



# Feedback in response to draft amendment to *General Regulation – Occupational Health and Safety Act*

**The council recommends that the draft regulations be revised to either include harassment as a form of violence rather than a separate type of behaviour or to include non-physical abuse within the definition of violence.**

As currently written, the draft regulations address violence and harassment separately and define violence strictly in terms of physical force (attempted or actual) or the threat thereof.

Thanks largely to organizing and research on domestic, family, intimate partner, and sexual violence, violence is now understood as a continuum of behaviours and actions that are not necessarily physical in nature. It is regressive for public policy – especially policy that is being newly created with emerging research and best practices available to inform it – to roll back this definition, even unintentionally.

The problems that arise when violence is narrowly defined as attempted or actual physical acts or the threat thereof and behaviours like emotional and verbal abuse are framed as harassment become evident even within these regulations. Section 374.1(3)(b) (ii) ensures that intimate partner violence occurring at the place of employment shall be considered by employers when assessing the risk of violence. These draft regulations define violence as physical in nature, but intimate partner violence is widely understood more broadly than this. New Brunswick's *Intimate Partner Violence Intervention Act*, in fact, defines intimate partner violence as “abusive,

threatening, harassing or violent behaviour used as a means to psychologically, physically, sexually or financially coerce, dominate and control the other member of the relationship” and as “deprivation of food, clothing, medical attention, shelter, transportation or other necessities of life.”

Given these contradictory definitions of violence, would verbal or emotional abuse stemming from intimate partner violence that takes place within a workplace be considered violence or harassment? As many individuals experiencing intimate partner violence struggle to identify their experience as violence and hesitate to disclose the violence for fear that they will be disbelieved or thought to be exaggerating, categorizing such behaviours as harassment as opposed to violence may have negative impacts on employees who are experiencing or have experienced intimate partner violence.

If harassment is not brought into the definition of violence then, at minimum, the definition of violence should be expanded to include abusive behaviours. Additionally, if codes of practice for violence and harassment remain separate, then the codes of practice with respect to violence should affirm that employees have a right to violence-free work (this is not currently the case, though codes of practice for harassment are required to affirm employees' right to a harassment-free work).

**The council recommends that references to intimate partner violence be expanded to include domestic and sexual violence.**

Intimate partner violence is a term that is increasingly being used as a catch-all term for gender-based violence. In reality, intimate partner violence only refers to violence between current or former intimate partners (e.g. spouses, individuals in a conjugal relationship, and/or dating or romantic partners). It does not, however, include domestic or family violence that is not between current or former intimate partners (e.g. parent-child violence, adult child-elder violence, etc.) nor does it include sexual violence that occurs between strangers or acquaintances where there is and has not been a conjugal, dating, or romantic relationship.

While these forms of violence are interconnected and often overlap, they do not always all present in the same situation. To truly ensure that workplaces are addressing gender-based violence, domestic and sexual violence must be referenced alongside intimate partner violence in these regulations.

Domestic and/or family violence may have been omitted because in situations where it involves violence between adult partners or former partners it is already addressed by reference to intimate partner violence and in situations where children are involved there is an existing legal duty to report. It may still be useful, however, to include domestic and/or family violence in the regulations to ensure that places of employment have codes of practice that identify specific procedures to follow if domestic and/or family abuse that is not also intimate partner violence occurs at the place of work.

Sexual violence is often viewed as a form of violence that occurs within intimate partner violence (and it would be therefore addressed by reference to intimate partner violence) or is perpetrated in a single incident by a stranger or acquaintance. In reality, there can be ongoing abuse linked to sexual violence that occurred outside of the context of intimate partner violence. Such ongoing abuse should not be categorized as non-violent harassment for the same reasons as previously provided for why verbal or emotional abuse should not be categorized as such.

The council recommends requiring all places of employment to establish a written code of practice to mitigate the risk of violence at the place of employment.

The regulations imply that places of employment may not be at risk for violence and therefore not require written codes of practice to mitigate the risk of violence. While some places of work and work activities present an elevated risk of violence and others present minimal risk, no place of work can be said to have no risk of violence. Here it is once again worth looking specifically at the impacts of including intimate partner violence as a type of violence that must be considered within the required risk assessment. As intimate partner violence is known to affect individuals of every gender and of every background and as intimate partner violence is occurring at the place of work is considered in risk assessments, then no place of work can assert that there is no risk of violence present.