Sexual Harassment at Work

Presented by the Community Advocacy & Legal Centre

www.communitylegalcentre.ca

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Agenda

- Welcome - introductions
- Please use the Q&A feature to let us know about any technical problems or ask questions or you can – you can also click Raise Hand and we'll unmute you
- Brief introduction/reminder about CALC's services
- Overview of sexual harassment in the workplace
- Discussion or questions

Who We Are

- We are a non-profit community legal clinic and provide FREE legal advice, assistance and representation to people living on a low income. If we can't help we will provide referrals.
- We are funded by Legal Aid Ontario and other partners.
- We are governed by a community-based Board of Directors.
- There are no fees for our services.

How Can CALC Help?

- We provide legal services in the following areas:

Tenant Rights

Consumer & Debt Law

Income Security (OW, ODSP, CPP)

Employment and WSIB

Human Rights and Education

Seniors Issues (Powers of Attorney and Wills)

- We also do Public Legal Education, Law Reform, Systemic Advocacy.

What We Don't Do

- We do not do Real Estate, Family Law or Criminal Law. We do not issue Legal Aid Certificates

- For criminal and family law issues, call Legal Aid Ontario Customer Service Centre: 1-800-668-8258

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Trusted Intermediaries

- Service providers can call us directly for legal information on areas of law we deal with
- We provide educational workshops for service providers
- Our Legal Health Check poster can help red-flag or spot poverty law issues: https://communitylegalcentre.ca/tcodownloads/legal-health-awareness-poster/

Stop sexual harassment at work project

- The federal government has funded a project to deliver legal information, advice and public legal education on sexual harassment in the workplace. The goal is to prevent and eliminate sexual harassment at work.
- We provide free legal information and advice to all workers without an income test.
- We also offer workshops on workplace sexual harassment to interested groups and organizations including employers

Canada

Cases in the News

The New York Times

U.S.

Harvey Weinstein Paid Off Sexual Harassment Accusers for Decades

CBCnews | Entertainment

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Matt Lauer, fired Today Show co-host, apologizes in wake of sexual harassment allegations

Statement issued day after NBC terminates him says he's 'ashamed' but some allegations 'untrue'

Female prison guards allege years of harassment, sexual abuse by male guards in $43.4M lawsuit

Two women accuse Patrick Brown of sexual misconduct

Two women reported to CTV that Brown engaged in sexual misconduct during his time as a politician, which Brown denied. At the time of the alleged incidents, both women say they were drunk and Brown was sober.

CNN politics | CONGRESS | SECURITY | THE NINE | TRUMPMERICA | STATE

Women detail sexual allegations against Trump

CNN media | Reliable Sources | Think | Profit | Newtube | Entertainment

'House of Cards' employees allege sexual harassment, assault by Kevin Spacey

Albert Schultz resigns on heels of lawsuits, sex assault allegations

Women who are suing the Toronto theatre company and artistic director Albert Schultz say the "sanctity of the theatre...is being violated."

Workplace Harassment

- All workers are entitled to a safe and healthy workplace, free from violence & harassment

- This includes work that is:
  - Part-time
  - Full-time
  - Co-op placement students
  - Volunteer
  - Non- unionized

Basic Principles

Everyone has a right to be free from sexual harassment and discrimination at work

The Employer has primary responsibility to ensure employees are not subjected to harassment and discrimination

What is Workplace Sexual Harassment?

- Unwanted sexual acts from managers, co-workers or customers, including:

Unwelcome sexual advances or demands	Reprisal or threat of reprisal for refusing sexual advance	Spreading sexual rumours (including online)
Displaying sexually offensive material	Distributing sexually explicit emails or attachments	Sexually suggestive or obscene comments or gestures

Other Examples

Unwelcome remarks, jokes, innuendos, propositions, taunting

Persistent unwanted attention after consensual relationship ends

Unwelcome contact or physical closeness of a sexual nature, groping

Sexual assault

Definitions of Sexual Harassment

Under Ontario's Human Rights Code sexual harassment is:

- based on sex, sexual orientation, gender identity or gender expression by the employer, an agent of the employer or another employee
- a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

Definitions of Sexual Harassment

Under Ontario's health and safety law sexual harassment is:

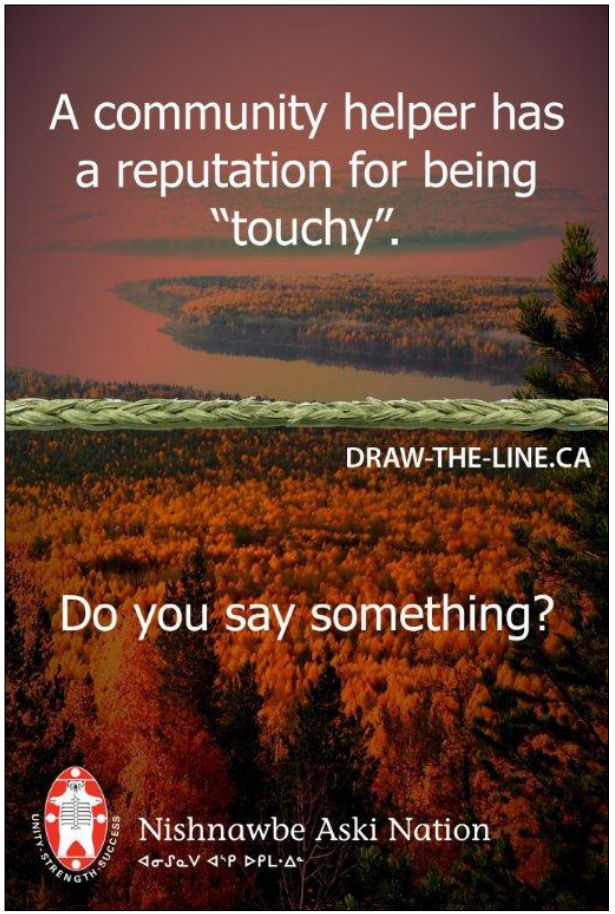
- engaging in a course of vexatious comment or conduct against a worker because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or
- making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

It can happen to anyone anywhere

- In a 2018 survey, 43% of women and 12% of men indicated that they had been sexually harassed in the workplace.
- The #MeToo and #Timesup movements have shone a spotlight on the prevalence of sexual harassment.
- Sexual harassment can include behaviour by co-workers, supervisors, clients, customers, volunteers or the public.
- Some vulnerable groups (racialized, women, youth, LGTBQ2S+) experience sexual harassment in higher numbers
- Sexual harassment can occur outside the physical walls of the workplace i.e. business trips, company golf tournaments, staff parties

Our Approach: Upstander Intervention

- The **bystander effect** occurs when the presence of others hinders an individual from intervening in an emergency situation: "Someone else will do something" or "They did nothing, so why should I bother?"
- Stepping in together with friends, **checking in on the victim**, telling someone in authority, or creating a distraction are great ways to step up!



Employer's Responsibilities

Changes to the Occupational Health and Safety Act

Theresa Vince

- Sexually harassed by her boss at Sears for years
- Driven into early retirement – was less than a month away from her last day of work
- Murdered by her boss at work

Employer Obligations Under Occupational Health and Safety Act

- must have policies for workplace violence and harassment which include:
  - Process for workers to report workplace harassment
  - The process for investigating complaints
  - The policy regarding privacy and disclosure related to the workplace harassment complaint in part to prevent reprisal
  - How the worker and the alleged harasser will be informed of the outcome of the investigation and any actions that will be taken
- conduct a workplace violence assessment
- conduct training for management and employees

Employer Obligations

Your Employer must:

- Appropriately investigate all complaints in accordance with its policy/program;
- Inform all parties in writing of the outcome of the investigation and any actions that will be taken;
- Review the workplace harassment program at least annually; and
- Provide information/training to all workers regarding the policy and program

Your Employer cannot retaliate

- Reprisal is prohibited
- A reprisal is any act of retaliation for reporting an act of inappropriate workplace conduct or participating in an investigation.

This protection applies to:

- Threatening to file a complaint or filing a complaint (whether internally or externally, formally or informally)
- Requesting accommodation
- Providing evidence in support of complaint

What to do if you experience sexual harassment in the workplace

What to do

If you are experiencing sexual harassment in the workplace you should:

- Tell your employer (unless they are the one harassing you or you feel unsafe doing so)
  - Do it in writing, write out what happened and give it to them or tell them and confirm it in writing so you have a record
  - Remember your employer has a duty to protect you from harassment and needs to address your concerns
- Make notes. Write down what happened, including when and where it happened and list any witnesses.

You have options

If you have experienced sexual harassment in the workplace, you can:

- Contact the police (for sexual assault or criminal harassment or stalking).
- Pursue a complaint under your workplace policy
- File a grievance (if unionized).
- Sue in court. Two year deadline.
- Make a complaint to the Ministry of Labour Two year deadline
- Make a claim at the Human Rights Tribunal, One year deadline.
- Make a WSIB claim (if you have physical or psychological injuries as a result). Six month deadline.
- Apply for EI (if you are no longer employed)

Getting Legal Advice

- You can get legal advice about sexual harassment from:
  - Your union (if you have one)
  - Community Advocacy and Legal Centre (or another community legal clinic in your area)
  - From the Human Rights Legal Support Centre
  - Call us for help
  - Get support!

Questions?

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