF REFUSAL

Jurisprudence recognizes that the preventative nature of the *Act respecting occupational health and safety* strives to protect both mental and physical health.



Accordingly, in theory, it is possible to exercise the right to refuse to perform our work if we can show that the violence and psychological harassment present through the performance of our work exposes us to danger (to be distinguished from a risk) to our health, safety or physical well-being.

“(s.12) A worker has a right to refuse to perform particular work if he has reasonable grounds to believe that the performance of that work would expose him to danger to his health, safety or physical well-being, or would expose another person to a similar danger.”

The challenge of seeking this recourse lies in demonstrating a real danger for mental health and not a risk or fear.

The grievance, an essential form of recourse

It is possible that a CNESST claim will be rejected because the situation does not constitute an employment injury. In this case, the grievance arbitrator will decide on compensation for the victim and award damages (material damages and moral injury). This also applies when the employee withdraws his or her appeal to contest the CNESST decision refusing the claim.

In all cases, it is important to make sure to file a grievance against the employer at the same time as the claim is submitted to the CNESST.

It is also important to file a grievance in all situations in which the violence or harassment does not result in an absence or require care.

SUBJECT OF THE GRIEVANCE

1. Harassment by supervisors or employer representatives

The grievance can reproach the employer for

- harassment perpetrated by the employer’s supervisors or representatives; or
- failure to take all necessary measures to put a stop to the harassment, in breach of the collective agreement and the *Charter of Human Rights and Freedoms*.

2. Harassment by co-workers, clients, or even third parties

The grievance can reproach the employer for

- failing or refusing to take the necessary measures to end the harassment or violence; or
- failing in its obligation to provide a workplace that does not adversely affect the employee’s dignity, health or safety, in breach of the collective agreement and the Charter.

Furthermore, the grievance should state the alleged facts against the employer to prevent the grievance from being rejected on the grounds that it is too vaguely worded. The grievance



usually includes a claim for damages and potentially an application for an order for measures to be taken to put a stop to the harassment.

THE ACT RESPECTING LABOUR STANDARDS

On June 1, 2004, new provisions on psychological harassment in the *Act respecting labour standards* came into effect. In June 2018, amendments were made to include the concept of sexual harassment. Section 81.18 of the Act contains the following definition of psychological harassment:

“Any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee’s dignity or psychological or physical integrity and that results in a harmful work environment for the employee. For greater certainty, psychological harassment includes such behaviour in the form of such verbal comments, actions or gestures of a sexual nature.

A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment.”

Section 81.19 of the Act guarantees that every employee has the right to a workplace free from psychological harassment and provides the employer with the obligation to take reasonable steps to prevent psychological harassment:

- “Every employee has a right to a work environment free from psychological harassment.”
- “Employers must take reasonable action to prevent psychological harassment and, whenever they become aware of such behaviour, to put a stop to it.”
- In addition, since January 1, 2019, the employer must implement and circulate a policy for the prevention of psychological harassment and the handling of complaints, including a component on behaviour that takes the form of words, actions or gestures of a sexual nature.

Recourse under the Act respecting labour standards

These two provisions (81.18 and 81.19) allow for a complaint to be filed with the CNESST, which, following an investigation, will transfer it to the Administrative Labour Tribunal.

However, when employees are covered by a collective agreement, the Act stipulates that these provisions “are deemed to be an integral part of every collective agreement” (section 81.20):

“The provisions of sections 81.18, 81.19, 123.7, 123.15 and 123.16, with the necessary modifications, are deemed to be an integral part of every collective agreement. An employee covered by such an agreement must exercise the recourses provided for in the agreement, insofar as any such recourse is available to employees under the agreement.”

Section 123.7 provides employees with two years from the last incidence of psychological harassment to file a grievance.

Section 123.15 provides grievance arbitrators with the following powers:

- “1. Ordering the employer to reinstate the employee;
2. Ordering the employer to pay the employee an indemnity up to a maximum that is equivalent to wages lost;
3. Ordering the employer to take reasonable action to put a stop to the harassment;
4. Ordering the employer to pay punitive and moral damages to the employee;
5. Ordering the employer to pay the employee an indemnity for loss of employment;
6. Ordering the employer to pay for the psychological support needed by the employee for a reasonable period of time to be determined by the Tribunal;
7. Ordering the modification of the disciplinary record of the employee.”

These powers are in addition to those that grievance arbitrators already possess under the *Labour Code* and the collective agreement.

However, the remedies in subsections 2, 4 and 6 cannot apply if the person being harassed is the victim of an employment injury:

“Paragraphs 2, 4 and 6 of section 123.15 do not apply to a period during which the employee is suffering from an employment injury within the meaning of the Act respecting industrial accidents and occupational diseases (chapter A-3.001) that results from psychological harassment.”

The collective agreement must read as if these provisions were included. To ensure that union members and the employer are aware of the existence of these legal provisions, we recommend that you reproduce them in the text of the collective agreement.

HUMAN RIGHTS TRIBUNAL AND COMMISSION

Quebec’s *Charter of Human Rights and Freedoms* stipulates that the Commission des droits de la personne et des droits de la jeunesse can receive complaints of discrimination (harassment) and investigate. This recourse is based on sections 10, 10.1 and 16 of the Charter. If appropriate, the Commission can submit the case to the Human Rights Tribunal on behalf of the victim.

A complaint can only be made to the Commission in cases of harassment based on prohibited grounds of discrimination under section 10 of the Charter.

The challenge of determining whether the Human Rights Tribunal or the grievance arbitrator has jurisdiction arises when harassment is based on grounds prohibited under the Charter.

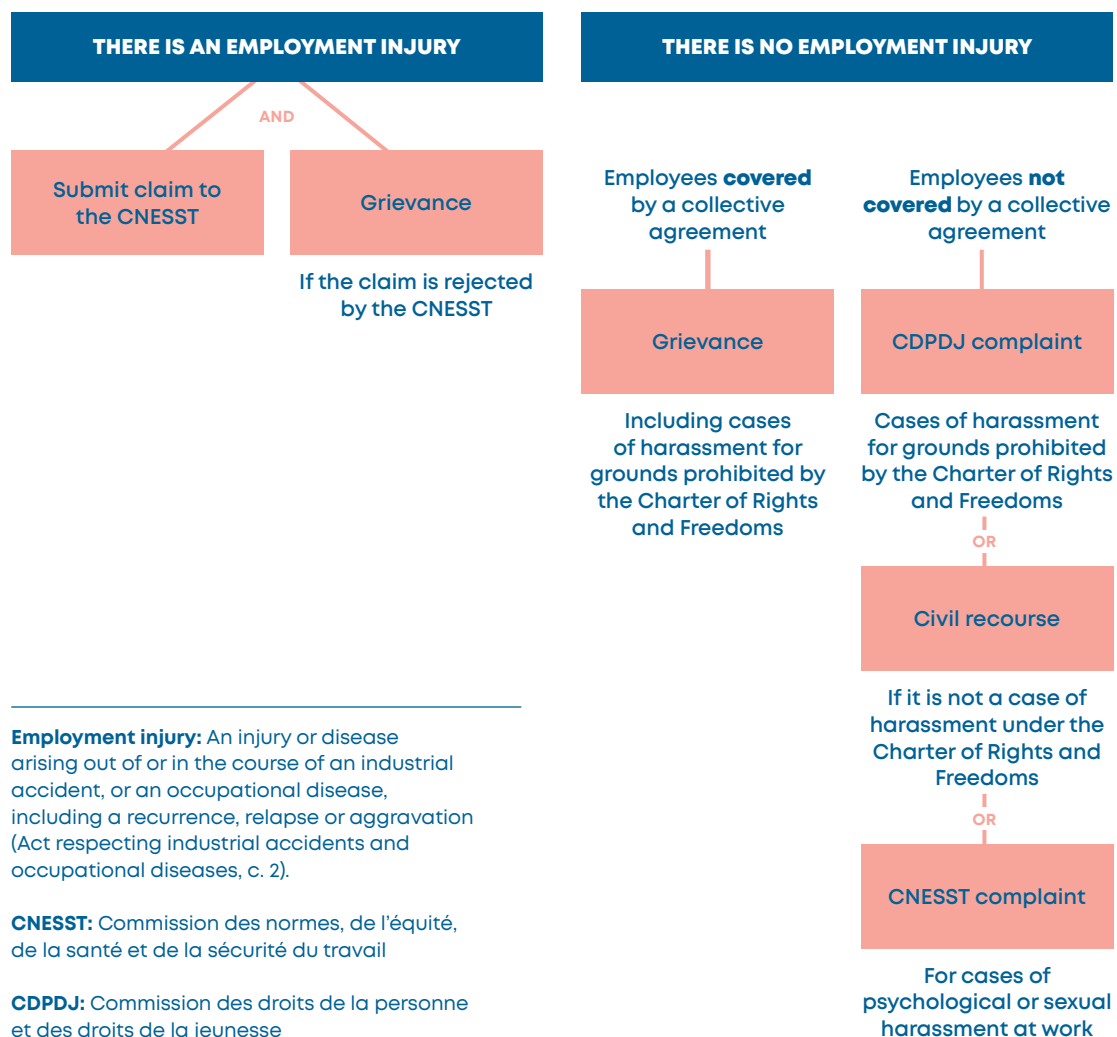
In its decision in *Quebec (Commission des droits de la personne et droits de la jeunesse) v. Quebec (Attorney General)*, the Supreme Court determined that the Human Rights Tribunal and the

grievance arbitrator have concurrent jurisdiction when determining if a clause of a collective agreement has a discriminatory effect.

Despite this decision, the question of jurisdiction in such cases continues to be a hot topic. It appears that once the matter in dispute does not result exclusively from the interpretation or application of the collective agreement, but from the provisions of the Charter, or if the arbitrator does not have the powers required to completely resolve the matter, the arbitrator’s jurisdiction is no longer exclusive.

If the grievance arbitrator has the full authority required to resolve the dispute, we recommend that you file a grievance.

RECOURSE AGAINST THE EMPLOYER IN CASES OF PSYCHOLOGICAL HARASSMENT





10. Union investigation into a complaint or disciplinary measure

It is important to point out that if an official complaint is filed, neither the committee for prevention of violence and harassment at work nor the resource person play any role in the union investigation.

When an official complaint is filed, the union must conduct its own thorough investigation in compliance with the rules in effect for confidentiality and the rights of the members it represents.

The union investigation is essential. Please refer to the investigation procedure used for disciplinary cases, complaints and dismissals.

Given the complexity of the complaints about violence and harassment at work, we strongly suggest that you consult with your CSN union adviser as soon as possible. He or she will be able to guide you in putting together and following up on the complaint and will advise you during the various stages of the process while taking into consideration the union's legal obligations.

As well, the union's role is to always provide its members with the possibility of taking part in the grievance procedure, the recourse available under the *Act respecting occupational health and safety* and the *Act respecting industrial accidents and occupational diseases*, or any other legal recourse available before tribunals.

Union representatives must also be aware of legal responsibilities under section 47.2 of the *Labour Code*. The union must fulfill its duty of fair representation of its members in accordance with guidelines specified in relevant jurisprudence.

Once again, the advice of union advisers is very important at this stage of your union work.

DUTY OF FAIR REPRESENTATION

The *Labour Code* obliges the union to represent employees in the bargaining unit

- without negligence;
- without arbitrariness;
- without bad faith; and
- without discrimination.

This is described in section 47.2 of the *Labour Code*:

“A certified association shall not act in bad faith or in an arbitrary or discriminatory manner or show serious negligence in respect of employees comprised in a bargaining unit represented by it, whether or not they are members.”

In *Landry c. Syndicat des travailleuses et travailleurs de l'Hôtel-Dieu du Sacré-Cœur de Jésus de Québec*,¹⁷ these concepts were defined as follows:

- **Without serious negligence:** serious investigation, without gross error, carried out conscientiously, with a proper assessment of the file;
- **Without arbitrariness:** serious effort, reasonable care, after consultation;
- **Without discrimination:** in the same way as for all other employees, using the same criteria;
- **Without bad faith:** without any intention of harming and without dishonourable, unmentionable reasons.

THE INVESTIGATION

The investigation is crucial for deciding whether to take a grievance to arbitration. Experience drawn from sexual harassment cases indicates how the investigation should be conducted for any case of violence or harassment. The same guidelines apply to both.

Compliance with section 47.2 of the *Labour Code* requires a serious investigation of the facts and relevant legal provisions. This is especially crucial in the case of disciplinary measures for sexual harassment or assault because, in such cases, there may be a conflict between employees in the same bargaining unit. It is therefore important to be twice as cautious and to ensure that

- a full investigation of the facts is carried out;
- all the witnesses are questioned, and their versions of events are obtained; and
- the version of the alleged harasser is verified, by informing him or her of the information collected during the investigation, and by completing the investigation, if need be, with a verification of any additional elements submitted by the alleged harasser.

The union conducts the investigation, meaning that it cannot invoke a general assembly decision as the sole reason for refusing to send a grievance to arbitration.

The hostility of a group of co-workers or even of the majority of co-workers does not relieve the union of its responsibility to conduct a full, serious investigation; on the contrary, this is precisely when the union's behaviour is likely to be scrutinized most closely.

VALIDITY OF THE GRIEVANCE

It is up to the union to decide whether it is in its members' interests to send the grievance to arbitration.

The chances of success of the grievance must be assessed realistically. However, jurisprudence recognizes that even if there is a chance of success, the union is not required to take a grievance to arbitration; it has the right to choose between the various interests involved. It is the process or the underlying reasons for the decision that matter:

“In a situation of conflicting employee interests, the union may pursue one set of interests to the detriment of another as long as its decision to do so is not actuated by any of the improper motives described above, and as long as it turns its mind to all the relevant considerations. The choice of one claim over another is not in and of itself objectionable. Rather, it is the underlying motivation and method used to make this choice that may be objectionable.”¹⁸

In cases of sexual violence and harassment, the Tribunal has recognized the union’s right to make ethical choices, providing, however, that it first carries out a serious investigation:

“In cases of sexual assault, unions are justified in asking whether they should defend the alleged victim or the alleged aggressor, especially when both are employees covered by the collective agreement. The policy that has been adopted—to conduct as serious an investigation as possible, to give the benefit of the doubt and, as a general rule, not to pursue the grievance if there has in fact been an assault—is perhaps not perfect, but it is not up to the Tribunal, as mentioned above, to judge or second-guess union decisions.”¹⁹

It is important, however, to keep in mind that the more serious a disciplinary measure is (e.g., dismissal), the more cautious the union should be before depriving an employee of his or her grievance rights. Even support for a policy against sexual harassment must not lead to systematic refusal to defend any guilty employee. The union may decide to appeal a disciplinary measure deemed disproportionate.

CONFIDENTIALITY

Once a complaint gives rise to disciplinary measures and the union must decide whether or not it will contest the measures with a grievance, confidentiality is no longer possible. The union cannot conduct a serious investigation and confront the alleged harasser without informing said person of the name of the complainant and the nature of the complaint.



NOTES

1. Charter of Human Rights and Freedoms, c. 1, s. 4.
2. We have reproduced the definition in the Act respecting labour standards, amended in June 2018.
3. This section was inspired by a document produced by the CNESST on labour standards, particularly section 81.18 of the Act. Document consulted on the Internet (www.cnt.gouv.qc.ca/en-cas-de/harcelement-psychologique) on February 10, 2016.
4. Commission des droits de la personne et des droits de la jeunesse du Québec. 2004. “Policy against discriminatory harassment at work.” www.cdpdj.qc.ca/Publications/discriminatoryharassmentworkplace.pdf. Consulted on the CDPDJQ site on November 29, 2018.
5. Institut national de santé publique du Québec. 2018. *Rapport québécois sur la violence et la santé*. 259. www.inspq.qc.ca/sites/default/files/publications/2380rapportquebecoisviolencesante.pdf.
6. Aurousseau, Chantal, and Simone Landry. 1996. “Les professionnelles et les professionnels aux prises avec la violence organisationnelle.” Service aux collectivités, Université du Québec à Montréal, protocole UQAM—CSN—FTQ. Report 64 (125): 41.
7. Andersson, Lynne, and Christine M. Pearson. 1999. “Tit for Tat? The Spiraling Effect of Incivility in the Workplace.” *Academy of Management Review* 24, 452–471.
8. Institut national de santé publique du Québec. 2018. *Rapport québécois sur la violence et la santé*. “Chapitre 9: La violence en milieu de travail.” 271.
9. [Our translation] Institut national de santé publique du Québec. 2018. Citing data from International Labour Office. 2016. Meeting of Experts on Violence against Women and Men in the World of Work. Geneva: International Labour Organization.
10. Université Laval. Chaire en gestion de la santé et de la sécurité du travail (chair in occupational health and safety management) website (cgsst.com/) and the inter-ministerial committee report on preventing psychological harassment and support for victims. Quebec.
11. For more information, search on the web for the CSN booklet on drug addiction and union action, *Les toxicomanes et l’action syndicale*.
12. For more information on elements to negotiate with regard to peer assistance networks, consult *Les facteurs favorables à la santé psychologique – Comment les reconnaître et favoriser leur mise en place dans la convention collective* (factors that promote psychological health—how to recognize them and promote their adoption into the collective agreement), produced by the CSN work relations service, available at www.csn.qc.ca/2017-06guidefacteurs-favorablescsn/.
13. To learn more, visit the CSN website: www.csn.qc.ca/reseau-entraide/en-region/.
14. Empathy: the ability to identify with someone and feel what he or she is feeling, without, however, taking on the other person’s emotional burden.
15. Since January 1, 2019.
16. For more information on clauses that can be negotiated regarding an assistance network or EAP, refer to the following document: *Les facteurs favorables à la santé psychologique – Comment les reconnaître et favoriser leur mise en place dans la convention collective* (factors that promote psychological health—how to recognize them and promote their adoption into the collective agreement), produced by the CSN work relations service, available at www.csn.qc.ca/2017-06guidefacteurs-favorablescsn/.
17. 93T995.
18. *Gendron v. Supply and Services Union of the Public Service Alliance of Canada*, Local 50057, [1990] 1 SCR 1298, p. 1329.
19. Op. cit. note 1, pp. 25-26.

