

# Policy and Legislative Recommendations to Protect Students from Sexual Harassment in Experiential Learning



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# Land Acknowledgement


This work is taking place on and across the traditional territories of many Indigenous nations. We recognize that gender-based violence is one form of violence caused by colonization that is still used today to marginalize and dispossess Indigenous Peoples from their lands and waters. We must centre this truth in our work to address gender-based violence on campuses and in our communities. We commit to continuing to learn and take an anti-colonial inclusive approach in all our work. One way we are honouring this responsibility is by actively incorporating the [Calls for Justice within Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls](#).

## About Possibility Seeds

[Courage to Act](#) is a national initiative to address and prevent gender-based violence at Canadian post-secondary institutions. It is led by Possibility Seeds, a social change consultancy dedicated to gender justice, equity, and inclusion. We believe safe, equitable workplaces, organizations and institutions are possible. Learn more about our work at [www.possibilityseeds.ca](http://www.possibilityseeds.ca).

We hope this document will be a valuable resource to those seeking to address and prevent campus gender-based violence. As this is an evolving document, it may not capture the full complexity of the subject matter. The information provided does not constitute legal advice, and is not intended to be prescriptive. It should be considered a supplement to existing expertise, experience, and credentials; not a replacement for them.

We encourage readers to seek out training, education, and professional development opportunities in relevant areas to enhance their knowledge and sustained engagement with this work.



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## With special thanks to:

All the students, staff, faculty, experiential learning providers, organizations, and advisors who participated in our design jams, consultations, surveys, interviews, and focus groups.

All the staff, faculty, students, and organizations who met with us and supported our efforts over the course of this project.

And our Community Partners:

- Canadian Alliance of Student Associations
- Canadian Association of Career Educators and Employers
- Canadian Association of College & University Student Services
- CERIC - Advancing Career Development in Canada
- College Student Alliance
- Co-operative Education and Work-Integrated Learning Canada
- Experiential & Work-Integrated Learning Ontario
- Fédération étudiante collégiale du Québec
- National Educational Association of Disabled Students
- Ontario Undergraduate Student Alliance
- UBC Alma Mater Society
- Union étudiante du Québec

## To reference this document, please use the following citation:

De Costa, B., Akong, R., St-Gelais, A., and Khan, F. (2023). *Policy and Legislative Recommendations to Protect Students from Sexual Harassment in Experiential Learning*. Possibility Seeds' Courage to Act: Addressing and Preventing Gender-Based Violence at Post-Secondary Institutions in Canada.

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### **Funding Acknowledgement:**

*Policy and Legislative Recommendations to Protect Students from Sexual Harassment in Experiential Learning*, a project by Possibility Seeds, was graciously funded by Women and Gender Equality Canada.



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Equality Canada

Femmes et Égalité  
des genres Canada

Canada



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## Introduction

In 2014, news broke that Jian Ghomeshi, Canadian broadcaster and former host of the popular radio show "Q" on CBC (the Canadian Broadcasting Corporation), was facing numerous reports of sexual harassment and assault, which ultimately led to his termination from CBC.

The story sparked broader national conversations about sexual violence, including sexual harassment in the workplace and sexual violence on post-secondary campuses. One media story stood out to us at *Possibility Seeds*. It was about journalism schools across the country reassessing their internship placements at "Q." Media reports following the 2014 news uncovered that some post-secondary institutions (PSIs) had been cautioning students and discouraging them from participating in internships with the radio show as far back as 2008. One PSI had even stopped allowing these internships.<sup>1</sup> All of this revealed significant gaps in institutional policies and practices to address sexual harassment and/or violence in experiential learning settings and prevent further harm.

Since then, *Possibility Seeds* has been looking at the issue of sexual harassment in experiential learning. Our Sexual Harassment in Experiential Learning Research-to-Action Project (the first national study looking at this issue) was launched in response to gaps in research and a recognized need for support, resources and tools to address this prevalent, but often hidden, issue. In fall 2022, we conducted a bilingual national survey of students, staff and faculty across Canada to better understand the issue. The survey laid bare the prevalence and severity of the problem, as one in two post-secondary students disclosed that they had been subjected to at least one form of sexual harassment in an experiential learning setting. In addition to the survey, *Possibility Seeds* held consultations, conducted interviews and met with key stakeholders to better understand people's needs and concerns with respect to the issue.

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<sup>1</sup> News Staff. (2014). Schools review internship placements at Ghomeshi's former CBC radio show. *CityNews*.

<https://toronto.citynews.ca/2014/11/03/journalism-schools-review-internship-placements-at-jian-ghomeshis-former-cbc-radio-show/>; CBC News. (2015). CBC Inquiry concludes management mishandled Jian Ghomeshi. *CBC News*.

<https://www.cbc.ca/news/cbc-inquiry-concludes-management-mishandled-jian-ghomeshi-1.3035574>



## **1 in 2 students were subjected to sexual harassment and/or violence during their experiential learning opportunity.**


*Data from Possibility Seeds' 2022 National Sexual Harassment in Experiential Learning Survey*

One common concern we heard from students, staff and faculty was the need to address gaps in legislative and policy frameworks to acknowledge the incidence of, respond to, and prevent, sexual harassment and/or violence in experiential learning. Existing institutional policy and legislative frameworks that are intended to address sexual harassment and/or violence at PSIs or in the workplace often overlook or exclude students in experiential learning positions and/or fail to refer to the issue as being separate and distinct from other forms of harassment and violence. This creates a “grey area” where there are clear gaps or a lack of clarity around the responsibilities of institutions and experiential learning providers and what protections against sexual harassment and/or violence are available to students in the context of experiential learning.

While there is some work being done to address these gaps in policy and legislation at the institutional, provincial and territorial, and federal levels, there is a need for more robust policy and legislative frameworks to address discrepancies across the country and support a comprehensive approach to addressing sexual harassment and/or violence against students in experiential learning positions. This need was identified by student leaders across the country in [\*Our Campus, Our Safety: Student Leaders' Action Plan for Institutions and Governments to Address and Prevent Sexual Violence on Campus\*](#). The document includes a call for provincial and territorial governments to “address sexual violence in experiential learning opportunities by implementing the legislative and regulatory recommendations collaboratively developed by students; experiential learning professionals, faculty, and staff; and sexual violence experts.”

In this document we make recommendations informed by the research and consultations we have conducted at *Possibility Seeds*. These recommendations are intended for PSIs and provincial and territorial governments to support country-wide efforts toward more robust policy and legislative frameworks. They focus on legislative and policy interventions or amendments that are necessary as part of a broader strategy to address and prevent sexual harassment and/or violence in experiential learning. We also recognize that PSIs and governments are not the only bodies with a responsibility here. Thus, we have included





recommendations for experiential learning providers, industries and professional associations to inform their policies, protocols and roles in legislative advocacy.

While necessary, legislative and policy frameworks on their own cannot address all aspects of this issue. Sexual harassment and/or violence are deep and pervasive problems that require ongoing work to address structural and practical gaps. For this reason, we encourage you to connect with experts in your network, and to seek out training, education and professional development opportunities to enhance your knowledge and sustain your engagement with working to address sexual harassment and/or violence in experiential learning. We also suggest that you engage with the tools and resources coming out of our [\*Sexual Harassment in Experiential Learning Research-to-Action Project\*](#).

**“I think you can have a really nice piece of paper, [but] if people don't really read it or don't care about it, then nothing's gonna happen.”**

*Student Interview Participant*

# Executive Summary: Policy and Legislative Recommendations to Address Sexual Harassment and/or Violence in Experiential Learning

## Policy & Protocol Recommendations for Post-secondary Institutions

1. Ensure experiential learning contexts are clearly included in the scope of institutional sexual violence and other relevant policies.
2. Ensure institutional experiential learning policies clearly articulate how sexual harassment and/or violence will be addressed by the institution.
3. Develop a specific protocol for how the institution will respond to sexual harassment and/or violence in experiential learning.

## Legislative Recommendations for Provincial and Territorial Governments

1. Introduce or strengthen existing provincial and territorial legislation to specifically protect students in experiential learning from sexual harassment and/or violence.
2. Strengthen provincial and territorial legislative and regulatory frameworks on workplace harassment and violence to protect students in experiential learning positions.
3. Provide legislative and regulatory guidance to post-secondary institutions on addressing and preventing sexual harassment and/or violence in experiential learning.

## Recommendations for Experiential Learning Providers, Industries and Professions

1. Review existing organizational policies around sexual harassment and/or violence to ensure students completing experiential learning opportunities are explicitly included.
2. Create a specific protocol for how the organization will respond to sexual harassment and/or violence against students completing experiential learning opportunities.
3. Champion amendments to workplace harassment and violence legislation that will strengthen protections for students in experiential learning positions.

## Policy & Protocol Recommendations for Post-secondary Institutions

### 1. Ensure experiential learning contexts are *clearly* included in the scope of institutional sexual violence and other relevant policies.

As part of *Possibility Seeds'* Sexual Harassment in Experiential Learning Research-to-Action Project, we reviewed sexual violence policies from PSIs across Canada. Of the policies we reviewed, only 25 of 79 university policies and 71 of 139 college policies<sup>2</sup> explicitly included experiential learning within their scope.<sup>3</sup> While no institutional policies explicitly excluded experiential learning contexts, there was a concerning lack of clarity as to whether experiential learning contexts were included within the scope of the majority of policies. When the scope of a sexual violence policy is unclear, it creates ambiguity as to the protections and supports for students and decreases institutional accountability. We are therefore advocating for greater clarity in institutional policies to address any gaps that exacerbate the vulnerabilities students face in such environments. To this end, we recommend that institutional sexual violence policies explicitly include experiential learning contexts in their scope.

This requires that policymakers be clear about the limits of an institution's sexual violence policy in the context of experiential learning. For example, when sexual harassment and/or violence occurs in an experiential learning context that is external to the institution, the institution will likely not have jurisdiction to lead an investigation or impose sanctions.

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<sup>2</sup> This includes CEGEPs, subsidized private schools and government-funded establishments. It doesn't include non-subsidized private schools as their policies related to sexual violence are usually not available online.

<sup>3</sup> Quebec has the highest proportion of institutional sexual violence policies that include experiential learning within their scope as compared to the rest of the country. (66.7% of universities and 82.6% of colleges in Quebec include experiential learning in their scope compared to 21.3% of universities and 20.0% of colleges in the other provinces and territories). Notably, in Quebec, most institutional sexual violence policies were updated following the adoption of Bill 14, *An Act to ensure the protection of trainees in the workplace*, the first legislation in Canada that specifically focuses on the protection of students in experiential learning positions. It grants, "the right to a training environment exempt from psychological harassment, including such behaviour in the form of verbal comments, actions or gestures of a sexual nature" and includes responsibilities for workplaces, post-secondary institutions, and professional or regulatory bodies to respect this right.

However, this does not absolve the institution of their responsibility to support students and provide safe working and learning environments. Policies should be clear on this point, while also setting out an institution's responsibilities and commitments in those circumstances, such as providing supports for students affected by sexual harassment and/or violence, including mental health supports, experiential learning programming supports, academic and workplace considerations or accommodations and more.

When including experiential learning opportunities in the scope of sexual violence policies, institutions should ensure that they also reference any applicable legislative or regulatory frameworks, as well as institutional protocols or procedural documents that are specific to responding to sexual harassment and/or violence in the context of experiential learning, if available. Where no protocol exists, institutions should commit to establishing them. (See [recommendation 3](#).)

Additionally, provincial and territorial governments can support PSIs by providing legislative and/or regulatory guidance around the scope of institutional sexual violence policies. (See our [legislative recommendations for provincial and territorial governments](#).)

### Promising Practices

- Concordia University's [Policy Regarding Sexual Violence](#) specifically names "research environments, co-op and experiential learning contexts, internships, organized class activities and University workshops" as settings to which the policy applies.
- Laurentian University's [Policy on Response and Prevention of Sexual Violence](#) defines the learning and working environment to include "any setting where University learning, working or other activities take place, whether in the classroom, lab, in other teaching, research, study or office settings, including the online environment, in co-op or practicum placements."
- New Brunswick Community College's [Sexual and Gender-Based Violence Policy](#) specifies that it "applies to actions, interactions, conduct, and behaviors that take place...Off College premises but involved in the business of the College or activities sanctioned by or representing the College (including but not limited to work-integrated learning, academic or professional conferences, volunteer activities, academic or research fieldwork)."

## 2. Ensure institutional experiential learning policies clearly articulate how sexual harassment and/or violence will be addressed by the institution.

*Possibility Seeds* also reviewed experiential learning policies from PSIs across Canada. While there are few PSIs with institution-wide experiential learning policies, the majority we reviewed focused predominantly on the students' responsibilities to meet institutional and workplace expectations. Some institutional experiential learning policies also addressed safety in the workplace, but few, if any, addressed sexual harassment and/or violence specifically. This not only fails to show an institutional commitment to addressing and responding to these harms, it also creates barriers to protections and supports for students. We are therefore advocating for policies to be strengthened to address any gaps that exacerbate the vulnerabilities students face in such environments. To this end, we recommend that institutional experiential learning policies include, at minimum, the following:

- The institution's values and commitments to provide a safe working and learning environment, particularly with respect to sexual harassment and/or violence.
- Reference to procedures and protocols specific to responding to sexual harassment and/or violence, if available, rather than treating the occurrence the same as any other threat to a safe working and learning environment. Where no protocol exists, institutions should commit to establishing them. (See [recommendation 3.](#))
- Reference to the institutional sexual violence policy, to the extent that it applies. (See [recommendation 1.](#))
- Reference to the relevant provincial/territorial or federal protections available to experiential learning students, such as Human Rights Codes or the ability to bring a complaint before a relevant board or tribunal.



*If the relevant legislation is unclear, the PSI should discuss with experiential learning providers the importance of providing the same protections to students that are provided to workers. These expectations should also be included in relevant institutional policies, contracts, memoranda of understanding, employer handbooks, or any other agreement or resource provided to the experiential learning providers your institution has a relationship with.*

- The institution’s commitment to providing experiential learning students with clear, accessible information on available supports, reporting options and applicable policies as they apply in the context of experiential learning. For example, consider institutional sexual violence policies, harassment and discrimination policies, respectful work and learning policies, experiential learning policies, and other applicable policies and procedures.
- The institution’s commitment to providing academic and workplace considerations<sup>4</sup> to students affected by sexual harassment and/or violence.



*Academic and workplace considerations can support students affected by sexual harassment and/or violence. They might apply to students who, for example, couldn't complete, or risk failing to complete, their experiential learning requirement(s) or who didn't meet grade expectations because of the sexual harassment and/or violence. **These considerations should never be contingent on a student needing to “prove” their experience of sexual harassment and/or violence.***

### Promising Practices

- Assiniboine Community College’s [Policies and Procedures: Work Practicums](#) is an excellent model on including the relevant provincial/territorial or federal protections available to experiential learning students.
- Loyalist College of Applied Arts & Technology’s [Co-operative Education Programs Policy](#) takes a trauma-informed, survivor-driven approach to institutional responses by stating that the employer, faculty representative and Career Services & Work Integrated Learning unit “should then take whatever steps the student deems necessary to ensure their personal safety which may include immediately exiting

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<sup>4</sup> “Academic considerations are temporary and informal, usually based on immediate circumstances...Academic considerations do not require formal documentation. They are usually provided by the office dedicated to GBV support, or can be obtained through self-advocacy. They can also be attained without entering a formal PSI process or investigation” from Jafry, Z., Naushan, A., Toledo, E., Khan, F. & Elmi, A. (2022). *Developing Academic Considerations for Students Affected by Sexual and Gender-Based Violence at Canadian Post-Secondary Institutions*. Possibility Seeds’ Courage to Act: Addressing and Preventing Gender-Based Violence at Post-Secondary Institutions in Canada. <https://www.couragetoact.ca/knowledgecentre>

from the workplace” if that student has informed them that their rights have been threatened or violated.

- The Manitoba Institute of Trades and Technology’s [Work Practicum and Work Co-op Policy](#) explicitly states that “the student has the right to refuse dangerous work including any concerns related to their personal safety.” It further provides that “a student will not be disciplined for exercising their right to refuse to work when acted upon in good faith,” which is important given the power differentials involved in experiential learning environments.
- The [Policy on Internships](#) at CÉGEP of Sorel-Tracy’s clearly states the institution’s commitment to safeguarding the well-being of interns in regard to instances of sexual violence. It outlines the specific responsibilities of staff members overseeing internships in evaluating potential experiential learning providers and ensuring their compliance with the [Act to ensure the protection of trainees in the workplace](#). Staff members are, among other things, responsible for verifying that internship environments are free from harassment. They also have to implement appropriate protective measures in response to reports of harassment from students during the course of their internships.

There are also promising practices that can be found in other institutional policies that apply, but are not specific to, experiential learning contexts. For example:

- Toronto Metropolitan University’s [Academic Considerations Policy](#) and [online portal for Academic Consideration Requests](#) provides an accessible avenue for students, including those in experiential learning positions, to request academic considerations in extenuating circumstances, defined as “occurrences that: (a) Are outside of a student’s immediate control; (b) Could not have been reasonably foreseen or avoided, and (c) Significantly impact a student’s ability to fulfill their academic requirements”;
- Clause 5.6(b) in the University of Ottawa’s [Prevention of Sexual Violence Policy](#) states that in instances of sexual violence, the Sexual Violence Response Team will ensure “appropriate accommodations and interim measures are available and implemented to stabilize the situation and/or separate the parties and to address any safety or security concerns.”



## Resource



For guidance on academic considerations for students affected by sexual harassment and/or violence, consult *Possibility Seeds'* [\*Developing Academic Considerations for Students Affected by Sexual and Gender-Based Violence at Canadian Post-Secondary Institutions\*](#).

### **3. Develop a specific protocol for how the institution will respond to sexual harassment and/or violence in experiential learning.**

One of the most common needs identified by students, staff, faculty and administrators in the surveys we conducted was for PSIs to have clear procedures for responding to a disclosure of a student being affected by sexual harassment and/or violence in an experiential learning environment. Staff and faculty were concerned that there is often no institutional guidance or clarity on what steps should be taken in these circumstances. And while some experiential learning offices are taking steps to ensure the continued safety of students, their efforts are often reliant on a set of unwritten values and practices upheld by a committed group of staff and faculty. Students also expressed concern that staff and faculty efforts were undermined by a lack of institutional frameworks, and shared how this gap was a factor in their decision not to report the sexual harassment and/or violence they were subjected to.

To address this, we recommend that PSIs develop a protocol that lays out the specific procedures to be followed when a student has been affected by sexual harassment and/or violence in experiential learning contexts. An institutional protocol supports staff and faculty, and ensures that they are attentive to the unique institutional, legal and regulatory context, along with the duties and responsibilities that are at play. It also supports institutional accountability by demonstrating the institution's commitment to addressing sexual harassment and/or violence in experiential learning and protects against institutional liability and risk by setting out how the institution will take reasonable steps to ensure the safety of students.

By establishing a comprehensive protocol that addresses the unique challenges faced by students in experiential learning, PSIs can foster a safer and more inclusive environment for all students pursuing their academic and career goals. Such a protocol would contribute to a culture of trust and safety where students are empowered to come forward and report

incidents of sexual harassment and/or violence without fear of reprisal or judgement. It would also send a strong message that the institution is committed to safeguarding the well-being and rights of all students in every aspect of their academic experience.

### Resource



PSIs can look to *Possibility Seeds'* [Building a Protocol for Post-Secondary Institutions to Respond to Sexual Harassment and/or Violence in Experiential Learning](#) for support with developing their own protocols.

## Legislative Recommendations for Provincial and Territorial Governments

### 1. Introduce or strengthen existing provincial and territorial legislation to specifically protect students in experiential learning from sexual harassment and/or violence.

Existing legislative and regulatory frameworks to address and prevent sexual harassment and/or violence in the workplace present significant gaps that leave students in experiential learning positions vulnerable to harm. While there are important amendments that can and should be made to address these gaps (see [recommendation 2](#)), it's also important to understand and respond to the unique experiences of students in experiential learning positions compared to those of regular employees or workers, including the complicated legislative, regulatory and policy context and the different power dynamics at play.

In 2022, Quebec adopted Bill 14, *An Act to ensure the protection of trainees in the workplace*, the first legislation in Canada that specifically focuses on the protection of students in experiential learning positions. Notably, Quebec also has the highest proportion of institutional sexual violence policies that include experiential learning within their scope as compared to the rest of the country. (66.7% of universities and 82.6% of colleges in Quebec include experiential learning in their scope compared to 21.3% of universities and 20.0% of colleges in the other provinces and territories).

We recommend that other provinces and territories follow suit and introduce legislation to protect students in experiential learning positions. Doing so will help to address the unique challenges and vulnerabilities of these students, and will clarify the responsibilities of experiential learning providers as well as the rights of students. Furthermore, introducing legislation is a way for provincial and territorial governments to demonstrate their commitment to the safety of students as they explore their career pathways, and to support institutional, governmental and organizational accountability.

We also recommend that, following the introduction of legislation to protect students in experiential learning positions, provincial and territorial governments conduct regular reviews to address gaps, concerns or challenges that emerge in its implementation. These reviews must include meaningful engagement with students most impacted by sexual

harassment and/or violence in experiential learning positions. In [Our Campus, Our Safety: Student Leaders' Action Plan for Institutions and Governments to Address and Prevent Sexual Violence on Campus](#), student leaders across the country recommended “that provincial and territorial governments create consultation opportunities like advisory committees, working groups, and roundtables to address the issue of sexual violence at PSIs.” A similar approach should be adopted in the context of addressing sexual harassment and/or violence in experiential learning.

### Promising Practice

Quebec’s Bill 14, [An Act to ensure the protection of trainees in the workplace](#) grants, “the right to a training environment exempt from psychological harassment, including such behaviour in the form of verbal comments, actions or gestures of a sexual nature,” and includes responsibilities for workplaces, PSIs and professional or regulatory bodies to respect this right.

## **2. Strengthen provincial and territorial legislative and regulatory frameworks on workplace harassment and violence to protect students in experiential learning positions.**

All provinces and territories have legislative protections against workplace harassment and/or violence, but not all these protections are broad or robust enough to protect students in experiential learning positions from harm. (See the [Appendix](#) for an overview of the legislative and regulatory frameworks for workplace harassment and violence in each province and territory.)

Because of the unique position of students and the shared responsibilities between employers, PSIs and professional or regulatory bodies to ensure their safety, gaps—and a lack of clarity in legislation—are likely to result in students being excluded from certain rights or protections.

To address this concern, provincial and territorial governments should make the following amendments to their legislation on workplace harassment and violence:

- A. Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are specifically included.
- B. Amend provincial and territorial workplace harassment and violence legislation to specifically address sexual harassment and/or violence.
- C. Amend provincial and territorial workplace harassment and violence legislation to promote institutional accountability and data collection on sexual harassment and/or violence in the workplace.

As provincial and territorial governments work to implement these recommendations, we encourage careful attention be paid to the unique challenges that arise in the context of experiential learning. In doing so, they should:

- consider the different forms of experiential learning (including paid and unpaid positions, part-time or full-time work, etc.) and the implications they may have on the protections to be provided;
- be aware of the unique power differentials at play when students are relying on these positions to complete their educational requirements;
- consider the intersections of employment legislation and PSI's sexual violence policies; and
- strategize about how to best educate employers, PSIs, professional or regulatory bodies and students on their rights and responsibilities under these legislative and policy frameworks.

### **A. Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

Few provinces and territories specifically contemplate and include students in their legislative and regulatory frameworks on workplace harassment and violence. More commonly, legislative and regulatory frameworks are unclear, partially inclusive (i.e., they only apply to students completing paid opportunities), or they explicitly exclude students completing unpaid work. (See the [Appendix](#) for an overview of which provinces and territories include students in their legislative and regulatory frameworks on workplace

harassment and violence.) This leaves students vulnerable, as their rights and the responsibilities of their employers are ambiguous.

Provincial and territorial legislation should be amended to include clearer language around which types of employees (i.e., salary-based, hourly-wage-based, or volunteer-based employees; unpaid or paid experiential learning students at PSIs) are protected by the legislation and, consequently, workplace harassment and violence prevention plans, policies and procedures. Knowing that one in two post-secondary students who participated in *Possibility Seeds'* 2022 National Sexual Harassment in Experiential Learning survey had been subjected to at least one form of sexual harassment in an experiential learning setting, the specific inclusion of experiential learning students in workplace-related legislation becomes even more important.

We recognize that some legislation is only legally applicable to a specific type of employee (such as experiential learning students doing paid work) and therefore it may not be possible to include students in other forms of experiential learning. In those cases, specifically enumerating these students in relevant definitions and provisions helps with clarity and creates a sense of inclusivity and security for the experiential learning students to whom the legislation can apply. Where this is the case, we encourage provinces and territories to explore alternative avenues to ensure that all students have legislated protections to support equitable and safe working and learning opportunities. (For example, consider adopting [recommendation 1.](#))

### Promising Practices

- Ontario's [Occupational Health & Safety Act](#) explicitly includes students in experiential learning positions under the definition of "worker," which is "a person who performs work or supplies services for monetary compensation...[and] a person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university, private career college or other post-secondary institution."
- Yukon's [Workers' Safety & Compensation Act](#) provides a helpful level of specificity in its definition of "worker," which includes "a person who performs services for an employer under an express or implied contract of employment or apprenticeship, whether paid or unpaid, a learner, a volunteer, or a self-employed person."

- The Federal government has clear communications on the inclusion of student interns in the [Canada Labour Standards Code](#), including information explaining the [federal labour standards for interns and student interns](#) and the [federally regulated employer obligations towards interns and student interns](#).

## B. Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.

Provincial and territorial legislation on workplace harassment and violence often speaks broadly to workplace harassment, violence and/or bullying. (See the [Appendix](#) for an overview of the specific language used in legislative and regulatory frameworks on workplace harassment and violence.) While these terms are likely to include sexual harassment, sexual violence or sexualized bullying, grouping them together fails to recognize these as distinct forms of harassment and violence with their own unique and problematic impacts on society. Due to the insidiousness of rape culture, and how it impacts concepts like victim blaming and power imbalances, it is important to address these transgressions as separate and distinct from other forms of violence and harassment that have long been understood and condemned in our current social climate.

Provincial and territorial legislation should therefore be amended to specifically address sexual harassment and/or violence as distinct from workplace harassment, violence and/or bullying. Legislators and policy writers must understand that the specific inclusion of terms like sexual harassment and sexual violence is essential to a genuinely safe, inclusive workplace. Specific language provides clarity, allows for targeted protections, and reassures workers and experiential learning students that these risks are being considered by employers.

### Promising Practices

- Ontario's [Occupational Health & Safety Act](#) includes a definition of "workplace sexual harassment" that is distinct from "workplace harassment" and "workplace violence."
- Prince Edward Island's [Employment Standards Act](#) includes a stand-alone definition of "sexual harassment." The Act also includes an entire section specific to sexual harassment.



## Note



When amending definitions for relevant terms like employee, worker, harassment, violence and bullying, the same level of specificity should be applied to each definition. When specific and comprehensive definitions are used for some relevant terms, and ambiguous or broad definitions are used for other relevant terms within the same piece of legislation, it creates confusion around how the legislation should be interpreted and applied. Ideally, relevant definitions will err on the side of specificity and comprehensiveness, but if there are relevant definitions that are written broadly and ambiguously, then other relevant definitions should be written to match that broadness.

### C. Amend provincial and territorial workplace harassment and violence legislation to promote institutional accountability and data collection on sexual harassment and/or violence in the workplace.

Protections for employees against sexual harassment and/or violence without clear expectations and mechanisms for accountability are not true protections. For this reason, we recommend that provincial and territorial workplace harassment and violence legislation be amended to require that each government publicly report the incidence of sexual harassment and/or violence in the workplaces to which each piece of workplace health and safety or employment standards legislation applies.

This could be achieved by each province and territory requiring each workplace bound by the relevant legislation to submit a template-based annual report including:

- the number of instances of sexual harassment and/or violence that occurred that calendar year;
- basic details with respect to each incident, to the extent that it does not violate local freedom of information legislation;
- information as to how each reported incident was dealt with internally; and
- the policies, training and other relevant practices that the institution has in place to deal with the issues of workplace harassment, violence, bullying, sexual harassment and sexual violence.

## Promising Practice

The Federal government's [Work Place Harassment and Violence Prevention Regulations: SOR/2020-130](#), which came into effect in January 2021, require “employers to report annually all occurrences of harassment and violence to the Minister [of Labour] and secondly, that the Minister prepare and publish an annual report related to harassment and violence within federally regulated work places.”

### **3. Provide legislative and regulatory guidance to post-secondary institutions on addressing and preventing sexual harassment and/or violence in experiential learning.**

Our research and consultations have identified a need for greater clarity in PSI's sexual violence policies to address any gaps that exacerbate the vulnerabilities students face in experiential learning environments. We recommend that PSI's sexual violence policies explicitly include experiential learning contexts in their scope. (See [recommendation 1 for PSIs](#).) One way that provincial and territorial governments can support PSIs is to provide legislative and/or regulatory guidance around the scope of institutional sexual violence policies. This is an existing gap in all seven provinces with sexual violence legislation or regulatory frameworks.

This would align with the calls to action in [Our Campus, Our Safety: Student Leaders' Action Plan for Institutions and Governments to Address and Prevent Sexual Violence on Campus](#). In the document, student leaders across the country call on provincial and territorial governments to strengthen sexual violence prevention legislation by including “provisions and guidance for institutions to develop mandatory sexual violence policies with students and community input across all processes of drafting and reviewing the policy that meets a set of minimum standards.” We recommend that one minimum standard for sexual violence policies be that governments provide provisions around the explicit inclusion of experiential learning contexts within the scope of institutional policies.

## Recommendations for Experiential Learning Providers, Industries and Professions

Like PSIs and provincial and territorial governments, experiential learning providers, industries and professions must contribute to more robust policy and legislative frameworks that will support a comprehensive approach to addressing sexual harassment and/or violence against students in experiential learning positions.

As part of *Possibility Seeds'* Sexual Harassment in Experiential Learning Research-to-Action Project, we conducted preliminary research to better understand the unique needs and perspectives of experiential learning providers on the issue. While a comprehensive review of the policy landscape across all types of organizations, employers, industries and professions is still needed, we have identified three policy and legislative recommendations that can serve as a foundation for ongoing efforts to address the specific needs of each industry and profession.

- 1. Review existing organizational policies around sexual harassment and/or violence to ensure students completing experiential learning opportunities are explicitly included.**
- 2. Create a specific protocol for how the organization will respond to sexual harassment and/or violence against students completing experiential learning opportunities.**



*We recommend that experiential learning providers work with PSIs when developing their protocols so that they align with any applicable PSI policies, protocols or practices. This will help to ensure a consistent, comprehensive response to sexual harassment and/or violence against students in experiential learning positions.*

- 3. Champion amendments to workplace harassment and violence legislation that will strengthen protections for students in experiential learning positions.**

## Conclusion

The recommendations in this document are a starting point for PSIs; provincial and territorial governments; and experiential learning providers, industries and professions to work toward more robust legislative and policy frameworks that address sexual harassment and/or violence in experiential learning. Developed in response to calls from students, staff, faculty and experiential learning providers across the country, they serve as one piece of a broader strategy. Sexual harassment should never be the price students pay to be in their industry. Let's make sure it doesn't have to be.

# Appendix: Provincial and Territorial Legislative and Policy-Based Frameworks for Workplace Protections Against Sexual Harassment and/or Violence

## Alberta

### Workplace Sexual Harassment and Violence Legislation

- [Occupational Health & Safety Act](#)
- [Occupational Health and Safety Code](#)

### **Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

- It is unclear whether students in paid experiential learning positions are covered under the definition of “worker,” which means “a person engaged in an occupation, including a person who performs or supplies services for no monetary compensation for an organization or employer.”
- Students in *unpaid* experiential learning positions are **not** covered under the definition of “worker,” which states it “does not include a student in learning activities conducted by or within an educational institution for which no compensation is paid to the student.”

### **Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

- Language used: “harassment,” “violence”.
- There is no stand-alone definition of sexual harassment or sexual violence.
- The definition of harassment includes “conduct, comment, bullying or action because of ...gender, gender identity, gender expression and sexual orientation” and/or “a sexual solicitation or advance.”
- The definition of “violence” includes “domestic or sexual violence.”

## British Columbia

### Workplace Sexual Harassment and Violence Legislation

- [Workers Compensation Act](#)
- [Policies for the Workers Compensation Act](#)

**Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

- Students are covered under the definition of “worker,” which includes “a person who has entered into or works under a contract of service or apprenticeship” and “a person who is a learner who is not under a contract of service or apprenticeship.”

**Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

- Language used: “bullying and harassment.”
- There is no stand-alone definition of sexual harassment or sexual violence.
- The definition of bullying and harassment does not reference bullying or harassment of a sexual nature.

## Manitoba

### Workplace Sexual Harassment and Violence Legislation

- [Workplace Safety and Health Act and Regulation](#)

**Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

- Students are covered under the definition of “worker,” which includes “any person undergoing training or serving an apprenticeship at an educational institution or at any other place.”

**Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

- Language used: “harassment,” “violence.”
- There is no stand-alone definition of sexual harassment or sexual violence.

- The definition of harassment includes conduct that is “objectionable if based on sex, gender, sexual orientation etc.”
- The definition of violence does not mention sexual violence.

## New Brunswick

### Workplace Sexual Harassment and Violence Legislation

- [Occupational Health and Safety Act](#)
- [New Brunswick Regulation 91-191](#)

**Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

- It is unclear whether students in experiential learning positions are covered under the definition of “employee,” which means “a person employed at or in a place of employment, or a person at or in a place of employment for any purpose in connection therewith.”

**Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

- Language used: “harassment,” “violence.”
- There is no stand-alone definition of sexual harassment or sexual violence.
- The definition of harassment includes “sexual harassment.”
- The definition of violence includes “sexual violence, intimate partner violence and domestic violence.”

## Newfoundland & Labrador

### Workplace Sexual Harassment and Violence Legislation

- [Occupational Health and Safety Act](#)
- [Occupational Health and Safety Regulations](#)

**Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**



- It is unclear whether students in experiential learning positions are covered under the definition of “worker,” which means “a person engaged in an occupation.”

**Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

- Language used: “harassment,” “violence.”
- There is no stand-alone definition of sexual harassment or sexual violence.
- The definition of harassment does not reference sexual harassment.
- The definition of violence does not reference sexual violence.

## Northwest Territories

### Workplace Sexual Harassment and Violence Legislation

- [Safety Act](#)
- [Occupational Health and Safety Regulations](#)



*Notably, the Occupational Health and Safety Regulations provide that employers are required to credit the time spent in counselling due to the violence experienced at the workplace, which we view as an equitable mechanism for workers who have experienced harm while on the job.*

**Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

- It is likely that students in experiential learning positions are covered under the definition of “worker,” which means “a person engaged in work for an employer, whether working with or without remuneration,” but greater specificity would be helpful.

**Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

- Language used: “harassment,” “violence.”
- There is no stand-alone definition of sexual harassment or sexual violence.
- The definition of harassment does not reference sexual harassment.

- The definition of violence does not reference sexual violence.

## Nova Scotia

### Workplace Sexual Harassment and Violence Legislation

- [Occupational Health and Safety Act](#)
- [Workplace Health and Safety Regulations](#), specifically the [Violence in the Workplace Regulations](#)

**Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

- It is unclear whether students in experiential learning positions are covered under the definition of “employee,” which means “a person who is employed to do work and includes a dependent contractor.”

**Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

- Language used: “violence.”
- There is no stand-alone definition of sexual harassment or sexual violence.
- The definition of violence does not reference sexual violence.
- There is no mention of harassment or sexual harassment.

## Nunavut

### Workplace Sexual Harassment and Violence Legislation

- [Safety Act](#)
- [Occupational Health and Safety Regulations](#)

**Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

- It is likely that students in experiential learning positions are covered under the definition of “worker,” which means “a person engaged in work for an employer,

whether working with or without remuneration," but greater specificity would be helpful.

**Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

- Language used: "harassment," "violence."
- There is no stand-alone definition of sexual harassment or sexual violence.
- The definition of harassment does not reference sexual harassment.
- The definition of violence does not reference sexual violence.

## Ontario

### Workplace Sexual Harassment and Violence Legislation

- [Occupational Health & Safety Act](#)



*This is one of the clearest and most comprehensive pieces of legislation on this subject across the provinces and territories.*

**Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

- Students are covered under the definition of "worker," which includes "a person who performs work or supplies services for monetary compensation...[and] a person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university, private career college or other post-secondary institution."

**Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

- Language used: "workplace harassment," "workplace sexual harassment," "workplace violence."
- There is a stand-alone definition of workplace sexual harassment.
- There is no mention of sexual violence.

## Prince Edward Island

### Workplace Sexual Harassment and Violence Legislation

- [Employment Standards Act](#)
- [Occupational Health and Safety Act](#)

**Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

#### *Employment Standards Act*

- It is unclear whether students in *paid* experiential learning positions are covered under the definition of “employee,” which means “a person who performs any work for or supplies any services to an employer for pay, and includes...a person who is being trained by an employer to perform work for or supply services to the employer.”
- The inclusion of “for pay” excludes students in *unpaid* experiential learning positions.

#### *Occupational Health & Safety Act*

- It is unclear whether students in experiential learning positions are covered under the definition of “worker,” which means “a person employed in a workplace, or a person in a workplace for any purpose in connection therewith.”

**Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

#### *Employment Standards Act*

- Language used: “sexual harassment.”
- There is a stand-alone definition of sexual harassment.
- There is no mention of violence or sexual violence.

#### *Occupational Health & Safety Act*

- Language used: “workplace harassment.”
- There is no stand-alone definition of sexual harassment or sexual violence.

- There is no definition provided for workplace harassment.
- There is no mention of violence or sexual violence.

## Quebec

### Workplace Sexual Harassment and Violence Legislation

- [Act Respecting Labour Standards](#)
- [Act Respecting Occupational Health and Safety](#)
- [Act to ensure the protection of trainees in the workplace](#)

**Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

#### *Act Respecting Labour Standards*

- It is unclear whether students in *paid* experiential learning positions are covered under the definition of “employee” which means “a person who works for an employer and who is entitled to a wage”. Students in *unpaid* experiential learning positions are not covered under this Act.

#### *Act Respecting Occupational Health and Safety*

- Students are covered under the definition of “worker” which includes “a student undergoing a job shadowing or work training period under the responsibility of an educational institution”.

#### *Act to ensure the protection of trainees in the workplace*

- Students are covered under the definition of “trainee.”

**Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

#### *Act Respecting Labour Standards*

- Language used: “psychological harassment”, “sexual violence.”
- There is no standalone definition of sexual harassment.

- The definition of psychological harassment includes “verbal comments, actions or gestures of a sexual nature.”
- There is no definition provided for sexual violence.

*Act Respecting Occupational Health and Safety*

- Language used: “sexual violence.”
- There is no standalone definition of sexual harassment.
- There is no definition provided for sexual violence.

*Act to ensure the protection of trainees in the workplace*

- Language used: “psychological harassment.”
- There is no standalone definition of sexual harassment or sexual violence.
- The definition of psychological harassment includes “verbal comments, actions or gestures of a sexual nature.”

## Saskatchewan

### Workplace Sexual Harassment and Violence Legislation

- [Employment Act](#)

**Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

- Students are covered under the definition of “worker,” which includes “...a person who is enrolled in a secondary or post-secondary educational institution and who: is permitted by an employer, directly or indirectly, to perform work or services; or is being trained by an employer.”

**Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

- Language used: “harassment.”
- There is no stand-alone definition of sexual harassment or sexual violence.

- The definition of harassment includes “any inappropriate conduct, comment, display, action or gesture [that is based on] sex, sexual orientation.” Gender, gender identity and gender expression are not named.

## Yukon

### Workplace Sexual Harassment and Violence Legislation

- [Workers’ Safety & Compensation Act](#)
- [Workplace Health and Safety Regulations](#)

### **Recommendation: Amend provincial and territorial workplace harassment and violence legislation to ensure students in experiential learning are covered.**

- Students are covered under the definition of “worker,” which includes “a person who performs services for an employer under an express or implied contract of employment or apprenticeship, whether paid or unpaid, a learner, a volunteer, or a self-employed person.”

### **Recommendation: Amend provincial and territorial legislation on workplace harassment and violence to specifically address sexual harassment and/or violence.**

- Language used: “harassment,” “violence.”
- There is no stand-alone definition of sexual harassment or sexual violence.
- The definition of harassment includes conduct “that relates to, or is motivated by, the worker’s sex, sexual orientation, gender identity or gender expression.”
- The definition of violence does not mention sexual violence.



Notably, Yukon’s [Employment Standards Act](#), which does not provide protections against sexual harassment or violence in the workplace, does include a comprehensive definition of sexual violence.