



a workplace for all

Bargaining Equality

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**Equality and
Health & Safety**

The increasing number of equality-seeking members in our workplaces means we need to take a closer look at health and safety issues.

Racism, sexism, ageism and other “isms” continue to raise their ugly heads in our workplaces. Discrimination and differential treatment mean many equality-seeking group members are under-employed. Many work in low-paying jobs and poor and unsafe working conditions. Often these workers may be subjected to extreme heat, poor ventilation, exposure to asbestos, mold, toxic fumes and dangerous cleaning solvents and other hazardous chemicals. Some of them work with unsafe equipment and without any safety precautions or safety training.

CUPE members also suffer disability injuries on the job due to poor health and safety conditions in the workplace. Bad ergonomics, repetitive work strain, unsafe equipment, and toxic workplace hazards all contribute to increased disability among Canadians. Persons with disabilities make up about 13 per cent of the working-age population according to Statistics Canada.

Despite human rights legislation, education and employment equity programs, intolerance continues in our workplaces. This bigotry and bias poses a serious health and safety hazard for CUPE members. Many suffer emotional distress and psychological injury as a result of discrimination. They are frequently belittled, snubbed, subjected to hurtful and cruel jokes, and demeaning comments or slurs. This unfair treatment also negatively affects teamwork and overall work performance.

Often overlooked as a health and safety problem, harassment is a major source of health-damaging stress. Highly-stressed workers have higher blood pressure and are more likely to suffer circulatory and heart diseases as well as mental and emotional problems.

Whenever workers are victims of harassment, bullying or abusive behaviour, the disruption to their lives can be devastating. They suffer humiliation, distress and despair, all of which can lead to heart problems, sleeping disturbances and prolonged depression. Victims can often become withdrawn and frightened. Their self-esteem shattered, they become emotionally scarred and unable to do their work. Extreme and prolonged depression may lead to alcohol and drug abuse, family break-ups and suicide.

When workers have to worry more about their personal safety and security than about the quality of work they perform, everyone suffers. It is very costly to CUPE members, their families, communities, and the public services they deliver.

Harassment must be understood as an occupational health and safety hazard. Reporting hazards is not only a worker's right, it is also a duty or obligation under occupational health and safety legislation. Reporting forces the employer to take the issue seriously and investigate it. A workplace poisoned by harassment is just as hazardous for workers as one that exposes them to asbestos, toxic fumes and unsafe equipment.

Remember, workers have the legislated right to refuse unsafe work. This could apply to violence and harassment issues. For example, if a complaint about a workplace is not resolved, or the problem is too pressing to deal with by way of reporting, then a worker may have the right to refuse to work. The right may be granted or clarified in the CUPE local's collective agreement or may apply as a legislated right.

Violence is another issue that has a widespread and negative impact on workers' health and safety in Canadian workplaces. CUPE has identified workplace violence as a serious health and safety concern and we are working to eliminate it. Workplace violence may be defined as any incident in which an employee is abused, threatened or assaulted during the course of employment. This includes the application of force, threats with or without weapons, severe verbal abuse and persistent sexual or racial harassment.*

CUPE surveys conducted in the health care, social services, municipal, and education sectors show that alarming numbers of our members have experienced violence and harassment at work. A study by the International Labour Organization (ILO) shows that Canadian workers have experienced some of the highest rates of assault and sexual harassment recorded anywhere in the world.

While any worker can be affected, equality-seeking members are especially vulnerable to workplace violence because they are targets for discrimination. As well, performing public service work puts CUPE members in jeopardy because the risks associated with violence are often part of the very jobs they do. For example, research has identified working with the public, working alone, and shift work as potential risks for violence. Research has also revealed that workers in health care, social services and education are also exposed to violence, especially from patients, clients and users of the system. These workers are predominantly women. Many are workers of colour.

A combination of factors including inadequate staffing levels, overwork, lack of training, and cutbacks can lead to workplace violence. Poor workplace design, lighting and layout can isolate workers and make them more vulnerable to attack. Moreover, workers in crowded and noisy environments, who are overworked and stressed, may be more likely to have violent outbursts.

Among CUPE members, there are gay men, lesbians, bisexual and transgender workers in many different jobs. Sadly, many of them remain “in the closet” because they fear their workplace environments. These members face homophobia, gay bashing, discrimination, harassment, intimidation, verbal abuse and physical assaults.

Many CUPE locals have bargained language that prohibits harassment and violence in its many forms as well as language that refers to health and safety legislation. Locals have also negotiated collective agreement protections against discrimination. It is important when developing language covering harassment and discrimination that links to health and safety be spelled out. Locals should also use their legislated right to Joint Health and Safety Committees, as well as both human rights and health and safety laws and language, to address equality issues.

Adapted from: *Taming the Beast, Getting Violence out of the Workplace* by Frema Engel.

* CUPE Local 3499 – Central Interior Family Foundation, BC

Resources:

CUPE National Health and Safety Branch, Ottawa.
Workers Health and Safety Centre, Ontario.

Equality and Health & Safety Issues

Are the rights of equality-seeking employees protected in your workplace? Check for the following:

- Can employees expect to be treated with respect and dignity by their co-workers, employer, subordinates and clients?
- Is the workplace environment free from intimidation, fear, abuse and all other forms of violence?
- Is the worksite accessible for persons with disabilities?
- Do workers receive health and safety training, and education about using chemicals, equipment and other working conditions?
- Does the work environment encourage violence prevention?
- Are workers' concerns, worries and fears about violence taken seriously?
- Are workers involved in the process to make change happen?
- Can workers refuse to work, without loss of pay, if at risk either physically or psychologically?
- Are workers able to explain events and facts about violent incidents without being interrogated?
- Are workers provided with security, medical and legal help, and psychological counselling to help them deal with a violent episode in the workplace?

Negotiate an effective violence prevention program/policy and collective bargaining language that includes the following key elements:

- Statement of intent to provide a healthy, safe and violence-free workplace.
- Commitment to adopt an organizational philosophy of zero tolerance for violence.

CON'T..

Equality and Health & Safety Issues

- Commitment to conduct an audit of workplace violence.
- Commitment to develop a code of conduct.
- Definition of violence that includes physical and psychological concerns.
- Recognition of work-related violence as a health and safety issue.
- Recognition that discriminatory and harassing actions by others can create an unsafe workplace. State which procedures are available to members to address situations with occupational health and safety implications.
- Recognition of responsibility to train all new workers, plus ongoing training for all workers dealing with potentially violent situations.
- Recognition of the responsibility to report all incidents of violence.
- Creation of structures, with full worker participation, that provide a violence-free work environment.
- Commitment to support workers who are exposed to violence at work, including the victims of post-traumatic stress.
- Commitment to provide resources, including time, to prevent, control or minimize risk of violence.
- Commitment to regular workplace inspections to include the ongoing assessment of potential risk factors.
- Commitment to change workplace design to increase lighting, eliminate hidden corners and add protective barriers.
- Implementation of communications and security systems, such as informing workers of potentially violent individuals or situations, and providing isolated workers with radios, beepers and emergency phones.

CON'T..

Equality and Health & Safety Issues

- Changes to work organization; for example, employers should ensure no worker works alone, assigning at least two workers in high-risk areas, especially at night.
- Commitment to celebrate the diversity of the workplace and employee appreciation.
- Training and support for direct and indirect victims of workplace violence, such as crisis response, conflict resolution, medical attention and counselling.
- Employee Assistance Programs.
- Written and detailed reporting and investigating procedures for all violent incidents.
- Training for those charged with receiving and investigating reports of violence.

LANGUAGE

CUPE Local 3499 and Central Interior Family Foundation, Prince George, BC (Memorandum of Agreement)

Article 27 – Health and Safety

27.01 Cooperation of (sic) Safety

The Union and the Employer shall cooperate in promoting and improving rules and practices which promote an occupational environment which will enhance the physiological and psychological conditions of employees and which will provide protection from factors adverse to employee health and safety.

There shall be no discrimination, no penalty, no intimidation and no coercion when employees comply with this Health and Safety Article.

27.02 Compliance with Health and Safety Legislation

The Employer shall comply with all applicable federal, provincial and municipal health and safety legislation and regulations. All standards established under the legislation and regulations shall constitute minimum acceptable practice to be improved upon by agreement of the Union-Employer Health and Safety Committee or negotiations with the Union.

27.03 Definition of Violence

Violence shall be defined as any incident in which an employee is abused, threatened or assaulted during the course of employment. This includes the application of force, threats with or without weapons, severe verbal abuse and persistent sexual or racial harassment.

27.04 Violence Policies and Procedures

The Employer agrees to develop explicit policies and procedures to deal with violence. The policy will address the prevention of violence, the management of violent situations and the provision of legal counsel and support to employees who have faced violence. The policies and procedures shall be part of the Employer's health and safety policy and written copies shall be provided to each employee.

The Policies and procedures will include but not be limited to:

- a) provision of adequate information about the previous actual or potential violent behaviour of a patient, resident or client towards employees;
- b) adequate arrangements to investigate cases where violence and assaults against employees have occurred; and
- c) provision for a Joint Union/Employer Health and Safety Committee to review the effectiveness of anti-violence policies.

27.05 Violence Prevention

The Employer agrees that in all cases where employees or the Union identify a risk of violence to staff, the Employer shall establish and maintain measures and procedures to reduce the likelihood of incidents to the lowest possible level. It is understood that the measures and procedures are in addition to and not a replacement for a training programme about dealing with violence.

27.06 Training

The Employer agrees to provide training and information on the prevention of violence to staff to all employees who come into contact with potentially aggressive persons. The training programme will include adequate opportunities for participation by union instructors.

All employees working in areas where there is a risk of violence shall be trained with a course including but not limited to: causes of violence; factors that precipitate violence; recognition of warning signs; prevention of escalation; controlling and defusing aggressive situations.

CUPE Local 2950 and The University of British Columbia (Memorandum of Agreement)

Article 24 – Working Conditions

24.01 The University agrees to maintain good working conditions in the employees' work areas. It is understood that adequate heat control (including air conditioning where adequate natural ventilation does not exist), noise control, washroom facilities, lighting and space between employees are necessary to the well-being and health of employees. The regulations of the Workers'

Compensation Board and of other applicable government agencies shall constitute the minimum standards for safe working conditions and it is understood that changes beyond such minimum standards may be requested.

The University shall enforce the relevant regulations and shall establish safe working procedures to eliminate unsafe practices, to control the use of hazardous materials, and to protect the health and safety of the employees.

24.02 Unsafe Working Conditions

When an employee has reasonable cause to believe that to carry out any work process or operate any equipment would create an undue hazard to the health or safety of any person, she/he has the right to refuse to proceed. An employee refusing to proceed shall immediately report the circumstances of the unsafe condition to her/his supervisor for investigation. If the employee is still dissatisfied, further investigations, in accordance with the Workers' Compensation Board Industrial Health and Safety Regulation 8.24, shall be undertaken. No employee shall be subject to disciplinary action provided she/he has acted in compliance with this clause, Industrial Health and Safety Regulation 8.24, or an order made by an officer of the Board.

If the operation of a department is suspended due to the application of this Article, employees may be temporarily reassigned outside the department without loss of pay, provided no other employee is displaced as a result. The employees shall be returned to their original positions when the department resumes operation.

24.03 Working Conditions Committee

The Union shall establish a Working Conditions Committee and inform the University of its members. The University shall recognize this Committee and shall communicate with it in regard to any problems in employees' working conditions that the Committee wishes to draw to the University's attention.

Upon request, the University shall provide the committee with such statistical and other information at its disposal relevant to the particular problem raised.

24.04 Union Representation

The University and the Working Conditions Committee will not delay in working out a mechanism for staff representation on building design committees. Any agreement between the University and the Working Conditions Committee shall become mutually acceptable after approval by the Union and shall then become official University procedure.

Until a mutually acceptable mechanism has been established, and where provisions have not been made for staff representation, each building design committee shall include one (1) member from the Working Conditions Committee as a representative of the employees.

24.05 Consultation

The University agrees to provide the opportunity for employees to express their opinions as follows:

- a) Where new or additional equipment is required, affected employees must be consulted prior to purchase or rental.
- b) Where renovations (which may affect the working area of the employees) are planned for an existing building, employees from the working areas concerned shall be consulted regarding such renovations before renovating may begin.
- c) Where a permanent change is considered in the location of work areas or in working procedures, the employees concerned must be consulted before any changes may begin.

The consultation process will include the following steps:

- a) provision of sufficient information to allow informed advice about the planned changes,
- b) an opportunity for employees, who may be affected by the planned changes, to tender their opinions and advice,
- c) consideration of the opinions and advice of employees,
- d) provision of the final decision and the reasons for it to the affected employees.

The consultation process shall not interfere with the right of the University to make such changes in methods of operations, procedures, and equipment as it deems necessary, provided these changes are made in accordance with the provisions of this Article.

24.06 Lighting

Wherever reasonably possible, employees will be seated in working areas close to windows at eye level. In this regard, where it is necessary to rearrange the work area, there shall be mutual agreement between the University and the employees affected.

The degree of light intensity and the quality of lighting in a given area shall first and foremost be guided by the practical aspects of the work to be done in that area and not solely by aesthetic/cosmetic consideration. With the understanding that "brightness" is a subjective phenomenon, any employee shall be entitled to have a supplementary light source for her/his work area if she/he requests.

24.07 Protective Clothing

The University shall provide and maintain, at no cost to the employees, protective apparel and equipment where such is required by the Workers' Compensation Board or where the Department of Health or the University Safety Committee has determined them necessary for the personal safety of employees. At the employees' request, the University shall provide and maintain, at no cost to the employees, protective clothing such as smocks, shop coats, and cuff protectors where these are required to protect clothing of employees.

24.08 Health and Safety Committee

- a) The Union shall have two (2) representatives on the University Health and Safety Committee. The Union shall have representation on departmental safety committees wherever members are working.
- b) Employees shall suffer no loss of pay for time required to attend the Committee meetings.
- c) When the University Health and Safety Committee requests that Union representative on the Committee attend courses and seminars related to health and safety issues, the University shall provide the necessary time off with pay.

CUPE Local 2190 and Catholic Children's Aid Society of Metropolitan Toronto
(Memorandum of Agreement)

Article 25 – Health and Safety – New

25.04 In the event that an employee is assaulted, threatened, harassed or subjected to extreme verbal abuse in the direct performance of their duties:

- i) The employee shall immediately report the incident to the supervisor or designee, and union representative or designee, and provide a written report with a copy to the union. The responsibility of reporting to the union shall be the employee's.
- ii) The employee and his/her supervisor or designee and union representative or designee shall meet forthwith and review the incident and report in detail. Thereafter, the Society shall determine the appropriate course of action and support necessary.

25.05

- i) Assaulted staff will be relieved of all responsibilities and provided with time off for the rest of their shift or work period, unless the worker elects to remain at work. Where the worker has been provided with time off as outlined above the worker may be granted time off with pay up to two additional days.
- ii) The worker may negotiate for further periods of leave with pay, where the leave would not be covered by Worker's Compensation. This leave will not be unreasonably denied.

For language on Discrimination, please see Section C and for language on Harassment and Violence see Section G of this binder.