

# H is for Harassment Or is it ?

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# WHAT IS HARASSMENT?

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# INTRODUCTION

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- Lois Jenson and her coworkers Patricia S. Kosmach and Kathleen Anderson filed the lawsuit Jenson v. Eveleth Taconite Co. in 1988, after years of harassment at Eveleth Mines.
- The case became the first sexual harassment class action tried in US federal court and set a precedent for future harassment trials.
- <https://www.youtube.com/watch?v=tla2mR7tisQ>

# TERMINOLOGY

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✓ ALBERTA HUMAN RIGHTS ACT

✓ ALBERTA OHS ACT

# HARASSMENT: AHRC

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Harassment occurs when someone is subjected to unwelcome verbal or physical conduct. Harassment is a form of discrimination that is prohibited in Alberta IF it is based on one or more of the following **grounds**:

**Race, Religion, Colour, Gender, Gender Identity/Expression, Disability, Age, Income, Marital/Family status, Ancestry, etc.**

- Alberta Human Rights Commission

# HARASSMENT: AHRC

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## EXAMPLES OF HARASSMENT

- Verbal or physical abuse, threats, derogatory remarks, jokes, innuendo or taunts about appearance or beliefs.
- The display of pornographic, racist or offensive images.
- Practical jokes that result in awkwardness or embarrassment.
- Unwelcome invitations or requests, either indirect or explicit.
- Intimidation, leering or other objectionable gestures.
- Condescension or paternalism that undermines self-confidence.
- Unwanted physical contact such as touching, patting, pinching, punching and outright physical assault.

## **HARASSMENT: ALBERTA OHS**

Harassment is any single incident **or** repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person knows or should reasonably know, that this will or would cause offence or humiliation to a worker, or adversely affects the worker's health and safety.

- Alberta Occupational Health & Safety Act 2018

# HARASSMENT: ALBERTA OHS



## What actions or behaviors are included?

- Conduct, comment, bullying or action because of race, color, gender, etc. The same protected grounds under the AHR Act
- Sexual solicitation or advance

Any reasonable conduct of an employer or supervisor in respect of the management of workers or a work site is excluded.



# VIOLENCE: ALBERTA OHS



- Occurs at a work site or is work related
- Includes:
  - threats,
  - attempted or actual conduct of a person,
  - domestic or sexual violence,that causes or is likely to cause physical, psychological injury or harm.

# VIOLENCE & HARASSMENT

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**VIOLENCE AND HARASSMENT ARE  
CONSIDERED HAZARDS.**

**THIS INCLUDES DOMESTIC VIOLENCE AT A  
WORK SITE.**

**- Part 27, Alberta Occupational Health & Safety Code**



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# IS IT HARASSMENT?

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**GROUP QUESTION**

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**HAVE YOU EVER  
EXPERIENCED  
HARASSMENT?**

# EXPERIENCE & BIAS

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**BIAS** is any process at any stage of inference which tends to produce results or conclusions that differ systematically from the truth” – Sackett (1979)

**Cognitive Biases** are errors in reasoning, evaluating, and remembering. They often occur as a result of holding onto one’s preferences and beliefs regardless of contrary information.

# EXPERIENCE & BIAS

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Cognitive Biases can help us process information faster, especially when we face dangerous situations or circumstances.

They can also lead us to make serious or consequential mistakes.

- Ruth Ellison UX Researcher 2016

# COGNITIVE BIASES

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- ✓ **CONFIRMATION BIAS** – filtering out feedback from other people which does not help in supporting our assumptions.
- ✓ **ANCHORING BIAS** – the human tendency to “rely too heavily on the first piece of information offered when making a decision”.

# COGNITIVE BIASES

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- ✓ **GROUPTHINK AND THE BANDWAGON EFFECT** – to maintain harmony in a group or team, members may agree upon a decision that deviates from the correct decision.
- ✓ **OBSERVER EXPECTANCY EFFECT** – the cognitive biases of a person facilitating an activity (i.e. an interview) causes them to react subconsciously and influence the people involved in the activity (e.g. body language).



# IS IT HARASSMENT?

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**Yes, I am a nice  
person,  
but if you cross the  
line too many times,  
everything can  
change very quickly.**

# IS IT HARASSMENT?

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So you mean to  
tell me a  
stress ball  
isn't for  
throwing  
at people  
who stress you out?

# IS IT HARASSMENT?

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I took a sexual  
harassment course  
this afternoon...

I think I am going to  
be pretty good at it.

# CASE STUDY #1

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## **HARASSMENT: ALBERTA OHS**

Any reasonable conduct of an employer or supervisor in respect of the management of workers or a work site is excluded.

# CASE STUDY #1

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An executive at a petroleum company exhibits aggressive behaviors such as:

- Berating people in meetings and undermining their authority; this can change daily.
- Throwing books or papers when the individual does not understand something or disagrees with what is presented
- Yelling and engaging in destructive conflicts during executive meetings
- Creating a work environment where employees “walk on egg shells”.

**Harassment or Worker Management ?**



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# HARASSMENT IS A HAZARD

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# THE OHS PERSPECTIVE

DO OBJECTIONABLE  
BEHAVIORS, SPEECH OR  
ACTIONS = A HAZARD ?

# ALBERTA OH&S DEFINITIONS

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- **HAZARD** means a situation, condition or thing that may be dangerous to health and safety.
- **HEALTH AND SAFETY** includes physical, psychological and social well-being.



# CASE STUDY #2

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A female supervisor provides positive and improvement feedback to a female contractor on her work activities. The female contractor becomes angry and hostile toward the supervisor.

She raises her voice and tells the supervisor she is a hired contractor and she knows what she is doing. She does not need to improve and her way is correct. She tells the supervisor to stop harassing her or she will file a complaint.

There were reports that this individual has lost her temper with other employees of the company.

**Harassment - Hazard or Worker Management ?**

# CASE STUDY # 3

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A financial service company implements a rigid compliance program and audit process due to issues with external regulatory agencies. This is done in a short period of time.

Service advisors are subjected to multiple audits in a year, forced monitoring systems to verify compliance (paid for by the advisor), continuous scrutiny of files and records, and various levels of corrective or disciplinary action for any infractions. Advisors with a large client block struggle to quickly adjust to the changes.

An atmosphere of “fear” dominates each office. Retention rates drop dramatically and a significant number of people leave or retire.

**Harassment - Hazard or Worker Management ?**



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# PREVENTION STRATEGIES

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# ALBERTA OHS REQUIREMENTS



- Where to look? Alberta Occupational Health & Safety Code 2018 – Part 27 – Violence and Harassment
- The purpose of the new OHS requirements is “**prevention**”
- Violence and Harassment are classified as “**hazards**”
- The employer must demonstrate the required prevention strategies have been implemented.

# ALBERTA OHS REQUIREMENTS

- Conduct a hazard / risk assessment
- Create a **Violence Prevention Plan**: this includes a policy, procedures and training.
- Create a **Harassment Prevention Plan**: this includes a policy, procedures and training.
- Involve the JWHSC or designated representative.
- Exposure of employees, or other persons at a work site, to domestic violence must be addressed.
- Prevention plans and training must be reviewed every 3 years and updated accordingly.

# POLICY & PROCEDURES

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- Elimination and/or control of the hazard
- Reporting rules and requirements such as maintaining the confidentiality of information received and collected, and disclosure of personal information.
- Investigation procedures including documentation and communication requirements (results of the investigation).
- Implementation of hazard control/ prevention measures and/or corrective actions.
- Workers are not to be discouraged from exercising their rights under other legislation.

## ENFORCEMENT: CASE STUDY # 4



A complaint of harassment and intimidation is submitted by a female employee against her male supervisor. The employee was denied a day off; her supervisor is over 6 ½ feet tall. The male supervisor is disciplined and told to complete courses to improve his demeanor.

A group of female employees at the same facility inform their respective managers that a female supervisor in their group is bullying them. She rearranges their work schedules, cancels training, interrupts meetings to pull them out to help her, and uses aggressive speech and body language to force compliance. No discipline has been issued in the past 10 years.

**WHAT IS THE PROBLEM HERE?**

# RESOURCES



## Workplace Violence & Harassment – Alberta OHS Webinar:

<https://www.youtube.com/watch?v=wibQ66PD84g&feature=youtu.be>

## Alberta OHS Act 2018 & OHS Code Part 27

<https://www.alberta.ca/ohs-act-regulation-code.aspx>



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**QUESTIONS?**

# **WOMEN IN OCCUPATIONAL HEALTH AND SAFETY SOCIETY**

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working in Health and Safety in Alberta**

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