

SCHEDULE B – APPENDIX 5

COMPENSATION LEVELS

NOTE:

The description of the levels in this appendix is not meant to present a list of factors that must be found to exist in a given case when determining which amount of compensation, if any, will be awarded. The existence or absence of any one factor does not necessarily dictate the level at which a claim will be decided.

The factors are indicators that are based on the analysis of human rights tribunal and court decisions, as well as professional comments on the impact of the type of conduct described.

The problem we face is one of systemic harassment, which suggests that there are common factors to be found with regard to culpable conduct and its effect on victims. Nevertheless, every individual has a different experience to present and we must be attentive to the fact that all want to be heard, understood and believed. We must also be alive to the fact that not all people react the same way to a traumatising event. The description of the levels in this appendix will help provide a framework for achieving decisions that are consistent and fair.

Level 1 – \$10,000

Culpable conduct includes but is not limited to:

Sexualized comments

Sexualized jokes

Inappropriate questioning regarding the complainant's personal life

Exhibitionism

Bullying causing psychological harm, anxiety

Mockery by various means

Communication of a sexual or romantic nature

Effect on victim:

Anxiety, nightmares, occasional panic attacks

Rage, feeling of humiliation

Loss of self esteem

Feelings of degradation and discomfort

Note: No substance abuse or work interruption, no ongoing psychological damage

Level 2 – \$35,000

Culpable conduct includes but is not limited to:

Kissing

Touching with a sexual purpose or intention

Simulating sexual intercourse or masturbation

Physical aggression causing harm

Mockery by various means

Bullying causing psychological harm, anxiety

Persistent communication of a sexual or romantic nature

Exposure to pornography¹

Effect on victim:

Physical wound

Temporary incapacity forcing medical attention

Post-traumatic stress, not severe

Auto condemnation, feeling culpable

Loss of confidence in others

Anxiety, nightmares, occasional panic attacks

Rage, feeling of humiliation

Mild depression

Minor work disruption

Note: no psychiatric condition, no troubling substance abuse, no permanent psychiatric affliction

¹ This does not include showing pornography in the context of a criminal investigation.

Level 3 – \$70,000

Culpable conduct includes but is not limited to:

Gender-based putdowns

Persistent kissing or touching with sexual intention

Exposure of genitals to complainant

Sexual advances

Constant intimidation in front of others

Intimidation by using rank

Mockery with intent to degrade

Incessant communications of a romantic or sexual nature

Persistent exposure to pornography²

Reprisals related to work environment

Effect on victim:

Severe stress affecting the complainant's health

Auto-condemnation

Loss of confidence in others

Severe anxiety

Frequent panic attacks

Severe nightmares

Sexual dysfunction

Mild drug or alcohol abuse

Wound making permanent mark

Temporary work disruption

Loss of self-esteem

Loss of desire to communicate feelings of love or desire

² This does not include showing pornography in the context of a criminal investigation.

Level 4 – \$100,000

Culpable conduct includes but is not limited to:

Persistent or ongoing gender-based putdowns

Touching of complainant's genitalia

Forcing oneself on victim physically

Physical aggression causing wound

Exposure to violent pornography³

Harassment towards vulnerable complainant

Effect on victim:

Severe stress affecting the complainant's health

Post-traumatic stress

Diminished professional status or reputations

Drug or alcohol abuse

Absenteeism

Suicidal ideation

Diminished physical health or well-being

³ This does not include showing pornography in the context of a criminal investigation.

Level 5 – \$150,000

Culpable conduct includes but is not limited to:

Persistent intimidation, bullying, aggressions

Acts to denigrate and humiliate in front of others

Diminishing value of Class Member by assigning menial tasks below the Class Member's abilities

Acts meant to affect working conditions or career development

Acts causing interpersonal problems

Acts intended to cause emotional stress

Using rank to denigrate

Repeated Sexual advances

Harassment towards complainant with moderate vulnerability

Forcing complainant to perform non-penetrative sex acts

Effect on victim:

Severe stress affecting the complainant's health

Post-traumatic stress

Obsessional tendencies

Substance abuse

Problems with interpersonal relationships

Suicidal thoughts

Wound leaving a permanent mark

Feeling culpable, auto-condemnation

Loss of confidence and self-esteem

Loss of desire to communicate feelings of love or desire

Some work disruption

Level 6 – \$220,000

Culpable conduct includes but is not limited to:

Continuous intimidation, bullying, aggressions

Forcing complainant to engage in penetrative sex acts

Harassment towards complainant with heightened vulnerability

Acts to isolate from other employees or volunteers

Acts to denigrate and affect career development

Sexual advances

Using rank to denigrate

Acts meant to cause emotional stress

Effects on the victim:

Severe stress affecting the complainant's health

Severe post-traumatic stress

Disorganized behaviour

Personality problems

Suicidal thoughts or attempts

Sexual dysfunction

Chronic psychiatric condition

Substance abuse

Inability to work