



Social Justice Toolkit



CANADA'S HEALTHCARE UNION

Social Justice Toolkit

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Social Justice Capacity Building Toolkit

SOCIAL JUSTICE CAPACITY BUILDING (SJCБ) PROGRAM OBJECTIVES

SEIU Healthcare's racial justice, equity and inclusion journey started at the 2016 SEIU International Convention. Delegates committed to our union's *Vision for a Just Society*, a vision that states, "where all workers are valued and all people are respected; where all families and communities thrive; and where we leave a better and more equal world for generations to come." This commitment was made through Resolution 106A - *To Win Economic Justice for Working People, We Must Win Racial Justice*.

Our local took this vision and created our Organization Equity and Inclusion Commission, where our DEI initiatives are established. One of these many initiatives was the creation of the Social Justice Capacity Building (SJCБ) program.

The SJCБ program is about building capacity around Equality - treating everyone the same - providing equal opportunities to achieve individual goals - And Equity - giving everyone what they need to be successful within SEIU Healthcare units, recognizing that each member may require differential treatment to prevent and remedy social inequalities.

We share knowledge through mobilization, campaigns, and ongoing education programs that advance social justice for all.

All staff of SEIU Healthcare will be equipped with the appropriate training, skills, and resources to facilitate and support the work of the SEIU Healthcare Social Justice Capacity Building program within the workplaces of our members.

SEIU will support organizational change within SEIU Healthcare programs and departments to effectively implement and promote practices, systems and behaviours consistent with the principles of the social justice movement.

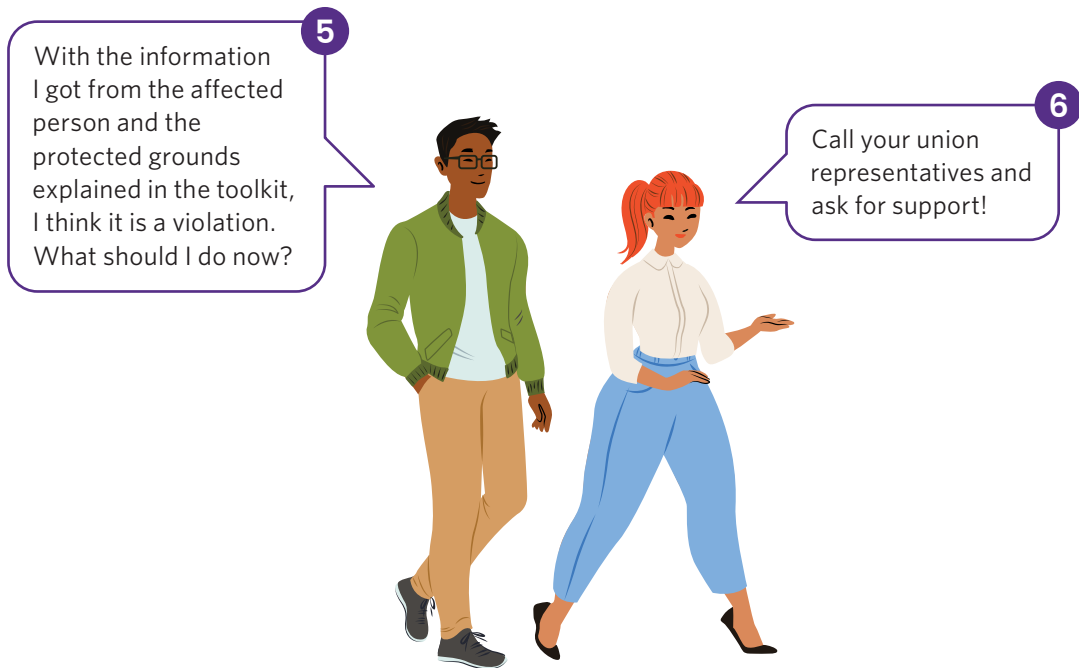
PURPOSE OF THE TOOLKIT

To educate Stewards and Union Representatives on key elements of racial justice, equity and inclusion through ongoing development programs, workshops, social justice discussions and dialogues on community and unit-based issues impacting workers.

We are committed to achieving our objectives through the implementation of our Social Justice Capacity Builder Tool Kit.

HOW TO USE THE SJCB TOOLKIT





5
With the information I got from the affected person and the protected grounds explained in the toolkit, I think it is a violation. What should I do now?

6
Call your union representatives and ask for support!

SOME OF THE QUESTIONS YOUR REP WILL ASK YOU INCLUDE:

1. Have you informed the affected person of available resources, such as employee assistance programs and counseling services?
2. If it is member to member harassment, have you informed the affected person of the right of each party to separate union representation.
3. Your gathered information and basis for your conclusion.
4. Have the affected party reported to HR?

7

My union rep says it sounds like indirect discrimination. What is that?

8

There are 2 types of discrimination. Direct and Indirect discrimination. **Check pages 18 - 19** of the toolkit for their meaning and examples.



9

HR is saying that it is BFOR. What does that mean?



BFOR means 'Bona Fide Occupational Requirement'. BFOR refers to job-related qualifications or conditions that are essential for the performance of a particular job and are considered legitimate and justifiable even if they have a disparate impact on certain groups of people. **Check pages 22 - 23** of the toolkit for their meaning and examples.

10 HR have informed me that they will investigate the complaint of human rights violation and discrimination. What are my responsibilities as a steward in this process?

11 Remember! It is important that a shop steward understands the correct procedure for conducting workplace investigation. **Check pages 50 - 52** of the toolkit to understand the 4 stages of a workplace investigation i.e., the preliminary, fact-finding, reporting and outcomes stages.



While the primary responsibility of conducting workplace investigation lies with the employer, you and your union representative have a role during the investigations mainly with respect to complaints arising from member-to-member conflict and employee-to-employee conflict, which occurred at the workplace. **Check page 49** of the toolkit for 'Role of the shop steward when employer is conducting a workplace investigation'.

12 My union rep said I should also read up on workplace accommodation and the employer's duty to accommodate. Why is it important?

13 The duty to accommodate places a legal obligation on employers to make reasonable adjustments or modifications to support individuals who face barriers or disadvantages due to a protected ground. **Check pages 24 - 29** of the toolkit for key points regarding the duty to accommodate.



BELOW ARE SOME EXAMPLES OF WORKPLACE ACCOMMODATION UP TO AND INCLUDING UNDUE HARDSHIP:

1. Allowing flexible start and end times to accommodate medical appointments or personal needs.
2. Allowing employees to work from home or another remote location to accommodate mobility or health-related issues.
3. Modifying the duties or responsibilities of a position to better align with an employee's abilities and limitations.
4. Allowing additional or extended breaks to manage medical conditions or attend to personal needs.
5. Allowing an employee not to work on certain holidays.
6. Providing written instructions or documentation for tasks to accommodate employees who may have difficulty processing verbal information.

14

How can I find key social justice words that can help me in my conversations with members and employers?

15

Check the Concepts and Terminologies in the Tool kit. There are definitions and workplace examples of key social justice terms that can help boost your diversity and inclusion vocabulary!



16

You will also find examples of inclusive language that can help you when you are discussing age, gender, sexual expression, sexual orientation, and religion.

17

In addition, **see pages 82 - 95** of the Toolkit to find Equity and Inclusion course contents that will be delivered by experienced facilitators periodically to our members.

Workplace Human Rights Reference Guide

Our Human Rights Reference Guide will serve as a valuable tool for Stewards and Union Representatives, offering insightful explanations, real-world case studies, best practices and practical steps for upholding and advocating for human rights in the diverse workplaces of our members, ultimately fostering a more just and inclusive environment for all.

This reference guide outlines key legislations, terms, and definitions and provides links to practical scenarios, research, and associated case laws, highlighting the framework for human rights protection, civil, political, economic, social, and cultural rights. It will serve as a guide and tool to illustrate the principles of equality, equity, inclusion, and the rule of law.

Under the *Ontario Human Rights Code*, R.S.O. 1990, c. H.19 (the “Code”) employers, unions and service providers have the responsibility for ensuring a healthy and inclusive environment, and for preventing and addressing discrimination, harassment and workplace violence. Employers or unions must ensure that their organizations are free from discriminatory or harassing behaviour and workplace violence.

Employers or unions are considered to be in violation of the *Code* when they: a) directly or indirectly, intentionally, or unintentionally infringe the *Code*; b) constructively discriminate; c) do not directly infringe the *Code* but rather authorize, condone, adopt, or ratify behaviour that is contrary to the *Code*.



The Ontario Human Rights Commission policy entitled *Human Rights at Work* states that, as part of a “best practices” initiative, the **responsibilities and obligations of a union include:**

1. Unions should work together with employers to develop internal policies and procedures.
2. Unions should also take a proactive role in human rights training and education for its members, and also for the entire workplace.¹
3. Furthermore, the policy provides that a union and its representatives may have many different roles in the workplace.
4. As a vocational association, the union is also required to treat its members equally and to take steps to prevent or address discrimination against union members. On a personal level, a union representative may be an employee who provides services to the public (such as working in a call center) and to other employees (such as helping them file grievances). These employees will have to comply with duties under the Code related to all three of these roles – employee, service-provider, and union representative.
5. The actions a representative or employee of a union takes when carrying out union duties may be considered to be the actions of the union. This could give rise to the union being liable for discrimination.
6. A union should try to make sure that collective agreements explicitly protect human rights, and avoid negotiating provisions that may have a discriminatory effect. Moreover, collective agreements and company policies should include clauses specifically related to preventing and resolving incidents of discrimination and harassment in the workplace. However, even where such provisions are not clearly stated, the substantive rights and obligations in the Code are still incorporated into each collective agreement over which an arbitrator has jurisdiction.

¹ <https://www.ohrc.on.ca/en/iii-principles-and-concepts/4-legal-responsibility-human-rights-work#fn27>

² *Parry Sound (District) Social Services Administration Board v. O.P.S.E.U., Local 324*, [2003] 2 S.C.R. 157 (Parry Sound).

Workplace Human Rights Reference Guide

PREPARED BY: OLANYI PARSONS (OP) LAW

1. HUMAN RIGHTS LAWS IN ONTARIO

In the course of its operation, the employer and/or union has a duty to respect and act in accordance with legislation and decisions of the Human Rights Tribunal of Ontario, and Ontario and Federal Courts related to human rights within its jurisdiction. Specifically, the following legislations are applicable to human rights and workplace investigation issues.

1. The **Canadian Charter of Rights and Freedom**, Part 1 of the Constitution Act, 1982. A constitutional document that forms part of the Constitution of Canada, guaranteeing fundamental rights and freedoms to all individuals in Canada.
2. The **Ontario Human Rights Code, RSO 1990, c. H 19 (“Code”)**. Provincial legislation that prohibits discrimination and harassment in Ontario based on various grounds, including race, creed, color, disability, sex, sexual orientation, and age.
3. **Occupational Health and Safety Act**, R.S.O. 1990, c. O.1. is to provide the legal framework to achieve our goal of protecting workers from health and safety hazards on the job by: setting out duties for all workplace parties and rights for workers to help establish a strong internal responsibility system (IRS) in the workplace.
4. **Bill 168 - Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace)**, 2009. Bill 168 requires employers to have policies and programs in place to deal with workplace violence, workplace harassment and domestic violence that may occur in the workplace. Employers are required to: Have procedures in place for workers to report incidents.
5. **Employment Standards Act, 2000, S.O. 2000, c. 41**. Legislation that sets minimum standards for employment in Ontario, including provisions related to working hours, wages, and leave entitlements.
6. **Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11**. Provincial legislation aimed at making Ontario accessible to individuals with disabilities by implementing accessibility standards in various sectors.

COMPETING HUMAN RIGHTS

Competing Human Rights are a product of our diversity and are inevitable. In situations where there are competing rights between the Human Rights Code and other legislation, it can create complex legal and ethical challenges. Resolving such conflicts often requires careful consideration of the specific circumstances and a balancing of the rights involved.

Here are some general principles:

1. **Hierarchy of Laws:** The Ontario Human Rights Code, is considered quasi-constitutional and holds a high legal status. It is intended to protect fundamental rights and is often seen as having priority over other legislation.
2. **Balancing of Rights:** When there are competing rights, a balancing act may be necessary. The goal is to find a solution that respects and accommodates the rights of all parties involved to the greatest extent possible. For example, in *Law Society of British Columbia v. Trinity Western University*³, where there were competing rights between religious freedom versus equality rights, the courts held that the Law Societies of British Columbia and Ontario had the power to deny approval to a proposed law school that would have required students to follow a religiously based code of conduct restricting sexual behavior.
3. **Undue Hardship Consideration:** The duty to accommodate under human rights legislation is not absolute. If accommodating one person's rights imposes undue hardship on another individual or organization, it may be considered a reasonable limit on the right to accommodation.
4. **Policy Development:** Employers and organizations can develop internal policies that consider both human rights considerations and other legal obligations. Clear and comprehensive policies can help prevent conflicts and provide a framework for resolving them when they arise.

³ *Law Society of British Columbia v. Trinity Western University*, 2018 SCC 32 (CanLII), [2018] 2 SCR 293, <<https://canlii.ca/t/hsjpr>>, retrieved on 2023-11-27



2. THE ROLE OF THE HUMAN RIGHTS AGENCIES

In June 2008, major changes designed to renew Ontario's human rights system came into effect. The Ontario Human Rights System comprises three separate human rights agencies, and Ontario Courts. These agencies are:

- A. the *Ontario Human Rights Commission* which is mandated to promote, protect and advance human rights through research, education, targeted legal action and policy development;
- B. the *Human Rights Legal Support Centre* provides legal support to people who are not able to afford legal representation; and,
- C. the *Ontario Human Rights Tribunal* accepts human rights applications and makes decisions with an enforceable remedy.

THE ONTARIO HUMAN RIGHTS COMMISSION

Starting from 2008, the Ontario Human Rights Commission focuses on public education and outreach including eLearning, developing policies, monitoring laws, taking legal action in the public interest, and conducting public inquiries.

Section 29 of the *Code* provide that, the functions of the Commission are to promote and advance respect for human rights in Ontario, to protect human rights in Ontario and, recognizing that it is in the public interest to do so and that it is the Commission's duty to protect the public interest, to identify and promote the elimination of discriminatory practices.

Under section 30 of the *Code* the Commission is empowered to prepare and approve policies to provide guidance in the application of Parts I and II. The Commission's policies are important because they help people and organizations understand rights and responsibilities under the *Code*.

THE HUMAN RIGHTS LEGAL SUPPORT CENTRE (HRLSC)

The Human Rights Legal Support Centre is established under section 45.11 of the *Code* as a corporation without share capital. Section 45.11 (5) provides that the HRLSC C shall be independent from, but accountable to, the Government of Ontario. The Mandate of the HRLSC is to establish and administer a cost-effective and efficient system for providing support services, including legal services, respecting applications to the Tribunal. The HRLSC can give advice about human rights concerns, can help complainants file an application and may provide legal representation at the Ontario Human Rights Tribunal.

THE HUMAN RIGHTS TRIBUNAL OF ONTARIO

The Human Rights Tribunal of Ontario (HRT or Tribunal) is where applications are filed directly for adjudication. Many applications are resolved through mediation, which is offered to applicants and respondents at an early stage. If the application proceeds through preliminary screening and is not resolved through mediation, an adjudicator looks at the human rights concerns, considers the evidence, and makes a decision. The decision of the tribunal can be accessed in the Canadian Legal Institute website: canlii.org

3. **ONTARIO HUMAN RIGHTS CODE, RSO 1990, C. H 19 ("CODE").**

The *Code* provides protection from discrimination in five areas of our lives. It states that every person has a right to freedom from discrimination in the following areas, known as social areas:

- ▶ Services, goods and facilities – including schools, hospitals, shops, restaurants, sports and recreation organizations and facilities.
- ▶ Housing – the place where you live or want to live, whether you rent or own the premises.
- ▶ Contracts – includes both written and oral agreements.
- ▶ **Employment – includes job ads, application forms, job interviews, work assignments, work environment, training, promotions, discipline, terminations, volunteer duties, etc.**
- ▶ Membership in vocational associations and trade unions – such as the Ontario Secondary School Teachers' Federation or United Steelworkers.

EMPLOYMENT UNDER THE CODE

Section 5 of the *Code* states "every person" has a right to equal treatment in employment without discrimination because of race, ancestry, place of origin, color, ethnic origin, citizenship, creed, sex, sexual orientation, disability, age, marital status, family status, and record of offenses.

Members of vocational associations, including unions, are protected from discrimination. Although this is a distinct "social area" under the Code, the protections may overlap with those under the social area of "employment."⁴

⁴ <https://www.ohrc.on.ca/en/book/export/html/8884>



WHO IS COVERED UNDER THE CODE?

The *Code* does not define “employee.” However, because the *Code* is to be interpreted broadly, the **Human Rights Tribunal of Ontario** has taken the position that the *Code* protection extends to employees, temporary, casual, and contract staff, and other persons in a work context, such as people who work to gain experience or for benefits.⁵

The right to “**equal treatment with respect to employment**” covers

- Applying for a job,
- Being recruited
- Training and Development
- Transfers and Promotions
- Terms of apprenticeship
- Dismissal and layoffs.
- Rate of pay, overtime, hours of work.
- Holidays, benefits, shift work
- Discipline and performance evaluations.
- Accommodation and Accessibility

⁵ <https://www.ohrc.on.ca/en/book/export/html/8884>

WHAT ARE THE PROHIBITED GROUNDS OF DISCRIMINATION?

The Code recognizes that discrimination occurs most often because of a person's membership of a particular group in society. The Code protects people based on 17 protected grounds. The grounds are: citizenship, race, place of origin, ethnic origin, colour, ancestry, disability, age, creed, sex/pregnancy, family status, marital status, sexual orientation, gender identity, gender expression, receipt of public assistance (in housing) and record of offences (in employment).

- A. **Citizenship.** An employee cannot be discriminated against because of their citizenship, except where Canadian citizenship is a legal requirement to get a job or get certain services. Citizenship is linked to landed immigrants, refugees and non-permanent resident status. For example, non-immigrant employees are trained and promoted, but the immigrant workers are not, even though they are equally qualified. See *Imperial Oil Limited v Haseeb*, 2023 ONCA 364.
- B. **Race/Place of origin/Ethnicity/Colour/Ancestry.** An employee cannot be discriminated against because of their race, country, region, external features such as skin color, hair texture, facial characteristics. For example, an employee that applies for leave cannot be refused because they are from Tobago. A manager that typically harasses and asks employees who are of a specific race to perform undesirable work duties while the other employees are not asked the same can be presumed to be discriminatory.
- C. **Age.** The *Ontario Human Rights Code* protects people from discrimination under the ground of age. The Code defines age as 18 years or older. An employer cannot refuse to hire, train, or promote people because of their age. An employer cannot unfairly target older workers, or other age groups, when it comes to reducing staff, reorganizing, rate of pay, overtime, hours of work, Holidays, benefits, and shift work.
- D. **Disability.** The Code prohibits discrimination based on someone's disability in all aspects of the employment relationship. This includes job applications, recruitment, training, transfers, promotions, apprenticeship terms, dismissal, layoffs and situations where an employee returns to work after a disability-related absence. It covers rates of pay, overtime, hours of work, holidays, benefits, shift work, discipline and performance evaluations. It also includes the "extended workplace" – for example, business trips and off-site work events. People with disabilities are a diverse group, and experience disability, impairment and societal barriers in many different ways. Disabilities are often "invisible" and episodic, with people sometimes experiencing periods of wellness and periods of disability. All people with disabilities have the same rights to equal opportunities under the Code, whether their disabilities are visible or not.⁶ For example, after coming back from a disability-related leave, an employee returned to modified duties. Even though his doctor cleared him to go back to full-time work, his employer placed him in a lower, part-time position at a lower pay rate due to incorrect assumptions that the employee could not withstand the pressures of his job, and that his performance would be unreliable because of his past medical condition.⁷

⁶ Discrimination based on disability and the duty to accommodate: Information for employers.
https://www.ohrc.on.ca/en/discrimination-based-disability-and-duty-accommodate-information-employers#_edn1
⁷ *Duliunas v. York-Med Systems*, 2010 HRTO 1404 (CanLII).

- E. **Sex/Pregnancy.** The *Code* also makes it against the law to discriminate against someone or to harass them because of sex, which includes pregnancy and breastfeeding, in employment. It is illegal for the employer to discriminate because a woman is pregnant, was pregnant or is trying to get pregnant. It is also illegal for the employer to discriminate because a woman has had an abortion, miscarriage, stillbirth, is going through fertility treatments, experiences complications or has specific needs related to pregnancy, or has chosen to breastfeed or not breastfeed her child. For example, a new employee notified her manager after one week of employment that she was pregnant. Not long afterwards, her employment was terminated. The employer claimed the employee was fired due to performance issues. The HRTO found that while there may have been some performance issues, the decision to terminate the employee was significantly influenced by the employee's pregnancy because the employer felt it would not be worthwhile to train her before she started her leave.
- F. **Gender Identity/Gender Expression:** Gender Identity refers to a person's internal sense of their own gender. Discrimination against an employee due to their gender identity, including refusal to acknowledge or accommodate their gender identity. Gender Expression refers to how a person expresses their gender. Discrimination against an employee based on non-conformity with gender norms or expectations.
- G. **Family status/Responsibilities.** Under the *Code*, persons in a parent-child relationship or a caregiver relationship have a right to equal treatment in the workplace. This means that employers cannot discriminate in hiring, promotion, training, benefits, workplace conditions, or termination of employment because a person is caring for a child or parent. For example, an employer cannot discriminate against an employee who requests accommodation on the grounds of family responsibilities because they have become guardians of their orphaned niece and need some flexibility to pick them up and drop off at school.
- H. **Marital Status.** "Marital status" is defined in section 10 of the *Code* as "the status of being married, single, widowed, divorced or separated and includes the status of living with a person in a conjugal relationship outside marriage", including both same-sex and opposite sex relationships. For example, an employer that provides living accommodations and extended benefits for its married employees but does not provide these accommodations for single or divorced employees might be grounds of discrimination.
- I. **Sexual Orientation.** Sexual Orientation is defined as a person's sexual orientation, including heterosexuality, homosexuality, and bisexuality. Discrimination against an employee based on their sexual orientation, such as harassment due to being gay.

- J. **Creed/Religion.** Refers to a system of religious beliefs or practices, a comprehensive and particular system of beliefs that addresses questions of human existence or the divine. Discrimination against an employee due to their religious beliefs, such as refusing to accommodate religious practices.
- K. **Record of Offenses (in relation to employment).** Define as a conviction for a criminal or summary conviction offense that is unrelated to the employment or intended employment. Discrimination against an employee based on their criminal record if it is not relevant to the job. Employers can refuse to hire someone based on a record of offences only if they can show this is a reasonable and bona fide qualification. For example, a bus driver with serious or repeated driving convictions or a daycare worker who works alone with children who is convicted of child sexual abuse in a daycare setting.
- L. **Receipt of Public Assistance (in relation to housing).** Receiving public assistance or housing assistance. Discrimination against individuals receiving public assistance, such as refusing to rent an apartment to someone on social assistance.
what is direct and indirect discrimination?

Direct Discrimination: A person discriminates “directly” when the action itself is discriminatory and when the person acts on his or her own behalf. For example, a building manager who refuses to rent an apartment because he prefers to rent to someone of his own ethnic background is discriminating directly.

- A. **Gender Discrimination:** Paying male employees higher wages than female employees for the same job with similar qualifications and experience.
- B. **Race Discrimination:** Passing over a qualified employee for a promotion based on their race or ethnicity.
- C. **Disability Discrimination:** Denying reasonable accommodations to a qualified employee with a disability that would allow them to perform their job.
- D. **Religious Discrimination:** Requiring employees to work on a particular religious holiday without providing reasonable alternatives or accommodations.
- E. **Sexual Orientation Discrimination:** Refusing to hire someone because of their sexual orientation or treating them less favorably than others due to their sexual orientation.
- F. **Pregnancy Discrimination:** Firing or demoting an employee upon learning about their pregnancy or treating them less favorably because they are pregnant.
- G. **Origin Discrimination:** Subjecting employees to derogatory comments or unfair treatment based on their place of origin and/or ethnic origin.
- H. **Marital Status Discrimination:** Denying job opportunities or benefits to employees based on their marital status, such as promoting married employees over single employees without regard to qualifications.

Indirect Discrimination: Indirect discrimination in the workplace occurs when a seemingly neutral policy, practice, or criterion disproportionately affects individuals with certain characteristics protected by anti-discrimination laws.

- A. **Uniform Policies:** Requiring all employees to wear a specific uniform that may disproportionately disadvantage individuals from certain religious groups who have specific dress requirements.
- B. **Language Requirements:** Implementing a policy that requires employees to communicate only in a certain language, which may disproportionately affect employees whose first language is different.
- C. **Work Hours:** Setting work hours that may disproportionately disadvantage employees with caregiving responsibilities, such as parents or caregivers.
- D. **Physical Fitness Requirements:** Implementing physical fitness requirements that are unrelated to the actual job tasks, which may disproportionately affect employees with certain disabilities.
- E. **Educational Requirements:** Requiring a specific level of education that is not directly related to the job and may disproportionately exclude certain groups of individuals.
- F. **Promotion Criteria:** Establishing promotion criteria that, while appearing neutral, may disproportionately disadvantage employees who have taken advantage of flexible work arrangements.
- G. **Technology Proficiency:** Implementing technology-based job requirements that may disproportionately disadvantage older employees who may not be as familiar with certain technologies.
- H. **Testing and Assessment Tools:** Using testing or assessment tools that unintentionally put individuals from certain demographic groups at a disadvantage, without a clear job-related necessity.
- I. **Height or Weight Requirements:** Setting arbitrary height or weight requirements for certain positions that may disproportionately affect individuals of a particular gender or ethnicity.
- J. **Training Opportunities:** Providing training opportunities that are scheduled at times that may be difficult for employees with specific religious observances.

Sometimes a rule or practice unintentionally singles out particular people and results in unequal treatment. This type of unintentional discrimination is called “constructive” or “adverse effect” discrimination. The Code also protects against this type of discrimination. For example, an employer has a rule that employees are not allowed to wear hats or head coverings. The rule is not intended to exclude people who wear head coverings for religious reasons, but it may have this effect. Unless an employer can show that a change or exception to the rule would be too costly or create a health and safety danger, the employer should agree to change the rule.

It’s **important for the union** to be aware of indirect, constructive, and adverse discrimination and regularly review the employer’s policies and practices to ensure they do not unintentionally disadvantage certain groups of employees.

HOW TO IDENTIFY ELEMENTS OF DISCRIMINATION IN THE WORKPLACE?

To determine whether discrimination might have occurred, there are two (2) factors that need to be considered:

1. There must be a case of *prima facie*⁸ discrimination.
2. The employer has the responsibility to establish that the rule or policy in cases of indirect/adverse discrimination relates to a bona fide occupational requirement (BFOR)

WHAT IS *PRIMA FACIE* DISCRIMINATION?

To demonstrate *prima facie* discrimination, an employee must show the following:

1. that they have a characteristic protected from discrimination i.e., an employee has been treated badly or denied a benefit.
2. that they have experienced an adverse impact i.e., there is a connection between the way the employee has been treated (badly or denied a benefit) and their race, colour, ancestry or place of origin etc.
3. that the protected characteristic was a factor in the adverse impact i.e., that the treatment occurred in a situation such as at work or in the course of employment.⁹

⁸ *Prima Facie* means ‘On its face.’

⁹ *Moore v. British Columbia (Education)*, 2012 SCC 61



PROUDLY US
BE BOLD. BE PROUD.
BE YOU

SEIU Healthcare

4. BONA FIDE OCCUPATIONAL REQUIREMENTS

The *Code* prohibits discrimination that results from requirements, qualifications, or factors that may appear neutral but have an adverse or negative effect on people identified by *Code* grounds.

At the same time, the *Code* allows an organization to show that the requirement, qualification, or factor is nevertheless “reasonable and bona fide” in the circumstances. However, to do this, the organization must show that the needs of the person cannot be accommodated without undue hardship.

HOW TO IDENTIFY ELEMENTS OF DISCRIMINATION IN THE WORKPLACE?

Bona fide¹⁰ occupational requirement (BFOR) refers to job-related qualifications or conditions that are essential for the performance of a particular job. These requirements are considered legitimate and justifiable even if they have a disparate impact on certain groups of people. For a standard to be a BFOR, an employer must establish that any accommodation or changes to that standard or rule would create an undue hardship.

In *British Columbia (Public Service Employee Relations Commission) v. BCGSEU*, the Supreme Court of Canada has set out a three-step test for justifying a discriminatory standard, factor, or requirement. This standard is applicable whether the discrimination is direct or by adverse effect.

When human rights claim alleging discrimination is filed, the employer must be able to establish on a balance of probabilities that the standard, factor, requirement or rule:

- a. was adopted for a purpose or goal that is rationally connected to performing the job.
- b. was adopted in good faith, in the belief that it is necessary to fulfill a legitimate work-related purpose.
- c. is reasonably necessary to accomplish the work-related purpose. To show that the standard is reasonably necessary, employers must show that it is impossible to accommodate individual employees sharing the characteristics of the claimant without imposing undue hardship upon the employer. Thus, the employer must accommodate an employee to the point of undue hardship.”

¹⁰ Bona Fide means ‘Legitimately’

¹¹ *British Columbia (Public Service Employee Relations Commission) v. BCGSEU*, 1999 CanLII 652 (SCC), [1999] 3 S.C.R. 3

EXAMPLES OF BONA FIDE OCCUPATIONAL REQUIREMENT

- A. **Physical Abilities:** An airline requires pilots to meet specific physical fitness standards to ensure they can respond effectively in emergency situations.
- B. **Education and Licensing:** A law firm may require lawyers to hold a valid law degree and be licensed to practice in the jurisdiction to ensure legal competence.
- C. **Language Proficiency:** A customer service role may require fluency in a specific language if effective communication with clients is critical to the job.
- D. **Safety Standards:** A construction company may establish height and weight requirements for workers involved in certain tasks to ensure their safety.
- E. **Security Clearance:** Government positions that require access to sensitive information may necessitate a security clearance to protect national security interests.
- F. **Technical Skills:** A software development company may require employees to have proficiency in a specific programming language to perform their job effectively.
- G. **Availability and Schedule:** A 24/7 emergency hotline may require employees to work on a rotating shift basis to ensure continuous coverage.
- H. **Professional Certification:** A healthcare institution may require nurses to hold a valid nursing license to ensure they meet professional standards.
- I. **Driving Skills:** A courier company may require delivery drivers to have a valid driver's license and a clean driving record to ensure safe and reliable transportation of goods.
- J. **Age Requirements:** Certain jobs, such as airline pilots or military personnel, may have age restrictions due to physical demands or retirement policies.



5. THE DUTY OF REASONABLE ACCOMMODATION

The duty to accommodate means that sometimes it is necessary to treat someone differently in order to prevent or reduce discrimination. An accommodation need must be linked to a prohibited ground of discrimination under the legislation, i.e., disability, family status, religion etc.

Accommodation may require:

1. Job restructuring, retraining, assignment to alternative position or modified duties, standards, and rules
2. Changes to facilities or workstations
3. Assistive devices
4. Flexibility in work hours, break times or time off
5. Allowing an employee to wear a hijab even though the employer wants all employees to wear the same corporate clothing.
6. Allowing an employee not to work on certain holidays.

The duty to accommodate recognizes that people have different needs and require different solutions to gain equal access and treatment in public services, housing and employment. To accommodate someone often means to remove the barriers which prevent people from having equal access to jobs, housing, and the use of services, goods and facilities (e.g. public transit, stores, or schools).¹²

The duty to accommodate means that an employer, service provider or landlord has an obligation to change the way they provide work space, services, (e.g. by making physical changes or by changing their practices or policies) to make it easier or possible for a person to participate in the workplace, or participate in the service.



WHAT IS UNDUE HARDSHIP?

Section 11(2) of the *Code* implies that, in applying the *bona fide* occupational requirement, employers have a duty to accommodate employees as long as it does not create undue hardship on the employer. To demonstrate undue hardship, the employer must satisfy the following conditions:

- ▶ **Cost.** Cost will amount to undue hardship if they are quantifiable, shown to be related to the accommodation, and so substantial that they would alter the essential nature of the enterprise, or so significant that they would substantially affect its viability
- ▶ **Outside sources of funding, if any.** To offset costs, an organization has an obligation to consider any outside sources of funding it can obtain to make the accommodation.
- ▶ **Health and safety.** An accommodation that is likely to cause significant health and safety risks to the employee or other employees could be considered “undue hardship.”

No other considerations can be properly taken into account under Ontario law. Therefore, factors such as business inconvenience, employee morale and customer and third-party preferences are not valid considerations in assessing whether an accommodation would cause undue hardship.

To claim the undue hardship defence, the organization responsible for making the accommodation has the onus of proof. It is not up to the person with a disability to prove that an accommodation can be accomplished without undue hardship¹³. Employers cannot be willfully blind to accommodation needs of employees and it is important to note that No “one size fits all” approach when it comes to accommodation requests.

¹³ Undue hardship. Ontario Human Rights Commission. <https://www.ohrc.on.ca/en/policy-ableism-and-discrimination-based-disability/9-undue-hardship#:~:text=If%20an%20accommodation%20is%20likely,with%20disabilities%2C%20as%20part%20of>

WHAT IS THE UNION'S DUTY TO ACCOMMODATE?

An employer and a union share responsibility for providing accommodation to the point of undue hardship. A union's duty to accommodate under the Code could arise in the following types of situations:

- ▶ When making a rule, usually in the collective agreement, unions and employers must make sure that it does not have discriminatory effects. Although an employer who has charge of the workplace is in a better position to create accommodation measures, a union must cooperate in working to find appropriate solutions. Unions share the obligation to remove or alleviate the source of the discriminatory effect.¹⁴
- ▶ The union must support an employer's efforts to comply with the Code and may be found to have discriminated for impeding the reasonable efforts of an employer to accommodate.
- ▶ The union should consider its duty to accommodate when engaging in collective bargaining or otherwise representing members who are employed to provide services to persons identified by the Code.¹⁵

While there may be cases where the impact of an accommodation request on other union members is so large that it becomes undue hardship, the Supreme Court of Canada has said that it is not permissible to hide behind a collective agreement to avoid human rights obligations. On their own, neither changes to a collective agreement nor the threat of a grievance amount to undue hardship. On the other hand, significant interference with the rights of others will justify a union's refusal to consent to certain accommodation measures.¹⁶

WHAT IS THE PROCEDURAL AND SUBSTANTIVE DUTY OF ACCOMMODATION?

The employer's duty to accommodate has both a procedural component (the process) and a substantive component (the accommodation provided). Both are equally important.¹⁷

The procedural obligation encompasses the deliberations, evaluations, and measures employed to address an accommodation requirement. Courts have asserted that neglecting to contemplate or consider accommodation, including the potential steps to be taken, amounts to a failure to fulfill the 'procedural' duty to accommodate."¹⁸

On the other hand, the substantive duty pertains to the suitability or rationality of the selected accommodation and the rationale behind not offering an accommodation, which includes demonstrating undue hardship.¹⁹

¹⁴ *Central Okanagan School District No. 23 v. Renaud*, [1992] 2 S.C.R. 970 (Renaud).

¹⁵ Ontario Human Rights Commission, "Equal Access to Education for Students with Disabilities During Strikes" Fact Sheet, online: www.ohrc.on.ca/en/resources/factsheets/disabilitystrike/view

¹⁶ *Renaud*, *supra*, note 15

¹⁷ *British Columbia (Public Service Employee Relations Commission) v. BCGSEU*, 1999 CanLII 652 (SCC), [1999] 3 S.C.R. 3 (Meiorin) at paras. 65-66;

and *British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights)*, 1999 CanLII 646 (SCC), [1999] 3 S.C.R. 868 (Grismer) at paras. 22 and 42-45.

¹⁸ *Adga Group Consultants Inc. v. Lane*, at para. 107 (ON SCDC).

¹⁹ *Gourley v. Hamilton Health Sciences*, 2010 HRTO 2168 (CanLII).

PROCEDURAL OBLIGATIONS

- Requirement to engage in a genuine search for accommodation.
- The employer's duty to inquire / constructive knowledge of accommodation needs.
- Employee's obligation to participate fully in the process for example providing medical and other information regarding accommodation needs.
- Failure to comply with procedural obligations may result in liability even if there is no breach of substantive obligations

SUBSTANTIVE OBLIGATIONS

- Implementation of required accommodation up to the point of undue hardship
- The goal is to avoid discrimination
- There is no requirement to implement accommodation requested / preferred by the employee
- Individual has a duty to accept accommodation that meets needs
- It is important to keep talking in order to arrive at a reasonable accommodation solution.

WHAT IS THE EMPLOYER'S DUTY TO ACCOMMODATE DISABILITY?

The union should take cognizance of Section 17 of the *Code* which provides that people with disabilities have the right to have their individual needs accommodated short of undue hardship, to allow them to perform the essential duties of their job.

The *Code* definition of "disability" includes physical, psychological and mental conditions. Severe substance abuse, such as alcoholism and the abuse of legal and illicit drugs, is classified as a form of substance dependence and is a disability within the meaning of the *Code*. When a person's use of drugs or alcohol reaches the stage of severe abuse, addiction or dependency, there may be significant impairment or distress.

Depending on the specific needs and context of the disability, the union is required to accommodate an employee with disability to the point of undue hardship so as to allow him to conduct the essential duties of the work.

AGE-RELATED DISABILITIES

Age-related disabilities can manifest in various ways in the workplace, affecting an individual’s ability to perform tasks, engage in communication, or adapt to the work environment. It’s important for employers to be aware of these potential challenges and to take steps to accommodate employees with age-related disabilities. Here are some common manifestations and considerations:

Age-Related Disabilities	Manifestation	Employer Responsibility
Physical Limitations	Reduced mobility e.g., arthritis or joint problems.	Consider ergonomic adjustments, accessible workspaces, or the provision of assistive devices to support movement and comfort.
Sensory Impairments	Vision and hearing loss e.g., presbyopia, cataracts, or hearing loss.	Accommodate by providing larger font sizes, adequate lighting, or hearing-assistive devices.
Cognitive Challenges	Memory loss or cognitive decline e.g., Dementia or Alzheimer’s disease.	Implement strategies such as providing written instructions, simplifying tasks, or offering additional training and support
Communication Difficulties	Difficulty in verbal communication.	Encourage alternative communication methods, such as written communication or the use of assistive communication devices.
Fatigue and Reduced Stamina	Age-related fatigue.	Consider flexible work hours, breaks, or job rotations to accommodate stamina limitations.
Chronic Health Conditions	Diabetes, heart disease, or arthritis	Support employees with chronic health conditions by providing flexible work arrangements, reasonable accommodation, or access to health and wellness programs.
Technology Adaptability	Unfamiliarity with or comfortable using technology.	Offer training programs and support to enhance digital literacy and ensure that technology is accessible to all employees.

MENTAL HEALTH AND ADDICTIONS

Mental health disabilities can manifest in various ways in the workplace, and it’s crucial for employers to create a supportive and inclusive environment for individuals facing mental health challenges.

Mental Health Disabilities	Manifestation	Employer Responsibility
Changes in Behavior	Changes in behavior, such as increased irritability, mood swings, withdrawal from social interactions, or a decline in work performance.	Offering Employee Assistance Programs (EAPs) or mental health resources to provide confidential support.
Physical Symptoms	Physical symptoms, such as headaches, fatigue, or gastrointestinal issues.	Allowing for flexible work hours, remote work options, or modified duties to accommodate employees’ needs.
Communication Challenges	Difficulty expressing thoughts, articulating needs, or engaging in team discussions.	Providing training to managers on recognizing signs of mental health challenges and responding with empathy and appropriate support.
Addiction	Struggling with alcoholism or drug dependency	Make adjustments to work schedules, providing support for treatment or rehabilitation, or modifying duties to enable the employee to perform their job.

It’s essential for employers to engage in open communication with employees and not avoid difficult discussions, conduct individual assessments of needs, and implement reasonable accommodations to ensure that the workplace is inclusive for individuals with age-related disabilities. Additionally, awareness and education programs can help create a more supportive and understanding work environment for all employees.

6. INTERSECTIONALITY

Intersectionality means different aspects of discrimination or oppression intersecting and affecting an individual at a time. A person can be subject to different aspects of oppression such as color or race, and gender (sexism).

WHAT ARE SOME EXAMPLES OF INTERSECTIONALITY?

- A. **Race and Gender:** A black woman facing discrimination that is not solely based on her race or gender but on the combination of both factors. For example, she may encounter unique challenges that white women or black men might not experience.
- B. **Sexual Orientation and Disability:** A gay person with a disability experiencing discrimination that is influenced by both their sexual orientation and disability status, leading to unique challenges in various social contexts.
- C. **Socioeconomic Status and Gender:** A low-income woman encountering discrimination based on her economic status as well as her gender, facing barriers in accessing education, healthcare, and employment opportunities.
- D. **Race and Disability:** An individual of a particular racial or ethnic background with a disability facing discrimination that arises from the intersection of both characteristics, such as biased assumptions about their abilities or limited access to resources.
- E. **Religion and Gender:** A Muslim woman experiencing discrimination due to her religion and gender, facing challenges related to both Islamophobia and sexism.
- F. **Age and Disability:** An older person with a disability facing discrimination that is influenced by both ageism and ableism, leading to assumptions about their capabilities or limitations.
- G. **Sexual Orientation and Race:** A queer person of color encountering discrimination that arises from the intersection of their racial identity and sexual orientation, facing unique challenges within both the LGBTQ+ and racial/ethnic communities.
- H. **National Origin and Gender:** An immigrant woman experiencing discrimination that is a result of both her gender and national origin, facing challenges related to cultural biases and gender stereotypes.
- I. **Religion and Disability:** A person with a disability facing discrimination based on both their religious beliefs and physical or mental condition, leading to unique challenges related to accessibility and acceptance.
- J. **Gender and Socioeconomic Status:** A low-income transgender individual encountering discrimination based on both their gender identity and economic status, facing obstacles in accessing healthcare, housing, and employment opportunities.

7. REPRISAL - WHAT SHOULD THE UNION DO IF THE EMPLOYER RETALIATES

Section 8 of the Code protects people from reprisal or threats of reprisal. A Reprisal is an action, or threat, implied or explicit, that is intended as retaliation against an employee for reporting an incident, asserting their rights, or making a complaint of Discrimination under Code. This could include an action of threat against a Complainant, Respondent, Witness, or Investigator.

Any reprisal or threat of reprisal is not acceptable under the Code. Any complaint of reprisal will be addressed consistently with the provisions of this procedure. Engaging in a reprisal (or threatening to do so) may result in disciplinary action, up to and including termination of employment.

Examples of the employer retaliating against the employee includes:

1. Terminating an employee's employment as a direct response to their reporting of misconduct or other workplace issues.
2. Any act of retaliation that occurs because a person has complained of or provided information about an incident of workplace harassment.
3. Intentionally pressuring a person to ignore or not report an incident of workplace harassment; and/or
4. Providing unfavorable performance evaluations solely based on the employee's engagement in protected activities.
5. Assigning undesirable tasks or changing job responsibilities as a reprisal for the employee's actions.
6. Intentionally pressuring a person to lie or provide less than full cooperation with an investigation of a complaint or incident of workplace harassment.
7. Reducing an employee's pay, hours of work or benefits as a way of punishing them for engaging in protected activities.
8. Isolating and excluding an employee from important meetings, projects, or opportunities as a form of retaliation.
9. Subjecting an employee to increased scrutiny such as excessive monitoring or increased disciplinary actions, as a way of retaliating.

The following will establish that someone experienced reprisal based on a Code ground:

- a. An action was taken against, or a threat was made to, the employee.
- b. the alleged action or threat was related to the employee having claimed, or trying to enforce a Code right, and
- c. there was an intention on the part of the employer to retaliate for the claim or the attempt to enforce the right.

For example, the HRTO found that a man with a visual disability experienced reprisal when his employer abruptly terminated his employment in part due to dissatisfaction that the man had pursued his rights under the Code (he had tried to get accommodation for his disability-related needs and had attempted to deal with alleged harassment by the personal respondent), and the employer's perception that the man was unhappy with accommodations the employer had provided.²⁰

FALSE OR FRIVOLOUS COMPLAINTS

Although false and frivolous accusations of harassment occur in rare instances, such false accusations are serious offenses because they may have serious consequences for the respondent.

The insufficiency of evidence to prove a complaint does not mean that the complaint was submitted in bad faith. A malicious or bad faith complaint means that a person who made a complaint did so when they knew or should clearly have known it was untrue.

An employee who makes a false complaint or otherwise abuses this procedure may be disciplined up to and including termination of employment. Such discipline is not reprisal or breach of this procedure.

8. REMEDIES FOR HUMAN RIGHTS VIOLATIONS?

Once the union has determined that there is a Human Rights violation, then they have an obligation to comply with the grievance process in line with the collective agreement and bring to the attention of the employer for investigation, resolution and appropriate awards.

In the event that the grievance procedure does not lead to a satisfactory resolution, the union may opt for arbitration. An arbitrator, often agreed upon by both the union and the employer, can hear the case and make a binding decision.

In cases where the violation involves a breach of statutory human rights protections, the union may initiate legal proceedings on behalf of its members. This can involve filing a complaint with the Ministry of Labour (MOL) or pursuing a lawsuit in the Human Rights Tribunal. The human rights tribunal has a jurisdiction to order remedies which will rectify violation of human rights. The guiding principle in human rights law is that the remedy for discrimination or harassment should put an applicant in the position he or she would have been had the discrimination not occurred.²¹

Section 45.2 of the Code gives the HRTO broad powers to make orders and to award remedies. The HRTO's powers to grant remedies serves two main purposes – to provide monetary compensation to an applicant and to prevent further acts of discrimination by promoting future compliance with the Code. There are three (3) main types of remedies the HRTO may order if discrimination or harassment under the Code is found.

MONETARY COMPENSATION

General damages are intended to financially compensate an applicant for injury to their dignity, feelings, and self-respect as a result of the discrimination or harassment. They are intended to compensate for the breach of the Code itself and for the personal impact that breach has on an applicant.

In *Arunachalam v. Best Buy Canada*, 2010 HRTO 1880 (CanLII), the HRTO summarized the legal principles on which general damages are awarded. Two criteria are generally applied – 1) the objective seriousness of the conduct and 2) the personal effect on the applicant who experienced the discrimination.

²¹ *Ontario Human Rights Commission v. Impact Interiors Inc.*, 1998 CanLII 17685 (ON CA).

NON-MONETARY REMEDIES;

Non-monetary remedies are remedies or reliefs that do not involve payment of compensation for damages or losses. Section 45.2(1)2 of the *Code* states that the Tribunal can make an order directing the party who infringed the right to make restitution to the party whose right was infringed, other than through monetary compensation, for loss arising out of the infringement, including restitution for injury to dignity, feelings and self-respect and to direct any party to the application to do anything that, in the opinion of the Tribunal, the party ought to do to promote compliance with the *Code* (see section 45.2(1)3. Examples of non-monetary remedies include:

1. Reinstatement of employment;
2. Rescission of any performance discipline;
3. Promote an employee to a position they would have been but for the discriminatory conduct;
4. A letter of apology; and
5. Individual training on (Human rights 101)

PUBLIC INTEREST REMEDIES

Section 45.2(1)2 and 3 of the *Code* sets gives the Tribunal the powers to make public interest remedies. Public interest remedies public interest remedies are, by their nature, designed to go beyond addressing any wrong done to the individual applicant. Public interest remedies would involve directing a person to do anything with respect to future practices. Public interest remedies would most often apply in cases where there are allegations of systemic discrimination. Public interest remedies must be tied to the finding of wrongdoing and go beyond addressing any wrong done to the individual applicant/complainant.

Examples of public interest remedies are:

1. Developing and/or revising human rights policies and/or workplace procedures;
2. Training for all staff on developed and/or revised human rights policies and/or workplace procedures; and,
3. Collection of data.

CIVIL PROCEEDING BEFORE ONTARIO COURTS

Apart from the above discussed remedies that can be ordered by the Tribunal, under section 46.2 of the *Code*, it is implied that, a person can claim damage from a court related to an act of discrimination they experienced together with other claims. Section 46.1 (1) of the *Code* provides that, if, in a civil proceeding in a court, the court finds that a party to the proceeding has infringed a right under Part I of another party to the proceeding, the court may make an order directing the party who infringed the right to pay monetary compensation to the party whose right was infringed for loss arising out of the infringement, including compensation for injury to dignity, feelings and self-respect. Furthermore, the court can make an order directing the party who infringed the right to make restitution to the party whose right was infringed, other than through monetary compensation, for loss arising out of the infringement, including restitution for injury to dignity, feelings and self-respect.



Workplace Investigative Guide

Our Workplace Investigative Guide is a valuable tool for Stewards and Union Representatives for the diverse workplaces of SEIU Healthcare members.

The guide offers insightful explanations, real-world case studies, best practices and practical steps for conducting workplace investigations and preventing and addressing discrimination, harassment and workplace violence.

After reviewing the guide, Stewards and Union Representatives will be better positioned to understand the concept of workplace investigations and how to investigate properly.

In furtherance of its mandate under the *Ontario Human Rights Code*, R.S.O. 1990, c. H.19 (the “Code”) and *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1 (“OHSA”) of ensuring a healthy and inclusive environment, and for preventing and addressing discrimination, harassment and workplace violence, the Service Employees International Union HealthCare Canada (“SEIU”) has adopted this Workplace Investigation Guidelines relating to allegations of discrimination, harassment and workplace violence.





Workplace Investigative Guide

PREPARED BY: OLANYI PARSONS (OP) LAW

1. WORKPLACE INVESTIGATION: MEANING

Generally speaking, workplace investigations are investigations conducted by an employer into allegations of misconduct, discrimination, and/or harassment brought forward by an employee. The parties in workplace investigation are referred to as the Complainant and the Respondent.

The employer has a legal duty to investigate complaints of discrimination and harassment at the workplace that are in violation of the *Code* and OSHA.

There are two types of investigations: 'Internal' and 'External' investigations.

1. **Internal investigations** are conducted by the relevant management organ of the employer with a view to reaching a decision that protects the rights of the complainant, the respondent and other staff.
2. **External investigation** is conducted by an independent, neutral third party with expertise (i.e., lawyer or investigator) with a view to providing a report of the fact-finding and/or recommendation to the employer.

In an investigation, the investigator will

- A. Assess the nature and scope of the allegations,
- B. Identify which incidents will be examined,
- C. Endeavor to make a finding as to whether it occurred as alleged.
- D. Depending on the mandate, in addition to factual findings, the investigator may determine whether there has been a violation of a law such as the *Code*, OHSA and/or organizational policy.

WHAT IS THE SCOPE OF WORKPLACE INVESTIGATION

While the primary responsibility of conducting workplace investigation lies with the employer, SEIU may conduct its own investigations mainly with respect to complaints arising from:

1. Member-to-member conflict, which is an internal union investigation; and,
2. Employee-to-employee conflict, which occurred at the workplace.

An investigation in these relationships can be conducted internally or externally depending on the gravity and complexity of the complaint and other relevant factors, including but not limited to conflicts of interest, expertise, availability of resources to conduct a timely investigation, costs, etc.

The union should also take into note that the employer's liability for harassment or discrimination committed by its employees and agents is not necessarily limited to incidents that occurred at the workplace or during work hours. Human rights law includes the notion of the "extended workplace." A Checklist for a shop steward when investigating can be found in the Appendix.

Employers could be liable for behavior or actions that occur away from the physical workplace, but that have implications or repercussions in the workplace. For example, employers may be held liable for discriminatory incidents taking place during business trips, company parties or other company-related functions. An organization providing services to the public may be found responsible for an employee's off-duty actions if they lead to a poisoned environment and a denial of the right to equal treatment in services.¹

In terms of the issues that need to be investigated, the scope of the investigation to be conducted by the union covers complaints from members and employees regarding discrimination on *Code* grounds, harassment, workplace violence and other policy violations. Specifically, the following issues can be the subject of a workplace investigation:

- Workplace harassment (non-grounds based)
- Workplace sexual harassment
- Workplace violence
- Discrimination covered under the *Code*, such as racial and /or gender discrimination.
- Failure to accommodate
- Poisoned work environment
- Misconduct and violations of employer/union policies

¹ See: *Ross v. New Brunswick School District No. 15*, [1996] 1 S.C.R. 825

2. EMPLOYER'S DUTY TO INVESTIGATE

Employer's duty to investigate discrimination and workplace harassment complaints originates from the *Code*, jurisprudence, and the OHSA. Section 5(1) of the *Code* provides that every person has a right to equal treatment with respect to employment without discrimination based on the 17 enumerated prohibited grounds. Likewise, section 5(2) provides that every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of the prohibited grounds of discrimination.

Furthermore, section 46.3(1) of the *Code* states that, except subsection 2(2), subsection 5(2), section 7 and subsection 46.2(1), any act or thing done or omitted to be done in the course of his or her employment by an officer, official, employee or agent of a corporation, trade union, trade or occupational association, unincorporated association or employers' organization shall be deemed to be an act or thing done or omitted to be done by the corporation, trade union, trade or occupational association, unincorporated association or employers' organization.

The above stated section of the *Code* implies that the employer/union has an indirect duty to investigate reports of workplace discrimination and harassment with a view to fulfilling its obligation under the *Code*. Nonetheless, the Human Rights Tribunal Ontario ("HRTO") has held that employers have a direct duty to investigate discrimination at the workplace.



The leading decision on the duty to investigate under the *Code* is *Laskowska v Marineland of Canada Inc.*² The HRTO held in *Laskowska* that an employer is under a duty to take reasonable steps to address allegations of discrimination in the workplace, and a failure to do so will itself result in liability under the *Code*. This decision distinguishes between 1) pre-complaint duties, 2) post-complaint duties, and 3) duties at the resolution stage.³ Likewise, in *Crete v Aqua-Drain Sewer Services Inc.*, the HRTO explained that under the *Code*, “employers are obligated to take reasonable steps to address complaints of workplace human rights violations.”⁴

With respect to **harassment at the workplace**, section 32.07 of the *OHSA* imposes a duty on an employer to protect employees from workplace harassment by ensuring that an investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances. Furthermore, the employer should inform the employee of the results of the investigation in writing and of any corrective action that has been taken or that will be taken as a result of the investigation.

With respect to **workplace violence**, pursuant to section 32.0.1(1)(a) of the *OHSA*, an employer is required to prepare a policy with respect to workplace violence. This policy shall set out how the employer will deal with incidents or complaints of harassment [*OHSA* s. 32.02(2)(d)]. Further, pursuant to sections 25(2)(h) and 32.05(1) of the *OHSA*, an employer has a duty to take every precaution reasonable in the circumstance for the protection of a worker. In carrying out this duty, an employer shall provide its workers with the necessary information to protect the worker from physical injury.



² *Laskowska v Marineland of Canada Inc.*, 2005 HRTO 30 (“*Laskowska*”).

³ *Laskowska* at para. 52.

⁴ *Crete v Aqua-Drain Sewer Services Inc.*, 2017 HRTO 354.



3. SUBJECT MATTERS OF INVESTIGATIONS

RACIAL DISCRIMINATION

According to the Ontario Human Rights Commission (the "Commission") "*Policy and Guidelines on Racism and Racial Discrimination*" (the "*Racism Policy*") there is no fixed definition of racial discrimination and society's understanding of what racial discrimination will continue to evolve over time. Racism can be defined as an ideology, which either explicitly or implicitly asserts that one person or a group of persons is inherently superior to others.

Moreover, the concept of racism is tied to an aspect of power and often manifests in negative beliefs, assumptions, and actions. Thus, the Commission's Racism Policy asserts that racism is exhibited in various forms, including the oppression and subordination of people based on stereotypical assumptions and racialized characteristics.

Racial discrimination in employment is legally prohibited in Ontario. Canadian case law defines racial discrimination as:

*"Any distinction, conduct or actions whether intentional or not, based on a person's race, which has the effect of imposing burdens on an individual or group, not imposed upon others or which withholds or limits access to benefits available to other members of society."*⁵

When investigating allegations of racial discrimination, the investigator should analyze the facts gathered in line with the above stated definition of racial discrimination. After gathering the facts which support the complaints or the allegation, the investigator should assess whether the respondent subjected the complainant to discrimination based on race and color.

In particular, the investigator should identify the racial background of the complainant, the respondent and third-party witnesses. The investigator should also collect the relevant facts and analyze them in line with the governing principles and laws. The relevant principles that apply in cases where an allegation of racial discrimination have been summarized in *Persaud v. Toronto District School Board*, 2009 HRTO 1728, starting at para. 181:

1. The prohibited ground or grounds of discrimination need not be the sole or the major factor leading to the discriminatory conduct; it is sufficient if they are a factor.
2. There is no need to establish an intention or motivation to discriminate; the focus of the enquiry is on the effect of the Respondent's actions on the Complainant.
3. The prohibited ground or grounds need not be the cause of the Respondent's discriminatory conduct; it is sufficient if they are a factor or operative element.
4. There need be no direct evidence of discrimination; discrimination will more often be proven by circumstantial evidence and inference; and
5. Racial stereotyping will usually be the result of subtle unconscious beliefs, biases, and prejudices.

Thus, in order to prove racial discrimination, the Complainant must show that they were subjected to an adverse differential by the Respondent, on the basis of their race and color.

In *Michelin v Johnson*, the HRTO viewed an allegation that the applicant was subjected to harassment under the prohibited grounds of race. The HRTO outlined the necessary elements to establish harassment that breached section 5(2) of the *Code*. Accordingly, the applicant must prove, on a balance of probabilities, that:

1. the individual Respondent was their employer, their employer's agent, or another employee.
2. the individual Respondent harassed them by engaging in a course of vexatious comment or conduct towards them that was known or ought reasonably to have been known to be unwelcome.
3. the individual Respondent harassed them in the workplace; and
4. the individual Respondent harassed them because of the ground(s) alleged.⁶

⁶ *Michelin v Johnson*, 2014 HRTO 321 (CanLII) at paras. 15, 20)

POISONED WORK ENVIRONMENT

Poisoned work environment is a form of discrimination. The atmosphere of a workplace is considered a condition of employment. A poisoned environment:

- may be created when unwelcome conduct or comments are pervasive within the learning or working environment, which may result in a hostile or oppressive atmosphere for one or more people from a Code-protected group.
- is based on the nature of the discriminatory comment or conduct.
- is based on the adverse impact on an individual or group of individuals, regardless of intent.
- is not about the number of times the behaviour occurs. Sometimes a single remark or action can be so severe or substantial that it results in a poisoned environment.

In *Crepe It Up! v. Hamilton*, the Divisional Court adopted the test for finding a poisoned work environment in the human rights context as had been articulated by the Ontario Court of Appeal in the common law context. The test articulated by the Court of Appeal is as follows:

There must be evidence that, to the objective reasonable bystander, would support the conclusion that a poisoned workplace environment had been created. Moreover, except for particularly egregious, stand-alone incidents, a poisoned workplace is not created, as a matter of law, unless serious wrongful behaviour sufficient to create a hostile or intolerable work environment is persistent or repeated.⁷

As a result, a poisoned work environment will be found in two circumstances in the human rights context:

1. If there has been a particularly egregious, stand-alone incident, or
2. If there has been serious wrongful behaviour sufficient to create a hostile or intolerable work environment that is persistent or repeated.

Furthermore, the relevant factors in determining whether or not a poisoned work environment exists include:

1. the number of comments or incidents.
2. their nature.
3. their seriousness; and
4. Whether taken together, it had become a condition of the applicant's employment that she or he must endure discriminatory conduct and comments.⁸

⁷ *General Motors of Canada Ltd. v. Johnson*, 2013 ONCA 502 (CanLII) at paras. 66-67).

⁸ *Crêpe It Up! v. Hamilton*, 2014 ONSC 6721 (CanLII) at para. 19; and, *George v. 1735475 Ontario Limited*, 2017 HRTO 761 (CanLII), at paras. 55-58.

WORKPLACE HARASSMENT

The *Occupational Health and Safety Act (OHSA)* defines harassment as “engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome”.

Likewise, section 10(1) of the *Code* defines “harassment” as, vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Further, section 5(2) of the *Code* provides that all employees have a right to freedom from harassment in the workplace by the employer, employer’s agent, or by another employee because of, among other grounds, race, color, ancestry, place of origin, ethnic origin, citizenship, and creed. Section 7(2) states that, employees should be free from sexual harassment because of their sex.

Employers, housing providers, service providers and other responsible organizations have a duty to prevent and stop harassment. This can be done by developing anti-harassment policies and providing training.

WORKPLACE SEXUAL HARASSMENT

Workplace sexual harassment is defined in the *OHSA* as:

“engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.”

Human rights case law has interpreted and expanded on the definition in section 10 of the *Code*. In one of the earliest sexual harassment cases in Canada, a tribunal found that in employment, discriminatory conduct may exist on a continuum from overt sexual behaviour, such as unsolicited and unwanted physical contact and persistent propositions, to more subtle conduct, such as gender-based insults and taunting, which may reasonably be perceived to create a negative psychological and emotional work environment.⁹

In another decision, the Supreme Court of Canada stated:

Sexual harassment may take a variety of forms. Sexual harassment is not limited to demands for sexual favours made under threats of adverse job consequences should the employee refuse to comply with the demands. Victims of harassment need not demonstrate that they were not hired, were denied a promotion or were dismissed from their employment as a result of their refusal to participate in sexual activity. This form of harassment, in which the victim suffers concrete economic loss for failing to submit to sexual demands, is simply one manifestation of sexual harassment, albeit a particularly blatant and ugly one...¹⁰

⁹ *Bell v. Ladas*, (1980), 1 C.H.R.R. D/158 (Ont. Bd. Inq.)

¹⁰ *Janzen v. Platy Enterprises*, [1989] 1 S.C.R. 1252

An investigation into a complaint of harassment based on sex “is a multi-faceted assessment that looks at the balance of power between the parties, the nature, severity and frequency of impugned conduct, and the impact of the conduct. The key indicia (and harm) of sexual harassment are the use of sex and sexuality to leverage power to control, intimidate or embarrass [sic] the victim.”¹¹

The following list of conduct and behaviour is not exhaustive, but helps to identify what may be sexual harassment:

- demanding hugs;
- invading personal space;
- unnecessary physical contact, including unwanted touching, etc.;
- derogatory language and/or comments toward women (or men, depending on the circumstances);
- leering or inappropriate staring;
- gender-related comment about a person’s physical characteristics or mannerisms;
- comments or conduct relating to a person’s perceived non-conformity with a sex-role stereotype;
- sexual jokes, including circulating written sexual jokes (e.g. by e-mail);
- rough and vulgar humour or language related to gender;
- sexual comment or conduct used to bully a person;
- suggestive or offensive remarks or innuendo about members of a specific gender;
- gender-related verbal abuse, threats, or taunting;
- bragging about sexual prowess;
- demanding dates or sexual favours;
- questions or discussions about sexual activities;
- requiring an employee to dress in a sexualized or gender-specific way;
- paternalistic behaviour based on gender which a person feels undermines their status or position of responsibility; and,
- threats to penalize or otherwise punish a person who refuses to comply with sexual advances (known as reprisal).

NON-GROUND-BASED HARASSMENT

A complaint filed as workplace harassment does not require a prohibited ground of discrimination. A complainant can be a victim of harassment which is not related with the *Code* ground discrimination. Examples of workplace harassment under these definitions may include, but are not limited to:

- ▶ Unwelcome words or actions that are known to be offensive, embarrassing, humiliating, or degrading to a worker or groups of workers.
- ▶ Behaviour that intimidates or isolates a worker or groups of workers
- ▶ Bullying, intimidating or offensive jokes or innuendos, display or circulating offensive pictures or materials, or offensive or intimidating phone calls or emails or social media postings.
- ▶ Repeated words or actions, or a pattern of behaviours, against a worker or groups of workers in the workplace that are unwelcome.
- ▶ Asking for sex in exchange for a benefit or a favor.
- ▶ Making unnecessary physical contact, including unwanted touching.

REASONABLE ACCOMMODATION

The duty to accommodate can arise in many different situations as a result of a person's disability, age, creed, marital status, and/or family status. Many requests for accommodation are made in the employment context due to an employee's physical and/or mental disabilities.

An employee, for example, may suffer a disability such as an injury, illness, or addiction that prevents them from continuing to do their job in the same manner as before. The employer would have a duty to explore accommodation measures to enable the employee to continue to fulfill their job duties.

Employers have a procedural and substantive duty to accommodate to the point of undue hardship.

The procedural duty to accommodate involves obtaining all relevant information about, for example, an employee's disability in the workplace. It requires an individualized investigation of accommodation measures and assessment of the employees' needs. In most cases, the procedural duty to accommodate is triggered by an employee's express request for accommodation.¹² Relevant information could include information about the employee's current medical condition, expectations for recovery, ability to perform their job duties and capabilities for alternate work.

¹² <https://hrlsc.on.ca/how-to-guides/understanding-the-duty-to-accommodate/>

Substantive duty to accommodate concerns the reasonableness of the accommodation offered or the employer's reasons for not providing accommodation. Once an employer has satisfied the procedural duty to accommodate, an employer must use the information obtained to put in place reasonable accommodations, if any, that would not cause the employer any undue hardship.

The kind of accommodation that is required will depend on the specific circumstances of your situation. Some examples of accommodation may include:

- Building a wheelchair access ramp.
- Flexibility in work hours or break times.
- Providing sign language interpreters for people who are deaf, so they can participate in meetings.
- Job restructuring, retraining or assignment to an alternative position.
- Allowing an employee to wear a hijab even though the employer wants all employees to wear the same corporate clothing.
- Allowing a pregnant employee to attend doctor appointments; or
- Allowing an employee not to work on certain holidays.

Again, the accommodation process is a highly individualized matter, and no two (2) cases are ever exactly alike. Accommodation needs can also change over time and the duty to accommodate requires that other and different accommodations may be reasonable if a person's needs change.



4. ROLE OF THE SHOP STEWARD WHEN EMPLOYER IS CONDUCTING A WORKPLACE INVESTIGATION

- A. **Inform Members:** Promptly inform affected union members about the investigation, including the nature of the allegations, the process to be followed, and the potential implications for the employees involved.
- B. **Ensure Fair Process:** Advocate for a fair and impartial investigation process. This includes ensuring that employees are treated with respect, provided with an opportunity to present their side of the story, and given access to relevant information.
- C. **Accompany Members:** Accompany union members during investigatory interviews. This support can include taking notes, providing advice on how to respond to questions, and ensuring that the process is fair and respectful.
- D. **Protection of Rights:** Be vigilant in protecting the rights of union members during the investigation. This includes ensuring that the employer follows the terms of the collective bargaining agreement, applicable employment laws, and any other relevant workplace policies.
- E. **Confidentiality:** Advocate for the confidentiality of sensitive information to the extent possible. This helps protect the privacy of the individuals involved.
- F. **Documentation:** Keep detailed records of the investigation process, including notes from meetings, copies of correspondence, and any relevant documents. This documentation can be crucial in the event that the investigation results in disciplinary actions or other consequences.
- G. **Participate in Grievance Process:** If the investigation leads to disciplinary actions, the shop steward may be involved in the grievance process. This could include representing the employee in meetings with management, filing grievances on behalf of the union, and participating in dispute resolution procedures as outlined in the collective bargaining agreement.
- H. **Educate Members:** Educate union members about their rights during an investigation and provide guidance on how to navigate the process. This may include explaining the importance of cooperating with the investigation while ensuring their rights are protected.

5. PROCEDURE TO CONDUCT WORKPLACE INVESTIGATION

It is important that a union representative or steward understand that a successful workplace investigation involves preliminary stages, fact-finding, reporting and outcomes stages.

5.1 PRELIMINARY STAGE

- a. **Prompt Action:** The employer has the legal duty to investigate complaints of discrimination, harassment, sexual harassment, workplace violence, and other violations of workplace policy and determine whether an investigation is needed. In taking this decision, they should take prompt action when the allegations or complaints warrant investigation. A timely response helps prevent the escalation of issues and demonstrates a commitment to addressing concerns.
- b. **Impartiality:** The employer should ensure that the investigation is conducted impartially and without bias. They will need to decide the nature and scope of the investigation, select an impartial investigator, and create a plan for the investigation process. The employer and the union should consider what steps, if any, are necessary to protect the complainant from the respondent and to preserve the integrity of the investigation process. In doing so, the parties might need to be separated if there exists a reporting relationship, or assessing what evidence is relevant and how to gather and preserve the same.
- c. **Clear Policies and Procedures:** The employer should have clear and comprehensive policies and procedures for conducting workplace investigations. These guidelines should outline the steps to be taken, the rights and responsibilities of all parties involved, and the expected timeline for completing the investigation.

5.2 FACT-FINDING STAGE

- A. **Notification to Parties:** Employees involved in the investigation should be informed about the nature of the allegations, the purpose of the investigation, and the process that will be followed. Clear communication helps manage expectations and ensures transparency.
- B. **Interviews:** The employer, through the investigator, conducts interviews with relevant parties and gathers relevant documentation and evidence. This involves interviewing employees who are at the center of the complaint and others who may have witnessed relevant conduct. The fact-finding process also involves collecting evidence related to the identities of the complainant and the respondent. The type of facts gathered by the investigator depends on the complexity, and the nature of the alleged discrimination or harassment by the employee or the member. For each type of allegation or complaint, the investigator should collect facts and evidence in a way which supports its objective of deciding the complaint in accordance with the *Code*, the *OHSA* or relevant policies. Accordingly, the fact-finding steps will be driven by the nature of the allegations and availability of relevant evidence.
- C. **Documentation:** The investigator gathers relevant documentation and evidence. The investigator should identify key documents that ought to be produced by the complainant, respondent, or employer, and assess whether they are readily available. Once all documentation has been identified and gathered, the investigator ought to review this material in a fair and impartial manner.
- D. **Fair Treatment:** All individuals involved in the investigation should be treated fairly and with respect. This includes providing them with an opportunity to present their side of the story, respond to allegations, and be accompanied by a representative if desired. All parties, including witnesses, should have the right to a support person, which could be a union representative.
- E. **Confidentiality:** Confidentiality is crucial during an investigation to protect the privacy of individuals involved. Employers should communicate the importance of confidentiality to all parties and ensure that information is disclosed on a need-to-know basis.
- F. **Duty to Accommodate:** The employer has a duty to accommodate employees with disabilities during the investigation process. This may involve adjusting the process to ensure that individuals with disabilities can fully participate.

5.3 REPORTING STAGE

- a. **Conclusion and Reporting:** After the gathering of relevant facts, the investigator will prepare a report. The draft report and executive summary will be sent to the employer for feedback prior to submitting a final version. Following this, the investigator will issue a final report. The employer will then need to evaluate the report and decide regarding the complaint. Then the employer will need to notify the union and involved employees about its final decision. It is at the sole discretion of the employer to disclose the entire report to the parties, or merely providing them a summary of the report and findings in writing.
- b. **Follow-Up and Monitoring:** The employer can implement any necessary corrective actions following the investigation and monitor the workplace to ensure that the issues addressed in the investigation are effectively resolved.
- c. **Protection Against Retaliation:** The employer should take steps to prevent retaliation against individuals involved in the investigation. This includes communicating a zero-tolerance policy for retaliation and providing support to those who report concerns.

5.4 POTENTIAL INVESTIGATION OUTCOMES

Where a complaint is deemed appropriate for investigation, an investigation may determine that, on a balance of probabilities:

1. An alleged incident did or did not occur.
2. An alleged incident did or did not amount to a violation.
3. There is insufficient evidence to conclude on a balance of probabilities whether an incident took place and/or whether Human Rights Policy 52 was violated; and/or
4. A complaint was frivolous, vexatious and/or made in bad faith.



6. PRINCIPLES OF A WORKPLACE INVESTIGATION

6.1 PROCEDURAL FAIRNESS

Procedural fairness means that there is a legal requirement where an employer or union decision could have a detrimental impact on the rights, interests and/or legitimate expectations of an employee. Employers should not discipline, terminate the employment of an individual for cause or take any adverse action against an individual, without first conducting a procedurally fair investigation in order to independently corroborate any allegations of misconduct.

Thus, the process of workplace investigation should be procedurally fair for all the parties involved including the complainant, the respondent, the union or witnesses. The complaint should be shared with the respondent(s), and after interviewing the respondent(s) the investigator should provide them the opportunity to respond to the allegation(s). Opportunity to respond should also be given to the other people involved in the process as well.¹³

6.2 AVOIDING CONSCIOUS AND UNCONSCIOUS BIAS

The investigator should also avoid conscious and unconscious bias in the course of conducting the investigation. Bias is defined as, a predisposition, prejudice or generalization about a group of persons based on personal characteristics or stereotypes.¹⁴

Investigators should also consider the prevalence of unconscious anti-Black racism. In *Peel Law Association v. Pieter*, the Court of Appeal for Ontario stated that, “Anti-black racism as a social distortion that unconsciously affects individual behaviour and seeps into actions that may appear to be nondiscriminatory, but which are experienced as discrimination by those affected.”¹⁵

¹³ *Boucher v. Wal-Mart Canada Corp.*, 2014 ONCA 419)

¹⁴ [Ontario Human Rights Tribunal, Glossary of human rights terms](#)

¹⁵ *Peel Law Association v. Pieter*, 2013 ONCA 396 (CanLII)

6.3 TRAUMA-INFORMED INTERVIEWING APPROACH

Trauma is defined as an event which renders an individual's internal and external resources inadequate, making effective coping impossible. A traumatic experience occurs when an individual subjectively experiences a threat to life, bodily integrity, or sanity.¹⁶

Trauma, and its pervasive impacts, are extremely prevalent. Trauma is at the core of the allegations we deal with, such as ongoing discriminations, sexual harassment, sexual violence, bullying, or racial trauma. Thus, it's important for workplace investigators to adopt a trauma informed interviewing approach. In doing so, the investigators should consider the lived experience, and social contexts of the complainant.

Trauma-informed approach includes an understanding of trauma and an awareness of the impact it can have across settings, services, and populations. It includes understanding the ways that gender, ability, class, sexual orientation, and racism, might intersect with trauma and how it is experienced and interpreted. It also involves viewing trauma through an ecological and cultural lens and recognizing that context plays a significant role in how individuals perceive and process traumatic events, whether acute or chronic.¹⁷

6.4 STANDARD OF PROOF

The standard of proof to be applied is the balance of probabilities which is a standard requiring that a dispute be decided in favor of the party whose claims are more likely to be true. Essentially, it states that something must be more likely to have happened than not to have happened.¹⁸

6.5 CLIENT-SOLICITOR PRIVILEGES

The union should be aware that client-solicitor privilege does not automatically attach to investigation reports prepared by lawyers.

In *North Bay General Hospital and Ontario Nurses Association*, the court stated that,

*"Solicitor and client privilege has a specific purpose: to enable an individual to seek and obtain legal advice in a confidential manner. Some individuals who conduct these investigations as independent third parties are lawyers; some are not. I see no reason to distinguish between these two groups if the purpose for which they were retained is the same, of investigating events to make findings of fact. I see no reason to attach solicitor and client privilege to a relationship which is not that of a solicitor-client, just because one of the parties happens to be a lawyer."*¹⁹

Further, in *Howard v. London (City)*, the Ontario Superior Court of Justice held that looking at the nature of the retainer is important so as to determine the existence of a privilege. The court further stated that, when a lawyer is retained to investigate and report on facts he is not acting in his capacity as legal adviser. Even when asked to provide advice, unless that advice is legal advice, no privilege protects the investigation.²⁰

¹⁶ Sarah Katz & Deeya Haldar, "The Pedagogy of Trauma-informed Lawyering" (2016) 22 Clinical L Rev 359 at 364.

¹⁷ "Trauma-Informed Care in Behavioral Health Sciences," published by the Substance, Abuse and Mental Health Services Administration (SAMHSA), at pp. xxi

¹⁸ *Morgan v University of Waterloo*, 2013 HRTO 1644

¹⁹ *North Bay General Hospital and Ontario Nurses Association*, 2011 CanLII 68580 at para 6

²⁰ *Howard v. London (City)*, (2015) ONSC 156

7. CONCLUSION

Workplace investigations are an integral and essential component of the operations of an employer. When carrying out investigations, not only is the investigator to have the expertise and knowledge to investigate the allegations, but they also ought to take an approach that respects the experiences of the parties and the difficulties both parties face during the investigation process. On the other hand, the union steward or workplace representative, plays a crucial role in representing and advocating for the rights and interests of unionized employees in the workplace. When an employer is conducting a workplace investigation, the shop steward has important responsibilities to ensure that the rights of union members are protected.



Social Justice Concepts, and Terminologies

The Social Justice Concepts and Terminologies is a document that defines key social justice, diversity, equity, and inclusion terms and empowers union leaders with the tools to engage in informed conversations, challenge biases, and collaborate toward fostering inclusive environments.

It covers many terms such as diversity and inclusion, power, privilege, equality, equity, racism, and discrimination. The document provides workplace examples that can help promote inclusivity, diversity, and equity. By understanding and using these words and expressions, union leaders can fully embrace and acknowledge the full spectrum of human identities and experiences.

The document also contains inclusive language that is crucial for promoting a positive and respectful workplace environment, particularly when it comes to discussing age, gender, sexual expression, sexual orientation, and religion.

After reviewing this guide, union leaders should be able to use inclusive language that aims to be respectful and sensitive to the diversity of individuals and groups and avoid language that may exclude, marginalize, or discriminate against people based on their gender, race, ethnicity, sexual orientation, disability, age, or other characteristics.



Social Justice Concepts, and Terminologies

CONCEPTS AND TERMINOLOGIES

It is very important that Stewards and Union Representatives understand the different terminologies, concepts and trends that impact their work.

#

2S OR TWO-SPIRIT

An umbrella term used exclusively by and for Indigenous people to describe an Indigenous person who identifies as having both a masculine and feminine spirit, and is used by some to describe their sexual, gender, and/or spiritual identity.

Workplace context: The employee feels comfortable expressing their authentic self at work, contributing to a workplace culture that values and honors diverse identities including Two-Spirit employees.

2SLGBTQI+

Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, and intersex. An inclusive acronym that represents the diverse identities within the sexual and gender minority community. You may see many different versions of this acronym. That's because language and understanding of sexual and gender identity and expression grow over time.

Workplace context: The employer may establish gender-neutral restrooms, offer diversity and inclusion training to create awareness, and include specific protections for individuals in its anti-discrimination policies. Thus, creating an environment where all employees, regardless of their sexual orientation or gender identity, feel valued, respected, and able to bring their authentic selves to work.

A

ABLEISM

Ableism is a systemic and structural form of oppression that stems from the attitude and belief that people with disabilities are inferior. It is the discrimination or prejudice against individuals with disabilities and the belief that non-disabled individuals are superior.

Workplace context: A company whose manager is responsible for hiring new employees holds prejudiced beliefs about people with disabilities, assuming that they are less competent or capable than their abled body counterparts. Can show up in the following: biased hiring practices, as they are dismissed for disclosing their disabilities, inaccessible recruitment practices, lack of accommodation such as accessible workspaces.

ABORIGINAL PEOPLES

A collective name for the original people of North America and their descendants. The Canadian Constitution (the Constitution Act, 1982) recognizes three groups of Aboriginal Peoples – First Nations, Métis, and Inuit – as separate peoples with unique heritages, languages, cultural practices, and spiritual beliefs.

Workplace context: During Indigenous Heritage Month, the company organizes events that showcase the rich heritage, languages, and traditions of First Nations, Métis, and Inuit peoples, such as: cultural workshops, storytelling sessions, and collaborations with Indigenous artists.

AFRICAN CANADIAN

This is a more recent term for Canadians of African descent. 'African Canadian' is preferred by some people who want to be designated by their ancestry rather than their skin colour. Still, others continue to refer to themselves as Black. It's always best to ask.

Workplace context: A Canadian with roots in Africa, introduces herself as African Canadian as she appreciates acknowledging her ancestral ties. On the other hand, her friend, who shares the same heritage, prefers the term Black to emphasize a common racial identity. Their choices highlight the importance of individual preference and the significance of asking for preferred designations.



AGEISM

Discrimination and stereotypes based on age, particularly against older adults. Age discrimination in the workplace can manifest in many ways, including Refusing to hire or promote older workers, forcing older workers into early retirement, offering fewer training and development opportunities to older employees, and making negative assumptions about older workers' abilities or adaptability.

Workplace context: In a corporate setting, a seasoned professional in her 60s, notices ageism when she is consistently overlooked for promotions in favour of younger colleagues. Despite her wealth of experience, she faces limited training opportunities, and there is a prevailing assumption that she may struggle to adapt to new technologies, reflecting the pervasive age-related stereotypes within the workplace.

AGE-SENSITIVE POLICIES

Policies that consider the potential impact on different age groups and strive to minimize negative consequences.

Workplace context: A company implementing flexible work arrangements that accommodate the diverse needs of employees across different life stages. This could include options like part-time schedules, phased retirement plans, and mentorship programs, recognizing and addressing the unique challenges and preferences associated with various age groups within the workforce.

ALLYSHIP

The practice of actively supporting and advocating for marginalized or underrepresented groups to promote inclusion and equality by those who do not share the same social identities.

Workplace context: Imagine a company where there's a lack of diversity in leadership positions, with most executives coming from a similar background. A leader, who is part of the majority group, notices this disparity and wants to be an ally to promote inclusion and equality. The employee can apply the following: educating oneself, amplifying voices, advocating for inclusive policies, celebrating diversity, mentorship, and sponsorship.

ANTI-BLACK RACISM

Includes systemic and individual forms of that target and have a particular impact on Black people. The history of anti-Black racism extends back to slavery in Canada and the specific laws and practices enforcing segregation in education, employment, housing and access to professions.

Workplace context: Imagine a scenario where two employees, one Black and one non-Black, with similar qualifications and experience, apply for a promotion within a company. Despite having comparable skills, the Black employee, consistently faces barriers that hinder his career progression. The accompanying inequities can include unequal opportunities, pay disparities, institutional barriers, lack of mentorship and networking, microaggression and stereotyping.

ANTI-RACISM (NOUN)

The policy or practice of opposing racism and promoting racial tolerance.

Workplace context: The employer implements regular diversity and inclusion training for all employees, emphasizing the importance of treating everyone with respect regardless of their racial or ethnic background. The company also establishes clear policies against racial discrimination, ensuring that incidents are promptly addressed and that employees feel empowered to report any discriminatory behavior.

ANTISEMITISM

Prejudice, hatred or discrimination directed against Jewish people based on ethnicity, religion, or cultural identity. It has a long history and has manifested in various forms over centuries, ranging from social exclusion and economic discrimination to violence and persecution.

Workplace context: The employer establishes a zero-tolerance policy against antisemitic behavior, ensuring that any incidents are thoroughly investigated and addressed. Promote events in the workplace to support a space where antisemitism is actively rejected, and create an environment of understanding, tolerance, and acceptance.

ASSIMILATION

The process by which individuals adopt the dominant culture, often leading to the loss of their cultural identity.

Workplace context: Instead of promoting assimilation, the employer recognizes and celebrates employees' unique cultural backgrounds, encourages employees to bring their authentic selves to work, where diverse perspectives and cultural identities are respected and embraced.

B**BIGOTRY**

Intolerant, prejudiced actions, or speech that glorifies one's own group and denigrates members of other groups.

Workplace context: Advocate for training sessions to raise awareness about the harmful impact of bigotry, by promoting inclusivity, respect, and appreciation for the diverse backgrounds and perspectives of all employees.

BIPOC

Black, Indigenous, and People of Colour. A term collectively referring to individuals from diverse racial and ethnic backgrounds.

Workplace context: The term BIPOC in action is an advocacy group working to address systemic inequalities faced by Black, Indigenous, and People of Color communities. We can advocate for the creation of mentorship programs, organizing cultural awareness events, and ensuring that recruitment and advancement processes actively consider individuals from Black, Indigenous, and People of Color backgrounds.

BISEXUAL

Someone who experiences emotional, romantic, or sexual attraction for people of more than one gender.

Workplace context: Support a work environment where colleagues, who identifies as bisexual, feels supported and respected in the workplace, contributing to a culture of acceptance and diversity.

BLACK PEOPLE

People who are originally of Black-African heritage. Because of a long history of slavery, colonialism, and migration, Black persons now come from all parts of the world, including Canada. The term African Canadian is now commonly used to claim their heritage. (In England, the term Black has been used politically to refer to people of African and Asian origins who share an experience of racism.)

Workplace context: Advocate for the celebration of Black History Month and other related events by organizing events that recognize the contributions of individuals with Black-African heritage, recognizing the rich tapestry of experiences and histories that make up the Black community in Canada.

BULLYING

Bullying is a repeated, intentional, and aggressive behaviour that is used to harm, intimidate, or exert control over another person or a group of people who are perceived as weaker or vulnerable. It often involves a power imbalance, with the bully having more power, whether it's physical, social, or psychological, over the target(s).

Workplace context: A supervisor consistently berating and undermining a subordinate during team meetings, singling them out for public humiliation, and withholding crucial information necessary for the subordinate to perform their job effectively. This behavior, marked by repetition, intentionality, and a power imbalance, constitutes workplace bullying as it aims to harm, intimidate, and control the targeted employee.

C**CISGENDER**

A person whose gender identity matches the sex assigned at birth.

Workplace context: The employer provides gender-neutral restrooms, incorporates inclusive language in communications, thus creating an environment where cisgender employees, as well as those with different gender identities, feel valued and supported, contributing to a workplace culture that embraces diversity.

CLASSISM

Refers to the practices and beliefs that assign differential value to people according to their perceived social class. The language of most workplaces reflects and reinforces this hierarchy.

Workplace context: In the context of the workplace, classism might be evident in the unequal treatment of support staff compared to managerial or executive employees. For example, decisions that significantly impact the workplace are made without consulting or including support staff, their opinions are undervalued in meetings, and they may receive lower wages compared to their higher-ranking colleagues. This demonstrates how classist practices can manifest in the workplace, perpetuating a social hierarchy that undervalues certain roles and individuals based on perceived social class.

COLONIALISM

A process by which a foreign power dominates and exploits an indigenous group by taking their land and resources, extracting their wealth, and using them as cheap labour. The term also refers to a specific era of European expansion into the Americas, the colonization of Africa and countries of the South between the sixteenth and twentieth centuries. Colonialism was explained by racial doctrines that tried to justify these practices. These ideas about race, superiority, and inferiority are still widespread.

Workplace context: The workplace becomes a space that actively works against the remnants of colonial ideologies, building a culture of respect and understanding for the diverse histories and experiences of all employees. This might involve initiatives such as land acknowledgments, and partnerships.

COLOUR-BLIND RACIAL IDEOLOGY

The belief that people should be regarded and treated as equally as possible, regardless of race or ethnicity. While a colour-blind racial ideology may seem to be a pathway to achieve equity, it invalidates the importance of peoples' culture and ignores the manifestations of racist policies, which preserves the ongoing processes that maintain racial and ethnic stratification in social institutions.

Workplace context: In hiring or promotion decisions, the company might fail to address systemic barriers faced by certain racial or ethnic groups, assuming that a colour-blind approach eliminates racial bias. This neglects the unique challenges faced by individuals from diverse backgrounds and may perpetuate existing inequalities within the workplace.

COLOURISM

Prejudice or discrimination based on skin colour, especially within the same racial or ethnic group.

Workplace context: During a hiring process, a manager might unconsciously favour job candidates with lighter skin tones, assuming that they would better fit the company's image or culture. This bias could result in a lack of diversity within the organization and limit career advancement opportunities for employees with darker skin tones, showcasing how colourism can permeate various aspects of the workplace.

CROSS CULTURAL AWARENESS

A practice that suspends the judgment of others and makes them curious about understanding the interaction between them and us.

Workplace context: During a team meeting, one team member from a communist culture suggests a collaborative approach, emphasizing group harmony. Instead of dismissing this as unfamiliar, colleagues, trained in cross-cultural awareness, express curiosity, engage in open dialogue, and adapt their working style to incorporate the strengths of various cultural approaches. Thus foster a workplace culture of understanding and collaboration through cross-cultural awareness, promoting a more inclusive and effective team dynamic.

CULTURAL APPROPRIATION

The act of adopting elements of a culture by members of another culture, often without proper understanding or respect, and potentially causing harm or offence.

Workplace context: During a workplace event, employees are encouraged to celebrate diversity by sharing aspects of their own cultures in a respectful manner. Cultural appropriation may manifest if an employee, who does not belong to a particular culture, wears traditional clothing or accessories from that culture without understanding their cultural significance.

CULTURE

The shared ideas, beliefs, values, knowledge, norms, and way of life of a group of individuals. It also influences their beliefs about what is right, good and important.

Workplace context: A team member suggests a group discussion to reach a decision, while another, shaped by a more individualistic culture, proposes assigning tasks individually. Understanding and respecting varying cultural differences allow the team to find a collaborative solution that incorporates diverse perspectives and fosters a more inclusive work culture. Understanding and respecting these cultural differences allow the team to find a collaborative solution that incorporates diverse perspectives and a more inclusive work culture.

D**DISABILITY**

A physical or mental condition that limits a person's movements, senses, or activities. A disadvantage or handicap, especially one imposed or recognized by the law. A disability can occur at any time in a person's life; some people are born with a disability, while others develop a disability later in life. It can be permanent, temporary, or episodic. Because of its complexity, there is no single, harmonized operational definition of disability.

Workplace context: An employee develops a disability later in life due to a car accident and as a result experiences limited mobility. This disability requires adjustments in both the physical environment and work tasks. The workplace implements accommodations such as a wheelchair-accessible workstation and assigns tasks that align with the employee's abilities, ensuring an inclusive environment that allows everyone to contribute effectively regardless of their disability.



DISCRIMINATION

An action or behaviour based on prejudiced attitudes and feelings. Discriminatory behaviour attaches importance to physical differences between people and results in unfavourable treatment of people based on those feelings. Acts of discrimination are made more acceptable by racist attitudes, including those displayed in racist jokes. Discrimination is an action or a decision that treats a person or a group negatively for reasons such as race, age, or disability. These reasons are known as grounds of discrimination.

Workplace context: An employee is consistently passed over for promotions or important assignments based on their age, despite having the required skills and experience. Or a manager consistently assigns less challenging tasks to employees of a certain race, assuming they are less capable. To address this, the employer might implement policies promoting equal opportunities, conduct anti-discrimination training, and establish clear procedures for addressing and rectifying instances of discrimination, thus creating a workplace culture that values merit and diversity.



DIVERSITY, INCLUSION AND EQUITY (DEI)

A Diversity, Inclusion, and Equity (DEI) program is an organizational initiative designed to promote diversity, foster inclusion, and ensure equity within a workplace, community, or any other context. These three components, diversity, inclusion, and equity are interconnected and are important for creating a fair and respectful environment for all individuals, regardless of their background, identity, or characteristics.

Workplace context: This is where the employer establishes a mentorship program to support the professional development of employees from underrepresented backgrounds, conducts regular training sessions on cultural competence and inclusivity, and leadership actively promotes equitable practices in recruitment and promotions.

DIVERSITY

The presence and representation of a wide range of identities, backgrounds, and perspectives in a group, organization, or community.

Workplace context: the company actively recruits and hires employees from various backgrounds, including different races, genders, ages, and cultural identities. This inclusive approach contributes to a dynamic and innovative work environment where diverse ideas are considered, fostering a sense of belonging for all employees is created.

DOMINANT/MAJORITY GROUPS

Refers to the most powerful, privileged, and influential groups in a particular society or context, based on various social identities including, but not limited to, race, ethnicity, gender, class, sexual orientation, ability/disability, and religion. Frequently, dominant groups are also the majority in the population.

Workplace context: If the leaders in the workplace are predominantly white males, they represent the dominant group in the organization. In such a context, initiatives promoting diversity and inclusion might be implemented to ensure fair representation and equal opportunities for individuals from underrepresented groups.

E**EMPLOYEE RESOURCE GROUP (ERG)**

A group of employees within an organization who share common characteristics or experiences, working together to promote inclusion and support.

Workplace context: In the workplace an ERG group organizes events, provides resources, and serves as a support network for various diverse groups, such as 2SLGBTQT+ employees, creating a sense of community within the organization. The ERG collaborates with the workplace leadership to advocate for policies that promote inclusivity, contributing to a workplace culture that values and supports employees with diverse identities and experiences.

EMPLOYMENT EQUITY

A program designed to identify and eliminate discriminatory policies and practices that hinder fair employment. Networks, friendships, and favouritism have shaped employment practices to exclude those who would otherwise merit the job. Employment equity promotes fair hiring and personnel practices to ensure that employees are hired for only one reason: their qualifications to do their job.

Workplace context: The employer actively recruits from diverse talent pools, establishes transparent promotion criteria, and regularly assesses its policies to eliminate any barriers to fair employment.

ENVIRONMENTAL RACISM

Racial discrimination in environmental policymaking and enforcement of regulations and laws, the deliberate targeting of communities of colour for toxic waste facilities, the official sanctioning of the presence of life-threatening poisons and pollutants for communities of colour, and the history of excluding people of colour from leadership of the environmental movement.

Workplace context: If the employer is environmentally conscious and is in an area with a history of environmental racism, it could invest in green initiatives and collaborate with local communities to ensure equitable access to clean resources and opportunities for involvement in environmental decision-making processes.

EQUALITY

The state or quality of being equal; correspondence in quantity, degree, value, rank, or ability promoting equality of opportunity in the workplace.

Workplace context: The employer might implement salary transparency, providing employees with equal pay for equal work. Offer equal access to professional development opportunities and mentorship programs, where employees have the same chances to succeed and advance in their careers.

EQUITY

The fair and just treatment of all individuals, ensuring that everyone has equal access to opportunities and resources regardless of their background or identity so that each person has what they need to succeed and thrive.

Workplace context: The employer offers flexible work arrangements to accommodate diverse needs, provide accessible resources for professional development, and actively seek input from employees to ensure an inclusive decision-making process.

ETHNICITY

A category that describes membership in a group based on real or presumed common ancestry, shared languages or religious beliefs, cultural heritage, and group history.

Workplace context: The employer might organize cultural awareness events in the workplace where employees can showcase their ethnic traditions, share traditional foods, or participate in cultural activities.

F**FASCISM**

An extreme form of authoritarianism with the rule of law under one charismatic, cult-like leader who promotes hyper-nationalism xenophobia, and stokes political divisions to maintain power.

Workplace context: In a workplace context, manifestations of fascism might include a management style characterized by a singular, authoritarian leader who discourages dissent, fosters a culture of fear, and emphasizes blind loyalty. Policies and decisions could be driven by exclusionary ideologies, limiting diversity of thought, and stifling open dialogue. A workplace that values collaboration, inclusivity, and diverse perspectives would actively work against such tendencies, promoting a culture of respect, fairness, and open communication.

FIRST NATIONS

Used to refer to Indigenous peoples in Canada, including First Nations, Métis, and Inuit communities. The term reflects the self-naming process of some Aboriginal peoples in Canada today. The word first recognizes that Aboriginal peoples are the original inhabitants of what is now considered Canada. The word “nation” stresses that Aboriginal peoples are political collectives who had their own forms of government before European settlement.

Workplace context: To support cultural sensitivity and diversity, the employer offers cultural competency training to employees, create a designated space for Indigenous cultural activities, and actively seek input from First Nations individuals in decision-making processes.

G

GAY

Someone exclusively attracted to someone of the same gender romantically, emotionally, or sexually. This is often how men who are attracted to other men describe themselves.

Workplace context: The employer provides resources such as 2SLGBTQI+ awareness training, establish employee resource groups for 2SLGBTQI+ individuals, and actively promote a non-discriminatory environment. Thus, providing a space where gay employees feel comfortable expressing their identities and contributing to a culture of acceptance and respect for diverse sexual orientations.

GENDER EXPRESSION

The outward expression and presentation of gender identity through appearance, behaviour and clothing.

Workplace context: In an inclusive workplace, the employer may have a dress code that is inclusive and doesn't enforce traditional gender norms, allowing individuals to express their gender identity through clothing without fear of discrimination.

GENDER IDENTITY

An individual's internal sense and understanding of their own gender, which may or may not align with the sex assigned at birth.

Workplace context: Advocating for workers to use their preferred pronouns and for workplace communication materials to reflect and respect diverse gender identities. This commitment to recognizing and honoring diverse gender identities contributes to a workplace culture that values and supports individuals in expressing their authentic selves.

H

HARASSMENT

When an employee is subjected to unwanted conduct related to their religion with the purpose of degrading, intimidating, humiliating, or violating their dignity in any way.

Workplace context: Using the Prohibited grounds of religion as an example, if an employee observes religious practices or wears religious attire, the employer ensures that policies and training are in place to prevent any form of harassment based on religion.

HOMOPHOBIA

Prejudice and discrimination against individuals who identify as homosexual or same-gender attraction.

Workplace context: Advocating for the employer to provide awareness training sessions, display supportive signage, and enforce anti-discrimination policies to ensure that homophobic behavior is not tolerated.

I

IDENTITY POLITICS

The political mobilization and advocacy based on shared social identities and experiences.

Workplace context: Advocating for the formation of employee resource groups that advocate for the rights and interests of specific identity groups. Collaborate with the company's leadership to develop policies and initiatives that support underrepresented groups, to address issues related to diversity, inclusion, and equity.

IMPLICIT BIAS

This refers to unconscious attitudes and stereotypes that influence our judgments, perceptions, behaviours, and decision-making towards certain groups of people.

Workplace context: The employer provides training to recognize and mitigate their implicit biases, ensuring fair and objective assessments of candidates, thus minimizing the impact of unconscious biases on decision-making.

INCLUSION

Creating an environment where everyone feels valued, respected, and empowered to participate fully and authentically, regardless of their differences. Inclusion is the measure of the actual acceptance of and respect for everyone, regardless of race. It is about whose voice is heard, who is included and who is not.

Workplace context: The employer demonstrates acceptance and respect by preventing incidents of harassment or overt discrimination. It promotes the rights of all its members, regardless of race.

INCLUSIVE LANGUAGE

It is a communication approach that aims to be respectful and sensitive to the diversity of individuals and groups by avoiding language that may exclude, marginalize, or discriminate against people based on their gender, race, ethnicity, sexual orientation, disability, age, or other characteristics. It promotes inclusivity, diversity, and equity by using words and expressions that embrace and acknowledge the full spectrum of human identities and experiences.

Workplace context: Advocate for workplace communications, that use non-gender-specific terms and stereotypical language. Instead of using gendered pronouns like “he” or “she,” the company should use gender-neutral language like “they” and is also incorporated into job descriptions and company policies to ensure that all employees feel seen, and respected.



INCLUSIVE LEADERSHIP

A leadership commitment to ensuring that all team members are treated equitably, feel a sense of belonging and value and have the resources and support they need to achieve their full potential.

Workplace context: Advocate for leaders to actively engage with employees to understand their unique needs and experiences. Encourage open discussions about diversity and inclusion, actively seek input from team members from various backgrounds and push for everyone to have equal opportunities for professional development, mentorship, and career advancement.

INDIAN

Used to identify people the Government of Canada recognizes as having Indian status – people who have an identifiable band, live or were born on a reserve, and are recognized under a complex set of rules under the Indian Act (1985). The term does not include Inuit or Métis peoples. There are three categories of Indians in Canada: Status Indians, Non-Status Indians, and Treaty Indians. The term Indian is considered outdated by many people, and First Nation(s) is typically used instead.

Workplace context: Advocate for the use of respectful and up-to-date terminology, referring to individuals as First Nation(s) when discussing Indigenous peoples in Canada. Promote cultural competency training, to help to understand and respect the unique histories and identities of Indigenous employees.

INDIGENOUS

Generally used internationally, refers to original peoples to a particular land or territory. This term is very similar to Aboriginal and has a positive connotation.

Workplace context: Advocate for Indigenous speakers during cultural awareness events to share their perspectives, organize workshops on Indigenous traditions, and ensure that its policies and practices respect and reflect the positive connotation of the term “Indigenous.

INTERSECTIONALITY

Recognizing that individuals may experience multiple forms of discrimination or disadvantage simultaneously, such as being a person with disability and part of an ethnic or gender minority and considering these intersecting identities when addressing equity issues.

Workplace context: Advocate for individuals who may belong to multiple marginalized groups. For example, a person with a disability and part of an ethnic or gender minority. Pushing for policies that support systems, and workplace culture designed to be inclusive and supportive of employees with diverse and intersecting identities.

M

INUIT

The Aboriginal Peoples of Arctic Canada who live primarily in Nunavut, the Northwest Territories and northern parts of Labrador and Québec. The word Inuit means “people” in the Inuit language – Inuktitut. The singular of Inuit is Inuk. Their traditional languages, customs and cultures are distinctly different from those of the First Nations and Métis.

Workplace context: Advocate for workshops that highlight Inuit traditions, languages, and customs and resources, such as language support or cultural competency training, to ensure that all employees, including those who are Inuit, feel included and valued.

ISLAMOPHOBIA

The irrational fear, prejudice, or discrimination directed against Islam and Muslims, often based on negative stereotypes and misconceptions about the religion and its followers. It can manifest in various forms, including verbal abuse, physical attacks, social exclusion, discrimination in employment or housing, and the promotion of negative stereotypes and hate speech targeting Muslims.

Workplace context: The employer implements anti-discrimination policies that explicitly prohibit discrimination based on religion, including Islam. Provide diversity training to employees to increase awareness and understanding of different cultures and religions.

MARGINALIZATION/MARGINALIZED

A social process by which individuals or groups are (intentionally or unintentionally) distanced from access to power and resources and constructed as insignificant, peripheral, or less valuable/privileged to a community or “mainstream” society. The term ‘minoritized’ is also used to connote the same meaning.

Workplace context: The employer implements targeted initiatives, such as mentorship programs or training opportunities, to ensure that marginalized groups have equal access to resources and opportunities.

MÉTIS

French term meaning ‘mixed blood.’ The Canadian Constitution recognizes Métis people as one of the three Aboriginal Peoples. The term is used broadly to describe people with mixed First Nations and European ancestry who identify as Métis, distinct from First Nations, Inuit, or non-Aboriginal people.

Workplace context: Advocate for presentations and workshops that highlight Métis history, traditions, and contributions and ensuring that the employer’s policies and practices consider the specific needs and perspectives of Métis employees.

MICROAGGRESSIONS

Subtle, everyday verbal or non-verbal actions, behaviours or comments that unintentionally communicate derogatory or discriminatory messages towards individuals based on their race, gender, sexual orientation, or other characteristics.

Workplace context: Advocate for open communication, in the workplace to share experiences and learn from one another. Push for the employer to implement clear guidelines and reporting mechanisms to address instances of microaggressions, thus promoting a workplace culture where everyone is mindful of their words and actions.

MULTICULTURALISM

The policy or practice of promoting and respecting cultural diversity within a society.

Workplace context: The employer may implement workplace policies that support and respect diverse cultural practices, such as flexible scheduling to accommodate religious holidays or cultural observances.



N

NON-BINARY

Gender identities that are not solely male or female, outside the gender binary of man and woman. They may have no gender or a mix of genders.

Workplace context: The employer, during onboarding and employee surveys, provides options beyond the traditional binary choices of male and female, allowing individuals to identify as non-binary or choose their preferred gender identity.

NON-DOMINANT/MINORITY GROUPS

Refers to groups of people in a society that have less access to socioeconomic or political power than their dominant group counterparts due to their social identity, such as race, ethnicity, gender, class, or sexual orientation. Research demonstrates that non-dominant or minority groups face bias and barriers, both conscious and unconscious, through all stages of the employee life cycle. This includes recruitment and selection stages through to advancement and retention.

Workplace context: Advocate for a recruitment process that implements strategies to ensure a diverse pool of candidates, such as outreach programs and inclusive language in job descriptions. In addition, push for mentorship or support programs to assist non-dominant or minority group members in their career development, contributing to a workplace where all employees have equal opportunities for growth and success.

O

OPPRESSION

When an individual or group(s) of people are held down by injustice. A system that maintains advantages and disadvantages based on social group memberships and operates, intentionally and unintentionally, on individual, institutional and cultural levels.

Workplace context: The employer conducts regular equity audits to identify and rectify areas where oppressive practices may exist, such as biased hiring processes or unequal access to professional development opportunities. The employer also provide training to employees and leadership on recognizing and combating oppression in all its forms.

P

PATRIARCHY

A cultural, economic, and social system that presumes the superiority of man over woman, having its negative effects based on the privileges associated to man status.

Workplace context: Advocate for workplace policies and practices that promote gender diversity in leadership positions, such as mentorship programs, unbiased promotion criteria and provide training sessions on unconscious biases and gender stereotypes to raise awareness among employees.

PERSONS WITH DISABILITIES

A person who experiences barriers or functional restrictions or limitations to their full and self-determined participation in activities due to a difference in mobility, sensory, learning, or other physical or mental health experience.

Workplace context: Advocate for accessible workplace, such as ramps and elevators, to ensure a barrier-free environment, and reasonable accommodations, such as flexible work hours or assistive technologies, to enable persons with disabilities to fully participate in work activities.

POWER

The capacity to control circumstances. Therefore, power relates to the communities and groups we are born into. Power is defined as a group or an individual's ability to control or affect the political, economic, and social orders or organizations by shaping decisions, actions, and values of other groups or individuals.

Workplace context: The employer address power imbalances, like cross-functional collaboration teams, where employees from different levels contribute to the decision-making processes, encourage open communication channels and feedback mechanisms to ensure that power is distributed more equitably.

PREJUDICE

A usually negative prejudgment or attitude towards a group and its members. Such attitudes are typically based on unsupported generalizations (or stereotypes) that deny the right of individual members of certain groups to be recognized and treated as individuals with individual characteristics.

Workplace context: The employer provides training sessions to raise awareness about unconscious biases and challenge stereotypes, establish policies that promote a zero-tolerance approach to prejudiced behaviors, creating a culture where employees are encouraged to treat each other as individuals rather than making assumptions based on stereotypes.

PRIVILEGE

This term refers to the experience of freedoms, rights, benefits, advantages, access, or opportunities afforded to the dominant group because of their group membership or social context while the same is denied to minority groups. Privilege can also be described as unearned access to resources (social power) only readily available to some people as a result of their advantaged social group membership.

Workplace context: The employer establishes mentorship programs to provide opportunities for underprivileged or marginalized groups to access resources and career advancement. Mitigate the effects of privilege in the workplace and seeks to create a more inclusive environment where all employees have equal access to opportunities and resources, regardless of their social group memberships.

PROTECTED GROUNDS

The Human Rights Code prohibits actions that discriminate against people based on protected grounds in a protected social area. A protected ground is a status that someone has or a group they identify as belonging to that is protected under the Ontario Human Rights Code. Under the Code, there are 17 protected grounds. The grounds are citizenship, race, place of origin, ethnic origin, colour, ancestry, disability, age, creed, sex/ pregnancy, family status, marital status, sexual orientation, gender identity, gender expression, receipt of public assistance (in housing) and record of offences (in employment).

Workplace context: The employer put in place comprehensive anti-discrimination and harassment policies that explicitly address each of the 17 protected grounds outlined in the Human Rights Code.

Q

QUEER

An umbrella term for people who don't identify as heterosexual or cisgender. Historically, queer was used as a slur, but over the last few decades has been adopted by individuals who are reclaiming the word.

Workplace context: Advocate for workplace resources and support groups for employees who identify as queer, promoting a culture where individuals feel comfortable expressing their authentic selves.

R

RACIAL JUSTICE

The systematic fair treatment of people of all races, resulting in equitable opportunities and outcomes for all. Racial justice goes beyond “anti-racism” and involves the presence of deliberate systems and supports to achieve and sustain racial equity through proactive and preventative measures.

Workplace context: Advocate for hiring practices that prioritize diversity and inclusion, ensuring equitable opportunities for individuals of all races. This also includes a push for proactive measures to achieve and sustain racial equity.

RACIAL PATTERN RECOGNITION (RPR)

The ability to identify repeating trends and cycles in society—and within ourselves—to expand our knowledge base to include subtle and system-wide forms of racism and discrimination, not just the overt.

Workplace context: The employer provides workshops or seminars that help employees develop the skills to recognize subtle and system-wide forms of racism and discrimination. This training aims to enhance employees’ ability to identify and address patterns of inequality, ensuring a more inclusive and equitable workplace.

RACIAL PROFILING

Any action, inaction or comment that relies on stereotypes about race or color. Racial profiling is usually targeted at persons of color and based on negative stereotypes.

Workplace context: Advocate for workers of colour in the workplace who are unfairly scrutinized or overlooked based on stereotypes rather than their qualifications, which constitutes racial profiling. Push for the employer to address this by implementing unbiased hiring and promotion practices, providing training to eliminate stereotypes, to support a culture of inclusion that values individuals for their skills and contributions rather than perpetuating harmful assumptions based on race.

RACIALIZED PEOPLE

People who do not identify as primarily white in race, ethnicity, origin, or colour, regardless of their birthplace or citizenship. Racialized is a more current term than visible minority from the Employment Equity Act (1995). Racially marginalized is another term that is now being used more widely instead of racialized.

Workplace context: In the workplace, using the term “racialized people” or “racially marginalized” signals a commitment to recognizing and addressing the unique challenges faced by individuals who do not identify as primarily white, promoting a workplace culture that values diversity and actively works against discrimination based on race.

RACIALLY MARGINALIZED

The term “racially marginalized” refers to individuals or groups who experience social, economic, and political disadvantages based on their race or ethnicity. Racial marginalization can manifest through systemic discrimination, limited access to resources, and exclusion from opportunities.

Workplace context: The employer establishes mentorship programs, training initiatives, and resource networks to support the professional development and well-being of racially marginalized individuals, to demonstrate a commitment to a workplace culture that values diversity, equity, and inclusion.

RACISM

It is different from racial prejudice, hatred, or discrimination. Racism involves one group having the power to carry out systematic discrimination through the institutional policies and practices of the society and by shaping the cultural beliefs and values that support those racist policies and practices.

- ▶ Racism = a system of advantage based on race
- ▶ Racism = a system of oppression based on race
- ▶ Racism = a white supremacy system
- ▶ Racism = race prejudice + social and institutional power

Workplace context: Advocate for workplace policies that promote equity, diversity, and inclusion, regular anti-racism training, to build a culture where all employees feel valued and supported regardless of their racial background. While challenging hiring or promotion practices that systematically favour one racial group over another, which contributes and perpetuate systemic discrimination and institutional racism.

RACIST POLICY

Any measure that produces or sustains racial inequity between or among racial groups. Every policy in every institution in every community in every nation produces or sustains racial inequity or equity between racial groups.

Workplace context: The employer implements inclusive hiring practices, diversify recruitment sources, and regularly review and revise its policies to ensure they contribute to racial equity rather than perpetuating disparities. This proactive approach helps to identify and rectify unintentional biases that may be present in policies.

S**SEXISM**

The systemic and individual practices that privilege men, subordinate women, and debase woman-identified values.

Workplace context: Advocate for workplace policies and practices that ensure equal pay for equal work, promoting gender diversity in leadership positions, and fostering a workplace culture that values and respects individuals regardless of their gender.

SEXUAL HARASSMENT

An unwelcome conduct of a sexual nature that detrimentally affects the work environment or leads to adverse job-related consequences for the victims of the harassment.

Workplace context: The employer implements clear policies, provide education and training, and create an environment that is respectful and free from harassment, where employees feel safe reporting incidents without fear of retaliation.

SOCIOECONOMIC STATUS

Refers to an individual's social and economic position in society, often measured by income, education, and occupation.

Workplace context: Advocate for hiring practices that don't unintentionally favour candidates from higher socioeconomic backgrounds, which can contribute to a lack of diversity and inclusivity. This includes advocating for equitable hiring practices and opportunities for professional development regardless of socioeconomic background, that values employees from diverse social and economic backgrounds.

STEREOTYPING

Refers to forming an instant or fixed picture of a group of people without any other information or experience.

Workplace context: The employer assumes that employees from a certain ethnic background are less capable of leadership roles without considering individual qualifications, which perpetuates stereotypes and hinders diversity and inclusion. Instead, the employer should implement diversity training, promote open communication, and encourage a culture of respect that values individuals for their unique skills and contributions rather than relying on stereotypes.

SYSTEMIC/STRUCTURAL RACISM

A deeply rooted and continually evolving system of racial inequality that affects every institution and individual in our society. Normalizing and legitimizing historical, cultural, institutional, and interpersonal policies and practices routinely advantages whites while producing cumulative and chronic adverse outcomes for people of colour. Systemic racism mostly occurs when structures and practices (whether intentional or not) exclude, exploit, and deny people their rights based on race. For instance, discrimination in hiring and promotions can lead to racial wage gaps. People of colour often face barriers to accessing high-paying jobs and career advancement opportunities.

Workplace context: The employer hiring processes disproportionately favour certain racial groups or if there's a lack of representation in leadership roles for people of color, it contributes to systemic racism. This can result in unequal access to career advancement opportunities, wage gaps, and limited representation at decision-making levels.

T

TOKENISM

The practice of including a small number of individuals from underrepresented groups to merely give the appearance of diversity without providing genuine opportunities for inclusion, influence, or addressing systemic issues.

Workplace context: The employer appoints a person of colour to a high-profile role but doesn't address broader systemic issues, such as inclusive hiring practices or equal opportunities for career advancement, it can be considered tokenism.

U

UNCONSCIOUS BIAS

Implicit attitudes or stereotypes that influence our perceptions and decisions without our awareness, often leading to unintentional discrimination.

Workplace context: During the hiring process the employer unconsciously favours candidates who share similar characteristics with them, unintentionally overlooking the diverse skills and qualifications of other candidates. This bias can lead to a lack of diversity which hinders the promotion of equal opportunities for all employees. Implementing unconscious bias training and raising awareness can help address and mitigate these biases in the workplace.

W

WHITE FRAGILITY

A defensive reaction from a white person when confronted by a minimum amount of racial stress or reality of a marginalized person.

Workplace context: In a workplace setting, white fragility might be observed when an employee from a dominant racial group becomes defensive or uncomfortable during a diversity and inclusion or in a scenario where a racial issue is being addressed.

WHITE PRIVILEGE

Refers to the unquestioned and unearned set of advantages, entitlements, benefits, and choices bestowed on people solely because they are white. Generally, white people who experience such privilege do so without being conscious of it.

Workplace context: A white employee may be more likely to receive positive assumptions about their competence or work ethic, enjoy easier access to networking opportunities, or face fewer barriers in career advancement compared to their non-white counterparts.

WHITE SUPREMACY

The idea (ideology) that white people and the ideas, thoughts, beliefs, and actions of white people are superior to People of Colour and their ideas, thoughts, beliefs, and actions.

Workplace context: policies or practices that disproportionately favour white employees, subtle biases that result in the exclusion or marginalization of employees of colour, and the perpetuation of a corporate culture that reinforces white-centric norms and values, inadvertently disadvantaging individuals from diverse racial backgrounds.

INCLUSIVE LANGUAGE

Inclusive language is a language that acknowledges diversity, conveys respect to all people, is sensitive to differences, and promotes equal opportunities. The best way to understand inclusive language is to:

1. Focus on the person first.
2. Avoid generalizations and assumptions.
3. Use universal language and phrases.
4. Use gender-neutral language where possible.
5. Avoid defining people by their disabilities.
6. Ask if you are not sure.

Some examples have been provided below as a guide in communications.

SUGGESTED LANGUAGE FOR SEXUAL ORIENTATION, GENDER IDENTITY, AND EXPRESSION

- **Not Assuming Orientation:** Use a gender-neutral term like partner instead of girlfriend, boyfriend, wife, or husband, in case they are 2SLGBTQI+.
- **Pronoun Normalization:** Use they instead of a gendered pronoun until they have told you their pronouns.
- Instead of using **guys** when referring to a group, use gender-neutral words like **everyone, friends, comrades, folks, etc.**
- **Using Ms. without asking for preference:** While **Ms.** is considered a neutral title for women, it is still best to ask individuals for their preferred title, as some may prefer **Mrs.** or **Miss.**

SUGGESTED LANGUAGE FOR RACE AND CULTURE

- **Whitelist/Blacklist:** These terms can perpetuate racial stereotypes. Use *allowlist*, *blocklist* or other neutral terms to describe access control lists.
- Instead of *immigrants*, *foreigners*, *migrants*, or *aliens*, use *newcomers* or *new to Canada*.
- Instead of *racialized*, use *racially marginalized*.
- Instead of using *minorities* when referring to a racially diverse group of people, *Black*, *Indigenous and People of Colour (BIPOC)* is the preferred broad term. *Underrepresented* or *racially marginalized* is also acceptable to describe a group in context. For example, “Latino workers are underrepresented in tech.”
- Saying *you speak well for a minority person* is condescending and implies that all people from ethnic or racial minorities do not speak English well.
- Saying *I do not see colour* might have a positive intent but does not have a positive impact. It can be harmful to equity, diversity, and inclusion endeavours because it denies the existence of racial and ethnic inequality.
- Asking *where someone is really from* when they have already provided an answer reveals bias. It suggests that the person being questioned cannot be from here and does not belong. The question suggests that the person being questioned does not belong.
- Saying *those people* or *you people*, suggests that an individual belongs to a group identity that has been labelled with an undesirable characteristic.

SUGGESTED LANGUAGE FOR DISABILITY/ABLEISM

- Say a *person with a disability* rather than a *disabled person* to ensure their identity is not defined entirely by their disability.
- Use *autism spectrum* rather than *Asperger’s* to refer to a person on the autism spectrum.
- Describing someone as *a person with vision loss* or a *visual impairment* instead of blind.
- Say *uses a wheelchair* instead of describing them as *wheelchair-bound*.
- Rather than say *you have a blind spot* or *turning a blind eye*, say *you missed an opportunity*.
- Do not use the adjective *unfortunate* when talking about people with an intellectual disability. Disabling conditions do not have to be life-defining in a negative way.

SUGGESTED LANGUAGE FOR POWER AND PRIVILEGE

- ▶ Instead of saying someone is from the **inner city** or **homeless**, refer to them as **under-resourced** or a **person experiencing homelessness**.
- ▶ Rather than stating someone is from a **disadvantaged neighbourhood**, instead describe them as **living in a neighbourhood with access to fewer opportunities**.
- ▶ Instead of saying **poverty-stricken**, **welfare-reliant**, **lower-class people**, and **the poor**, refer to them as **people whose income is below the poverty threshold**, **people with low income**, or **people receiving welfare**.
- ▶ Instead of referring to people as **ex-con**, **felon**, or **ex-offender**, refer to them as **people who have had/with felony convictions**, **people who have been incarcerated**, or **formerly incarcerated**.

SUGGESTED LANGUAGE FOR RELIGION

- ▶ When writing about countries or regions with one majority religion, use **Muslim-majority country** rather than **Muslim country** or **Islamic country**.
- ▶ If you are speaking about a group of people where it is necessary to point out their Jewish status, consider **people from other backgrounds** or **people who are not Jewish**.
- ▶ To be inclusive of all religions, use **people of all faiths and backgrounds**.
- ▶ Instead of using religious holidays as the default, use “End-of-year” or “seasonal” celebrations. For example, **let’s plan a team event to celebrate end-of-year festivities, acknowledging the diverse seasonal celebrations our team observes.**”
- ▶ Instead of assuming religious beliefs in conversation, use open-ended questions or general statements. For example: instead of asking, “**What church do you go to?**” consider asking, “**Do you have any special traditions or practices during this time of year?**”

SUGGESTED LANGUAGE FOR AGE

- ▶ Instead of saying someone is old, describe them as **senior**, **experienced** or **effective**.
- ▶ Rather than saying a team is **young** and **vibrant**, use **vibrant**.
- ▶ Rather than use **men and women**, use **colleagues**.
- ▶ Rather than say **grandfathered**, use **exempted**, **excused**, **preapproved**, or **preauthorize**.
- ▶ Saying something like **I’m surprised you’re so good on the computer** implies that the person is old or illiterate or that older generations struggle with computers and technology.
- ▶ Saying something like **you don’t look your age** implies that people of a certain age should look a certain way.

Using inclusive language helps foster a workplace culture that values individuals at all stages of their career and life, contributing to a more respectful and supportive environment.

Equity and Inclusion Workshops and Outlines

We are a diverse union and as such, diversity, equity, and inclusion hold significant importance to our union representatives and shop stewards in their efforts to build equitable and inclusive workplaces across Ontario. This toolkit outlines a series of workshops aimed at equipping you with the necessary tools to infuse equity and inclusion within your respective units. These workshops are designed to cover fundamental concepts essential for creating and sustaining inclusive environments where every individual feels valued and respected.

Each workshop will explore critical topics surrounding DEI, providing participants with the understanding of key principles and practical strategies for implementation. To ensure effectiveness of these workshops, every session will be accompanied by a one-hour facilitator's guide, designed to aid union representatives and shop stewards in leading meaningful discussions and build a culture of openness and understanding. By empowering these frontline leaders with the knowledge and skills to champion diversity, equity, and inclusion, this initiative aims to drive tangible and lasting positive change across workplaces throughout Ontario.



Workshop Outlines

Locations: These sessions will be in-person, virtually or on Vubiz.

MATERIALS NEEDED:

- Chart paper or whiteboard with markers
- Projector and screen (for presentations)
- Laptop or device for multimedia presentations
- Sticky notes and pens
- Handouts (optional)
- Case studies or scenarios (optional)

FACILITATOR TIPS:

1. **Foster a safe space:** Ensure participants feel comfortable sharing their thoughts and experiences.
2. **Know your audience:** Understand your audience's background, interests, and knowledge level. Tailor your presentation to meet their specific needs and expectations.
3. **Tailor to your audience:** Adapt the content and activities based on the needs and demographics of your specific audience.
4. **Encourage self-reflection:** Create opportunities for participants to reflect on their own biases, privileges, and experiences.
5. **Use diverse examples:** Incorporate examples and scenarios relevant to various identities and backgrounds.
6. **Be empathetic:** Acknowledge that discussions about equity and inclusion can be emotionally charged, and show empathy and support for participants.
7. **Clear Objectives:** Define clear and achievable learning objectives for the session. Ensure participants know what to expect and what they will gain from attending.
8. **Engaging Presentation:** Use visual aids (slides, images, videos) to supplement your verbal presentation. Incorporate stories, anecdotes, or real-life examples to make the content relatable. Encourage participation through interactive elements, such as polls or Q&A sessions.
9. **Share resources:** Provide post-training resources, such as recommended readings or organizations focused on equity and inclusion.

INFORMATIONAL SESSION: INTRODUCTION TO THE SOCIAL JUSTICE CAPACITY BUILDING PROGRAM (SJCB)

This one-hour session will provide information about our Organizational Equity and Inclusion (OEI) commission's journey in pursuing racial justice, equity and inclusion. It will provide an overview of the SJCB program, its evolution and catalyst, and current and future initiatives.

WHO SHOULD ATTEND THIS WORKSHOP?

- New SEIU Healthcare staff being onboarded.
- New members whose units have just joined SEIU Healthcare.
- As a refresher session for employees and members every convention cycle.

AGENDA:

1. Welcome and Introduction

- Welcome participants and introduce yourself.
- Briefly explain the session objectives.

2. Organization Equity & Inclusion Commission (OEI) and the SJCB program evolution.

3. Defining the SJCB's role & program

- Community
- Internally
- Membership

4. Introducing the SJCB Tool Kit

- SJCB Investigative In-Unit Guide to Support Stewards and Union Representatives
- Human Rights Reference Guide
- Social Justice and DEI Reference Guide
- DEI Workshops
- Online Access to Reference Guides and DEI Workshops

5. Interactive Activity

- Conduct an interactive activity or discussion to reinforce key concepts and engage participants.

6. Q&A and Closing

- Address any questions or concerns from participants.
- Summarize key takeaways.
- Thank the participants for their participation.

Remember that the goal of an informational session is to effectively convey information and knowledge to your audience. Being well-prepared, engaging, and responsive to your audience's needs will enhance the success of your session.

WORKSHOP #1: INTRODUCTION TO EQUITY AND INCLUSION

Introduction: Creating an inclusive and equitable environment is crucial for fostering diversity, ensuring fair treatment, and promoting positive relationships within any organization or community. This one-hour facilitator's guide is designed to help you lead a workshop or training session on the fundamental concepts of equity and inclusion. By the end of this training, participants should have a foundational understanding of these principles and how to apply them in their respective roles and contexts.

WHO SHOULD ATTEND THIS WORKSHOP?

- All SEIU Employees
- Union Representatives
- New Stewards
- General Membership

AGENDA:

1. Welcome and Introduction
2. Defining Equity and Inclusion
3. Why Equity and Inclusion Matter
4. Barriers to Equity and Inclusion
5. The Role of Individuals
6. The Role of Organizations
7. Interactive Activity
8. Q&A and Closing

Remember that promoting equity and inclusion is an ongoing journey. This training is a foundational step. Encourage participants to continue their learning and advocacy beyond the workshop.

WORKSHOP #2: UNCONSCIOUS BIAS

Introduction: Unconscious bias refers to the attitudes, beliefs, and stereotypes that unconsciously influence our perceptions, decisions, and interactions with others. These biases can affect our judgments and actions, often leading to unintentional discrimination and unequal treatment. This one-hour facilitator's guide will help you lead a workshop or training session on unconscious bias. By the end of this training, participants should have a deeper understanding of unconscious bias, its impact, and strategies to mitigate its effects.

WHO SHOULD ATTEND THIS WORKSHOP?

- All SEIU Employees
- Union Representatives
- New Stewards
- General Membership

AGENDA:

1. Welcome and Introduction
2. Defining Unconscious Bias
3. Types of Unconscious Bias
4. The Impact of Unconscious Bias
5. Identifying Unconscious Bias
6. Mitigating Unconscious Bias
7. Q&A and Closing

Remember that addressing unconscious bias is an ongoing process, and this training is just one step toward creating a more inclusive and equitable workplace. Continually revisit and update the content to ensure its relevance and effectiveness.

WORKSHOP #3: UNDERSTANDING RACIAL DISCRIMINATION

Introduction: Understanding racial discrimination is essential for fostering empathy, dismantling systemic racism, and promoting equity and justice. This one-hour facilitator's guide is designed to help you lead a workshop or training session on the complex topic of racial discrimination. By the end of this training, participants should have a deeper understanding of racial discrimination, its historical context, and how to be active allies against it.

WHO SHOULD ATTEND THIS WORKSHOP?

- All SEIU Employees
- Union Representatives
- New Stewards
- General Membership

AGENDA:

1. Welcome and Introduction
2. Defining Racial Discrimination
3. Historical Context
4. Manifestations of Racial Discrimination
5. The Impact of Racial Discrimination
6. Recognizing Implicit Bias
7. Strategies for Addressing Racial Discrimination
8. Q&A and Closing

Remember that understanding racial discrimination is an ongoing process, and this training is just one step toward promoting racial equity and justice. Encourage participants to continue their learning and advocacy beyond the workshop.

WORKSHOP #4: CULTURAL AWARENESS AND COMPETENCE

Introduction: Cultural awareness and competence are essential skills for individuals and organizations operating in diverse and multicultural settings. This one-hour facilitator's guide will help you lead a workshop or training session on cultural awareness and competence. By the end of this training, participants should have a deeper understanding of cultural differences, the importance of cultural competence, and practical strategies for enhancing cultural awareness.

WHO SHOULD ATTEND THIS WORKSHOP?

- All SEIU Employees
- Union Representatives
- New Stewards
- General Membership

AGENDA:

1. Welcome and Introduction
2. Defining Culture
3. Cultural Awareness
4. Stereotypes and Bias
5. Cultural Competence
6. Communication Across Cultures
7. Break
8. Cultural Sensitivity
9. Cultural Intelligence
10. Case Studies and Group Discussion
11. Q&A and Closing

Remember that cultural awareness and competence are continuous learning processes, and this training is just one step toward enhancing these skills. Encourage participants to continue their cultural learning and practice beyond the workshop.

WORKSHOP #5: MICROAGGRESSIONS AND STEREOTYPES

Introduction: Microaggressions and stereotypes are subtle but harmful forms of bias that can negatively impact individuals and perpetuate discrimination. This one-hour facilitator's guide is designed to provide a concise yet informative session on these topics. By the end of this training, participants should have a basic understanding of microaggressions and stereotypes, their impact, and strategies for addressing them.

WHO SHOULD ATTEND THIS WORKSHOP?

- All SEIU Employees
- Union Representatives
- New Stewards
- General Membership

AGENDA:

1. Welcome and Introduction
2. Defining Microaggressions
3. The Impact of Microaggressions
4. Recognizing Stereotypes
5. Types of Microaggressions
6. Strategies for Addressing Microaggressions
7. Challenging Stereotypes
8. Q&A and Closing

This one-hour session is a starting point for raising awareness about microaggressions and stereotypes. Encourage participants to continue their learning and advocacy beyond the session.

WORKSHOP #6: INTERSECTIONALITY

Introduction: Intersectionality is a concept that highlights the interconnected nature of various social identities and the unique experiences and challenges faced by individuals who belong to multiple marginalized groups. This one-hour facilitator's guide is designed to provide a concise yet informative session on intersectionality. By the end of this training, participants should have a basic understanding of intersectionality, its importance, and how it applies to various aspects of life.

WHO SHOULD ATTEND THIS WORKSHOP?

- SEIU management
- Union Representatives
- Stewards

AGENDA:

1. Welcome and Introduction
2. Defining Intersectionality
3. Key Concepts and Terminology
4. The Importance of Intersectionality
5. Intersectionality in Everyday Life
6. Addressing Intersectionality
7. Q&A and Closing

This one-hour session serves as an introduction to the concept of intersectionality. Encourage participants to continue learning about intersectionality and its applications in various aspects of life.

WORKSHOP #7: SYSTEMIC RACISM AND INSTITUTIONAL CHANGE

Introduction: Understanding systemic racism and the steps toward institutional change is crucial for dismantling inequities and fostering a more just and equitable society. This one-hour facilitator's guide is designed to provide a concise yet informative session on these topics. By the end of this training, participants should have a basic understanding of systemic racism, its impact on institutions, and strategies for promoting institutional change.

Who should attend this workshop?

- SEIU Healthcare management team
- Union Representatives

AGENDA:

1. Welcome and Introduction
2. Defining Systemic Racism
3. The Impact of Systemic Racism
4. Institutional Change: Why It Matters
5. Strategies for Promoting Institutional Change
6. Overcoming Resistance
7. Q&A and Closing

This one-hour session serves as an introduction to the concepts of systemic racism and institutional change. Encourage participants to continue learning and engaging in the fight against systemic racism beyond the session.

WORKSHOP #8: ALLYSHIP AND INTERVENTION

Introduction: Allyship and intervention are essential components of creating inclusive and equitable environments. This one-hour facilitator's guide is designed to provide a concise yet informative session on these topics. By the end of this training, participants should have a basic understanding of what it means to be an ally, how to intervene in situations of bias and discrimination, and practical steps for taking action.

Who should attend this workshop?

- SEIU Healthcare management team
- Union Representatives
- Stewards

AGENDA:

1. Welcome and Introduction
2. Defining Allyship
3. Understanding Bias and Discrimination
4. The Role of Allies
5. Strategies for Allyship
6. Intervening in Bias and Discrimination
7. Role-Playing and Scenarios
8. Q&A and Closing

This one-hour session serves as an introduction to the concepts of allyship and intervention. Encourage participants to continue learning and practice beyond the session, emphasizing the importance of consistent and meaningful allyship and intervention efforts.

WORKSHOP #9: INCLUSIVE COMMUNICATION

Introduction: Inclusive communication is key to creating welcoming and equitable environments where everyone feels respected and valued. This one-hour facilitator's guide is designed to provide a concise yet informative session on inclusive communication. By the end of this training, participants should have a basic understanding of the principles of inclusive communication, its importance, and practical strategies for implementing it in various contexts.

Who should attend this workshop?

- All SEIU Employees
- Union Representatives
- New Stewards
- General Membership

AGENDA:

1. Welcome and Introduction
2. Defining Inclusive Communication
3. Recognizing Communication Barriers
4. The Importance of Active Listening
5. Inclusive Language
6. Non-Verbal Communication
7. Interactive Activity
8. Q&A and Closing

This one-hour session serves as an introduction to the principles of inclusive communication. Encourage participants to continue learning and practice beyond the session, emphasizing the ongoing effort required to create inclusive and equitable communication environments.

WORKSHOP #10: SUSTAINING AN EQUITABLE AND INCLUSIVE WORKPLACE

Introduction: Maintaining an equitable and inclusive workplace is an ongoing process that requires commitment and effort from everyone involved. This one-hour facilitator's guide is designed to provide a concise yet informative session on sustaining equity and inclusion in the workplace. By the end of this training, participants should have a basic understanding of the key elements necessary to create and maintain an inclusive work environment.

Who should attend this workshop?

- SEIU Healthcare management
- Union Representatives

AGENDA:

1. Welcome and Introduction
2. The Importance of Sustaining Equity and Inclusion
3. Maintaining Leadership Commitment
4. Ongoing Education and Training
5. Fostering Inclusive Policies and Practices
6. Measuring Progress and Accountability
7. Interactive Activity
8. Q&A and Closing

This one-hour session serves as an introduction to the principles of sustaining equity and inclusion in the workplace. Encourage participants to continue their learning and advocacy beyond the session, emphasizing the ongoing nature of this important work.

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Appendix

UNIVERSAL DECLARATION OF HUMAN RIGHTS

UDHR: A milestone document adopted by the United Nations General Assembly in 1948, which sets out fundamental human rights to be universally protected and promoted. Reference: United Nations. "Universal Declaration of Human Rights." (1948). <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

Civil Rights: Fundamental rights and freedoms that protect individuals' liberties and ensure equal treatment under the law, such as the right to vote, freedom of expression, and freedom from discrimination. Reference: United Nations. "International Covenant on Civil and Political Rights" (1966). <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

Cultural Rights: Rights related to preserving and promoting cultural identity, language, and heritage of individuals and communities. Reference: United Nations. "Universal Declaration on Cultural Diversity" (2001). <https://unesdoc.unesco.org/ark:/48223/pf0000133613>

Economic Rights: Rights related to economic well-being, including the right to work, fair wages, social security, and access to basic necessities such as food, housing, and healthcare. Reference: United Nations. "International Covenant on Economic, Social, and Cultural Rights" (1966). <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

Political Rights: Rights related to participation in the political process, including the right to vote, the right to run for public office, and the right to participate in government decision-making. Reference: United Nations. "International Covenant on Civil and Political Rights" (1966). <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

Right to Education: The right to access free and compulsory primary education and the continuous development of secondary and higher education. Reference: United Nations. "Universal Declaration of Human Rights," Article 26 (1948). <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

Right to Equality and Non-Discrimination:

The right to be treated equally and protected against discrimination based on race, ethnicity, sex, religion, disability, or other characteristics. Reference: United Nations. "Universal Declaration of Human Rights," Article 1 (1948). <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

Right to Freedom of Expression:

The right to express opinions, ideas, and information freely without censorship or interference from the government or other authorities. Reference: United Nations. "Universal Declaration of Human Rights," Article 19 (1948). <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

Right to Freedom of Religion or Belief:

The right to hold and practice any religion or belief without coercion or discrimination. Reference: United Nations. "Universal Declaration of Human Rights," Article 18 (1948). <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

Right to Health: The right to access healthcare services, clean water, sanitation, and adequate nutrition to maintain physical and mental health. Reference: World Health Organization (WHO). "Constitution of the World Health Organization" (1946). <https://www.who.int/about/who-we-are/constitution>

Right to Privacy: The right to personal privacy and protection against arbitrary intrusion into one's private life, family, home, and correspondence. Reference: United Nations. "Universal Declaration of Human Rights," Article 12 (1948). <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

Social Rights: Rights that protect individuals' social welfare, including access to education, healthcare, housing, and social services. Reference: United Nations. "International Covenant on Economic, Social, and Cultural Rights" (1966). <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>



CANADIAN HUMAN RIGHTS ACT

CRHA: Federal legislation that prohibits discrimination based on various grounds, such as race, national or ethnic origin, religion, sex, age, disability, and sexual orientation. Reference: <https://laws-lois.justice.gc.ca/eng/acts/h-6/>

Canadian Charter of Rights and Freedoms:

A constitutional document that forms part of the Constitution of Canada, guaranteeing fundamental rights and freedoms to all individuals in Canada. Reference: <https://laws-lois.justice.gc.ca/eng/const/page-15.html>

Canadian Human Rights Commission

(CHRC): An independent federal agency responsible for administering the Canadian Human Rights Act, promoting human rights, and addressing complaints of discrimination. Reference: <https://www.chrc-ccdp.gc.ca/eng>

Canadian Human Rights Tribunal (CHRT):

An independent quasi-judicial body that adjudicates complaints of discrimination referred by the Canadian Human Rights Commission. Reference: <https://www.chrt-tcdp.gc.ca/eng>

ONTARIO'S HUMAN RIGHTS LEGISLATIONS, CODES, AND REGULATIONS

Ontario Human Rights Code: Provincial legislation that prohibits discrimination and harassment in Ontario based on various grounds, including race, creed, color, disability, sex, sexual orientation, and age. Reference: <https://www.ontario.ca/laws/statute/90h19>

Accessibility for Ontarians with Disabilities Act (AODA): Provincial legislation aimed at making Ontario accessible to individuals with disabilities by implementing accessibility standards in various sectors. Reference: <https://www.ontario.ca/laws/statute/05a11>

Occupational Health and Safety Act, R.S.O. 1990, c. O.1: is to provide the legal framework to achieve our goal of protecting workers from health and safety hazards on the job by: setting [ontario.ca/laws/statute/90p07](https://www.ontario.ca/laws/statute/90p07)

Ontario Human Rights Commission (OHRC): An independent statutory agency responsible for promoting and enforcing the Ontario Human Rights Code, as well as providing education and advocacy on human rights issues. Reference: <http://www.ohrc.on.ca/>

Ontario Human Rights Tribunal (HRTO): An independent adjudicative body that handles complaints of discrimination filed under the Ontario Human Rights Code. Reference: <http://www.sjto.gov.on.ca/hrto/>

Ontario's Employment Standards Act: Legislation that sets minimum standards for employment in Ontario, including provisions related to working hours, wages, and leave entitlements. Reference: <https://www.ontario.ca/laws/statute/00e41>

Ontario's Human Rights Legal Support Centre (HRLSC): An organization that provides legal assistance to individuals who believe they have experienced discrimination in Ontario. Reference: <https://www.hrlsc.on.ca/en>

Bill 168, Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace) 2009: Bill 168 requires employers to have policies and programs in place to deal with workplace violence, workplace harassment and domestic violence that may occur in the workplace. Employers are required to: Have procedures in place for workers to report incidents. <https://www.ola.org/en/legislative-business/bills/parliament-39/session-1/bill-168>

Pay Equity Act, R.S.O. 1990, c. P.7: The Pay Equity Act requires employers to pay female jobs at least the same as male jobs if they are of comparable value. Pay equity compares jobs usually done by women with different jobs usually done by men. Female jobs are mostly or traditionally done by women such as librarian, childcare worker, or secretary. <https://www.ontario.ca/laws/statute/90p07>

Labour Relations Act, 1995: The Ontario Labour Relations Act (OLRA) governs the relationship between unions and employers in most Ontario workplaces. Among other things, it covers the process for bringing a union into a workplace (organizing) and negotiating a first contract (collective bargaining). <https://www.ontario.ca/laws/statute/95l01>

Checklist for a shop steward when investigating

-
- ☐ Gather details from the affected employee (what, when, where, how).
-
- ☐ What does the affected employee want or need (action required)?
-
- ☐ Assess the allegations and determine key issues
-
- ☐ Assess which persons you would need to speak to
-
- ☐ Assess what other information or documents are required
-
- ☐ Consult your workplace's human rights policy.
-
- ☐ Seek advice from your union and consult this toolkit
-
- ☐ Maintain confidentiality and support the employee throughout the process
-
- ☐ Involve HR and Employer
-
- ☐ Follow up on HR investigation to ensure compliance and provide necessary support
-







CANADA'S HEALTHCARE UNION