

## **Lean and Mean: Workplace Culture and the Prevention of Workplace Bullying**

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*Workplace bullying has become a hot topic in the popular press as well as scholarly literature. Compared to targets of sexual harassment, bullied workers quit their jobs more often, are more unhappy, stressed at work, and less committed to the workplace. Little is done about it because there currently is no U.S. law against bullying and often the only recourse for targets is to quit their jobs. We present a case study and then review various legal remedies and sample company policies to explore the actions organizations might take to eliminate this destructive workplace behavior.*

### **THE CASE STORY**

This case describes one man's story of being bullied by his manager. We use it to illustrate the phenomenon of bullying in the workplace and to demonstrate the lack of options available to targets for recourse to bullying behavior.

In November 2000, I accepted a position with a trading company on the East Coast. At first, the job and my immediate supervisor seemed like any other. During my first few weeks, I would work until 5:00PM or maybe a little later. When I left at this time, I noticed that my co-workers were still working. After a short time, I began to catch on that we were expected to work until at least 6:00 p.m. (even if you came in earlier than everyone else did, as I did) since our boss worked until 6:00 p.m. if not later. I also began to learn that this boss liked "his" people to be there if he was there. It did not matter if you needed to be there but only that you were there if he was there.

My first negative encounter with my boss occurred in late summer of 2001. I had injured myself in the spring of 2001 and was out of work for about a month. When I informed my boss I would be out for some time, he was very understanding. He told me to take care of myself. He paid me my full salary even though I had only been with the company for a short time. He told me to keep this arrangement between us so as not to set a precedent. Upon my return to work, everything was fine until I requested time off for vacation later that summer. He then exploded saying that since I had been out for a month I had no right asking for more time off. I informed him that I had been out due to an injury and if he did not want to pay me so be it. He did not say much more, but I could tell he was not happy but he did pay me for the vacation. I vividly remember the next encounter which occurred in late summer 2002. My wife and I left for our vacation on a Saturday and on Monday I checked my work voicemail. I used a pay phone at the tourist site we were visiting, as my cell phone had no service in this part of Canada. There was a message

from my boss stating that I needed to call him immediately. I called, and, as soon as he knew it was me, he went on a tirade cursing and stating that I had screwed something up. He told me that he had received a call that morning from someone in our parent company's Tax Department informing him that what I had sent to him before I went on vacation was wrong and it needed to be corrected immediately. I tried to explain to my boss that there was nothing wrong with what I had done. He told me he would get the individual from the parent company on the phone and we would discuss the issue. The three of us had a discussion, with my boss mostly talking and not listening, which I came to learn was his *modus operandi*. I was on this call for at least an hour. While I was held hostage to a verbal berating and dressing down, my wife went ahead and toured the location we were visiting. During the call my boss told me more than once that I would have to come back from vacation to address this issue. I tried to explain that there was no "issue," but he did not want to hear it. The call eventually ended, and I did not return from vacation to address this non-issue, since, once I had an opportunity to explain myself, the individual at the parent company finally realized there was no issue. The real pity of this whole experience is that the individual who called my boss to complain had not looked at anything I had sent him for months before I took vacation. Little did my boss know that if he did push me to come back and address this nonissue, I would have quit right then and there over the phone. I was that angry. He refused to listen and his treatment of me was demeaning and insulting.

This lack of respect by my boss continued for a number of years, as I worked for this crazed individual from late 2000 until mid-year 2004. He would not say much on a day-to-day basis but then something would set him off. I remember once he went on a tirade because he disliked the fact that I would not see him for three weeks at the end of each summer because he would take vacation for a week and my two week vacation would be right after his. He blamed me; how dare I take a vacation when I desired!

Even though I would try to leave the office by 6:00 p.m. there were many nights when I was there much later; sometimes until 1:00 a.m. even though my work day began at 8:00 a.m. In addition, there were many weekends wasted working at this job. It was expected – there was never any acknowledgement or gratitude by my boss or the higher managers for the hard work and sacrifice of my working such ridiculous hours. Every quarter, we would have to report our financial results to the parent company on the West Coast. This entailed much work from the Accounting Department and I interacted with the parent's Tax Department on the West Coast. I could not do my job until my boss and his assistant had completed theirs. On most occasions, they would never tell me that they had completed their piece of the puzzle. I would be informed via a phone call from my counterparts on the West Coast and then I would walk from my room to my boss's assistant's office to get what I needed to do my job. There was a total lack of respect from both my boss and his assistant towards me. It was interesting that both myself and the other tax professional, who were both much older than the rest of the Accounting staff, were physically separated from the rest of the Accounting Department due to the lack of space.

From my first encounter in 2001, the continuous lack of respect and the uncalled for tirades, I knew I had to get out of this company and away from this individual. I tried desperately to find any other job and half-heartily considered accepting a position with the parent company on the West Coast. The last straw was when my boss told me during my annual review in early 2004 that he considered not giving me a bonus for 2003, since we had not responded to inquires from a taxing authority. We had not responded because the taxing authority had raised issues only my boss could address, but he blamed me for the whole situation. It did not matter that I had tried time and again to get my boss to address these tax audit issues. He had no time for these matters when I would ask, and I guessed this was because they were not "high profile." He told me I should have addressed the issues by looking to others in the Accounting Department for answers. Little did he know that "his" people would not assist, as they did not want to be on the receiving end of one of his tirades.

My just reward came not too long after my boss threatened not to give me a bonus for 2003. My job search finally ended in success and I resigned. It gave me great satisfaction to tell my boss on a Tuesday that I was giving him notice and would be gone in two weeks. He actually had the gall to state "You're not leaving because of what happened this past year" are you? I felt like saying "are you that stupid?," but

I held my tongue and said “no.” I explained that I wanted a change from the trading world. On the day I left my boss never said goodbye, good luck, or took me to lunch. A co-worker in another department who sat next to me bought me a cake. When she told her boss I was leaving, her boss wasn’t surprised. It was great that on my last day my boss was out and his immediate boss was too.

I still keep in touch with a few individuals at this company, and they tell me this whack job is still the same as he always was. Since 2006, he has asked me on three different occasions if I would like to return and work for him again. I guess some people just don’t get it. It is a sad commentary how some real jerks are able to ruin peoples’ lives in corporate America today and unfortunately most people have to tolerate it because of finances, the inability to find another job, family issues, etc. I’ve been a boss, and I believe I was a pretty good one. I tried to see where my direct reports came from and always felt that if they could better themselves, they should. In my opinion, today’s corporate America is about greedy CEOs and their ilk that care only about the bottom line and enriching themselves at the expense of their employees.

## **FREQUENCY OF WORKPLACE BULLYING**

Sadly, the opening case is not an isolated incident. Aggression in the workplace is not a new phenomenon. A national study conducted by Schat, Frone, & Kelloway (2006) revealed that in the years 2002 – 2003, 41.4% of U.S. workers experienced psychological acts of aggression. The sources of this aggression included the public (23.4% of cases), other employees (15% of cases), and supervisors or bosses (13.5% of cases). The study also showed that the most common targets of aggression are workers between the ages of 18 and 30 who have been employed by an employer for one to three years.

It appears that a perfect storm has converged on the workplace over the past decade contributing to the proliferation of aggression, bullying, and incivility at work. Organizational changes and pressures to succeed in an increasingly competitive global environment have forced companies to flatten, downsize, and remove layers of management in order to be cost effective and efficient. Further, the rate of technological change, mergers and consolidations, outsourcing, and competitive pressures have created unprecedented stress on organizations which can produce job insecurity and increased hostility and incivility at work (Bandow and Hunter; 2007, Harvey, Heames, Richey, & Leonard, 2006). In order to be more productive in response to the economic downturn, organizations have become ‘lean and mean.’ Such competitive, intense conditions can lead to bullying in the workplace (Porteous, 2002; Salin, 2003).

Workplace bullying is a particular form of dysfunctional behavior that manifests as repeated emotional abuse of a verbal and/or physical nature. Neuman (2000) distinguishes aggression from bullying by defining aggression as an act intended to harm an individual either physically or psychologically. He defines bullying as deliberate, hurtful and repeated mistreatment most commonly of a subordinate by a superior. According to Neuman, although aggression may be a single act, bullying is generally repeated; therefore, all bullying is aggressive, but not all aggressive acts are bullying. According to Mayhew et al. (2004), bullying includes the persistent and deliberate humiliation and embarrassment of a target with the intent to harm either physically or mentally. It includes fear-inducing tactics that erode self-esteem and self-confidence, as well as the exertion of power over a vulnerable target. Bullies use deliberate methods to insult or humiliate, such as stereotyping, excluding, omitting identity details, being rude, ignoring or keeping waiting, breaking promises, and showing ingratitude (Gabriel, 1998). Witnesses are impacted as well; up to 20% of individuals leave an organization after witnessing bullying (Mayhew et al., 2004).

The Workplace Bullying Institute (WBI) conducted the U.S. workplace bullying surveys in 2007 and 2010, and over 7740 online interviews were conducted by Zogby International on behalf of the WBI in the largest national scientific survey of this topic to date (WBI, 2010). Key findings from the surveys included:

1. Over 37% of U.S. workers have been bullied (54 million) and an additional 15% have witnessed another worker being bullied.
2. Bullying is largely ignored by U.S. law, even though it is four times more prevalent than illegal harassment.

3. Employers ignore bullying, and in 62% of cases do nothing or worsen the situation, even though they lose 21 to 28 million workers annually due to bullying.
4. Most bullies are bosses (72%), and the bullied are rank and file employees (55%).
5. Targets are more frequently female (57% of cases).
6. Bullies are more often male (62%).
7. The majority of bullies attack targets of the same gender (80% for females; 56% for males).
8. Bullying is a health hazard, and stress affects the lives of 45% of targets, with 33% of targets suffering for more than a year.
9. Many targets do not complain (40%), and only 3% file lawsuits.
10. Perpetrators suffer little while many targets leave jobs to get away from the situation (77%).

There are many reasons to be concerned about workplace bullying from an organizational behavior perspective and from a moral imperative point of view. Even though bullying is not illegal, it should be a concern for human resource professionals and managers who want to promote a healthy workplace. Raising the awareness of workplace bullying can inspire better workplace practices which promote more productive workplaces and lead to healthier employees. It is the ethical thing to do to denounce workplace bullying as demeaning to self-esteem, as well as an assault to the dignity and self-respect of employees as individuals. From an economic point of view, a zero-tolerance policy will help reduce the costs of litigation and the cost of benefit programs to treat the mental and physical ailments resulting from harassment. Bullied employees are not productive and witnesses to bullying also suffer from loss of morale and motivation. Witnesses are impacted as well; up to 20% of individuals leave an organization after witnessing bullying (Mayhew et al., 2004). Bullying has bottom line implications and costs the organization time and money if allowed to go unchecked.

Workplace bullying should be addressed for more than altruistic reasons. Bottom line implications include the fact that lawsuits, turnover, health care costs, and lack of productivity cost the company money. Lieber's (2010) recent analysis shows that a workplace bully can cost an organization about 2 million U.S. dollars per year. Therefore, bullying represents a serious drain on company resources and performance. As a practical matter, organization leaders that tackle workplace bullying can prevent human as well as financial loss.

Some do not believe that the law can define all forms of intimidation that can be labeled as bullying and recommend a policy at the organizational level to deal with inappropriate conduct. The difficulty with this solution is that many companies only create policies that are legally required and may not directly address conduct, like bullying that is not *per se* illegal. However, without any legal mandate organizations are left to their own devices in terms of identifying and regulating workplace behavior. A review of legal avenues of recourse for targets demonstrates the limited options available to targets.

## **CURRENT LEGAL LANDSCAPE**

Countries other than the U.S. offer greater legal protection to targets of workplace bullying. The U.S. legal system lags behind those of Scandinavia, Canada, Australia, and many European countries in terms of anti-bullying legislation (Von Bergen, Zavaletta, & Soper, 2006). In 1993, Sweden became the first country to enact legislation prohibiting workplace bullying. France and Belgium followed in 2002. Since that time, several Canadian provinces (Quebec, Saskatchewan, and Manitoba), two Australian states (South Australia and Queensland), the United Kingdom, Norway, Denmark, the Netherlands, and Turkey have all recognized the target's right to relief and redress under the law. Some of the laws take a health/safety perspective while others view freedom from harassment and workplace bullying as a civil right. In any case, employers are duty-bound to provide a psychologically safe work environment where employees are entitled to work in respectful, civil workplace.

In the U.S. legal system, little attention currently is paid to bullying in the workplace. Under current employment law, the general rule is that an 'equal opportunity harasser' is not legally liable for the abuse he or she inflicts on others. In other words, in general it is not illegal to be a "jerk in the workplace" (Von

Bergen et al., 2006). As long as an individual is a jerk to everyone (i.e., engages in what is referred to as ‘status-blind harassment’), and does not target only individuals because of their protected status — based on their race, color, gender, national origin, religion, age, or disability — there will generally be no legal liability for the bad behavior (Morris, 2008). In fact, the statistics show that three quarters of all bullying is directed at a target without regard to protected status and often by a bully of the same gender, making it more difficult to maintain a cause of action under current employment law (Namie, 2007).

Tort law provides little protection for targets of workplace bullying. Targets have tried to sue on a theory of intentional infliction of emotional distress (IIED) but have not succeeded because they were unable to meet the stringent evidentiary standard that the bully’s behavior be sufficiently ‘extreme and outrageous as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community’ (Von Bergen et al., 2006, *citing Restatement Second of Torts section 46 cmt. d. 1977*). Thus, an IIEd claim is an extremely difficult standard for a plaintiff to meet.

If the target’s working conditions become so intolerable that he or she is forced to resign, a constructive discharge claim might be filed against the employer. Using a reasonable person standard in evaluating such claims, most courts require the target to show that “the working conditions were intolerable to a ‘reasonable person,’ leaving the employee with no recourse but to resign” (Von Bergen et al., 2006, p. 30). Goldman and Lewis (2006) note that a constructive discharge claim is a difficult way to resolve workplace bullying matters as the bully remains securely employed by the employer while the target waits for the case to come to trial and has to look for work while self-confidence and morale are low.

A movement is underway to introduce the Healthy Workplace Bill in state legislatures across the U.S. although no state has yet enacted a law ([healthyworkplacebill.org](http://healthyworkplacebill.org)). There are bills pending in 18 U.S. states at this time. In general, the Bill makes it unlawful for an employer to subject an employee to an ‘abusive work environment.’ The Bill defines ‘abusive work environment’ and specifies certain types of conduct (including repeated infliction of verbal abuse, verbal or physical threats, sabotaging an employee’s work, and exploiting an employee’s psychological or physical vulnerabilities) which can support a cause of action for damages and equitable relief against the employer (and possibly the bully). The plaintiff must show that he or she suffered physical or mental harm and that a reasonable person would find the defendant’s conduct abusive. The Bill provides incentives for employers that implement preventive measures and that respond fairly to complaints of bullying. Probability of passage is unpredictable due to legislative priorities and economic conditions.

## **ORGANIZATION RESPONSES**

Absent a legal mandate, organization leaders can proactively address the issue of workplace bullying by creating a respectful organization culture and confronting issues swiftly and aggressively. Additional strategies include using peer listeners who are selected and trained to provide assistance to coworkers who are targeted by workplace bullies, designating an ombudsperson or confidential counselor, requiring bullies to participate in counseling, and providing management skills training to all supervisory staff (Vega and Comer, 2005, Einarsen, Raknes, & Matthiesen, 1994).

Organization leaders can implement an anti-bullying policy that adopts a zero-tolerance stance. Existing anti-violence or anti-harassment policies can be expanded to include bullying. Anti-bullying policy statements should clearly define bullying, include a procedure for raising and handling complaints, and effectively discipline perpetrators. It is also important to include a non-retaliation clause so that no adverse actions are taken against the target who registers a complaint.

In their Research Report on the Dignity at Work Project, Rayner and McIvor (2008) recommend a multi-faceted approach to reducing the occurrence of workplace harassment and bullying. Strong policy statements and administration, counseling for targets and bystander witnesses, and training for all employees set the tone for behavioral expectations in the workplace. Top management commitment is critical along with enforcement at the supervisory level. Managers should be trained to understand the

policy and enforce it with their staff. Training along with dissemination of policy is more powerful in reducing the occurrence of bullying than either step alone.

The frequency of bullying in an organization can be influenced by cultural attributes such as operating procedures, norms of behavior, rules of appropriate conduct, corporate values, symbols of importance, unacceptable taboos, styles of heroes, and the degree of expected civility and formality of the culture (Bond, 2004). Bullying may occur more frequently in a work environment that tolerates inept leaders who lack training, improper supervision based on poor work design, social and power inequities that reward the behavior, and low morale in a culture that learns to tolerate bad treatment (Sparks, Faragher, & Cooper., 2001; Einarsen et al., 1994). Cultures that focus on “making the numbers” and recruiting aggressive individuals that use fear to dominate are more prone to tolerate a bullying corporate culture.

Employees are more committed and work positively toward organizational goals if they perceive good treatment from employers (Cohen-Charash & Spector, 2001). The exposure to stress, burnout, and job dissatisfaction with the political climate of the workplace can produce anger, depression, and aggression at work (Ladebo, Awotunde, & AbdulSalaam-Saghir, 2008). This intensifies if employees perceive that management tolerates or ignores a toxic culture. In essence, the organization tacitly supports the abuse by doing nothing which can in turn encourage aggressive behavior by employees (Vigoda, 2002). Ladebo et al. (2008) conclude that organizations can improve employee perceptions of fairness by creating deliberate policies against workplace aggression and inappropriate behavior in order to increase job satisfaction and reduce job distress that can result in aggression against clients and co-workers.

### **Exemplar Organization Practices**

To obtain additional information on company policies, we spoke with a variety of legal practitioners, reviewed sample employer policies, and spoke with Ron Glover, the Vice President of Global Diversity and Workforce Programs at IBM Corporation. We spoke with a cross-section of practitioners, including attorneys who work for Fortune 500 corporations, large law firms, and consulting firms. The consensus of all of these attorneys is that most corporations do not have specific policies addressing workplace bullying in the U.S. Instead, most corporations would respond to a claim of workplace bullying using general employment policies concerning harassment and discrimination. Most practitioners stated that employer policies have been implemented to comply with laws in other countries where their organizations operate.

We also reviewed employment policies of Atria, Harcourt General, and Pitney Bowes. None of the company policies specifically addresses workplace bullying; however, each company did have policies on business ethics and codes of conduct to address proper and acceptable behavior.

National health care provider, Atria’s policy against workplace violence states:

Atria does not tolerate threats, threatening behavior, or acts of violence. Workplace violence is any physical assault, threatening behavior or verbal abuse occurring in the work setting including: threats of any kind, physical contact or threatening, physically aggressive, violent or intimidating behavior, belligerent speech, sabotage or threats of sabotage.

Major publishing and education and training company, Harcourt General’s Code of Ethics and Conduct states:

Employees must comply with all laws concerning labor and employment and must promote the company’s goals of assuring equal treatment for all in connection with recruiting, hiring, training, compensation, development, promotion, demotion, discipline and termination of employees and providing a safe and healthy workplace that is free of sexual or other types of illegal harassment. Employees must treat one another with dignity and respect for one another’s cultures, lifestyles and uniqueness.

International document copying and mail services company, Pitney Bowes' Business Practice Guidelines on Harassment and Ensuring a Positive Work Environment state:

All employees deserve to be treated with respect and to work in an environment free from harassment. Degrading or humiliating jokes, slurs, intimidation, sexual harassment or inappropriate conduct toward others is never acceptable. Supervisors must report complaints of sexual or other harassment immediately to the Human Resource department for investigation, determination and resolution. Pitney Bowes will not tolerate retaliation against any employee for cooperating in the investigation.

Pitney Bowes' Business Practice Guidelines on a Safe Workplace state,

Pitney Bowes is committed to providing working conditions that protect the health and safety of our employees. Employees must be free of fear, intimidation, threats and feel safe in their working environment in order to do their job. Threats of violence either verbal or physical are not tolerated. In many cases, abusive or hostile words and actions are a precursor to more serious violent behavior.

These examples confirm what we discovered by talking with practitioners. That is, most corporations would respond to a claim of workplace bullying using their general employment policies concerning harassment and discrimination which typically require employees to treat one another with dignity and respect. Again, employers may be less likely to have specific anti-bullying policies, since workplace bullying is not currently illegal.

IBM has been cited as an example of a company with a proactive approach to ensuring a harassment-free workplace. Specifically, the Company has been noted for:

[p]olicies that outline acceptable work behaviors that foster respect and listening [to] create a culture inhospitable to bullying. IBM has been noted for fostering this climate by endorsing the way employees are treated at the company and the types of exchanges and conversations people have at work. They do not tolerate intimidation and enforce this with disciplinary action, and in core values and employment guidelines. With a shortage of qualified professionals it makes good business sense to avoid lawsuits, reduce turnover and absences and retain key talent (Meyers, 2006)

To determine what cutting-edge employers do to combat bullying in the workplace we spoke with Ron Glover, Vice President of Global Diversity and Workplace Programs at IBM. The information in this section of the article was derived from a personal communication with Mr. Glover on June 10, 2009.

IBM has a long-standing policy which describes the work environment employees should expect and the types of behavior IBM will and will not tolerate from employees. The policy is drafted in terms of harassment and intimidation; the word "bullying" is not specifically used (although the policy is meant to address more than behavior specifically prohibited under the law). In the 1970s, IBM implemented global policies regarding harassment and intimidation. Today, IBM's views on an appropriate work environment are incorporated into multiple areas:

- There is a Business Ethics Policy (which originated during the 1970s), which prohibits "harassment" and "intimidation." This includes harassment and intimidation between managers and employees, as well as between employees.
- Annually, employees and managers are required to complete computer-based ethics training and certify that they have read and understand the company's Ethics Policy. The training includes a multiple choice test containing various scenarios to insure that they understand IBM's policy on co-worker treatment. According to Mr. Glover, the test contains a variety of scenarios (including

those involving intimidating statements made by co-workers and unreasonable performance evaluations) to make sure employees and managers understand the policy.

- Individuals who have been identified as future leaders are invited to participate in a leadership development program entitled “Leading at IBM.” The program includes intensive classroom training focused on what IBM expects from its leaders. Training is provided on harassment, but a broader view is taken, and harassment is not only defined as what is prohibited by law but also includes intimidation and other unacceptable behaviors.
- Training is provided as required by the EEOC to insure that employees understand what is prohibited by employment laws.
- IBM’s policies and rationale for prohibiting harassment and intimidation are discussed in the Basic Blue program, an intensive three-day course offered to new managers across the world.

IBM leadership has embraced the responsibility for setting a tone of civility and respect and has established clear standards of behavior within the organization. Mr. Glover noted that IBM takes the management role very seriously. The company only wants individuals with exceptional capability to be managers. Benevolence is not the primary motivator. Like all companies, IBM operates in its own self-interest. The company believes that having an anti-harassment/intimidation policy is the right thing for the company. As Mr. Glover noted, the company cannot be successful if the working environment is not conducive to that success.

## CONCLUSION

The law is not enough to eliminate workplace bullying and in its present state affords no real protection for the target. Organization leaders must foster a culture of respect and civility, institute policies that outline acceptable behavior, and establish consequences for individuals who fail to comply with these behavior expectations. The costs of being passive are high. Some of the costs of doing business with a bully can be easily measured, such as turnover, replacement of staff, lack of productivity and working to rule, lawsuits, and severance packages. Other costs may be harder to measure and attribute directly to bullying, such as absenteeism, sickness, and benefit use due to stress. Finally, the costs of sabotaged work, low morale, and unmotivated workers are also difficult to quantify, but they are real. Leaders of the ethical workplace care about acceptable behavior at work, understands the impact of dissatisfaction that results from anger and fear at work, and acts to eliminate that dissatisfaction.

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