

Dealing with Harassment, Bullying, and Sexual Violence in the Workplace - Part I

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Presentation Roadmap

Webinar Part I:

- Western University
- Regulatory Changes
- Implications for Employers (policies, investigations)

Webinar Part II:

- Trauma-Informed Investigations - Best Practices for Employers

Western University

A photograph of the Western University building, featuring a prominent tall stone tower with Gothic-style windows. A Canadian flag flies from the top of the tower. The building is surrounded by green trees, and the sky is a clear, bright blue.

Photo from UWO.ca

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What Happened Western University (London, ON):

- 2018
- **FAST FORWARD: Sept. 2021 - Orientation week**
 - Rumours
 - Social Media
 - No formal complaints
 - Arrests but no charges
 - Investigations

Background at Western University: Culture & Complicity

- Prevalence of rape culture, campus sexual assaults
- Orientation week: culture
- Social media

Regulatory Changes



What ARE the Changes?

Western's response

- Task Force on Sexual Violence and Student Safety (addressing campus culture)
- Action Plan regarding Sexual Violence
 - 5,300 students living in residence: in-person training
 - Up to 100 students hired as safety ambassadors in residence
 - 4 new special constables to enhance patrols until 3am

What ARE the Changes? continued

Legislative response

- Ontario's Ministry of Colleges and Universities - regulatory Amendments
- O.Reg. 131/16 amending O.Reg. 646/21: Sexual Violence at Colleges and Universities, under *Ministry of Training, Colleges and Universities Act, R.S.O. 1990, c. M. 19* (as of Sept. 16)

By March 1, 2022, amended under the Ministry of Training, Colleges and Universities Act, R.S.O. 1990, c. M. 19 to be implemented

Original	Amended	Clause	Nature	Changes
O.Reg. 646/21	O.Reg. 131/16	Every college or university... shall ensure that its sexual violence policy:	No discipline for violation of drug/alcohol policies	2(1)(d.1) informs students that if they, in good faith, report an incident of, or make a complaint about, sexual violence, they will not be subject to discipline or sanctions for violations of the college's or university's policies relating to drug or alcohol use at the time the alleged sexual violence occurred;
	As of Sept. 16, 2021	A sexual violence policy shall include the following information...:	No irrelevant questions	2(2)14 A statement that students who disclose their experience of sexual violence through reporting an incident of, making a complaint about, or accessing supports and services for sexual violence, will not be asked irrelevant questions during the investigation process by the college's or university's staff or investigators, including irrelevant questions relating to the student's sexual expression or past sexual history

O.Reg. 131/16

Already includes several requirements:

- Students affected by sexual violence provided with info about resources;
- Provided sufficient accommodation during any reporting of sexual violence;
- Are NOT required to report sexual violence in order to access resources, support

Implications for the Employer



Implications for Employers

2 main areas of focus:

- Updates to sexual violence and harassment policies: should mirror legislative changes and amendments to ensure relevancy + compliance;
 - 1) Checklist: contents of ER policies should include similar protections:
 - E.g. no irrelevant questions, mindful of employee discipline, context
 - 2) Competence: Workplace Investigations: how to ensure a culture of respect, safety

On the Topic of Workplace Investigations:

- Best practices start with sound policies, protocols and procedures in compliance with the OHSA, ESA, OHRC etc.
- “Competency”
 - In the #MeToo era, EMPLOYERS SHOULD ASK:
 - What is our workplace culture?
 - Are we in compliance with legislation (Bill 132, for e.g.)
 - WHO is investigating?
 - Are they capable of conducting a Trauma-Informed investigation?

What is a Trauma-Informed Workplace Investigation & Why is it Necessary?

- Trauma-Informed Investigations (TII) are a now necessary in the modern workplace:
- growing prevalence of reporting sexual harassment, violence;
- Propensity for ee harm, toxic workplace culture if not implemented;
- Considered a Best Practice;
- Enhanced Employer Competence - recognition in the field as Industry-leader
- Perception of accountability, transparency: employee buy-in

What is a Trauma-Informed Workplace Investigation & Why is it Necessary?

“How we conduct ourselves in our interactions with all parties to an investigation has a direct impact on the quality of the information received (i.e. finding all the facts) and ultimately, the accuracy of the investigation’s outcome and suitability of follow-up recommendations”

“Effectively integrating trauma into an investigation means not only recognizing it, but anticipating it and building a trauma-informed best practice policy and procedure”

Dealing with Harassment, Bullying, and Sexual Violence in the Workplace - Part II

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Part II Overview

1. Deep dive into Trauma-Informed Workplace Investigations
 - a. “5-minute” neuroscience /autonic functions lesson on trauma influencing recall, perceptions of credibility, impacts on report conclusions
 - b. What is a TII, why important?
 - c. Role of the TI Workplace Investigator - NOT a psychologist, but can facilitate search for “truth” and assist in workplace restoration
2. Solutions for Employers
 - a. Recognition
 - b. Best Practices - multi-step
 - Pros/Cons of a good (or bad) TII

If the goals of the workplace investigator are to (i) arrive at the most informed and accurate findings (and consequently, the most suitable recommendations), and that in order to do so, the investigator must obtain as much information as possible from interviewees, (ii) avoid re-traumatizing interviewees, and (iii) avoid harming, and ideally build, organizational trust, then having the knowledge and awareness to apply a TIA is a necessity

Please join us for Part II - Thank you!

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Takeaways

- Compliance and competence go hand in hand
- Update policies, procedures and protocols to mirror legislative changes
- Be mindful of limitations as an ER/Investigator
- Know when to ask for help

More Questions?

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