

**RCW 49.95.010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abusive conduct" means conduct in a work setting that qualifies as workplace aggression, workplace violence, aggravated workplace violence, physical sexual aggression, rape, attempted rape, sexual contact, sexual harassment, workplace physical aggression, workplace verbal aggression, or inappropriate sexual behavior. For service recipients, behavior that meets the definition of subsection (3) of this section is not considered abusive conduct for the purposes of this chapter if expressly exempted from the applicable definition.

(2) "Aggravated workplace violence," "aggravated violence," or "aggravated violent act" means assault or physically threatening behavior involving the use of a lethal weapon or a common object used as a lethal weapon, regardless of whether the use of a lethal weapon resulted in injury.

(3) "Challenging behavior" means behavior by a service recipient that is specifically caused by or related to a disability that might be experienced by a long-term care worker as offensive or presenting a safety risk.

(4) "Covered employer" means:

(a) A consumer directed employer as defined in RCW 74.39A.009;  
and

(b) A home care agency as defined in RCW 70.127.010.

(5) "Department" means the department of labor and industries.

(6) "Disability" has the same meaning as in RCW 49.60.040.

(7) "Discrimination" means employment discrimination prohibited by chapter 49.60 RCW, including discriminatory harassment. It shall not constitute discrimination for a recipient of personal care services as defined in RCW 74.39A.009 to refuse to hire or terminate an employment relationship with an employee based on gender preferences.

(8) "Discriminatory harassment" is unwelcome conduct that is based on a protected class listed in RCW 49.60.030(1) where the conduct is enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

"Discriminatory harassment" includes sexual harassment. For service recipients, behavior that meets the definition of subsection (3) of this section is not considered discriminatory harassment for purposes of this chapter.

(9) "Employee" means a long-term care worker as defined in RCW 74.39A.009 that is employed by a covered employer.

(10) "Inappropriate sexual behavior" means nonphysical acts of a sexual nature that a reasonable person would consider offensive or intimidating, such as sexual comments, unwanted requests for dates or sexual favors, or leaving sexually explicit material in view. An act may be considered inappropriate sexual behavior independent of whether the act is severe or pervasive enough to be considered sexual harassment. For service recipients, behavior that meets the definition of subsection (3) of this section is not considered inappropriate sexual behavior for purposes of this chapter.

(11) "Long-term care workers" means all persons who provide paid, hands-on personal care services for the elderly or persons with disabilities, including individual providers of home care services, direct care workers employed by home care agencies or a consumer directed employer, and providers of home care services to persons with developmental disabilities under Title 71A RCW.

(12) "Physical sexual aggression" means any type of sexual contact or behavior, other than rape or attempted rape, that occurs without the explicit consent of the recipient. For service recipients, behavior that meets the definition of subsection (3) of this section is not considered physical sexual aggression for the purposes of this chapter.

(13) "Rape" or "attempted rape" have the same meanings as in RCW 9A.44.040, 9A.44.050, and 9A.44.060.

(14) "Sexual contact" has the same meaning as in RCW 9A.44.010. For service recipients, behavior that meets the definition of subsection (3) of this section is not considered sexual contact for the purposes of this chapter.

(15) "Sexual harassment" has the same meaning as in RCW 28A.640.020. For service recipients, behavior that meets the definition of subsection (3) of this section is not considered sexual harassment for purposes of this chapter.

(16) "Trauma-informed care" means a strength-based service delivery approach that:

(a) Is grounded in the understanding of and responsiveness to the impact of trauma;

(b) Emphasizes physical, psychological, and emotional safety for both providers and survivors; and

(c) Creates opportunities for survivors to rebuild a sense of control and empowerment.

(17) "Workplace physical aggression" means an occurrence of physically threatening behavior in a work setting, including threats of physical harm, or an occurrence of slapping, biting, or intentionally bumping. For service recipients, behavior that meets the definition of subsection (3) of this section is not considered workplace physical aggression for purposes of this chapter.

(18) "Workplace verbal aggression" means acts of nonphysical hostility or threats of violence in the work setting. "Workplace verbal aggression" includes verbal aggression such as insulting or belittling an individual. For service recipients, behavior that meets the definition of subsection (3) of this section is not considered workplace verbal aggression for purposes of this chapter.

(19) "Workplace violence," "violence," or "violent act" means the occurrence of physical assault, such as hitting or kicking, including using a nonlethal weapon. For service recipients, behavior that meets the definition of subsection (3) of this section is not considered workplace violence for purposes of this chapter. [2020 c 309 § 2.]