

# Accommodations for Workers Impacted by Sexual Violence and Harassment



Employers have a legal obligation to provide a safe workplace, as well as a legal duty to accommodate workers who face barriers to full participation in the workplace. People who have been affected by sexual violence and harassment may need accommodations to keep them safe in the workplace, to allow them to participate in an investigation, and to support them as they seek medical care or counselling.

The need for accommodations may extend beyond survivors. Bystanders, first responders, and people who are accused of causing harm (the respondent) may also need accommodations in order to ensure a safe workplace for everyone and to eliminate barriers to participation in work.

## **What do we mean by accommodate?**

Your employer is required by workplace health and safety legislation to take reasonable steps to protect workers from violence and harassment in the workplace and to respond when incidents do occur. Additionally, human rights legislation requires your employer to protect you against discrimination and harassment related to certain criteria, including sex, gender identity and gender expression, sexual orientation, or disability. Your post-secondary institution may also have a policy on sexual violence and harassment which applies to both students and workers.

When a worker has experienced an incident of sexual violence and harassment (whether or not the incident took place at work), changes to their usual work schedules or routines may be required in order to keep the survivor safe, to keep other workers safe, or to protect the integrity of an investigation by keeping people who have been ordered not to communicate from working together.

Survivors, respondents, and witnesses may also need modifications to their normal work schedule or tasks in order to participate in the investigation, to seek legal advice, or to seek medical care and other supportive services.

Finally, survivors, witnesses, and first responders who experience ongoing symptoms related to the incident may need accommodation in order to remove barriers to their participation in the workplace. This could be due to post-traumatic stress disorder or changes in physical and emotional health due to the incident.



The employer has an obligation to work with the employee and their union to find a solution up to the point of undue hardship. (For more on what undue hardship means, check out CUPE's [Fact Sheet on the Duty to Accommodate](#).) Your right to accommodations stems from legislation and does not depend on the text of your collective agreement.

It is important that the survivor's needs are listened to and that accommodations don't end up being experienced as a punishment. For instance, if the survivor wants to avoid contact with the respondent at work, the survivor should be given a choice as to whether it is the survivor or the respondent who is moved to a different shift.

However, it is important to remember that the respondent will also have rights under the collective agreement, legislation, and institutional policies. The employer may need to balance these competing rights. If both survivor and respondent are members of your local union, it is essential that you assign separate representatives to each party who can work to ensure that a solution is found which respects each member's rights.

There should also be regular check-ins to ensure that the accommodations in place are sufficient, appropriate and functioning as intended. Rather than being set in stone, accommodations can be changed and adapted over time to meet the needs of the worker who is being accommodated.

### **What kinds of accommodations might workers need?**

#### **MODIFICATIONS TO THE WORK SCHEDULE OR ASSIGNMENT**

Changes to a worker's regularly scheduled hours or assignment could include:

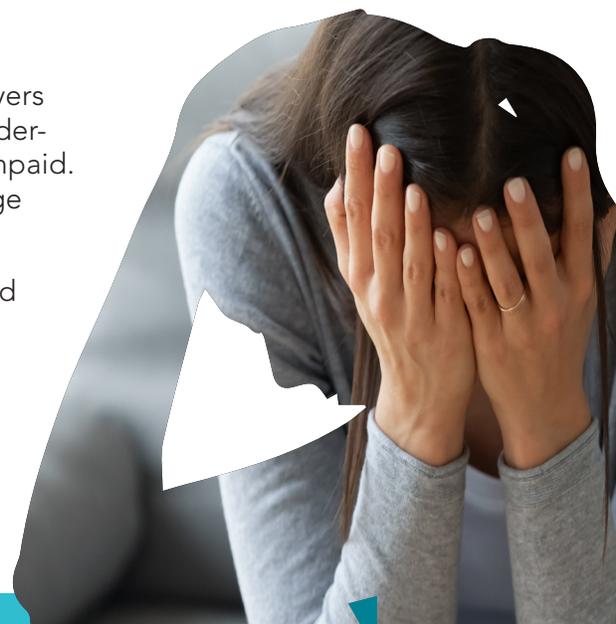
- A change in working hours
- A change in work location
- Permission to work from home/telecommute
- Job sharing
- Assignment of new duties
- Sick leave or unpaid leave of absence
- Graduated return to work

#### **TIME OFF**

Some jurisdictions in Canada require employers to give workers time off for domestic or gender-based violence. This leave may be paid or unpaid. Your collective agreement may have language regarding this leave.

In addition, workers who have been impacted by sexual violence or harassment may need time off work in order to:

- Access medical care
- Seek counseling or other supportive services





- Consult with a lawyer
- Participate in an informal resolution process, institutional investigation, human rights complaint, or police investigation
- Change residence or seek safe shelter
- Care for a family member who is also affected

Depending on the language of your provincial legislation or collective agreement, employers may require workers to take this time in increments of one day or one full shift.

### **SAFETY PLANNING**

Sometimes, when the threat of danger is ongoing, a workplace safety plan is essential to ensuring a worker's safety. Safety plans offer proactive measures to minimize the potential for violence to occur in the workplace and could include:

- A buddy system
- Regular security check-ins
- Escorts in and out of the building
- Helping an employee to be less visible or accessible in the workplace
- Ensuring that co-workers are aware of the threat and know how to react safely and when to call police

### **PHYSICAL CHANGES TO THE WORKPLACE**

Sometimes, physical changes to the workplace are required to keep an employee safe or to provide a sense of safety. This could include a lock on the door, better lighting, or installation of windows for better visibility.

### **ACADEMIC ACCOMMODATIONS**

While the union generally can't negotiate academic accommodations on behalf of workers who are also students, it is important to recognize that workers who are students may need academic accommodations including extensions in deadlines, changing course sections, or the ability to withdraw without penalty.

*This information is provided for educational purposes only and does not constitute legal advice. For further information and assistance, please contact your National Representative.*

