



SEPLER & ASSOCIATES

Workplace Bullying

What it Is and What to Do About It



You Know a Workplace Bully





- The brilliant but sharp-tongued colleague who yells at underlings when stressed



The high producer who has been the subject of several claims and can't keep a staff member for more than a month.





The project manager who brutally and publically criticizes some staff members while lavishing praise on others.





What They Have In Common

- Create fear in the workplace
- People at every level spend energy trying to avoid antagonizing them or mollifying them
- Affect morale
- Affect productivity (not always poorly)
- Are expensive



What is Workplace Bullying?



Behaviorally

- Repeated, malicious, health-endangering mistreatment of one employee (the target) by one or more other employees (the bully, bullies).
- The mistreatment is psychological violence, a mix of verbal and strategic assaults to prevent the target from performing well.



Distinction is “Workplace”

- It is illegitimate conduct in that it prevents work getting done. Thus an employer’s legitimate business interests are not met.
- The behavior is persistent and frequent

Source: Namie, Gary; The Bully at Work: What You Can Do to Stop the Hurt and Reclaim Your Dignity on the Job; Sourcebooks, Naperville, IL, 2003



Where do bullies work?

- All walks of life but most prevalent in organizations with well-delineated status and authority.
 - Professions
 - Academia
 - Small Business where the bully is the owner



Bullies Thrive

- Where individual contributions are of great/est import
- Where internal competition is the professional norm
- Where intellectual prowess or technical skill is visibly rewarded with dollars and “permissions.”



Most Bullies Bully Along Power Lines

- Maintain decent relationships with superiors
- Bad behavior known but minimized
- Subordinates and targets may be seen as “not handling it” or making too much of it.
“Good employees” are the ones who develop thick skin and tolerate the conduct.



Some Facets of Bullying

- More women bully than men
- Women are bullied by other women in 63 percent of all female-directed bullying cases
- Men are bullied by men in 62 percent of all male-directed bullying cases
- Male and female bullying differs



Bullying Styles

- **Introverted bullies**
 - Spread misinformation
 - Share information inappropriately
 - Use nonverbal intimidation
 - make veiled threats
 - share information about the target inappropriately.
- **Extroverted bullies**
 - Yell
 - Publicly criticize
 - Find fault constantly
 - Publicly humiliate
 - Physically threaten or intimidate
 - Mock and Demean



The Lone Bullier

- Usually targets subordinates
- Generally a serial bullier
- Drives people out or away.
- Can be confronted and contained, but only sometimes.



The “Quiet Bully” evades detection

- While the extroverted bully is easily spotted by observers (and may bring others around to group bullying, see below,) the introverted bully operates below the radar, causing the target to seem to be overreacting or overstating the problem.
- “Crazy making” and debilitating



Additional Bullying Conduct

- Constant criticism, ignoring positives
- Undermining,— raising doubts or concerns about someone's credibility, expertise or knowledge, causing others to doubt their competence.
- Isolation and exclusion from social interaction.



Additional Bullying Conduct

- Subjection to unrealistic goals and deadlines
- Abandonment by one's supervisor—no access
- Denial of resources
- Being given direction only in terse, written form.



Additional Bullying Conduct

- Being the subject of complaints by others at the suggestion of management.
- Failure to provide a clear job description; the bully often deliberately makes the person's role unclear
- Invitations to "informal" meetings which turn out to be harangues or administration of discipline.



Group Bullying or Mobbing



- Starts with an employee being viewed as “different” or “less than.”
- Differences not protected class, but significant
 - Appearance, training, social skills, weight, social class
- May be scapegoated or blamed for problems



Mobbing

- As the target's stock drops, others join in to protect themselves or raise their own stock.
- Often see “hyper supervision” enabled by HR





Mobbing

- Particular risk at time of organizational transition
- “Heroes” sweep in to rid the organization of what they perceive to be a problem
- “We’re managing him/her now.”



Hyper Supervision is NOT Managing Performance

- *the difference between managing performance and bullying is that the bullied employee will not be coached, counseled or even fired, but belittled, badgered, blamed and ostracized, usually ending in their resignation.*



Impact of Workplace Bullying

- Individual
 - Post Traumatic Stress Disorder
 - Complex Post Traumatic Syndrome Disorder (Cumulative)



Impact of Workplace Bullying

- Organizational
 - Fear, lack of trust, anxiety
 - High turnover and challenge filling positions
 - Reputation damage
 - Lack of creativity and risk taking



Legal Status of Workplace Bullying: Legislative Activity

- **Healthy Workplace Bill** – in process in sixteen states, has passed NY House with bipartisan support
- Prohibits abusive work environment, defined as malicious, abusive conduct causing tangible harm.



Defining Abusive Conduct

- acts, omissions or both that a reasonable person would find hostile based on the severity, nature and frequency of the defendant's conduct.
- Abusive conduct may include but is not limited to: repeated infliction of verbal abuse such as the use of derogatory remarks, insults and epithets; verbal or physical conduct of a threatening, intimidating or humiliating nature; the sabotage or undermining of an employee's work performance; or attempts to exploit an employee's known psychological or physical vulnerability.
- A single act normally will not constitute abusive conduct, but an especially severe and egregious act may meet this standard.



Reasonableness

- Uses Harris v. Forklift Systems standard intended to overcome strictures of tort remedies, such as intentional infliction of emotional distress



Current Law

- Opponents of targeted legislation argue remedies already exist
 - Workers Compensation
 - Common law remedies for negligent infliction of emotional distress
 - Assault
 - Battery
 - Negligent hiring and supervision
 - State and federal prohibitions against discrimination and harassment



Legal Recognition of Abusive Conduct

- Courts have recognized “rude, overbearing, obnoxious, loud, vulgar and generally unpleasant” conduct directed at both male and female employees can be actionable as employment discrimination under Title VII when a particular protected class is disproportionately harmed by the conduct.

EEOC v National Education Association, 422 F. 3d 840 (9th Cir. 2005)



Preventing Workplace Bullying

- Anti Bullying Policies
 - General Harassment or Anti Bullying
 - Raises the priority
 - Allows subject specific training
 - Respectful Workplace
 - No mistreatment for a reason or any reason



Bullying Prevention

- Leadership Competencies
 - Aligned with firm mission and compensation
 - Structural opportunities for self-awareness and evaluation such as 360 feedback
 - Promotion of Emotional Intelligence education and coaching
 - Affirmative expectations of leadership addressing peer issues



Bullying Prevention

- Training
 - Cannot use examples that are outlandish or overly subtle
 - If words and deeds don't align, don't bother.
 - Should draw on employee experiences
 - Create credible complaint procedures and promote assertiveness
 - Only part of prevention



Prevention

- Early Warning Action Planning
 - Take steps to address “misdemeanors”



Prevention

- Competent Coaching
- Assessment
- Planning with Touch points
- Feedback
- Acknowledgement by Coachee



Accountability

- Real consequences are essential
 - Reduction in compensation or bonus
 - Responsible for fees incurred
 - Non indemnification
 - Demotion



Accountability

- Weigh cost of upsetting/losing bully versus loss of credibility regarding own anti-bullying stance.



Investigation

- Must investigate complaints, recognizing organizational myopia may make bullied employees look like “bad” employees
- Essential to ensure neutral stance and focus on behavior



Conclusion

- Tolerance for bullying on the decline
- Likelihood of litigation related to bullying increasing
- Business detriment of bullying well documented
- Prevention is possible