

A POSITIVE & INCLUSIVE WORKPLACE

Laws, Regulations and Workplace Health and Safety





Established in 1982, Riverdale Immigrant Women's Centre is a community based registered charity founded with a mission to empower immigrant and minority women and their families. RIWC delivers its services through a holistic and integrated service framework that addresses the social, cultural and economic determinants of healthy and vibrant immigrant communities.

CENTENNIAL
COLLEGE

Centennial College's School of Hospitality, Tourism and Culinary Arts provides a world-class learning experience to students aspiring to join our vital industry - both locally and internationally. The Progress Campus in Toronto features a striking new 350,000 square foot facility, which houses our School of Hospitality, Tourism and Culinary Arts and the Centennial student residence.



**Restaurants
Canada**

The voice of foodservice | La voix des services alimentaires

Restaurants Canada (formerly the Canadian Restaurant and Foodservices Association) is a not-for-profit association for Canada's diverse and dynamic restaurant and foodservice industry. Founded by a small group of restaurateurs in 1944, our membership has grown to 30,000 businesses across the country.

About Our Training Program

Our Positive & Inclusive Workplace training workshop and resources have been developed in collaboration with Centennial College and Restaurants Canada. The core contents and composition of the PPT presentation has been adapted from Restaurant' Canada's "Positive & Inclusive Workplace" guide originally developed for restaurants owners.

Funded by the department of Women and Gender Equality Canada, RIWC has re-imagined the guide for employees in the food service and hospitality sector.

The training PPT covers the following main provincial legislation that protects worker's rights employed in the sector:

- (1) Ontario Health and Safety Act (OHSA) and Bill 132
- (2) Ontario Human Rights Commission
- (3) Ontario Employment Standards Act

RIWC has completed a review of the three Acts and filtered out the core components through a GBA+ lens to provide vulnerable women in the sector with information about what rights are protected, how to file a claim, and what are the next steps after a claim has been filed.

Health and Safety

at work



Workplace Health and Safety

- Creating a safe working environment is everyone's responsibility. Often employees do not feel comfortable or safe discussing incident of harassment for fear the situation will worsen.
- Across Canada there are over 600,000 cases of reported sexual violence each year.
- Employees in Ontario have basic rights protected by the Ontario Health and Safety Act (OHSA), yet 63% of victims ignore the situation when they are harassed by customers or employers.
- The restaurant industry has multiple risk factors that normalize sexual harassment and violence in the workplace – alcohol consumption, precarious work, male dominated hierarchies, lack of inclusivity and lack of institutional support for employees.
- Survey from Toronto Hospitality and Restaurant Industry found that only 43% of participants knew their workplace anti-harassment sexual violence policy. 90% of participants want safer spaces training that focused on preventing sexual harassment/violence.



What is Sexual Harassment?

- The Human Rights Code of Canada defines sexual harassment as a type of discrimination based on sex. When someone is sexually harassed in the workplace, it can prevent them from earning a living, doing their job effectively or reaching their full potential. It can also undermine their sense of personal dignity and poison the work environment for others.
- Sexual Harassment can look like many different things and include the following:
 - Unnecessary physical contact, unwanted touching
 - Language that puts someone down, use of sex-specific derogatory names, homophobic or transphobic slurs or jokes.
 - Leering or inappropriate staring
 - Showing or sending pornography, sexual images et.
 - Sexual jokes, including forwarding sexual jokes by email
 - Rough or vulgar language related to gender
 - Spreading sexual rumors, outing or threatening to out someone who is LGBTQ2S.
 - Sexually propositioning a person or bragging about sexual prowess, demanding dates or sexual favors.

Sexual Harassment Among Fast Food Workers



Do You Currently Work in a Safe Space?

Questions for Consideration:

- Do you have the opportunity to provide feedback or to report an incident without punitive measures being taken from your employer?
- When you were hired, was there a staff orientation package that included information about sexual harassment and workplace violence?
- Is there a sexual harassment or workplace violence policy at your workplace?
- If a customer/patron was behaving inappropriately, do you have someone you can go to for help? Is there a clear policy in place to address inappropriate behavior from a customer/patron?
- Have you been subjected to unsafe behavior while you were working?
- Do you know who to report sexual harassment or violence to and how to document the report for record keeping?
- Are you comfortable disclosing harassment or violence to your manager/support staff?

What are the Responsibilities of Employers?

- ✓ All employers are required to prepare a Workplace Harassment Policy to comply with the requirements of the Ontario Health and Safety Act.
- ✓ The policy must be prepared in writing and posted in a conspicuous place in the workplace where it would likely come to a worker's attention.
- ✓ The policy has to be reviewed and updated, at least annually.
- ✓ The employer must provide information and training on what conduct is considered workplace harassment, including workplace sexual harassment. Providing training assists workers in knowing what conduct is unwelcome in the workplace.
- ✓ Supervisors/management staff also need to receive training and information on how to recognize and handle workplace harassment incident so that workplace harassment does not go unaddressed.
- ✓ An employer must ensure an investigation is conducted into workplace harassment, whether a worker has formally or informally made a complaint or the employer is otherwise aware of an incident(s) (for example, if a supervisor witnessed it or learned about it from a third party).

Workplace Harassment Policy Requirements

To comply with the requirements of OHSA, a workplace harassment program must include the following:

1. Reporting - Measures and procedures for workers to report workplace harassment to the employer or supervisor, including specific individual(s) or position(s) so that it is clear to whom workers should report or file a complaint of workplace harassment.
2. Investigating and Handling of a Complaint - How an incident or complaint of workplace harassment will be investigated and dealt with including any interim measures and corrective action(s) that may be taken while the complaint or incident is being investigated.
3. Record Keeping - The program must indicate how the employer will keep records of all complaints or incidents of workplace harassment.

The employer must ensure that the results of the investigation and any corrective action are provided to the worker who allegedly experienced workplace harassment and the alleged harasser, if they are a worker of the employer, in writing.

Introduction of Bill 132 and OHSA



How does the OHSA and Bill 132 Help Me?

- Bill 132 adds a layer to the OHSA (Ontario Health and Safety Act) to include a definition of “workplace sexual harassment” and now requires employers to address *all* complaints of workplace harassment, including sexual harassment, and take reasonable steps to ensure that employees experience zero harassment—sexual or otherwise—within the workplace.
- OHSA Inspectors under Bill 132 have been provided with the discretion to provide a written order causing an employer at its expense to conduct an investigation resulting in a written report into incidents and complaints of workplace harassment "appropriate in the circumstances" by an "impartial person possessing such knowledge, experience or qualifications as are specified by the inspector".
- Health and Safety Inspectors are appointed under OHSA. OHSA Inspectors check to ensure employers, supervisors and workers are complying with workplace violence and workplace harassment requirements.
- Canada's Criminal Code deals with matters such as assault, sexual assaults, threats of bodily harm and behaviors such as stalking. The police should be contacted immediately when an act of violence has occurred in the workplace or when someone in the workplace is threatened with violence.

What Should You Do if You are Being Harassed?

You can file a complaint if you believe conditions in a workplace are unsafe or if you or someone else is experiencing harassment or violence on the job.

1. You should report incidents or complaints of workplace harassment to your employer or supervisor. Your employer must ensure that an investigation appropriate in the circumstances is conducted.
2. If you feel that the situation has not been corrected after you speak to your employer or supervisor, you can file a complaint with the Ministry or If you feel that you are unable to raise your concerns to your supervisor or health and safety representative, you can still file a complaint.
3. If your health and safety complaint is not urgent, you can file a claim online at any time. To file online, go to <https://www.ontario.ca/page/filing-workplace-health-and-safety-complaint#complaint>
4. If you believe you or another worker are in immediate danger and something needs to be done right away, call the Health and Safety Contact Centre at 1-877-202-0008.

Who Can Help Me if I Need More Information?



See our Resource Directory for full list of community services

Role Playing Scenario #1

Pair off with someone in your class for the following role-playing activity –

“You and your partner are co-workers at a small restaurant in Toronto. You are a new employee recently hired by the restaurant two weeks ago. You did not receive any health and safety information and have not seen anything posted to provide you with more information about the company’s workplace harassment policy.”

Questions to Consider in Your Role-Playing Discussions:

1. What would you do?
2. Should you ask your employer or supervisor about the missing information?
3. If nothing has happened, does it matter if you have not been provided with the information?
4. If you were to ask about the missing policy, who would you speak to first?

Role Playing Scenario #2

Working with the same role-playing partner, consider the next workplace scenario – “You are working at a busy bar in Toronto on a Saturday night and you see that your colleague (role-playing partner) has been repeatedly harassed by a customer. She is new to Canada and doesn’t speak English very well. You have reported the incident to your supervisor on her behalf, but he says, ‘it’s just part of the job and not a big deal.’ ”

Questions to Consider in Your Role-Playing Discussions:

1. Is this considered harassment?
2. Have you seen the workplace harassment policy and know what to do?
3. What would you say to your colleague who is being harassed?
4. If she does not want to file a claim because she is new to Canada, what would you do?



Role Playing Scenario #3

Still working with the same partner, consider the next workplace scenario –

“You are a student and have been employed part-time at an upscale restaurant for a few years while you’re completing your degree. The restaurant pays really well but you’re uncomfortable with the way your supervisor (role-playing partner) treats you. He hugs and touches you more often than necessary and you do not want to be alone with him in the restaurant.”

Questions to Consider in Your Role-Playing Discussions:

1. Is this considered harassment?
2. At what point will you tell him to stop and take action?
3. Will you confront him directly or speak to your employer?
4. If the behavior is not corrected, do you plan to file a claim?

Discrimination



The prejudicial treatment or consideration of a person, racial group, minority, etc. on the basis of a category rather than individual members of

Ontario Human Rights Code

Most restaurants and businesses in the food service and hospitality sector have dress code requirements. Employers can set a dress code, but it has to align with the human rights code in Ontario. Employers also need to have a process in place for handling dress-code related accommodation requests and complaints.

The following are limits to what an employer can enforce:

- Employers cannot require you to wear sexualized, revealing or gender-stereotypical clothing that make you more vulnerable to harassment from other staff, management and customers.
- Dress codes for employees cannot interfere with your right to practice your religion.
- If the employer has distinct uniforms for males and females, employees should be permitted to wear of the dress code of the gender they identify with or in which you are more comfortable.
- Employers cannot not have different grooming requirements for women that are more onerous than men.
- Employers cannot have policies around hairstyles that discriminate against your ethnicity or culture.

Ontario Human Rights Tribunal

Sexual harassment, gender-based discrimination, sexualized or gender-specific dress codes are all protected by the Ontario Human Rights Code. If you believe that your rights have been violated, you can contact:

1. Human Rights Legal Support Centre

The Human Rights Legal Support Centre (HRLSC) is an independent agency, funded by the Government of Ontario, to provide legal services to individuals who have experienced discrimination. The HRLSC provides legal assistance to individuals when they take an application to the Human Rights Tribunal of Ontario to resolve a human rights dispute. Services may include advice, support and legal representation. If you need help, call Toll Free: 1-866-625-5179.

2. Human Rights Tribunal of Ontario

If you think your rights under the *Code* have been violated, you can file an application directly with the Tribunal. The Tribunal will decide the best way to deal with your situation. It may also decide that your rights have not been violated or that it does not have the power to deal with your case.

To file a complaint – called an application – contact the Human Rights Tribunal of Ontario at:
Toll Free: 1-866-598-0322

Filing a Claim with Ontario Human Rights Tribunal



employee rights

{ working hours }

bonus %
↓
compensation

skills
career

SAFETY

Employment Standards Act

Women working in the food service and restaurant industry face challenges unique from other sectors. The irregular work hours, unstable employment, gendered roles and vulnerability to workplace harassment make employment in the sector precarious.

The Employment Standards Act (ESA) protect worker's rights and sets standards for employment in Ontario, including the food service and hospitality sector. The following are the key areas covered by the ESA that are relevant to women and newcomers in the sector:

- Wages – the general minimum wage rate in Ontario is \$14.00 per hour. If the employee is a student under the age of 18 who works 28 hours or less when school is in session, or works during a school break or summer holidays, the minimum wage rate is \$13.15 per hour.
- Equal Pay for Equal Work – an employer cannot pay an employee of one sex at a rate of pay less than the rate paid to an employee of the other sex when: (a) they are doing the same job at the same place; (b) their job requires the same skill, effort, and responsibility; and (c) their work is performed under similar working conditions.
- Equal Pay for Equal Work based on Status – women, students and newcomers who are typically employed as part-time, temporary, seasonal or casual workers cannot be paid at a rate lower than full-time workers. Ontario's ESA prohibits pay discrimination based on difference in your employment status.

Employment Standards Act Continued...

- Tipping – an employer cannot withhold your tips or make deductions from employee's tips for such things as spillage, breakage, losses or damage. If an employer is withholding your tips to coerce sexual favors, see previous Workplace Harassment section.
- Employers are required to provide you with information about pay equity in your workplace. Employers cannot fire or punish you for asking about pay equity or exercising your right to pay equity.
- Pregnancy Leave – Pregnant employees have the right to take pregnancy leave of up to 17 weeks of unpaid time off work. A pregnant employee is entitled to pregnancy leave whether she is full-time, part-time, permanent or contract employee, provided that she started her employment at least 13 weeks before the baby is expected to be born.
- Parental Leave – New parents have the right to take parental leave up to 61 or 63 weeks of unpaid time off work, provided that they were employed for at least 13 weeks before starting the parental leave. Employees may decide to take a shorter leave if they wish. However, once an employee has started parental leave, they must take it all at one time.

Filing a Claim with the Ministry



What Happens When You File a Claim?

- When you file a claim, an employment standards officer will try to get your employer to fix the problem. If this does not work, the employment standards officer starts an investigation. They may talk to you and your employer: (1) by telephone; (2) in writing; (3) by visiting your employer; or (4) in a meeting.
- If you were treated unfairly, they give your employer a chance to solve the problem. If your employer does not fix the problem, the officer can order your employer to: (1) pay wages that they owe you; (2) give you back your job; or (3) compensate you.
- The officer can also charge your employer with an offence, including a ticket. If convicted, your employer may be fined or sent to jail.

For More Information:

Contact the Employment Standards Information Centre at 416-326-7160

Email Ministry.MLTSD@ontario.ca

Visit www.labour.gov.on.ca

Visit in person at 400 University Ave, Toronto ON M7A 1T7, 9th floor

Role Playing Scenario #4

Pair off again with someone in your class for the following role-playing activity –

“You have been working a restaurant for two weeks and your supervisor has asked you to remove your hijab because it’s making the customers uncomfortable. You explained to your supervisor that you are Muslim and this is part of your religion. Your employer (role-playing partner) tells you that you can put it back on after work.”

Questions to Consider in Your Role-Playing Discussions:

1. Do you tell your supervisor that this infringes your Human Rights?
2. What kind of accommodations would you ask for to remove the barrier from full employment?
3. If your supervisor doesn’t make accommodations for you, what will be your next step?
4. Where would you go to access more information?

Role Playing Scenario #5

Working with the same role-playing partner in your class, consider the next workplace scenario –

“You and a male colleague (role playing partner) are working as chef’s assistants in a restaurant in the city. You both work the same hours and perform the same duties for the chef, but you find out he is paid more than you.”

Questions to Consider in Your Role-Playing Discussions:

1. What will you do next?
2. Is this a human rights or labor rights violation or both?
3. Do you plan to file a claim with the Ministry of Labor?
4. Where will you go to access more information?

References

Borden Ladner Gervais LLP. “Labour & Employment Law in Ontario – a Practical Guide.” 2018.

Ministry of Labour, Training and Skills Development. “Workplace Rights.”
https://www.labour.gov.on.ca/english/atwork/workplacerrights_fs.php

Ontario Human Rights Commission. “Dress Code Checklist for Employers.” OHRC Policy Position on Sexualized and Gender-Specific Dress Codes. <http://www.ohrc.on.ca/en/ohrc-policy-position-gender-specific-dress-codes/dress-code-checklist-employers>.

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<https://www.vwlawyers.ca/blog/rights-and-responsibilities-of-ontario-restaurant-owners-and-employees>. 6 September 2018.

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Settlement.org. “What Happens After I File a Claim with the Ministry of Labour?”
<https://settlement.org/ontario/employment/my-rights-at-work/if-your-rights-have-been-violated/what-happens-after-i-file-a-claim-with-the-ministry-of-labour/>.

Wellesley Institute. “Potential Health Equity Impacts of the Making Ontario Open for Business Act (Bill 47). November 2018.

References

Videos:

Sexual Harassment Amongst Fast Food Workers -

<https://www.youtube.com/watch?v=U1US0oRnqsQ>

Bill 132 Workplace Harassment - A Health and Safety Ontario Informational Animation

https://www.youtube.com/watch?v=AaoX5NqSz-w&feature=emb_logo

Human Rights in Ontario - How to File a Complaint

https://www.youtube.com/watch?time_continue=1&v=BbHJaV5m2hQ&feature=emb_logo

Employment Standards - How to File a Claim

https://www.youtube.com/watch?v=dkEafO8aM9k&feature=emb_logo