

## Bullying In The Workplace

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Allegations of workplace bullying, which may include verbal abuse, work sabotage, and various types of threatening behavior, have gained national attention in recent years. While there are currently no federal or state anti-bullying statutes prohibiting bullsh behavior if it does not cross over into illegal activity such as discrimination, harassment, retaliation, assault or battery, it is still wise for employers to take steps to promote a respectful environment for all employees.

In the past few years, a number of cases tried to fashion a bullying claim out of other legal protections and prohibitions. However, because courts faced with this issue have applied vague standards and have reached differing outcomes, there is still no bright line standard for determining when bullying and unpleasant workplace behavior cross the line and become actionable.

Similarly, legislation on the state and federal level has not yet solidified in any tangible form. For example, the proposed Healthy Workplace Bill, which was first introduced in California in 2003 and intended to be introduced in all 50 states, is pending in the legislatures of only 13 states at the time of this publication.

The Healthy Workplace Bill would make an "abusive work environment" illegal. The model Bill proposes:

- application of a strict liability standard for all employers
- discretion of the court to issue a court order to remove the offending party from the complainant's work environment
- recovery of emotional distress damages (capped at \$25,000 in the absence of an adverse employment action)

The lack of legislation prohibiting bullying in the workplace is not meant to suggest that an employer ignore a complaint about workplace bullying if it's not based on gender, race, age, etc. In fact, quite the opposite is true. Even if such conduct is not legally actionable under current federal or state law, such behavior can still be extremely detrimental to your workforce.

A recent survey conducted by the Society for Human Resource Management (SHRM) found the three most common outcomes of bullying incidents that organizations experience are: 1) decreased morale; 2) increased stress and/or depression levels; and 3) decreased trust among co-workers.

Because virtually every employer shares the overall goals of creating and maintaining a productive, efficient, and profitable workforce, it is essential to take proactive measures to ensure that bullying behavior does not permeate the workplace.

### Suggestions for avoiding a bullying or disrespectful work environment

- Adopt and facilitate an open door policy which allows employees to participate in the workforce in a way that makes them feel valued.
- Develop a kudos or another type of employee recognition program which serves as an excellent way to boost employee morale.

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- Consider adopting an anti-bullying policy and follow through with effective training and enforcement mechanisms.

No matter what anti-bullying measures you choose to employ in your particular work environment, stay abreast of legal developments and national trends in this area; consult with your employment attorneys before drafting any new policies; and most importantly, do not avoid the issue.

Simply put, although certain conduct may not be legally actionable, that does not mean that such behavior should be tolerated.

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