

Canada's Bill C-65 & Work Place
Harassment and Violence Prevention Regulations

**June 2025** 

#### **Outline**

- Occupational Health and Safety in Canada
- Overview of Canada's Bill C-65
- Work Place Harassment and Violence Prevention Regulations
- Employer Obligations
- Policy Committees, Work Place Committees and Health and Safety Representatives
- Resources to Support Implementation
- Annual Reporting and Moving Forward

# Occupational Health and Safety in Canada

### Occupational Health and Safety in Canada

Occupational Health and Safety (OHS) in Canada is administered across 14 distinct jurisdictions:

- 10 provinces & 3 territories
- 1 federal

#### **Federal Jurisdiction**

**ESDC - Labour Program** (LP) is responsible for promoting safe, healthy, cooperative and productive workplaces and for ensuring that employees are treated fairly on the job

- Ensuring that stakeholders in federally regulated sectors understand and follow the various legislation, programs and services for which we are responsible
- Working closely with provincial and territorial governments, unions, employers, international partners, and other stakeholders to promote fair, safe and productive workplaces and collaborative workplace relations in all workplaces

# **Application of Federal Occupational Health &** Safety

#### OCCUPATIONAL HEALTH AND SAFETY PROVISIONS

OF THE CANADA LABOUR CODE (PART II)

#### FEDERAL JURISDICTION **BUSINESSES AND INDUSTRIES**

#### INTERPROVINCIAL AND INTERNATIONAL TRANSPORTATION

TRANSPORTATION -

TRUCKS AND BUSES AIRPORTS.

**AERODROMES** AIRLINES AND AIRCRAFT **OPERATIONS** 

RAILWAYS

MARINE NAVIGATION AND SHIPPING PORT SERVICES AND MAINTENANCE OF WATERWAYS

FERRIES, TUNNELS. CANALS AND BRIDGES

PIPELINES -OIL AND GAS





AND



#### ARE SUBJECT TO PART II OF THE CANADA LABOUR CODE

\* This includes full-time and part-time employees, seasonal, temporary, casual employees and excludes military members of the Canadian Armed Forces.



**GRAIN ELEVATORS** FEED AND SEED MILLS FEED WAREHOUSES AND **GRAIN-SEED CLEANING PLANTS** 







AND PROCESSING ATOMIC ENERGY

#### TELECOMMUNICATIONS AND BROADCASTING



RADIO, TELEVISION. TELEPHONE AND INTERNET

#### FEDERAL PUBLIC SERVICE AND PARLIAMENTARY PRECINCT

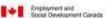


PERSONS EMPLOYED BY THE PUBLIC SERVICE, FEDERAL CROWN CORPORATIONS, AND PARLIAMENT (E.G. SENATE, HOUSE OF COMMONS. LIBRARY ETC.)









Emploi et Developpement social Canada

### **Background: Prior to Bill C-65**

Under the Canada Labour Code (Code) there were separate frameworks to deal with workplace violence and sexual harassment, which created an imbalance in the treatment of these issues and coverage of different populations:

- Violence was dealt with under the occupational health and safety provisions (Part II)
- Sexual harassment was dealt with under the labour standards provisions (Part III)

#### Challenges identified with the prior frameworks:

- Fragmented and did not address the full spectrum of harassment and violence occurrences
- Workplaces often had inadequate prevention policies or lacked employee training on existing procedures
- Greater clarification and clear timelines were needed on when the resolution process is considered complete
- Employees in parliamentary workplaces did not have the same protections as other federally regulated workplaces

# **Overview of Canada's Bill C-65**

#### **Introduction of Bill C-65**

Bill C-65 created one framework under Part II of the Code to:

- Deal with a full spectrum of reprehensible behaviours, ranging from teasing and bullying to sexual harassment and physical violence
- Require employers to respond, record, and report harassment and violence, and support employees affected by them
- Provide strong privacy protections to ensure that complaints about harassment and violence are treated confidentially

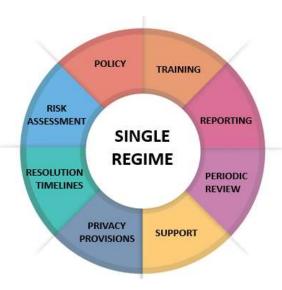


#### What We Did

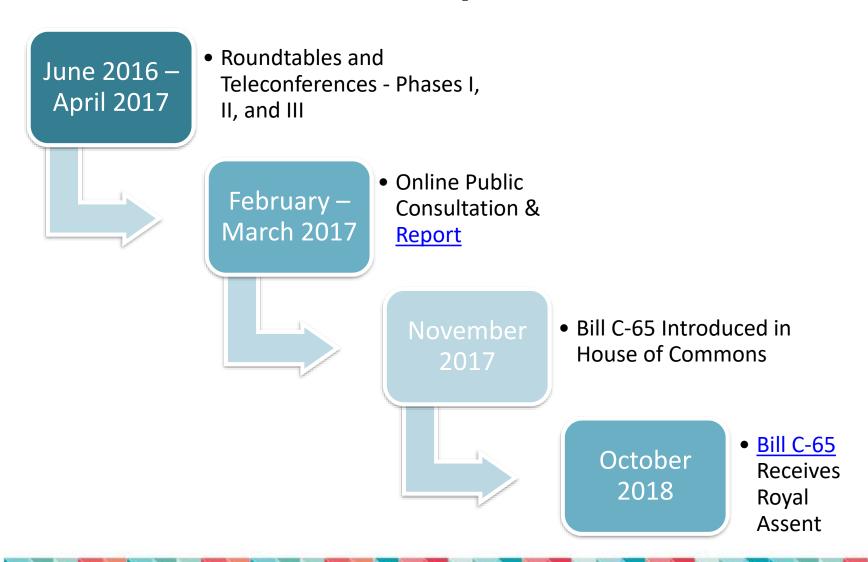
Strengthened the Canada Labour Code and introduced the Work Place Harassment and Violence Prevention Regulations on January 1, 2021

#### This created a single, integrated framework that:

- Provides a stronger legal framework which includes Canada's Parliamentary Precinct
- Highlights importance of prevention and provides comprehensive definition
- Acknowledges all behaviours that qualify as harassment and violence
- Establishes clear timelines for responding to a notice of occurrence (within 7 days), starting negotiated resolutions (within 45 days) and resolving occurrences (within one year)
- Provides greater supports for affected employees including information on locally available medical, psychological or other support services
- Emphasizes the importance of privacy and confidentiality



### **Outline of Bill C-65 Development Process**



### **Key Amendments to the Canada Labour Code**

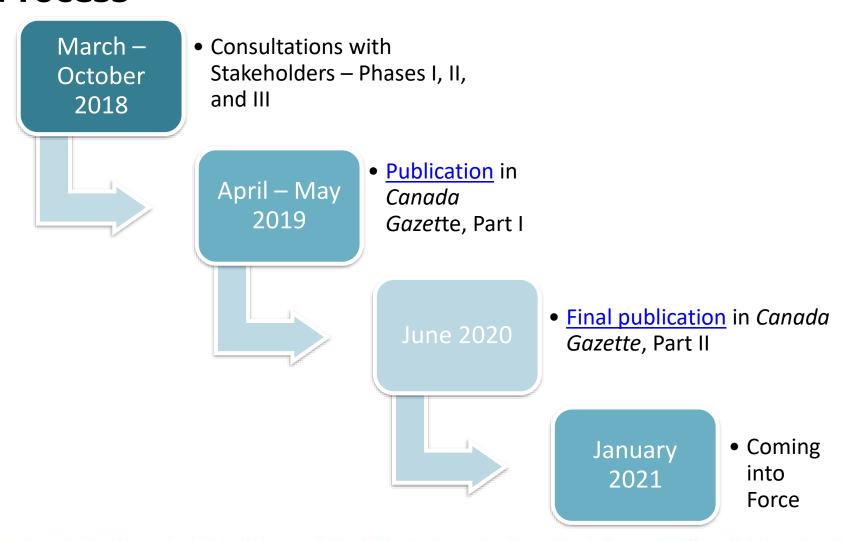
- New definition of harassment and violence:
   any action, conduct, or comment, including of a sexual nature, that can
   reasonably be expected to cause offence, humiliation or other physical or
   psychological injury or illness to an employee, including any prescribed
   action, conduct or comment
- Amended purpose of Part II to explicitly include the prevention of harassment and violence, and physical and psychological injuries and illnesses
- Requires employers to take the prescribed steps to prevent and protect employees against harassment and violence and respond to occurrences
- Requires employers to ensure that all employees receive harassment and violence prevention training
- Adds privacy protections and new employer obligations towards former employees

# Work Place Harassment and Violence Prevention Regulations

# Work Place Harassment and Violence Prevention Regulations

- To support the goals of Bill C-65 the new stand-alone Work Place Harassment and Violence Prevention Regulations (Regulations) were developed
- Created a separate set of regulations, highlighted the importance of harassment and violence prevention, and made it easier for employers and employees to identify their rights and duties as they are contained within one set of regulations separate from any other
- Employers are now required to follow clear steps of the resolution process when responding to notifications of harassment and violence. Complaints can be made to the Labour Program when the process and/or timelines set-out in the Regulations have not been adhered to
- The federal government used a tripartite consultation model in the development of the regulations to ensure that employers, unions, and government work together to develop appropriate regulations and tools

# **Outline of WPHVP Regulatory Development Process**



#### **Stakeholder Engagement: Consultations**

- To develop the Work Place Harassment and Violence Prevention (WPHVP) Regulations, the Labour Program held consultations with stakeholders in three phases from March to October 2018
- Stakeholders had the opportunity to:
  - Voice concerns and ask questions
  - Contribute to the development of tools and documents
  - Establish trust and strong working relationships

Stakeholder Roundtables

**Tripartite Working Groups** 

**Online Public Consultation** 

- ➤ Phase I (March May 2018) consisted of eight roundtable sessions
- ➤ Phase II (May July 2018) consisted of six WebEx sessions
- Phase III (July October 2018) consisted of an <u>online consultation</u> <u>paper</u> and <u>associated survey</u> and additional face-to-face meetings and teleconferences
  - over 18,000 hits to the websites. 1042 individuals completed the survey and 64 written submissions were received

# Stakeholder Engagement: Tripartite Working Groups

- The Labour Program (LP) established two tripartite working groups comprised of government, labour and employer representatives in order to jointly develop the Registry of Investigators and the necessary tools and resources, these working groups included:
  - Registry of Investigators Working Group which was established in April 2019 to develop the Registry of Investigators
  - ➤ Interpretation, Policies and Guidelines (IPG) Working Group which was established in May 2019 to develop the guidance documents and other tools and resources to assist with interpreting various aspects of the new harassment and violence legislation
- The working groups met monthly or biweekly over the course of 18 months to complete the Register of Investigators and the tools and resources published on Canada.ca

# **Employer Obligations**

### **Employer Obligations: Introduced Key Terms**

**Notice of an occurrence:** notice to the employer that there has been an occurrence of harassment and violence in the work place

**Principal party:** the employer or employee who is the object of the occurrence of harassment and violence

**Responding party:** the person who is alleged to have been responsible for the occurrence in a notice of occurrence provided to the employer

**Applicable partner:** a reference to the policy committee or, if there is no policy committee, as a reference to the work place committee or the health and safety representative

**Designated recipient:** A person or work unit in a work place, designated by an employer to receive a notice of an occurrence

**Person designated:** The person designated by the employer under 10(2)(k) of the Regulations to receive complaints of contraventions of the Code or Regulations

### **Employer Obligations: Work Place Assessment**

#### Employers must jointly, with the applicable partner:

- conduct the initial work place assessment to identify risk factors that may contribute to harassment and violence;
- develop preventative measures to mitigate these identified risks factors; and,
- monitor, review and update the work place assessment at least every 3 years, or if risk factors have changed

#### Employers must jointly, with the work place committee or health and safety representative:

- review and if necessary update the work place assessment if:
  - a principal party ends a resolution process that is not resolved; or,
  - the responding party is not employee or employer (i.e. is a third party)

### **Employer Obligations: Prevention Policy**

- Employer must jointly develop a prevention policy with the applicable partner, which must include:
  - Mission statement
  - Risk factors that contribute to work place harassment and violence
  - Roles of the policy committee, work place committee and health and safety representative
  - Summaries of: employee training; the resolution process, including how the privacy of persons involved will be protected; and, emergency procedures
- The Policy must identify, describe how to contact, and list the duties of:
  - Designated Recipient for receiving notices of an occurrence
  - Person Designated for receiving complaints of contraventions of the Code or Regulations
- The Policy must be reviewed and updated at least once every 3 years

## **Employer Obligations: Training**



- **Employer and applicable partner** must jointly develop or identify training to be given to:
  - New Employees within 3 months of starting employment, and every 3 years after that
  - Current Employees by December 31, 2021, and every 3 years after that
  - Employers by December 31, 2021, and every 3 years after that.
  - Designated Recipients (for receiving notices of occurrences) before assuming their duties
  - Persons Designated (for receiving complaints of contraventions of the Code or Regulations) – before assuming their duties
- Employer and applicable partner must review and update the training at least once every 3 years

### **Employer Obligations: Reporting**

#### Monthly Status Updates:

- employer or designated recipient must provide monthly updates on the status of the resolution process related to a notice of an occurrence to:
  - the principal party, starting in the month after the notice was provided; and,
  - the responding party, starting in the month after the responding party was first contacted
- must be provided each month, including the month the resolution process is completed; and,
- employers may develop their own format for this report
- Fatality Report of employee death resulting from harassment and violence:
  - must be reported to the Labour program within 24 hours of the employer becoming aware of the death; and,
  - report must include date, time and general description of the occurrence, and contact information for the person who can provide more information

## **Employer Obligations: Reporting Continued**

- Annual Report of harassment and violence occurrences:
  - Must be reported to the Labour
     Program by March 1<sup>st</sup> of each year
  - Only one such annual report is required per employer; and,
  - Report summarizes the data of notices of harassment and violence that the employer received in the previous calendar year.



# **Employer Obligations: Receipt of Notice of Occurrence**

- Upon the employer or designated recipient receiving a notice of an occurrence, they must:
  - conduct an **initial review** of the notice to determine the identity of the principal party
  - contact the principal party within 7 days to inform them that their notice was received and of each step of the resolution process
  - Within 45 days, review the notice with the principal party, and see if agreement can be reached on whether the occurrence meets the definition of harassment and violence
  - make every reasonable effort to resolve the occurrence
  - where applicable, contact the responding party to inform them that they have been identified as the responding party and inform them of the resolution process
  - if the principal party requests an investigation, provide the principal and responding party with notice of an investigation

## **Employer Obligations: Selection of Investigator**

- If the principal party requests an investigation, the employer or designated recipient must select an investigator from:
  - a list of investigators jointly identified by the employer and applicable partner; or,
  - any person that is agreed to by the employer and the principal and responding parties; or,
  - if no such agreement is reached within 60 days, from a list maintained by the Canadian Centre for Occupational Health and Safety (CCOHS)
- Employer or designated recipient must ensure investigator has knowledge and training in:
  - investigative techniques;
  - harassment and violence in the work place; and,
  - the Canada Labour Code Part II and Canadian Human Rights Act

### **Employer Obligations: Investigation**

- Upon the investigator being selected, the employer or designated recipient must:
  - provide the investigator with any information that is relevant to the investigation;
  - ensure the investigator provides both parties and the employer a written statement that they are not in conflict of interest; and,
  - ensure the investigator's report:
    - Contains a general description of the occurrence, the investigator's conclusions, and their recommendations;
    - does not reveal directly or indirectly the identity of the persons involved in the occurrence or the resolution process; and,
    - is provided to the principal and responding parties, the work place committee or health and safety representative

# **Employer Obligations: Implementation of Recommendations**

- Employer must jointly determine with the work place committee or health and safety representative which recommendations from the investigator's report to implement
  - If agreement cannot be reached, the employer's decision prevails; however, the employer must record its decision and the reason for that decision
- Employer must implement the jointly agreed-to recommendations
   within 1 year of receiving the notice of an occurrence
- After implementing the recommendations, provide the parties a final monthly status update

# Policy Committees, Work Place Committees and Health and Safety Representatives

# Policy Committees, Work Place Committees and Health and Safety Representatives

- A policy committee is required where an employer employs 300 or more employees
- A work place committee is required where an employer employs 20 to 299 employees
- A health and safety representative is required where an employer employs less than 20 employees
- In the Regulations, a reference to "applicable partner" means a reference to the policy committee
  - where there is no policy committee, the work place committee or health and safety representative
- The applicable partner and the work place committee may play different roles in the Regulations

#### **Joint Matters**

- The employer and applicable partner must jointly:
  - Develop a work place harassment and violence prevention policy
    - Review and, if necessary, update the policy at least once every three years
  - Develop emergency procedures and, if necessary, update the emergency procedures after every implementation of the emergency procedures
  - Develop or identify the training on workplace harassment and violence that is to be provided to employees, the employer and the designated recipient.
    - Review and, if necessary, update the training at least once every three years

#### **Joint Matters Continued**

- If the employer wishes to develop a list of investigators, they must do so jointly with the applicable partner
- Jointly determine with the work place committee or health and safety representative which of the recommendations in the investigators' report are to be implemented
- The employer and the committee or representative must make reasonable effort to jointly agree and cannot abuse these provisions
- Where an employer and the policy committee, work place committee or health and safety representative are unable to jointly agree on any matter required under the Regulations, the employer's decision prevails

### **Privacy Considerations**

- There are specific privacy provisions related to policy committees, work place committees and health and safety representatives:
  - a work place committee shall not participate in an investigation, other than an investigation under section 128 or 129, relating to an occurrence of harassment and violence in the work place
  - For notices of an occurrence, the employer must first obtain the consent of the principal party before disclosing copies of the notice to the policy or work place committee. If they do not receive such consent, then they shall not provide these notices to the policy committee, workplace committee or health and safety representative
- Additionally, the investigator's report must not reveal, directly or indirectly, the identity of persons who are involved in an occurrence or the resolution process for an occurrence

# **Resources to Support Implementation**

## **Support for Implementation**

Three pillars to drive culture change



#### **Tools and Resources**

- Tripartite working group developed tools including a workplace risk factor assessment form, workplace policy and user guide, templates for the notice of an occurrence and response letters, and sample training syllabus
- Tools and resources include:
  - an <u>Interpretations</u>, <u>Policies and Guidelines</u> (<u>IPG</u>) document
  - a <u>sample harassment and violence prevention policy</u>
  - a <u>policy user guide</u>
  - a <u>sample work place risk assessment</u>
  - a <u>sample notice of an occurrence template</u>
  - a <u>sample employer response to a notice of an occurrence template</u>
  - a <u>sample monthly status update and final monthly status update letter</u> to the principal and responding parties template

a <u>list of employer duties</u>



# Training Modules for Government of Canada Employees & the Public

- The Labour Program worked with the Canadian School of Public Service (CSPS) to develop three online training modules for Government of Canada employees, which were made available in January 2021 to support the implementation of the coming into force of the Bill and Regulations. The training modules included the following online courses:
  - Harassment and Violence Prevention for Employees (W101);
  - Harassment and Violence Prevention for Managers and Committees/Representatives (W102); and,
  - Harassment and Violence Prevention for Designated Recipients and Employers (W103).
- These were also hosted on the CCOHS website for the broader public to access, they can be accessed at the following link: <a href="https://www.ccohs.ca/products/courses/course\_listing.html">https://www.ccohs.ca/products/courses/course\_listing.html</a>

### **Awareness Campaign**

 The LP engaged in an extensive awareness campaign to promote the new legislation, and the tools and resources developed to support it.
 The awareness campaign consisted of:

# 1. Emails to stakeholders (employees, employers and their representatives, and Indigenous communities).

• Three rounds of emails were sent in 2020 and 2021 to highlight the final publication and coming into force of the Regulations and the new tools and resources that are available online

#### 2. Social media campaign on Facebook, Twitter and LinkedIn.

• The campaign ran from June 24 – October 29, 2020 to promote the final publication of the new Regulations and from December 29 - February 23, 2021 to promote the coming into force of the new Regulations

### **Awareness Campaign Continued**

# 3. Awareness posters posted on the Canada.ca website and promoted on social media

 The four sample posters can be accessed at the following link: <u>https://www.canada.ca/en/employment-social-development/programs/workplace-health-safety/harassment-violence-prevention/posters.html</u>





### **Technical Briefings, Webcast Event & Podcast**

- 23 technical briefings on the new harassment and violence legislation from July 9 to January 14, 2021 with internal and external stakeholders, including various federal departments and agencies, parliamentary employers, and major employers and unions in the federal sector
- On November 16, 2020 participated in the live webcast event hosted by the CSPS. This event was titled "Bill C-65 and Its Impact on Workplace Harassment, Violence and Safety" and had more than 3000 Government of Canada employees in attendance
- In February 2021 recorded a podcast with the CCOHS titled "Understanding Canada's New Federal Harassment and Violence Legislation" to discuss and unpack the major components of the new legislation. This podcast is hosted on the CCOHS website and can be accessed at the following link: <a href="https://www.ccohs.ca/products/podcasts/">https://www.ccohs.ca/products/podcasts/</a>

#### **Harassment and Violence Prevention HUB**

- On July 3, 2018 the Labour Program established a Harassment and Violence Prevention Outreach Hub to support employers and employees in navigating their rights and obligations under the new legal framework:
  - includes a 1-800 number and is comprised of 6 Early Resolution Officers (EROs) who have received specific training on helping callers navigate the harassment and violence provisions under the Code and Regulations, identify available educational tools, and direct callers to support services in their regions
  - EROs particularly focus on supporting employers and employees in their efforts to:
    - prevent incidents of harassment and violence
    - respond effectively to these incidents whey they occur
    - support victims and employers

### **Registry of Investigators**

- Worked with employer and union stakeholders to develop a Registry of Investigators (the Registry) that is hosted on the <u>Canadian Centre of</u> <u>Occupational Health and Safety (CCOHS) website</u>
- Established in 2021, the Registry is a list of qualified and independent investigators that employers can contract to investigate an occurrence of harassment and violence in the workplace
- The Registry is intended for use only as a list of last resort where:
  - a jointly-developed list of investigators has not been established by the employer and their applicable partner; and,
  - the employer or designated recipient, principal party and responding party are unable to achieve consensus on who should be selected to act as an investigator within 60 days of the employer providing the notice of an investigation

### Workplace Harassment and Violence Prevention Fund

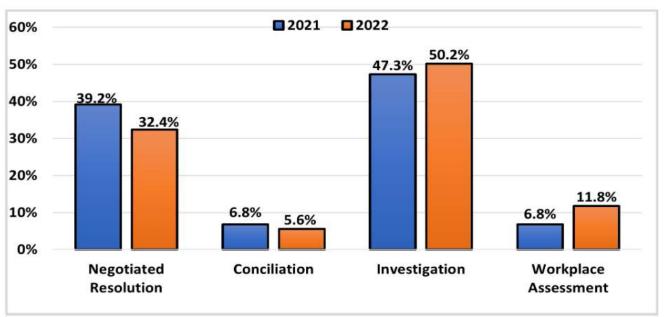
- To support the implementation of Bill C-65 and achieve the culture shift required to reduced occurrences of harassment and violence, the Labour Program established a grants and contributions program
- The <u>Workplace Harassment and Violence Prevention Fund</u> provides \$3.5M annually to projects aimed at creating safer workplaces and helping workplaces guide culture change related to harassment and violence prevention
- Partner organizations receive funding to co-develop sector-specific tools and resources related to harassment and violence prevention that will support behavioural changes in the workplace
- Since 2019, the Fund has supported 14 projects, across multiple sectors and provinces

# **Annual Reporting and Moving Forward**

### **Annual Report**

- The Labour Program publishes an annual report to provide statistics on harassment and violence in the workplace within federal jurisdiction and its regulated sectors
- The primary data source for the report is the Employer's Annual Harassment and Violence Occurrence Report which is a legislative

#### Reported resolution method by percentage



<u>2022 annual report – Taking action against harassment and violence in workplaces under Canadian federal jurisdiction - Canada.ca</u>

#### **Lessons Learned**

- Clarify expectations for those who call the Prevention Hub:
  - Clients often expect the government to investigate the specifics of their reported occurrence
- Language in guidance, resources and tools should be inclusive and accessible:
  - Terminology was occasionally geared toward industry over employees
- Additional education activities to raise awareness and inform employers and employees of options within the resolution process:
  - Conciliation is underutilized with less than 6% of occurrences resolved using this option in 2022
- Deadlines should account for organizational capacity:
  - Smaller organizations, such as Indigenous communities and smallmedium sized businesses organizations, may have less capacity to meet deadlines

### **Moving Forward**

- Keep working with employer and employee representatives to prevent and eradicate harassment and violence in the workplace
- This includes:
  - Re-establish and engage the tripartite group to update guidance materials, recent refresh of the Register of Investigators, and engage stakeholders as co-designers and champions of future strategies
  - Continue to meet commitment to International Labour Organization Convention 190 and ensure laws, policies, and programs meet international standards to address harassment and violence in the workplace
  - Review the harassment and violence provisions every 5 years, starting January 1, 2026 to evaluate the success of the regime, and identify any improvements