

# KNOW YOUR CA

## Harassment

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Article  
**21**

QUFA strongly supports the right of Members to have a working and learning environment that is free from discrimination and harassment.

### Definition

Harassment is discriminatory behaviour, as it denies a person's right to equitable treatment. It is defined as:

- a course of ongoing conduct (although one very serious instance could be enough),
- that is vexatious to the receiver, and
- that is known or ought reasonably to be known to be unwelcome.

Claims of workplace harassment tend to arise out of three major contexts: workplace policies, collective agreements, and human rights codes. Human rights codes provide guiding principles for unlawful conduct whether these are set out in workplace policies or collective agreements or not. The Ontario Human Rights Code gives everybody equal rights and opportunities with the goal of preventing discrimination and harassment.



[http://www.e-laws.gov.on.ca/html/statutes/english/elsws\\_statutes\\_90h19\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elsws_statutes_90h19_e.htm)

Harassment not falling under one of the enumerated grounds in a human rights code is often called bullying. Other phrases used to describe such behaviour are: "the behaviour serves no legitimate work purpose," "the behaviour is abusive," "unreasonable use of power," and "creates an intimidating or humiliating work environment." There is increasingly a blurring of the line between harassment that is clearly identifiable as related to the human rights code and that which is not, as there seems to be a growing recognition that bullying is often actually based on enumerated grounds, but is not readily apparent as such.

In his book, *The No Asshole Rule: Building a Civilized Workplace and Surviving One That Isn't*, Robert Sutton gives two tests for deciding whether someone is engaged in bullying behaviour:

Test One: After talking to the person, do you (the "target") feel oppressed, humiliated, de-energized, or belittled by the person? In particular, do you feel worse about

yourself?

Test Two: Does the person aim his or her venom at people who are less powerful rather than at those people who are more powerful?

There are many ways to describe the behaviour and the feelings it engenders. There are some ways to address it, but stamping out bullying is very difficult and involves consistent and courageous behaviour from the community as a whole, not just from the person who is the target.

### Language in the Collective Agreement

In past collective agreements, both QUFA and the University have recognized the entitlement to a workplace free from harassment in an article with the heading "Harassment." The provision in the new collective agreement 2008-2011 is Article 21:



<http://www.queensu.ca/vpac/FacultyRelations/CollectiveAgreements/CAFinaledit sDec208.pdf>

Personal or Workplace Harassment is defined in the collective agreement as:

- a) oral, written, or physical behaviour or visual display that, when viewed objectively, is of a bullying, intimidating, or abusive nature; or
- b) oral, written, or physical behaviour or visual display that, when viewed objectively, is persistent, and which the instigator knows or ought reasonably to know, creates an intimidating or hostile working or learning environment; or
- c) the cumulative effect of actions described in (a) and/or (b).

This is in addition to the sort of discrimination and harassment that could result in a human rights claim. Article 9 is the Non-Discrimination and Accommodation provision in the new collective agreement 2008-2011 that lists some of the grounds of possible discrimination, interference, restriction and coercion:

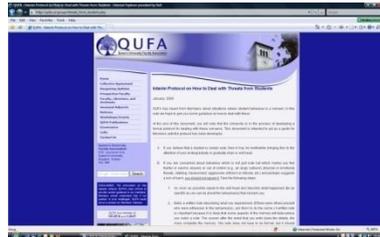


<http://www.queensu.ca/vpac/FacultyRelations/CollectiveAgreements/CAFinaledit sDec208.pdf>

**New Provision: Harassment by Students**

In the latest collective agreement, the entitlement to freedom from harassment by students has been made explicit. You may recall that

QUFA negotiated an interim protocol last winter on how to deal with threats from students, a joint acknowledgement by QUFA and the University that some serious situations had arisen that warranted such an interim protocol:



[http://qufa.ca/groups/threats\\_from\\_students.php](http://qufa.ca/groups/threats_from_students.php)

Under the new collective agreement, the University has explicitly taken on responsibility to adopt formal rules and procedures to promote the entitlement to freedom from harassment from students, to publicize the rules and procedures, and to respond to actions inconsistent with the policy. The policy and procedures have not yet been written, so Members are urged to review the interim protocol if such a situation arises.

**Employer's Obligation**

The Ontario Human Rights Code imposes a broad, proactive obligation on employers:

- to put into place policies on discrimination and anti-harassment in a workplace that is defined broadly to include meetings, social events, etc., outlining what is covered, who is covered, who is responsible,
- to establish a proper complaint mechanism outlining what is covered, who is covered, who is responsible,
- to make sure these policies and processes are very clear and

transparent, perhaps by giving examples to illustrate them,

- to explain properly the policies and processes to all in the workplace at hiring (in a letter, for example), after hiring, and at annual review,
- to provide adequate training for compliance with the policies and processes and explaining what constitutes improper behaviour,
- to provide reasonable protection of the health and safety of employees,
- to react to a situation promptly and to treat it seriously,
- to conduct a thorough investigation of a situation,
- to employ investigators who are trained and who have no conflict of interest,
- to provide fair treatment to the complainant and keep him or her properly informed, and
- to ensure that the employer does not interfere with the investigation.

Even if there is no complaint, the employer has an obligation to investigate if it knows or ought reasonably to have known about a situation of discrimination or harassment. There is the expectation of good faith and fair dealing in employment relations, especially given the power imbalance between employer and employee.

**Where to Go for Help**

- **QUFA**

Please feel free to contact QUFA staff with your questions or complaints. We will do our best either to help you

ourselves or to direct you to the appropriate person or office.



<http://www.qufa.ca/contact.php>

• **The Human Rights Office**

The Human Rights Office at Queen's is another resource for Members at Queen's. Its mandate under the Harassment and Discrimination Complaint Policy and Procedure "is to facilitate the creation of an environment in which all members of the Queen's community are able to live, work and study free of harassment and discrimination."



<http://www.queensu.ca/humanrights/index.htm>

The site also has a link to human rights legislation and relevant Queen's policy:



<http://www.queensu.ca/humanrights/policy.htm>

• **The Human Resources Office**

While the process outlined applies to Queen's staff and not QUFA Members, the information about definitions, expectations, etc. can be useful.



<http://www.hr.queensu.ca/policies/harassment.php>

• **The Ontario Human Rights Commission**

The Ontario Human Rights Commission's Web site has a number of publications dealing with issues that fall within its purview. Often the actual reason for harassment may be linked to a human rights ground, but not always.



<http://www.ohrc.on.ca/en/resources/publications>

**Other Resources**

Dupré, K., and J. Barling. "Workplace Aggression." *Misbehavior and Dysfunctional Attitudes in Organizations*. Eds. A. Sagie, S. Stashevsky, and M. Koslowsky. New York: Palgrave MacMillan, 2003. 13-32.

LeBlanc, M.M. and J. Barling. "Workplace Aggression." *Current*

*Directions in Psychological Science* 13.1 (2004): 9-12.

Pearson, Christine M., and Christine L. Porath. "On the Nature, Consequences, and Remedies of Workplace Incivility: No Time for 'Nice'? Think Again." *Academy of Management Executive* 19.1 (2005).

Sutton, Robert I. *The No Asshole Rule: Building a Civilized Workplace and Surviving One That Isn't*. New York: Business Plus, 2007.

Tracey, Sarah J., Jess K. Alberts, and Kendra Dyanne Rivera. "How to Bust the Office Bully: Eight Tactics for Explaining Workplace Abuse to Decision-Makers." *The Project for Wellness and Work-Life*. The Hugh Downs School of Human Communication, Arizona State University, Report #0701. 2007.

<<http://www.asu.edu/clas/communication/about/wellness/documents/HowtoBusttheOfficeBully.pdf>>

Twale, Darla J., and Barbara M. De Luca. *Faculty Incivility: The Rise of the Academic Bully Culture and What to Do About It*. San Francisco: Jossey-Bass, 2008.

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QUFA encourages you to print out and post Know Your CA in a visible place in your department or unit. Thank you! Know Your CA is archived on the

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