

# OHS “Workplace Violence” Definitions Across Canada



Every jurisdiction in Canada requires employers to take measures to protect workers from the risk of workplace violence. But while the obligation is universal, the definition of “workplace violence” varies from place to place. There are 2 key variables:

## 1. Physical v. Psychological

Most jurisdictions, including ON, BC, MB, NB, NS, PEI and NL, limit the definition of “violence” to conduct causing or threatening (or conduct that a worker reasonably perceives as causing or threatening) *physical* harm to a worker. Result: Workplace violence protections don’t extend to harassment. The good news is that all but 3 of the physical violence jurisdictions include parallel protections against workplace harassment. The exceptions are BC, NL and NS.

By contrast, FED, QC and AB law define “violence” broadly as conduct causing or threatening not only physical but also *psychological* harm to the worker. Québec is not only the pioneer of this progressive approach but its most extreme practitioner. In QC, there are no specific OHS duties re: workplace violence; instead, the workers’ protection are rooted in the employer’s duty (under the *Labour Standards Act*) to prevent “psychological harassment” in the workplace.

Note: SK defines “violence” as including harm and threat of harm but doesn’t specify whether the harm or threat has to be physical or psychological.

## 2. The Worker-on-Worker Exception

BC, NL and PEI not only limit violence to physical danger but expressly exclude conduct directed against a worker by another worker. In other words, the employer’s duty to prevent workplace violence extends only to violence perpetrated against workers by third parties.

## DEFINITION OF WORKPLACE VIOLENCE BY JURISDICTION

### FEDERAL

- i. OHS Act: “**Harassment and violence**” means any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment [Canada Labour Code, Sec. 122(1) (as amended by soon to be adopted Bill C-65)]; and
- ii. OHS Regs., “**Work place violence**” means any action, conduct, threat or gesture of a person towards an employee in their work place that can reasonably be expected to cause harm, injury or illness to that employee [OHS Regs., Part XX, Sec. 20.2].

### ALBERTA

“**Violence**”, whether at a work site or work-related, means the threatened, attempted or actual conduct of a person that causes or is likely to cause physical or psychological injury or harm, and includes domestic or sexual violence [OHS Act, Sec. 1(yy)].

### BRITISH COLUMBIA

“**Violence**” means the attempted or actual exercise by a person, other than a worker, of any physical force so as to cause injury to a worker, and includes any threatening statement or behaviour which gives a worker reasonable cause to believe that he or she is at risk of injury.

### MANITOBA

“**Violence**” means: (a) the attempted or actual exercise of physical force against a person; and (b) any threatening statement or behaviour that gives a person reasonable cause to believe that physical force will be used against the person [WSH Regs., Sec. 1.1].

### NEW BRUNSWICK

“**Violence in the workplace**” means attempted or actual use of physical force against an employee, or any threatening statement or behaviour that gives an employee reasonable cause to believe that physical force will be used against the employee [OHS Regs., Part XXII.I].

### NEWFOUNDLAND & LABRADOR

“**Violence**” means the attempted or actual exercise by a person, other than a worker, of physical force to cause injury to a worker, and includes threatening statements or behaviour which gives a worker reason to believe that he or she is at a risk of injury [OHS Regs., Sec. 22(1)].

### NOVA SCOTIA

“**Violence**” means any of the following: (i) Threats, including a threatening statement or threatening behaviour that gives an employee reasonable cause to believe that the employee is at risk of physical injury; or ii. Conduct or attempted conduct of a person that endangers the physical health or physical safety of an employee [Violence in the Workplace Regs., Sec. 2(f)].

### ONTARIO

“**Workplace violence**” means: (a) The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker; (b) An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker; or (c) A statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker [OHS Act, Sec. 1.1].

### PRINCE EDWARD ISLAND

“**Violence**” means the threatened, attempted or actual exercise of any physical force by a person other than a worker that can cause, or that causes, injury to a worker, and includes any threatening statement or behaviour that gives a worker reasonable cause to believe that he or she is at risk of injury [OHS Regs., Sec. 52.1].

### QUEBEC

“**Psychological harassment**” means any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee's dignity or psychological or physical integrity and that results in a harmful work environment for the employee and includes such behaviour in the form of such verbal comments, actions or gestures of a sexual nature [Labour Standards Act, Sec. 81.18].

### SASKATCHEWAN

“**Violence**” means the attempted, threatened or actual conduct of a person that causes or is likely to cause injury, and includes any threatening statement or behaviour that gives a worker reasonable cause to believe that the worker is at risk of injury [OHS Regs., Sec. 37(1)].

### NORTHWEST TERRITORIES

“**Violence**” means attempted, threatened or actual conduct of an individual that causes or is likely to cause injury, such as a threatening statement or behaviour that gives a worker a reasonable belief that he or she is at risk of injury. [OHS Regs., Sec. 35(1)].

### NUNAVUT

“**Violence**” means attempted, threatened or actual conduct of an individual that causes or is likely to cause injury, such as a threatening statement or behaviour that gives a worker a reasonable belief that he or she is at risk of injury. [OHS Regs., Sec. 35(1)].

### YUKON

No definition