



## Harassment and Sexual Harassment in the OHS Act

### Employer obligations under the Occupational Health and Safety Act (OHS Act)

- Employers must provide information and instruction for the process in place for workers to report harassment to an alternate person if the employer or supervisor is the alleged harasser.
- Employers must set out how they will make sure confidential information is not disclosed unless it is necessary to conduct an investigation, take corrective action, or disclose information as required by law.
- Employers must conduct an investigation that is appropriate in the circumstances. The investigation must be timely and the investigation must be objective. The investigator may not be a person with direct control over the complainant.
- Results of the investigation (a summary of the findings) and information on any corrective action shall be provided in writing by the employer to the complainant *and* the respondent (if the respondent is an employee).
- The employer must consult with the joint health and safety committee (JHSC) or health and safety representative in developing and maintaining its anti-harassment program.
- The employer must review the workplace harassment program annually or as needed to ensure that it adequately implements the harassment policy.

### Ministry Code of Practice

The Ministry of Labour, Immigration, Training and Skills Development (MLITSD) has created a Code of Practice to help interpret the requirements for harassment. Codes of Practice are guidelines that explain how employers can comply with the OHS Act requirements. The *Code of Practice to Address Workplace Harassment under Ontario's Occupational Health and Safety Act* can be found at:

<https://www.labour.gov.on.ca/english/hs/pubs/harassment/index.php>

### The seven steps that make an investigation appropriate

The Code of Practice outlines seven steps that make an investigation appropriate:

1. Investigations are kept confidential unless disclosure is necessary to conduct the investigation, take corrective action, or meet legal requirements. Complainants, respondents, and witnesses must be reminded not to discuss any investigation.
2. The investigator interviews both the complainant and the alleged harasser.
3. The investigator gives the alleged harasser the opportunity to respond to the specific allegations, and hear again from the complainant if necessary.
4. The investigator interviews all witnesses independently.
5. The investigator collects and reviews any relevant documents.
6. The investigator takes detailed notes of all interviews.
7. The investigator prepares a written report, setting out all steps in the investigation, the specific allegations, the responses, witness accounts, evidence gathered, and the conclusion reached. The report goes to the person responsible for action.

