

Sexual Harassment

Why it's important to negotiate clauses on this issue.

Several CUPE Locals made contract breakthroughs by winning clauses on sexual harassment in 1981. Most of these gains were made in British Columbia. It's essential that other Locals obtain similar clauses, and then improve on them in subsequent negotiations.

Here are The Facts:

Since last year, when the issue of sexual harassment first hit the bargaining table, over a dozen CUPE locals have established contract language to address this problem.

The table on this page lists 28 CUPE contracts which included sexual harassment clauses in 1981.

The vast majority of CUPE contract clauses on sexual harassment (20) are found in British Columbia. There are a number of factors which explain this geographic concentration.

One reason is that the B.C. women's movement is very active in addressing the needs and problems of working women.

In 1978 the B.C. Federation of Labour Women's Committee prepared a policy statement defining and opposing sexual harassment. It was overwhelmingly endorsed at the annual Federation Convention in 1978.

The Federation also worked with the Vancouver Women's Research Centre to conduct a survey on sexual harassment. The results of the survey, which showed how widespread the problem was, were publicized throughout the labour movement, drawing attention to the gravity of the issue.

Within CUPE an active provincial women's committee has also emphasized the importance of this issue. As a result, many CUPE Locals in British Columbia recognize the importance of negotiating sexual harassment clauses.

The positive results of this large-scale education campaign on sexual harassment in British Columbia is evident when one examines the list of CUPE locals with this type of contract clause.

The nature of these provisions range from a brief statement prohibiting sexual harassment, to a lengthy clause providing a detailed definition of what sexual harassment is.

An example of a very short sexual harassment clause is found in the collective agreement between CUPE Local 608 and the City of Penticton. It states:

"All personnel have the right to work without sexual harassment. Any complaint alleging sexual harassment

will be dealt with in the Grievance Procedure and will commence at Step 3."

A similar clause is found in CUPE Local 79's contracts with the City and Metro Toronto:

"Every employee has a right to be free from sexual harassment and from any reprisal or threat of reprisal for the rejection of such behaviour."

Where an allegation is made that the "Sexual Harassment Article" has been violated, a grievance shall be initiated at Step 2 of the grievance procedure within five (5) days after such violation is alleged to have occurred.

A far more elaborate contract clause, including a comprehensive definition of sexual harassment, is found in the agreement between Local 2348 and Clinic Inc. Community Health Centre in Winnipeg:

Sexual harassment shall be defined as sexually oriented behaviour that undermines an employee's health or job performance, or endangers the employee's employment status or potential through:

- a) *Impediment* by obstruction of physical or professional progress;
- b) *Intimidation* by following, gesturing obscenely, heckling, or insulting, making rude noises, exposure of genitals/breasts;
- c) *Coercion* by threatening withdrawal of professional support or co-operation, or termination of professional relationship unless the person agrees to sexual activity OR by requesting or suggesting sexual activity as payment for past or future professional assistance or consideration.
- d) *Annoyance* by repeated and persistent irritating, sexually suggestive acts or comments.

A complaint of sexual harassment shall be eligible to be processed as a grievance.

The next step — corrective action

Some CUPE Locals have gone a step further by addressing some of the problems which arise when sexual harassment takes place.

One problem is that the victim must often prove that the sexual harassment was unwanted and unsolicited. Similar to rape cases, the burden of proof is often unjustly placed on the victim to prove her innocence. However, one CUPE Local

has negotiated a clause which counteracts this problem. The contract between CUPE Local 3012 and the Saskatchewan Association of Human Rights states:

"In the case of a complaint of sexual harassment, the onus shall be on the alleged harasser and not on the complainant to disprove the complaint."

Another major problem is that corrective action to prevent future occurrences of sexual harassment

**CUPE LOCALS WITH
CONTRACT CLAUSES ON SEXUAL
HARASSMENT
1981 (a)**

CUPE LOCAL	EMPLOYER
50	City of Victoria, B.C.
23	Burnaby Public Library Board, B.C.
23	District of Burnaby, B.C.
386	District of Coquitlam, B.C.
387	City of New Westminster, B.C.
389	District of North Vancouver, B.C.
	City of North Vancouver, B.C.
	North Vancouver City Library Board, B.C.
	North Shore Union Board of Health, B.C.
	North Vancouver Recreation Commission, B.C.
394	Township of Richmond, B.C.
	Richmond Public Library Board, B.C.
454	Corporation of Delta, B.C.
825	City of Port Moody, B.C.
1004	City of Vancouver, B.C.
1698	Fraser Valley Regional Library Board, B.C.
105	City of Prince Rupert, B.C.
105	Prince Rupert Library Board, B.C.
608	City of Penticton, B.C.
2012	District of Terrace, B.C.
1948	Saskatoon School Division, Saskatchewan
3012	Saskatchewan Association of Human Rights
	One Sky Saskatchewan Cultural Centre
	Saskatchewan Committee for World Development
2348	CUSO — OXFAM Labour Project Clinic Inc. — Community Health Centre, Manitoba
79	Municipality of Metropolitan Toronto, City of Toronto, Ontario

note: (a) This may not be a complete list of CUPE locals with sexual harassment clauses. Please notify the Research Department of any omissions

is usually rare or ineffective. As a result, sexual harassers tend to be repeaters, making life miserable for a number of victims. Clearly, action must be taken to discourage sexual harassers from continuing this behaviour.

A few CUPE locals have negotiated contract language which deals with this crucial aspect of sexual harassment. For example, the collective agreement between CUPE Local 2012 and the District of Terrace (B.C.) has a provision to transfer or discipline a sexual harasser!

"In cases of sexual harassment, an arbitration board shall have the power to transfer, discipline or to levy a financial penalty against the harasser and the Employer. In cases where sexual harassment may result in the transfer of the person, it shall be the harasser who is transferred and the victim shall not be transferred against their will."

The importance of these breakthroughs

One should not underestimate the importance of introducing a clause into the contract on sexual harassment, no matter how brief it may be. Without a statement prohibiting sexual harassment, it is much more difficult to launch a grievance on the issue. Even a short simple statement against sexual harassment opens the door for the union to take action.

Clearly a comprehensive definition of sexual harassment, as well as a procedure for corrective or punitive action, is the ideal. But if that's impossible for the first try, scale it down but get it in the contract. Even writing the protection provided by the Human Rights Code into the collective agreement ensures that members are aware they have some protection against sexual harassment. Once a clause on sexual harassment has been introduced into the collective agreement, it can be improved in subsequent negotiations.

To date there have been very few grievances on sexual harassment, so there have been few tests of the effectiveness of various types of sexual harassment clauses. In the future, it will be important to publicize the outcome of grievances and arbitrations on sexual harassment so that the union as a whole learns from the experiences of others.

Grieving sexual harassment

Considerable preparatory work must be done within the union in order to win grievances on sexual harassment. It is not only a matter of making sure a case is well documented and that the grievance procedure is followed carefully. The union must first win the confidence of its members so that they will readily report instances of sexual harassment.

A sensitivity to the issue and sympathy for the victim are essential. One way to achieve this is by providing ongoing education on sexual

harassment. This should be particularly aimed at stewards, who are often the first step (or barrier) in the grievance procedure. If the victims of sexual harassment receive the cold shoulder from the stewards, it discourages them from proceeding further. A sensitivity to this issue by stewards is crucial.

Our future task

Clearly, for the vast majority of CUPE Locals, the first task is to negotiate a contract clause opposing sexual harassment.

(For a more detailed discussion on sexual harassment and how to fight it, see CUPE Facts, Vol. 2, No. 7, March 1980).

For those who have made this first step, the next round of bargaining should provide an opportunity to seek improvements in what has been negotiated. This should include a clear definition of what constitutes sexual harassment and corrective and/or punitive action to prevent recurrence.

And, of course, all CUPE locals should be making a concerted effort to sensitize our members, particularly stewards, to the problem of sexual harassment and the importance of taking positive action to prevent it.

Unfortunately, not all sexual harassment is by the employer; some of our co-workers are guilty too. In future, the union will have to address this aspect of the problem as well.

— Jane Stinson.

The logo for CUPE (Canadian Union of Public Employees) features the word "CUPE" in a bold, sans-serif font. The letter "E" is stylized with a right-pointing arrowhead integrated into its right vertical stroke.