



An Educator's Guide to Understanding Workplace Harassment

Sarah Colman and Allyson Otten

Reviewed by **Nelly Kelders**, Member Services Director

Sarah Colman and Allyson Otten, General Counsel for the Ontario Principals' Council have written a book that deals specifically with harassment occurring in the school environment. Workplace harassment is still a relatively new concept and as such is open to misinterpretations. This book helps to examine what it is and is not and how to negotiate through the process.

The book is divided into 12 chapters. The first five chapters set the stage by reviewing such topics as: the importance of the employment environment in schools; how workplace harassment should be defined; and what the Common Law expectations are for employers, grievance arbitration and legislation at the provincial and federal levels. The authors review a variety of court cases pertaining to this topic and the outcomes for employer and employee.

Chapters six to 12 discuss the more practical elements of implementing workplace policies in school boards. In chapter six the reader is reminded that where there is a workplace harassment policy it must be followed to mitigate risk. They feel that a formal workplace harassment policy is better than an informal understanding and that:

a policy should reduce the number of claims or grievances against the employer by ensuring that a consistent, fair and effective process is followed in resolving allegations of workplace harassment.

Colman and Otten discuss the key elements found in a good workplace harassment policy in chapter eight. Definition of key terms is imperative if the policy is going to act as a deterrent to employee conduct. Terms need to be used consistently throughout the policy to ensure there can be no misunderstanding as to what was intended by the employer. Workplace harassment is not defined in any legislation or regulation. The employer will have to balance what constitutes workplace harassment as opposed to some of the realities of the workplace such as interpersonal conflicts. The authors offer a definition that is consistent with the common law duty articulated by the courts. Threshold provisions, timeframes

within which the complaint must be made and how to deal with group complaints of workplace harassment are discussed.

The authors suggest that investigating a workplace harassment complaint is very complex. They recommend in chapter nine that boards give serious thought to hiring trained, experienced investigators to carry out this job. Boards want to make sure that the investigator has the capacity to perform the role and to do it well. The chapter includes a very comprehensive and thorough review of the elements of a good investigation.

Where there are allegations of workplace harassment, there is an indication of a breakdown in relationships between co-workers or supervisors. Colman and Otten discuss some of the options available to restoring relationships including the use of mediation. They explain when mediation might be appropriate and when it should be excluded as a means of resolving a complaint.

In the appendices, the authors have included an example of a workplace harassment policy and procedures, and a policy for a respectful working and learning environment. The reader can easily adapt them to meet the individual needs of a given board. The investigation checklist is an excellent document for tracking the progress of the investigation and ensuring that the investigator has followed all the steps in the process. The final document is a comprehensive list of how to conduct an interview.

Sarah Colman and Allyson Otten's hands-on experience with education and the law is evident. Regardless of a person's position in board management, this book is worth reading. Having a guide that speaks directly to how workplace harassment affects the education sector is an invaluable resource.

An Educator's Guide to Understanding Workplace Harassment is available through Canada Lawbook: ISBN 978-0-88804-463-1.