



Work Place Harassment and Violence Prevention Regulations

Canada Labour Code - Part II



New Regulation

- *Canada Labour Code - Part II, and the Work Place Harassment and Violence Prevention Regulations (the Regulations)*
- Came into force on January 1, 2021
- Replaced Part XX of the *Canada Occupational Health and Safety Regulations*, which addressed Workplace Violence Prevention requirements (Part XX only applies for incidents of workplace violence reported prior to January 1, 2021)



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.



Regulations - Terminology

Notice of an occurrence

- Notice to the employer/Designated Recipient that there has been an occurrence of harassment and violence in the work place. This can be made orally or in writing.

Principal party

- The person who is the subject of an occurrence of harassment and violence.

Responding party

- The person who is alleged to have been responsible for an occurrence of harassment and violence.

Applicable partner

- The policy committee, or if there is no policy committee, the work place committee or the health and safety representative.



Regulations – Terminology (cont'd)

Important Terminology (cont'd)

Designated recipient

- A person or work unit in a work place, designated by an employer to receive a **notice of an occurrence**.
- Intent is to provide the **principal party** an alternate person to contact if the employer (supervisor, manager, director or business owner) is the **responding party** in an occurrence of harassment and violence.
- Designated Recipient may also be an association or third party hired.
- Organizations can have more than one **designated recipient**, as long as:
 - the **designated recipients** are all trained as per 12(5) of the Regulations, and,
 - the organization's harassment and violence prevention policy clearly identifies who are the **designated recipients**, and how they can be provided with a **notice of occurrence** as per 10(2)(e) of the Regulations.

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.
- Complaints must be made to the Person Designated before they can be referred to the Labour Program.



Employer Obligations - General

Work Place Assessments

- 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 - General

Prevention Policy

- Employer must jointly develop a prevention policy with 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.

- Policy must identify, describe how to contact, and list the duties of:
 - Designated Recipient - for receiving notices of an occurrence [10(2)(e) of Regulations].
 - Person Designated - for receiving complaints of contraventions of the Code or Regulations [10(2)(k) of Regulations].

- Policy must be reviewed and updated at least once every 3 years



Employer Obligations - General

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 training at least once every 3 years.



Employer Obligations - General

Reporting

- 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;
 - report can be made by calling 1-800-641-4049.

- Annual Report of harassment and violence occurrences:
 - must be reported to the Labour Program by March 1st of each year (beginning in 2022);
 - report summarizes the data of notices of harassment and violence the employer received in the previous calendar year; and,
 - report can be submitted by email using Excel spreadsheet being developed. (Employers will receive more information on how to submit this report in January 2022).



Employer Obligations - General

Reporting (continued)

- Monthly Status Updates:
 - Employer or designated recipient must provide monthly updates on the status of the resolution process related to a notice of 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.



Employer Obligations – Resolution Process

Receipt of Notice of an 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 advise them:
 - their notice has been received, or they have been identified as the principal party in a notice;
 - how to access the employer’s harassment and violence prevention policy;
 - of each step in the resolution process; and,
 - that they may be represented during the resolution process.
 - within 45 days, review the notice with the principal party, and see if agreement can be reached on whether not the occurrence meets the definition of harassment and violence in the Code;
 - make every reasonable effort to resolve the occurrence;
 - if the principal party agrees, contact and provide the responding party the same information given to the principal party; and,
 - If the principal party requests an investigation, provide the principal and responding parties with notice of an investigation.



Employer Obligations – Resolution Process

Selection of Investigator

- If the principal party requests an investigator, the employer or designated recipient must:
 - provide the principal and responding parties with notice that an investigation will be conducted;
 - 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 Center for Occupational Health and Safety (CCOHS).
 - Ensure the investigator has knowledge and training in:
 - investigative techniques;
 - harassment and violence in the work place; and,
 - the *Canada Labour Code-Part II*, the *Canadian Human Rights Act*.



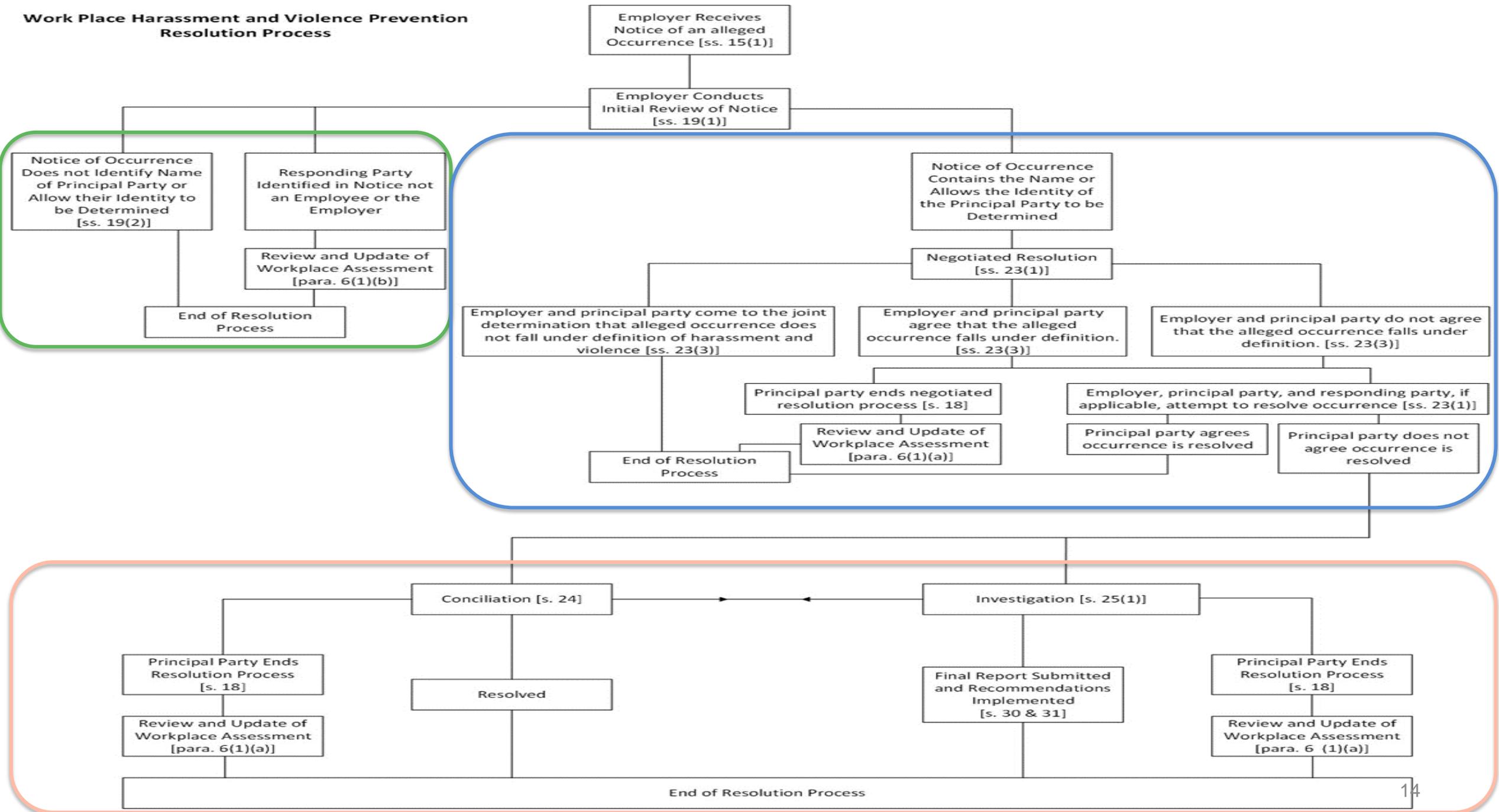
Employer Obligations – Resolution Process

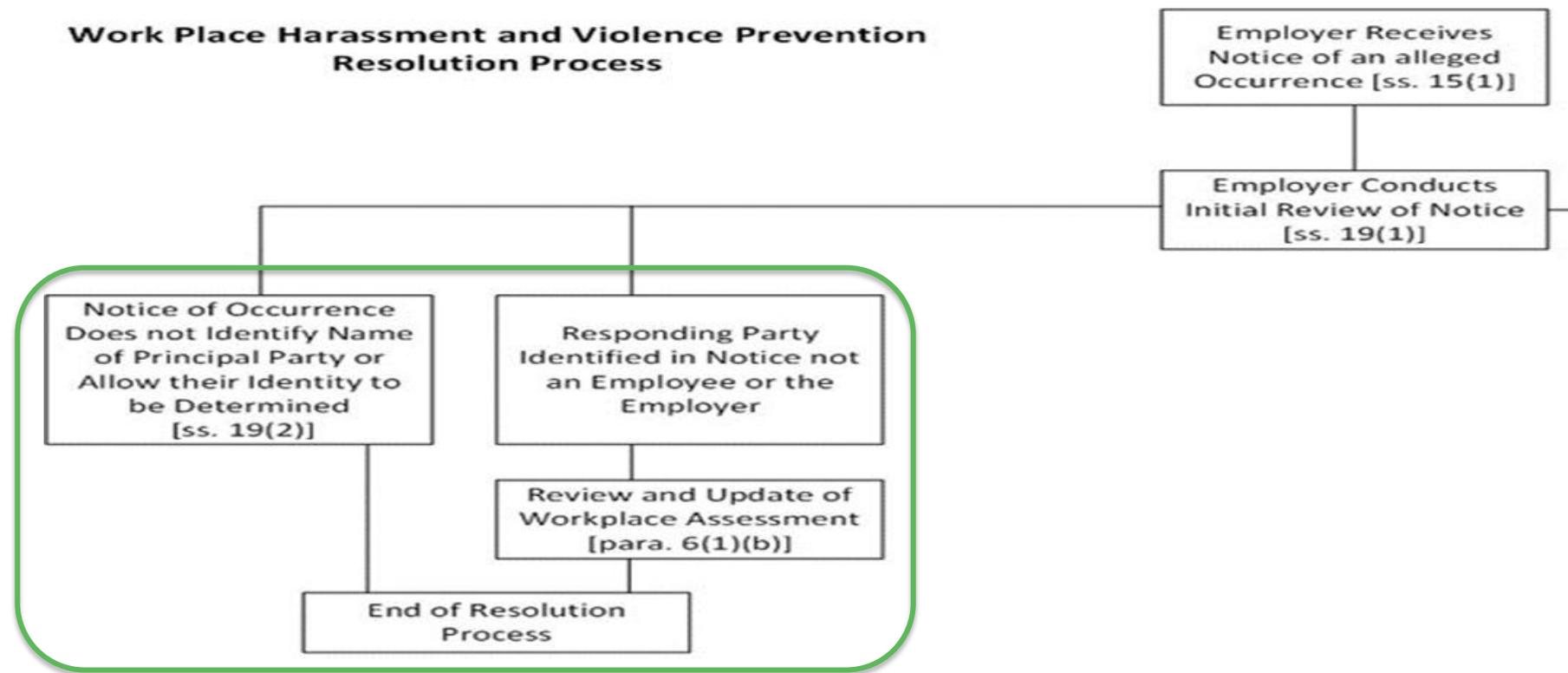
Investigation

- 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, conclusions, and recommendations;
 - does not reveal directly or indirectly the identity of any person involved in the occurrence or resolution process; and,
 - is provided to the principal and responding parties, and the workplace committee or health and safety representative.
 - employer must jointly determine with the workplace committee or health and safety representative which recommendations to implement (and if agreement cannot be reached, must record the employer's decision and the reason);
 - employer must implement the jointly agreed to recommendations within 1 year of receiving the notice of occurrence; and,
 - after implementing the recommendations, provide the parties a final monthly status update: resolution process completed.



Work Place Harassment and Violence Prevention Resolution Process



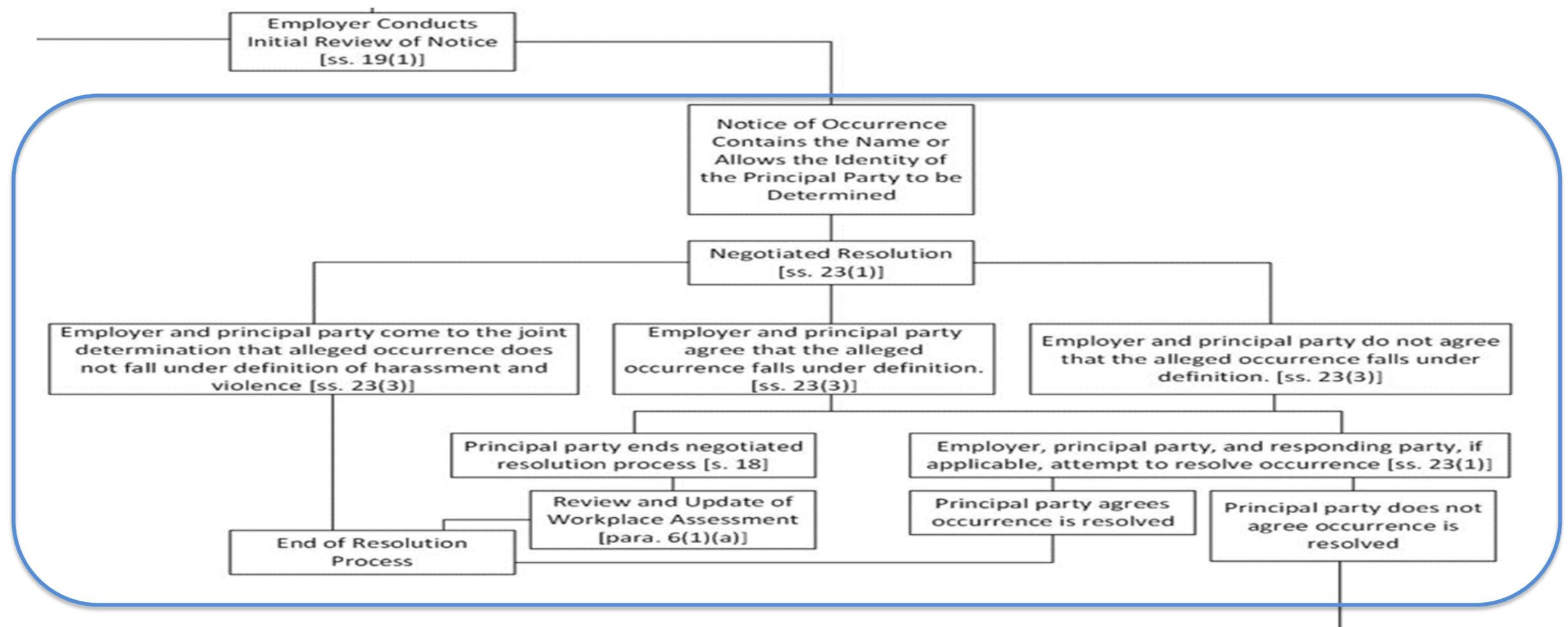


The purpose of the initial review is to determine if the notice of occurrence contains the information required at section 16 of the Regulations. If the notice does not contain all of the information required by section 16, the employer or designated recipient should give the principal party or witness the opportunity to provide the missing information.

However, if the notice does not contain sufficient information to allow the identity of the principal party to be determined, an employer is:

- not required to take further action to resolve the occurrence; and,
- may therefore deem the occurrence resolved.

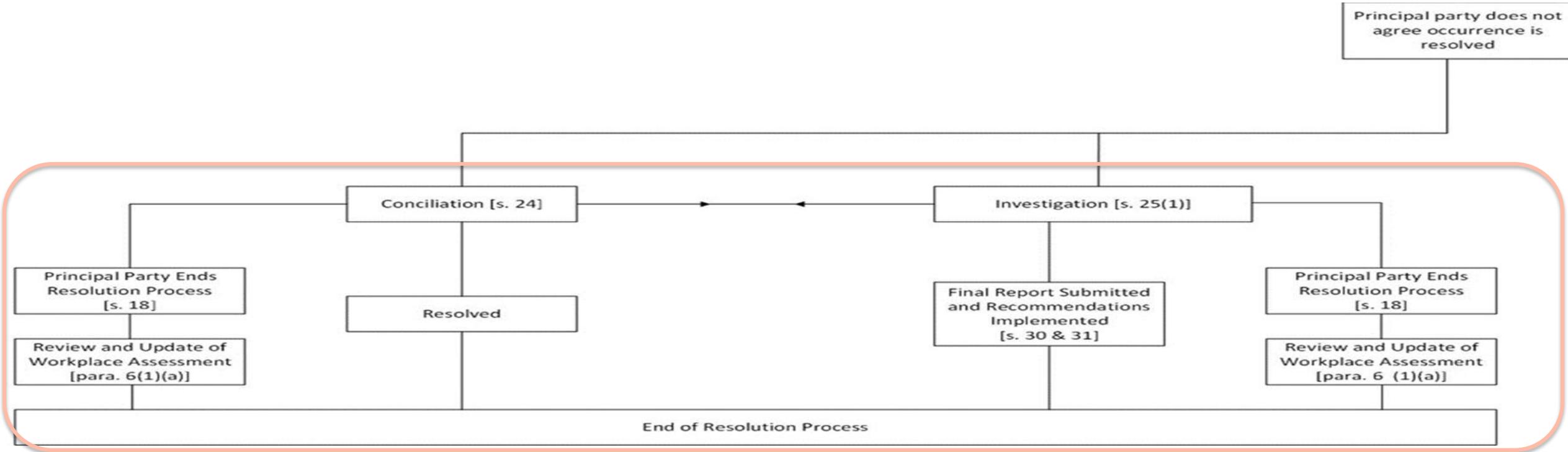




Negotiated resolution is a form of informal resolution in which the principal party meets (either virtually or in-person) with the employer or designated recipient to:

- discuss the occurrence;
- clarify the information that was submitted in the notice of an occurrence; and,
- attempt to reach resolution.





When Conciliation is Requested

- Employer must allow principal and responding party to participate in conciliation if both agree to conciliation and on the person to facilitate it.

When an Investigation is requested by the principal party under subsection 25(1)

- Employer must provide notice that an investigation is to be carried out.
- Employer must select a person to act as an investigator from the list developed jointly with the applicable partner, if such a list exists.
- If there is no jointly-developed list, employer must select a person to act as an investigator that is jointly agreed upon with the principal party and the responding party.
- If parties cannot come to agreement within 60 days, employer must select a person from the roster of investigators managed by CCOHS.
- Employer must provide the investigator with all information that is relevant to the investigation.



Additional Resources

- [Interpretations, Policies and Guidelines \(IPGs\)](#)
- [Sample Risk Assessment tool](#)
- [Sample Policy](#)
- [Sample User Guide](#)
- [Requirements for Employers](#)
- [Bill C-65 \(Canada Labour Code -Part II\)](#)
- [Work Place Harassment and Violence Prevention Regulations](#)





Labour Program

1-800-641-4049

Health and Safety Officer, Melissa Morden
melissa.morden@labour-travail.gc.ca
604-351-0718





Cultural Leave Provisions and Leave Provisions for Victims of Family Violence

Canada Labour Code, Part III



Leave for Traditional Indigenous Practices

- Employees are eligible for this leave after they have worked for an employer for at least three months without interruption
- Leave is UNPAID for a maximum of 5 days per calendar year
- Leave can be used for participation in traditional Indigenous practice including:
 - Hunting
 - Fishing
 - Harvesting or gathering



Leave for Victims of Family Violence

- Employees are eligible on first day, leave is paid after 3 months employment for up to five days.
- Max duration of leave is 10 days



Resources for these types of leave

- Traditional Indigenous Practices - <https://www.canada.ca/en/services/jobs/workplace/federal-labour-standards/leaves.html#h2.8>
- Victims of Family Violence - <https://www.canada.ca/en/services/jobs/workplace/federal-labour-standards/leaves.html#h2.7>
- Canada Labour Code, Part III – <https://laws-lois.justice.gc.ca/eng/acts/L-2/page-35.html#h-342149>
- 1-800-641-4049 for general inquires of this topic

