

Audit Question Legislation Guidance 2024

The following audit questions rely on the auditor to ensure an employer's HSMS adheres to Alberta OHS legislation. Each question below specifies the legislation that the employer's program should comply to and can assist in auditors quantifying the percentage of positive indicators awarded for each question. For an overview of legislation requirements for first aid training and first aid kits that came into effect March 31, 2023 please reference the Government of Alberta [First Aid in the Workplace](#) bulletin. Please contact audits@amhsa.net should you have any additional questions.

1.11 Is current health and safety legislation readily available at all work sites?

Verified through observation at work sites.

The current occupational health and safety legislation (e.g., federal and/or provincial) appropriate to the operation of the work site(s) must be readily available.

Points are awarded based on 100% positive indicators from observations.

Provide details/examples.

Current printed copy available is March 2023.

3.11 Does the Violence Prevention Plan meet legislated requirements?

Verified by review of documentation.

Documentation must confirm the employer's Violence Prevention Plan meets legislated requirements (Alberta) or Federal legislation for federally regulated employers.

Points are awarded based on 100% positive indicators Provide details/examples.

Auditors must refer to the Albert OHS Legislation. **Code Part 27, Sections 390.1, 390.2, 390.3** and ensure the Violence Prevention Plan meets legislated requirements. **(Total 13 criteria)**

390.1 (5 criteria)

An employer must ensure that a **violence prevention policy under section 390(1) includes the following:**

- (a) a statement that the employer is committed to eliminating or, if that is not reasonably practicable, controlling the hazard of violence;
- (b) a statement that the employer will investigate any incidents of violence and take corrective action to address the incidents;
- (c) a statement that the employer will not disclose the circumstances related to an incident of violence or the names of the complainant, the person alleged to have committed the violence and any witnesses, except
 - (i) where necessary to investigate the incident or to take corrective action, or to inform the parties involved in the incident of the results of the investigation and any corrective action to be taken to address the incident,

- (ii) where necessary to inform workers of a specific or general threat of violence or potential violence, or
- (iii) as required by law;
- (d) a statement that the employer will disclose only the minimum amount of personal information under clause (c)(ii) that is necessary to inform workers of a specific or general threat of violence or potential violence;
- (e) a statement that the violence prevention policy is not intended to discourage a worker from exercising the worker's rights pursuant to any other law.

390.2 (7 criteria)

An employer must ensure that the **violence prevention procedures under section 390(1) include the following:**

- (a) the measures the employer will take to eliminate or, if that is not reasonably practicable, control the hazard of violence to workers;
- (b) information about the nature and extent of the hazard of violence, including information related to specific or general threats of violence or potential violence;
- (c) the procedure to be followed by the employer when disclosing the information in clause (b), which must be in compliance with section 390.1(c) and (d);
- (d) the procedure to be followed by a worker to obtain immediate assistance when an incident of violence occurs;
- (e) the procedure to be followed by a worker when reporting violence;
- (f) the procedure to be followed by the employer when
 - (i) documenting and investigating an incident of violence, and
 - (ii) implementing any measures to eliminate or control the hazard of violence that have been identified as a result of the investigation;
- (g) the procedure to be followed by the employer when informing the parties involved in an incident of violence of
 - (i) the results of an investigation of the incident, and
 - (ii) any corrective action to be taken to address the incident.

Domestic violence

390.3 (1 criteria)

When an employer is aware that a worker is or is likely to be exposed to domestic violence at a work site, the employer must take reasonable precautions to protect the worker and any other persons at the work site likely to be affected.

3.12 Does the Harassment Prevention Plan meet legislated requirements?

Verified by review of documentation.

Documentation must confirm the employer's Harassment Prevention Plan meets legislated requirements (Alberta) or Federal legislation for federally regulated employers.

Points are awarded based on 100% positive indicators Provide details/examples.

Auditors must refer to the Albert OHS Legislation. **Code Part 27, Sections 390.5 - 390.6** and ensure the Harassment Prevention Plan meets legislated requirements. **(Total 7 criteria)**

390.5 (4 criteria)

An employer must ensure that a **harassment prevention policy under section 390.4(1) includes the following:**

- (a) a statement that the employer is committed to eliminating or, if that is not reasonably practicable, controlling the hazard of harassment;
- (b) a statement that the employer will investigate any incidents of harassment and take corrective action to address the incidents;
- (c) a statement that the employer will not disclose the circumstances related to an incident of harassment or the names of the complainant, the person alleged to have committed the harassment and any witnesses, except
 - (i) where necessary to investigate the incident or to take corrective action, or to inform the parties involved in the incident of the results of the investigation and any corrective action to be taken to address the incident, or
 - (ii) as required by law;
- (d) a statement that the harassment prevention policy is not intended to discourage a worker from exercising rights pursuant to any other law, including the Alberta Human Rights Act.

390.6 (3 criteria)

An employer must ensure that the **harassment prevention procedures under section 390.4(1) include the following:**

- (a) the procedure to be followed by a worker when reporting harassment;
- (b) the procedure to be followed by the employer when documenting, investigating and preventing harassment;
- (c) the procedure to be followed by the employer when informing the parties involved in an incident of harassment of
 - (i) the results of an investigation of the incident, and
 - (ii) any corrective action to be taken to address the incident.

3.13 Have the Violence and Harassment plans been reviewed as per legislated requirements?

Verified by review of documentation

The violence and harassment plans must be reviewed as per legislated requirements (Alberta) or Federal legislation for federally regulated employers:

1. When an incident occurs related to violence and/or harassment; or
2. If the HSC or HS representative recommend a review; or
3. At least every 3 years.

Points are awarded based on 100% positive indicators

Provide details/examples.

Auditors must refer to the Albert OHS Legislation. **Code Part 27, Sections 390.7(3) - 390.7(4)** and ensure the Violence Prevention Plan and the Harassment Prevention Plan are revised as necessary.

390.7(3)

With respect to the violence prevention plan, the review required by subsection (1) must take place on the earliest of the following:

- (a) when an incident of violence occurs;
- (b) if the joint health and safety committee or the health and safety representative, if applicable, recommends a review of the plan;
- (c) every 3 years.

390.7(4)

With respect to the harassment prevention plan, the review required by subsection (1) must take place on the earliest of the following:

- (a) when an incident of harassment occurs;
- (b) if the joint health and safety committee or the health and safety representative, if applicable, recommends a review of the plan;
- (c) every 3 years.

4.01 Do the terms of reference for the HSC include all legislated requirements?

Verified by review of documentation.

Documentation must confirm a terms of reference is in place for the HSC and includes all legislated requirements (Alberta) or Federal legislation for federally regulated employers.

Points are awarded based on 100% indicators from documentation.

If the employer is only required to have a HS representative(s), this question may be marked not applicable (n/a). Provide justification. Provide details/examples.

Guideline update - Auditors must refer to the Albert OHS Legislation. Code Part 13, Section 197 and ensure the TOR meets legislated requirements. **(Total 8 criteria)**

197

An employer must ensure each joint health and safety committee develops written terms of reference

- (a) outlining the process to select co-chairs,
- (b) outlining the process for selecting worker members to the committee to ensure worker members are representative of the workers for that employer,
- (c) establishing a term of office for committee members,
- (d) outlining the frequency for regular committee meetings and how meeting records will be maintained,
- (e) outlining processes for conducting meetings, and forwarding health and safety concerns to the attention of the employer,
- (f) establishing a process to replace a member during the member's term of office,
- (g) establishing a dispute resolution process for when the committee cannot agree on a recommendation to the employer, and
- (h) outlining processes to address circumstances where committee members are not fulfilling their duties.

4.03 Has a HS representative been designated as per legislated requirements?

Verified by employee interviews.

An employer needs to designate a HS representative as per legislated requirements (Alberta) or Federal legislation for federally regulated employers. Employees need to be informed if this process has occurred. Points are awarded based on percentage of positive responses. If the employer is only required to have an HSC, this question may be marked not applicable (N/A). Provide details/examples.

This question is based on legislation. Note that the terminology used for a HS Representative (HSR) means an employer who **regularly employs 5-19 workers**. If the employer employs 20 or more workers this audit question is not applicable.

4.04 Have duties been written for the HSC and/or HS representative(s)?

Verified by review of documentation.

Documentation must confirm that duties of the HSC and/or HS representative(s) have been written as per legislated requirements (Alberta) or Federal legislation for federally regulated employers.

Points are awarded based on 100% positive indicators from documentation. Provide details/examples.

Guideline update - Auditors must refer to the Alberta OHS Legislation. **Act, Part 2, Section 13(6) [HSC] or 14(4) [HSR]** and ensure the duties meets legislated requirements. **(4 criteria)**

13 (6)

The duties of a joint health and safety committee include the following:

- (a) the receipt, consideration and disposition of concerns respecting the health and safety of workers;
- (b) participation in the employer's hazard assessment;
- (c) the making of recommendations to the employer respecting the health and safety of workers;
- (d) review of the employer's work site inspection documentation.

14 (4) The health and safety representative shall, in cooperation with a representative of the employer, perform the same duties, with any necessary modifications, as set out for the joint health and safety committees in section 13(6).

4.05 Have the HSC members and/or the HS representative(s) been trained in their duties and responsibilities?

Verified by review of documentation.

Review training records for committee members and/or the HS Representative(s) to ensure they are trained as per legislated requirements (Alberta) or to Federal legislation for federally regulated employers.

Points are awarded based on percentage of positive indicators. Provide details/examples.

Guideline update - Auditors must refer to the Albert OHS Legislation. **Code Part 13, Section 201** and ensure the HSC and/or HSR are trained as per legislated requirements. **(3 criteria)**

201

An employer must ensure that members of a joint health and safety committee or a health and safety representative are trained in the following:

- (a) the roles and responsibilities of co-chairs and members on joint health and safety committees and health and safety representatives;
- (b) the obligations of work site parties;
- (c) the rights of workers.