

OECTA Submission to
Ministry of Labour

**Consultation Paper on
Workplace Violence Prevention**

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October 2008

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ONTARIO ENGLISH
**Catholic
Teachers**
ASSOCIATION

The Ontario English Catholic Teachers' Association (OECTA) represents 40,000 women and men who have chosen teaching careers in the Catholic schools in Ontario. These teachers are found in the elementary panel from junior kindergarten to Grade eight, in the secondary panel from Grade nine through Grade twelve, and occasional teachers in both panels, in publicly funded schools.

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1. INTRODUCTION

- 1.01** The Ontario English Catholic Teachers' Association (OECTA) is responding to the Minister's request for comments on the Ministry of Labour's (MOL) Consultation on Workplace Violence Prevention. The Ontario English Catholic Teachers' Association is the union representing 40,000 teachers working in the Catholic school boards and school authorities throughout the province of Ontario. As stated in the covering letter from the president of OECTA and reiterated in the consultation paper, workplace violence is a real and "growing concern" and the "risk of violence is higher" in certain sectors, education being one of those sectors.
- 1.02** The number of workplace injuries through violence has increased over the past ten years. Actual physical injuries are more easily identified and accepted by the employer, by the Ministry of Labour and by the Workplace Safety and Insurance Board. Although a significant number of teachers report the physical injuries, many do not report the ongoing "minor" physical attacks by students such as biting, kicking, shoving, punching and other aggressive behaviours. Part of the failure to report is somewhat due to the perception that there is no real or contemplated intention on the part of the student to harm the teacher. It is a perception that the student is not in control of their actions, often deemed as mitigating circumstances. The actual concern from the Association's perspective is not to lay "blame" on the student but to address the actual physical attacks and have such attacks recognized and documented as violence in the workplace. Other reasons are that the teacher is discouraged from claiming these incidents as workplace injuries. In addition, the culture within the educational community is such that teachers often feel "guilty" or that they are "betraying" their students by reporting these incidents. As well, situations where verbal abuse,

intimidation, and demeaning behaviours are delivered to a teacher or a group of teachers by a member or members of the adult educational community are often not reported for many of the same reasons. Perceptions of not being able to cope, fear of retaliation and fear that reporting incidents of this nature will reflect on the individual's competency lead to an under-reporting. With no appropriate mechanism or recognition that such violence is considered a workplace hazard, the teacher is left feeling abandoned and alone in that unsafe environment. However, failure to act comes with a cost to both the individual and to the employer. What does result from a constant pattern of these types of physical and psychological attacks on the teacher is often psychological and emotional breakdown, often with physical symptoms, thus disabling the teacher from work either completely or partially. In most cases, neither the Ministry of Labour inspectors nor the Workplace Safety Insurance Board recognize psychological and emotional harassment as violence in the workplace and thus deny such as a compensable injury or illness that has a workplace origin.

- 1.03** Further to the above is the failure of the Ministry of Labour through the *Occupational Health and Safety Act* to address situations where there is a clear and significant potential for violence to occur when there is a pattern of behaviour of the particular student. The Ministry of Labour has downgraded a work refusal to a complaint and has stated that as there is no "imminent" danger to the teacher, there is no justifiable work refusal. In such cases, although the teacher may actually fear for their safety, the teacher must wait to be physically injured or have a complete psychological breakdown in order to have a "safety" or prevention plan put into place.

The Association, in conducting its April 2005 survey on workplace violence and bullying, was surprised to discover that the worst form of workplace violence that teachers experienced was verbal abuse, unjustified and public criticism, public humiliation and intimidation by a superior. This is further detailed in our survey analysis. The current legislation and regulations do not address the issue of psychological violence and thus many teachers are left in vulnerable positions and suffer loss of work. These statistics are evident in long-term disability claims and sick leave usage.

- 1.04** In the Ministry of Labour's request for input and in addressing the questions put forward, there is no arena to discuss the impact of violence, both physical and psychological, on the individual worker, the workplace environment and the economic impact on the educational system.
- 1.05** Personal consequences for the teacher who is the target of psychological violence include but are not limited to loss of work (absence from the classroom), loss of sleep, loss of self-confidence, loss of appetite, depression, severe panic attacks, loss of concentration and increased fear. From a system perspective, there is an increase cost in replacement teachers, benefit premium increases as a result of a high experience factor, low morale within the work environment, a perception of a poisoned work environment and a loss of self-control and safety. All of these has a tremendous impact on the educational system as a whole and on the province of Ontario in the larger picture. In our experience, the current *Occupational Health and Safety Act* and the Ministry of Labour policies and practices are too vague and too limiting to offer true protection for the teacher nor do they provide a

vehicle of prevention. Violence in the workplace has definitely grown and OECTA believes that there is a need for legislative reform in the following areas:

- Identify violence as a workplace hazard
- Expressly identify the workplace parties' rights and duties with respect to workplace violence
- Improve the Ministry of Labour inspectorate skill set to:
 - Take proactive steps to prevent workplace violence.
 - Hold the offending parties accountable and provide specific deterrents to ensure that workplace violence prevention is enforceable.

1.06 The Ontario English Catholic Teachers' Association respectfully submits that changes are required to the *Occupational Health and Safety Act* and a new specific violence regulation must be enacted that includes all workers in the province of Ontario. Ontario should be at the forefront of such protection for workers. The federal government and many provinces, including Saskatchewan and Manitoba have enacted this legislation. Ontario has an opportunity to address this deficit in worker protection by enacting new legislation.

1.07 The essence of a new regulation must contain the following elements:

1. Violence must be clearly defined and legislation must contain:
 - All sources of workplace violence including but not limited to visitors, strangers, managers, supervisors, coworkers, clients, students, parents, contractors, relatives and other domestic sources.
 - All forms of violence including physical (major and minor), verbal, threats, harassment, intimidation, stalking, bullying, psychological etc.

- All impacts of violence including physical, psychological and emotional.
 - All workplaces including alternative work sites.
(e.g. Co-op and OYAP), rented/leased sites, parking lots
 - All workplace violence.
2. “Violence” must be identified as an occupational hazard in the legislation.
 3. The *Occupational Health and Safety Act* must be specifically amended to provide for the right to refuse unsafe work when faced with violence (or risk of violence).
 4. The *Occupational Health and Safety Act* must be improved to ensure that there is no reprisal to workers when reporting violent hazards or incidents.
 5. The violence regulation must include a requirement that all employers develop and implement violence prevention policies and programs in consultation with the Joint Health and Safety Committees, and that such programs include risk assessment, measures, procedures and training that are sector specific.

2. QUESTIONS AND RESPONSES

2.01 A – Definition of Workplace Violence

- 2.02** 1. *Is the definition of workplace violence contained in the Ministry’s operational policy, as set out above, appropriate to your workplace or organization?*

2.03 Response

The definition as determined by the Ministry is far too limiting in nature. The reference to “intentional physical force” implies that if the assailant did not intend the assault then it is not considered to be a violent act.

No other section of the OHSA requires that the definition of a hazard has a subjective component to it. It is either a hazard or it is not a hazard. The determination of intent is for the purpose of criminal charges (where applicable) and goes to the concept of sentencing where the defendant is found guilty. There is no determination of guilt or innocence with respect to the result of physical force; the teacher was either physically injured or not. Parents who have attacked a teacher may not have actually intended to harm the teacher. Students who physically assault teachers where such students have severe emotional and/or cognitive challenges may not have harmed the teacher intentionally yet the physical damage is done. Is it the intention of the Ministry to ignore or deny such violence unless one can prove intent?

2.04 In addition, limiting violence to only a physical event is a disservice to the number of workers who have been psychologically injured resulting in severe illnesses as a result of workplace psychological bullying and intimidation. The Criminal Code has a broader definition and includes gestures, threats and other types of behaviours that are not physical in nature. There are incidents where the teacher has been subjected to public criticism and humiliation, body language dismissing the importance or relevance of the teacher, demeaning comments and veiled innuendos which are not physical attacks on the teacher but are certainly threatening. An analogy can be drawn from the Dupont case where Dr. Jaffe stated that there had been “missed opportunities” leading up to her death that the employer should have noted and action should have taken place. None of these missed opportunities were physical in nature yet achieved the same goal. The Ministry’s use of the descriptor as being physical restricts its jurisdiction and misses many opportunities to prevent workplace violence.

2.05 While the Human Rights Code addresses gender discrimination it does not address the workplace where such discrimination can lead to physical or psychological abuse. The harassment covered by the Human Rights Code is too limiting when it comes to workplace harassment. By placing a proper definition of violence within the health and safety legislation, this will provide the legal tool for the Joint Health and Safety Committees to address the issue under the Internal Responsibility System. It will also provide the Ministry of Labour with the legislative tool to ensure that all employers address the issue of violence in the workplace.

2.06 OECTA Recommendation

OECTA believes that the definition of violence should be broad enough to include all acts of aggression both physical and psychological and does not limit it on the basis of intent or a physical assault. Further, recent jurisprudence acknowledges that a single egregious incident can be severe enough to be recognized as harassment.

2.07 The Ontario English Catholic Teachers' Association recommends that a definition should be all encompassing and would include the following:

- A definitive statement that violence is a workplace hazard
- Behaviour that implicitly or explicitly intimidates, offends, degrades, humiliates a person or persons
- Behaviour that is hostile which includes gestures, comments, actions to a person or persons affecting the individual or a group of individuals' dignity, physical or psychological integrity and results in an unsafe and harmful work environment.

2.08 B – Workplace Violence Prevention Program

2.09 1. *Should there be a requirement under the OHSA or its regulations that employers develop and implement a workplace violence prevention program (that would include risk assessments, measures and procedures, and worker training)?*

2.10 • *If so, should a prevention program include a workplace violence response plan?*

2.11 Response

Yes. The legislation should require employers to develop and implement a violence prevention program in consultation with the Joint Health and Safety Committees (where applicable). Such a program should include risk assessment, measures, procedures and training. An appropriate timeframe should be included in the legislation stating that all violence prevention programs must be implemented and operational within one year of the enactment of the legislation. This is in line with requirements of employers in the implementation of other types of legislation wherein timeframes are established for compliance.

2.12 The majority of school boards have not utilized the Internal Responsibility System in an appropriate manner. In fact, many ignore even legislative requirements unless the JHSC makes a recommendation. This would apply to such aspects of the *Occupational Health and Safety Act* as an Asbestos Awareness Program and proper inspections of the designated buildings on an annual basis. Therefore the importance for mandatory involvement of the JHSC would be an appropriate check and balance for both management and workers. The same rationale can be applied to a timeframe for development, implementation and training. This would send the proper message to both the public as well as the

employers on the seriousness of the program and the Ministry in seeing it through to completion. This would also provide a public demonstration to all workers that the province of Ontario and its government believe in violence free workplaces.

- 2.13** The regulation must clearly require a hazard/risk assessment, which is crucial to any violence prevention/response program. Assessments of this nature are a crucial tool for the Joint Health and Safety Committee in identifying workplace specific measures and procedures that are needed to protect workers.
- 2.14** In review of the coroner's inquest of Lori Dupont, such findings are applicable in all workplaces. The finding of "missed opportunities" emphasizes the need for the regulation to require that the violence programs have mandatory features, including a dispute resolution process that is expeditious. There must be strict timelines for investigation and action on the complaints. There should be specific consequences for respondents who refuse or delay such processes. Significant delay in violent circumstances can only lead to an escalation of the violent behaviour. Ignoring the complaint or turning a blind eye to the issue in the hope that it will go away only serves to reinforce the negative behaviours and silence is often mistaken for acquiescence or approval.
- 2.15** Training must be an essential component of the program and a mandatory requirement for all workers. Training must include the policy and the measures and procedures (processes) that include detection, de-escalation and protective measures from violence. Training should also reinforce the principles of violence free workplaces and that reporting such incidents is free from reprisal by the employer.

2.16 The employer should not rely on the police to investigate a violence report. The police may be too far away (northern or isolate communities) or police response codes may not address the violent incident in the same priority sequence as that of the workplace. There must be a prevention program in the workplace that the workers trust so that injury and illness can be prevented. Workers must believe that their workplace is a safe environment.

2.17 • *If so, should a prevention program require employers to address behaviours that they are likely to lead to workplace violence such as bullying, teasing, or other abusive or aggressive behaviour?*

2.18 Response

OECTA believes that bullying, teasing, demeaning comments, and certain gestures are forms of violence. Such displays of violence often lead to more expressive and physical demonstrations of violence. OECTA believes that a violence prevention program must contain elements that require the employer to address particular behaviours and prevent an escalation of the physical and/or psychological violence from occurring or continuing.

2.19 Our recent survey indicated that actions taken as a result of a bullying incident tend to largely exclude formal sanctions. OECTA believes that workplace safety is not a cost of doing business but an actual investment. The workplace culture must change with respect to violence. OECTA believes that such change can occur with the identification of the behaviours that are inappropriate and addressing such behaviours in a timely and direct manner.

- 2.20** • *If so, should a prevention program differentiate between sources of violence (such as from clients, customers, co-workers or intimate partners)?*

2.21 Response

As mentioned in a previous response, the violence prevention regulation must contain a consultation process with the Joint Health and Safety Committees that covers all sources of violence. The program must include risk assessment, measures, procedures, equipments and worker training to protect against all sources of violence. Workers in the province of Ontario for the most part are sophisticated and understand the principles of labour relations. The Internal Responsibility System should and can address a violence prevention program that is not only sound and manageable but can be implemented and be effective.

Legislation must provide the appropriate vehicle in that direction must be given for full mandatory participation of the Joint Health and Safety Committee in the violence prevention program.

- 2.22** In much the same manner that the Regulation for Industrial Establishments requires protective equipment and controls for machines or hazards, there is additional identification of specific hazards such as conveyors, nailing guns, chemicals etc. A similar approach could be taken with respect to a violence regulation in that all sources would be required however the legislation could highlight or emphasize well known violence hazards such as psychological violence, domestic abuse, violent students/parents and working alone.

- 2.23** 2. *What impact, if any, would a requirement for a workplace violence prevention program have on your workplace or organization?*

2.24 3. *How does your workplace currently deal with workplace violence prevention and response?*

2.25 **Response**

A mandatory requirement for a workplace violence prevention program that acknowledges that teachers are subject to or have been subjected to workplace violence both physically and psychologically would have a tremendous impact on our members. Teachers feel isolated when they register a complaint about violence. The response from the employer is often ignored or the teacher is made to feel that the violent behaviour is their fault.

2.26 Most recently, a teacher reported that a group of secondary students were engaged in a form of “mobbing behaviour” where the students were ridiculing the teacher, taking photographs of the teacher and exhibiting a variety of behaviours such as moving into the teacher’s personal space. When this was reported to the school administration, the response was to indicate to the teacher that she/he had poor classroom management skills and in any event she/he was unable to identify the students by name so it would be impossible for the school administration to address the issue. This is but one of the reports from our membership. Another incident where the teacher reported that she/he had witnessed a teacher being intimidated and bullied resulted in the teacher who witnessed the incident being transferred from her/his workplace. The teacher clearly felt that she/he had been “punished” and was left with the impression that the identification and reporting of such behaviours is not welcome by the employer. In fact, the teacher strongly believes that she/he erred in reporting and has indicated that this would not happen again; there would be no reporting of any violent incident for fear of reprisal.

2.27 Given our experiences, we believe a clear requirement for a workplace violence prevention/response policy, which would include all of the aforementioned elements, would require employers to develop such in consultation and participation with the Joint health and Safety Committees, and would equip the Ministry of Labour with a specific identifiable tool to compel any non-compliant employer to do so.

2.28 OECTA Recommendation

Enact a violence regulation compelling all employers to develop and implement, in consultation/participation with the Joint health and Safety Committees (where applicable), prevention policies, programs (including hazard/risk assessments, measures, procedures and training of workers) with sector specific requirements to include prohibition against physical and psychological violence.

2.29 C – Sector Specific Requirements

2.30 1. *In your sector, would it be useful to have requirements under the OHSA or its regulations that address particular precautions that are needed to protect workers from workplace violence? These provisions would be in addition to requirements for a more general workplace violence prevention program (see Section B).*

2.31 • *If so, what specific requirements would you suggest to protect workers in your sector?*

2.32 Response

There is no need to separate education from any other workplace. What needs to be recognized is that the education sector has a higher risk for workplace violence. In our recent survey and the survey done by the Canadian Teachers' Federation, bullying by a superior was found to be

the most pervasive form of workplace violence and had the greatest effect on the well-being of the individual teacher. Damage to the teachers range from an abandonment of teaching as a career through to and including long-term disability. One of the more astounding facts is that teachers who have been bullied by a superior have not reported it to anyone. This certainly supports the fact that there is no recourse for these teachers and the workplace culture supports an environment of fear and retaliation or reprisal.

2.33 OECTA Recommendation

A violence regulation that would include physical and psychological violence including sexual and workplace harassment should be enacted. Such regulation would include all of the parameters outlined in the previous recommendations and comments.

2.34 In addition, OECTA recommends that the *Ontario Labour Relations Act* (OLRA) be amended by adding to section 45 “Content of Collective Agreements” a new subsection. The new subsection would include the concept that every collective agreement shall be deemed to provide a prohibition against personal and psychological harassment and/or abuse of authority in the workplace.

2.35 A corollary to this would be to include the recognition of personal harassment and bullying as workplace hazards. Under Sections 25, 26 and 27 of the OHS Act, the duties of an employer should be expanded to include the following: “An employer shall take every precaution reasonable in the circumstances for the protection of a worker including precaution against personal or psychological harassment.”

2.36 D – Domestic Violence in the Workplace

2.37 1. *Should there be a requirement under the OHSA or its regulations that employers address the risk of domestic violence, when it may enter the workplace?*

2.38 • *If so, should situations of domestic violence be addressed within or separately from the more general workplace violence prevention program outlined in section B?*

2.39 • *If not, what actions should employers take to better protect workers in situations where domestic violence enters the workplace separate from a legislative or regulatory change?*

2.40 2. *What impact, if any, would a requirement to address situations of domestic violence (when it may enter the workplace) have on your workplace or organization?*

2.41 While violence in education is significant, there are fewer cases of domestic violence being reported. However, in the Lori Dupont inquest, Dr. Jaffe noted that “70 per cent of individuals suffering from domestic violence are victimized at work.” OECTA does not believe that teachers are exempt from this statistic. Violence prevention programs must include hazard/risk assessments, measures, procedures and worker training to recognize and respond to signs of domestic violence. A prevention program would include all sources but could highlight those that are indicative of domestic violence such as sexual harassment, disruptive supervisor behaviour, violent students/parents and working alone.

2.42 Although the research shows that there is a spill-over of domestic violence into the workplace, it is unlikely that school boards will address the issue of domestic violence any more than any other identified

workplace hazard. A requirement is needed to enshrine violence prevention into the legislation with an explicit reference to include domestic violence within the workplace violence prevention program.

2.43 The question arises as to how the employer would identify this hazard. In much the same manner that an employee has a right to identify that a workplace accommodation is needed as a result of a disability, the employee must first identify such to the employer before the employer can address the concern. However, once the employer is aware of the disability and the need for accommodation, then the employer is obliged to act. OECTA sees a similar process could be applied to domestic violence. In addition, examining other agencies that handle domestic violence could be beneficial in determining how privacy issues should be addressed.

2.44 *3. How does your workplace currently deal with domestic violence, where it may enter the workplace?*

2.45 OECTA is unaware of any school board that has addressed domestic violence within any violence prevention program or policy with the exception of peace bonds and court orders.

2.46 Response

Violence must be clearly defined in the legislation and cover the following:

- All sources of workplace related violence including visitors, strangers, managers, supervisors, principals, vice-principals, coworkers, students, parents, and contractors.

- All forms of violence including verbal assaults, threats, harassment, stalking, bullying, physical and other forms of psychological harassment.
- All impacts of violence, be it physical, psychological, and emotional.
- All workplaces.
- All work related violence.

2.47 E – Work Refusals

2.48 1. *Should the current work refusal provisions in the OHS Act be expanded to include violence or the threat of violence as grounds for a work refusal?*

2.49 • *If so, should there be any restrictions on when a worker may refuse work, in addition to the current limitations on when specific workers such as police officers, firefighters, and workers in correctional facilities, hospitals, nursing homes, and psychiatric facilities, may refuse work?*

2.50 The Ministry of Labour interpretation of this section of the OHS Act is very narrow and in fact somewhat confusing. The Ministry asserts that violence and threats of violence are not encompassed by the current language which refers to equipment and the physical condition of the workplace. Ministry policy states that:

“...violent behaviour or the threat of violent behaviour, by a person, does not meet this specific criterion under the Act, i.e. a person is not considered a “physical condition of the workplace”. For this reason, most work refusals initiated because of workplace violence will be investigated as complaints by the MOL.”

- 2.51** It is difficult and confusing to say the least on what is clearly a workplace hazard. The fact that we are splitting the distinction of a hazard based on whether the “object” of the violence is animate or inanimate seems a bit absurd.
- 2.52** If the school board had retained the services of a contractor and the contractor was dropping hot tar from the roof of the building onto the school grounds and close to the teacher, the teacher could refuse to work for fear of his/her safety. Why is there a distinction between the dripping tar and the worker who is hit by a chair or another person? We do not agree with this interpretation. However, in our experience this application by the MOL has been consistent since the operational procedures were re-written. Teachers need to have the basic right to protect themselves and that right must include the ability to refuse unsafe work in the face of violence, without the threat of reprisal. Currently, the application by the MOL leaves teachers in a vulnerable position with no protection as there is no recognition under the OHSA.
- 2.53** One issue that needs to be made clear is that a teacher has a right to evoke Section V-Work Refusal in situations where the teacher believes that his or her safety or the safety of another worker may be in danger. The only limitation is of that particular right is “where circumstances are such that the life, health or safety of a pupil are in imminent jeopardy.” (Ont. Reg. 857-Teachers) OECTA does believe that one of the primary duties of a teacher is to protect a pupil from an imminent life threatening situation. For instance, a teacher cannot exit the building if there is a fire without first attending to the safety of the pupils in her or his care. This exception does not mean that a teacher can never utilize or evoke a work refusal. The teacher must ensure that any students in her or his care are under

appropriate supervision and care. This has been widely interpreted to mean that a teacher cannot exercise a work refusal by certain employers. OECTA strongly believes in the right of any worker to refuse unsafe work whether that is from psychological violence or physical harm.

2.54 Teachers take the responsibility of students in their care very seriously. There has been no abuse by any teacher in exercising a right to refuse unsafe work. In fact, teachers for the most part do not use this right within the current legislation when they should. Extending this right to violence would be no different. The appropriate steps in the identification of the workplace hazard and remedy where that is possible will still continue. Not extending the right to refuse work where the worker believes that they fear for their safety as a result of psychological or physical violence could be seen as trivializing these forms of violence.

2.55 • *If so, should a worker be allowed to leave the workplace prior to the completion of the investigation in situations where there is a threat of physical violence?*

2.56 Response

Once more, OECTA must emphasize that violence should not be limited to “physical” violence or attack. Violence in all its manifestations ranges from verbal abuse to psychological intimidation to sexual harassment to stalking to physical attack which may have devastating and sometimes permanent effects on the physical, emotional and psychological well-being of the worker. OECTA believes that excluding psychological and emotional injury from the scope of the OHSA effectively discriminates against a particular group of workers and further stigmatizes these workers in society.

OECTA takes the position that a worker should be permitted to leave the workplace if it is in the best interest of the worker. For example, it may be that the worker needs to go to a shelter immediately for protection or may need to attend to an emergency counselling situation if there has been a sexual or verbal assault on the worker. There should be a provision within the legislation that permits the worker to leave the workplace without penalty.

2.57 *2. If the current work refusal provisions in the OHSA are not expanded to include violence or threat of violence, should there be another provision that addresses the steps that should be taken to allow a worker to remove himself or herself from the workplace when there is an imminent risk of physical injury due to workplace violence?*

2.58 • *If so, what should those steps be?*

2.59 Response

The description of imminent risk is not always the most appropriate indicator of fear of physical or psychological violence. In many situations in education, the teacher has been attacked both physically and mentally through verbal abuse on an on-going basis. The application of imminent risk has been defined and applied far too narrowly.

2.60 In many situations, the attacking individual has acted in an incremental behaviour pattern. Any one incident cannot be defined as creating imminent risk. No death threats are uttered nor is there any weapon involved. Instead the teacher knows and fears that the next encounter with the person will result in more verbal and psychological abuse or will result in another “minor” physical attack such as punching or throwing of

objects within the classroom. The current application by the MOL is not to consider these situations as “imminent” danger and thus the workplace is designated as “safe” and the worker is assigned back to the workplace. In other words, violence on the worker should not have to take place in order to determine that the workplace was unsafe. This is putting the precautionary principle into practice.

2.61 OECTA Recommendation

The *Occupational Health and Safety Act* must be amended to explicitly provide the right to refuse unsafe work for violence and threats of violence including psychological violence in the workplace. Further the reprisal section of the *Occupational Health and Safety Act* must be strengthened to prevent employers from intimidating workers from reporting violence hazards and incidents. The OHSA should be amended to include the precautionary principle as a basis for all workplace hazards including violence.

3. RECOMMENDATIONS

- 3.01** OECTA believes that the definition of violence should be broad enough to include all acts of aggression both physical and psychological and does not limit it on the basis of intent or a physical assault. Further, recent jurisprudence acknowledges that a single egregious incident can be severe enough to be recognized as harassment.

The Ontario English Catholic Teachers' Association recommends that a definition should be all encompassing and would include the following:

- A definitive statement that violence is a workplace hazard
- Behaviour that implicitly or explicitly intimidates, offends, degrades, humiliates a person or persons
- Behaviour that is hostile which includes gestures, comments, actions to a person or persons affecting the individual or a group of individuals' dignity, physical or psychological integrity and results in an unsafe and harmful work environment.

- 3.02** Enact a violence regulation compelling all employers to develop and implement, in consultation/participation with the Joint health and Safety Committees (where applicable), prevention policies, programs (including hazard/risk assessments, measures, procedures and training of workers) with sector specific requirements to include prohibition against physical and psychological violence.

- 3.03** A violence regulation that would include physical and psychological violence including sexual and workplace harassment should be enacted. Such regulation would include all of the parameters outlined in the previous recommendations and comments.

In addition, OECTA recommends that the *Ontario Labour Relations Act* (OLRA) be amended by adding to section 45 “Content of Collective Agreements” a new subsection. The new subsection would include the concept that every collective agreement shall be deemed to provide a prohibition against personal and psychological harassment and/or abuse of authority in the workplace.

A corollary to this would be to include the recognition of personal harassment and bullying as workplace hazards. Under Sections 25, 26 and 27 of the OHSA, the duties of an employer should be expanded to include the following: “An employer shall take every precaution reasonable in the circumstances for the protection of a worker including precaution against personal or psychological harassment.

3.04 The *Occupational Health and Safety Act* must be amended to explicitly provide the right to refuse unsafe work for violence and threats of violence including psychological violence in the workplace. Further the reprisal section of the *Occupational Health and Safety Act* must be strengthened to prevent employers from intimidating workers from reporting violence hazards and incidents. The OHSA should be amended to include the precautionary principle as a basis for all workplace hazards including violence.