

Workplace Bullying



From the Editors at Law Office Manager

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Special Report:

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It's Costly: A tale of 2 workplace bullies and why they need to be stopped

By Lynne Curry

If you're dealing with a bully in the workplace, you're not alone. According to an Associated Press alert, 29 percent of all U.S. managers and employees deal with workplace bullies, and according to a white paper produced by the Society for Human Resource Management (SHRM), one out of six individuals report being bullied at work at some point in their career.

SHRM's latest survey finds that bullying in the workplace is three times as prevalent as illegal discrimination and occurs at least 1,600 times as often as workplace violence.

Bullies come in all shapes and sizes

There are several types of bullies, including the character assassin, the micro-managing control freak; the silent grenade ready to explode and the opportunistic, manipulative backstabber.

Like schoolyard bullies who throw spitballs, workplace bullies generally launch their attack by making unjustified accusations about their target's character, competency, personality or emotional stability. By creating hearsay they erode others' respect for and trust in their target. Left unchecked, they undermine their target's self-confidence and work relationships.

How bullying affects employees

Jim's Story: When "Jim" accepted a job with an East Coast construction company, he didn't realize he was putting his career at risk. He'd heard stories that his new boss "Bill" was one tough son of a gun and that those who got on Bill's wrong side didn't last long. Jim didn't worry, he was tough too.

Soon after he started his job, Jim correctly assessed that Bill treated well those he considered in his camp. Hoping to move up fast, Jim became Bill's hatchet man on jobs he chose to delegate and worked seventy hour weeks on projects for which Bill took credit. Within a year Jim had a reputation nearly as negative as Bill's and yet higher ups in his company viewed Jim as a strong producer who got tough jobs done fast.

When Bill realized Jim might upstage him, he decided to take Jim out. The two men fought relentlessly until Jim decided he'd had it. Unfortunately, the stress trashed Jim's personal life as well and the resulting divorce so disheartened Jim that he stepped off the career escalator he'd hoped to ascend.

Anne's Story: "Anne" didn't benefit from the same forewarning that Jim had. When she landed what she thought was a dream job, she quickly bonded with her charismatic boss "Karla." When Karla liberally poured wine at an informal evening out and said "tell me all about you," Anne did.

Soon after Anne started, she experienced Karla's dark side. Karla pushed Anne to spy on others in the building. When Anne hesitated, Karla asked Anne if she'd like others knowing some of Anne's secrets, including the fact she'd danced topless to pay her college tuition. When Anne got caught shifting through papers on a lead manager's desk, Karla disclaimed all knowledge of the situation and personally fired Anne.

Ineffective ways to deal with a bully

Many people initially try to ignore workplace bullies, hoping if they act professionally the bully will leave them alone or act nicely in return. Often, those targeted view the initial bully onslaught as a one-time event. Nothing could be further from the truth. Bullies perceive niceness and avoidance as weakness and an invitation to take advantage. Those who don't stand up to the bully's initial attack inadvertently encourage continued bullying.

Most individuals confronting a workplace bully expect to receive support from co-workers or another senior manager. Unfortunately, because many bullies show their true selves only to their target while maintaining a charming front toward others, and because most individuals give the benefit of the doubt to the bully unless they personally experience the attack, bystanders rarely help those slammed by bullies. When those on the sidelines finally realize what's going on, they may consider the fight not theirs or even run for cover.

Unfortunately, those confronted by a bully often instinctively make exactly the wrong moves, either playing into the bully's hands or naively coming across as an easy target. These wrong moves include trying to appease the bully; stooping to the bully's level and thus losing others' respect; letting the bully isolate you from others and wasting energy by responding to phony issues.

How to stop a workplace bully

What does it take to stop a bully? You. Because bullies lack internal brakes, those who want to stop a bully from steamrolling or trampling over them have to out-manuever the bully.

When under attack, you can't afford ordinary reactions such as letting the bully push your emotional hot buttons; becoming angry or arguing; pleading, giving in; taking the bully's words at face value; trying to appease the bully or agreeing under

pressure or stooping to the bully's level. When you react to a bully's provocative attack, you give the bully the upper hand. To avoid these nonproductive yet instinctive reactions, take a moment to realize what's going on and ask yourself "what game is this?" Then, don't play. For example, if the bully confronts you with "where did you come up with this crap?" respond straightforwardly and non-defensively with "it came from the Harvard Business Review" or whatever source you used.

You can further out-manuever the bully and avoid non-productive point-counterpoint arguments by countering attacks with questions. For example, if the bully mutters, "you sure screwed this up," ask "in what way?" If the bully says, "just about every way you could have," then respond, "as soon as you give me a specific, we can move forward." By rising above the attacks and offering to deal with real issues, your actions announce "bullying won't fly with me."

The good news is that bullying is a two way interaction. You can't be bullied if you refuse to play the bully's game by his rules. If you don't play along, you merely witness a failed attempt to bully you.

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Policy First: Bullying, by any name, can be expensive

By Steve M. Cohen

Whether you call it harassment, bullying, or something else, negative workplace behavior can be expensive for any organization.

Although the legal field is highly professional, it's also staffed with human beings who sometimes use bad judgment, have questionable intentions, or are even just misunderstood.

Unhappy employees today are more likely to seek legal recourse against their employers, a fact that even law office managers should keep in mind.

Combine that with the expanding exposure from regulations, legislation or lawsuits, and it's not an issue you should overlook.

The government and the courts' position is that employers cannot do too much to protect employees. They can do too little—they can

underreact—and that will get them in trouble. But they can't do too much to protect employees on the job. The government's expectation is that employers will take a comprehensive approach to providing a completely safe environment for their employees. If the employers cannot or will not do this, they face the wrath and ire of federal and state governments.

Protect employees from all types of bullies and harassment

So, how do you prevent it in your workplace?

I suggest starting with a policy forbidding bullying behavior. Reminders, both ongoing and intermittent, follow up that policy. This is followed by mandatory training for all existing and future employees and is capped off by management's zero tolerance response if it does happen in the workplace.

Part of the response is values based. A values statement could include: It is not a part of the values of this organization to allow anyone to bully our employees. If it is discovered to exist, it will be dealt with quickly and definitively. Our values are that employees are to be treated with dignity, courtesy and respect. At our company, we will hold all employees at all levels accountable to treat all other employees thusly.

Act on all allegations

If allegations of violations are found to exist, management must investigate or cause an investigation to occur in a thorough and timely manner. If the allegations are substantiated, then harsh penalties, including written warnings or even terminations, should occur.

Conclusion

If the company does not handle the matter internally, it should expect the matter to be handled externally. And, if these external forces find that the firm under-reacted or otherwise allowed the harassment to occur, the organization can expect fines and issuance of right to sue letters. Trust me: at that point it is not pretty.

If the company does not handle the matter internally, it should expect the matter to be handled externally.

Steve M. Cohen is President/Partner of Labor Management Advisory Group, Inc. and HR Solutions: On-Call, both based in Kansas City, MO. Often described as a "mess management" expert for his ability to skillfully resolve people problems

for vulnerable organizations, Dr. Cohen is a well-known national authority who protects companies from HR bombshells that include issues of sexual harassment, regulatory compliance, motivational management, workforce diversity, employee training, and bottom-line productivity. Dr. Cohen has a MA in Public Administration from Central Michigan University, an Ed.D. in Educational Psychology from Northern Illinois University, and received certification in Alternative Dispute Resolution from DePaul University, School of Law. He is the author of "Mess Management: Lessons from a Corporate Hit Man" and hosts a weekly radio program in Kansas City called *The Exchange*, which features topics and guests from the world of business.



Model Policy: Workplace Bullying Policy

Why you need this model policy

Your firm is committed to the goal of ensuring that all of its employees are treated with dignity, civility, and respect in the workplace. Bullying behavior is not compatible with this commitment.

How this model policy helps you

This model policy explains what bullying is and helps you communicate to all employees that bullying behavior will not be tolerated.

How to use this model policy

Customize this policy as appropriate for your workplace and use it at your law firm.

Model Workplace Bullying Policy

Objective

The purpose of this policy is to communicate to all employees, including supervisors, managers and executives, that *[Firm Name]* will not in any instance tolerate bullying behavior. Employees found in violation of this policy will be disciplined, up to and including termination.

Definition of Bullying

[Firm Name] defines bullying as repeated inappropriate behavior, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment. Such behavior violates *[Firm Name]*'s Code of Ethics, which clearly states that all employees will be treated with dignity and respect.

Examples

Bullying may be intentional or unintentional. However, it must be noted that when an allegation of bullying is made, the intention of the alleged bully is irrelevant, and will not be given consideration when meting out discipline. As in sexual harassment, it is the effect of the behavior on the individual that is important.

[Firm Name] considers the following types of behavior examples of bullying:

Verbal bullying: Slandering, ridiculing or maligning a person or his or her family; persistent name calling that is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks.

Physical bullying: Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property.

Gesture bullying: Nonverbal threatening gestures; glances that can convey threatening messages.

Exclusion: Socially or physically excluding or disregarding a person in work-related activities.

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace:

- Persistent singling out of one person.
 - Shouting or raising voice at an individual in public or in private.
 - Using verbal or obscene gestures.
 - Not allowing the person to speak or express himself or herself (i.e., ignoring or interrupting).
 - Personal insults and use of offensive nicknames.
 - Public humiliation in any form.
 - Constant criticism on matters unrelated or minimally related to the person's job performance or description.
 - Ignoring or interrupting an individual at meetings.
 - Public reprimands.
 - Repeatedly accusing someone of errors that cannot be documented.
 - Deliberately interfering with mail and other communications.
 - Spreading rumors and gossip regarding individuals.
 - Encouraging others to disregard a supervisor's instructions.
 - Manipulating the ability of someone to do his or her work (e.g., overloading, underloading, withholding information, assigning meaningless tasks, setting deadlines that cannot be met, giving deliberately ambiguous instructions).
- Inflicting menial tasks not in keeping with the normal responsibilities of the job.
 - Taking credit for another person's ideas.
 - Refusing reasonable requests for leave in the absence of work-related reasons not to grant leave.
 - Deliberately excluding an individual or isolating him or her from work-related activities, such as meetings.
 - Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property (defacing or marking up property).

What is not bullying: Bullying does not include, and this Policy is not designed to prevent managers, supervisors and others in authority to exercise their legitimate management functions, such as:

- Ordering employees to carry out assignments;
- Constructively criticizing employees for poor performance; and
- Imposing discipline on employees for poor performance, violations of [*Firm Name*] policies or other legitimate grounds.

Reporting bullying: [*Firm Name*] has established the following procedures for employees to use to report incidents of bullying directed against them or that they witness. [*Describe your reporting procedures*]. **No employee will suffer reprisal in any form for reporting bullying.**

Investigation & Resolution of Complaints: [*Firm Name*] has established the following procedures for investigating and resolving complaints about bullying. [*Describe your complaint resolution procedures*].

Discipline for Infractions: [*Firm Name*] follows a zero tolerance policy with regard to bullying. So any violations that occur will result

in disciplinary action, up to and including termination, at [*Firm Name*]'s discretion.



Workplace Safety: How to handle the “bully lawyer” without losing your temper or your job

A growing concern in all types of professional offices is the bully boss.

“Bullying is the issue for this decade that sexual harassment was in the 1980s,” says Rachel Schaming, a business and leadership coach and certified conflicts mediator in Tucson, AZ.

In a law firm, the issue is especially difficult, because the bully may be a senior lawyer. As a result, staff don’t want to mention the issue for fear of losing their jobs, and the other lawyers don’t want the confrontation or the potential loss of clients. So the bullies carry on.

It’s not even uncommon for employers to give “hazardous duty pay” to coax people “to tolerate the pummeling they’re getting.”

The four categories of bullying

Bullying is “repeated inappropriate behavior against another person.” And there are four types.

1. First is verbal bullying. This is rude remarks, ridicule, name calling, insults, and making the victim or even the victim’s family the butt of offensive jokes.
2. Second is gesture bullying. Included here are things such as eye rolling, huffing, leering, or staring at somebody to make the person feel threatened.
3. Third is exclusion. The bully purposely excludes the victim from work-related activities.
4. And fourth is physical bullying such as poking shoving, and tripping. It also includes damaging the victim’s workspace or equipment.

The portrait of a bully

Almost always, the bully is somebody in a high position and the target is somebody in a lesser role.

It can be an owner lawyer targeting a firm employee or a supervisor targeting a staffer. But the target is dependent on the bully for something such as raises or bonuses or interesting work.

There can be name calling, yelling, and subtle threats such as “you’re on thin ice with me.”

There can also be glaring in an effort to make the victim uncomfortable. Or the bully may stand too close to the victim so as to violate personal space.

All that wears people down. Their performance declines. They start missing work. Some people become withdrawn and timid and lose concentration.

What's the bully truly like?

Beneath the bravado is a tremendous amount of fear, Schaming says. And most of the time, the fear has to do with competence. The bully is afraid of not measuring up—as a person or as a lawyer or as a partner in the practice.

Don't confuse a bully with a tough boss, she notes.

The tough boss has high expectations and demands top performance and high quality work. By contrast, the bully demeans and embarrasses people and makes them feel they are the cause of every problem that crops up.

One more policy to write

Bullying calls for yet another policy.

It needs to say the office won't tolerate bullying. And it needs to carry discipline, including termination. It needs to define bullying and lay out the four types with examples of unacceptable behaviors such as constantly criticizing someone or constantly interrupting someone during meetings.

Schaming adds that while physical bullying doesn't happen often in a professional office, it's not an impossibility, so cover that as well.

Gather the facts anonymously

What should the manager do when someone complains of bullying?

Collect the facts. Ask questions such as: *What is it like to work with this person? What are some examples of the bullying? Has anybody witnessed the incidents you're describing? Do you know if anybody else is experiencing this?*

Then write a synopsis of the discussion. Schaming recommends setting out the incidents according to which of the four categories applies, and for each one tell what happened, when, and if there were witnesses.

Don't identify the person making the complaint, however. Bullying carries a "paralyzing fear" of losing a job, so unless complaints can be made anonymously, people won't report it. And perhaps because of that fear, the person who reports it is often not the victim at all but somebody who has witnessed it often enough to be concerned about it.

Not a job for the manager

Now to beard the bully.

That's one job the manager should not do, Schaming warns. If the bully is a senior lawyer, the manager can become the next target or even lose the job.

The manager's responsibility is only to bring the matter to the attention of a trusted lawyer, preferably the managing partner. No more.

Present the information, explain the impact on the office in terms of turnover, absenteeism, or lost productivity, and offer some solutions. Then back off.

For the lawyer doing the confronting, she recommends approaching the bully in terms of *"we are having too many complaints about this."*

Then paint the picture of what's going on. Say *"here is the problem at hand"* followed by *"here are examples"* followed by *"here are the possible consequences—losing a quality employee, etc."*

Be tactful. Don't mention every infraction. Just cite the most egregious examples. And to keep the meeting from turning into a fight, recognize along the way the contributions the lawyer has made to the practice.

Then say *"I know we can work through these things"* followed by *"what do you see as the next steps that you need to take?"* Often that opens a conversation. It's not unknown for the response to be *"I had no idea,"* and the issue is solved right there.

On the other hand, if the conversation is fruitless, put some teeth into it with something such as *"failure to deal with this means you won't get your bonus."*



Model Tool: Checklist of steps to take when conducting an investigation

Why you need this checklist

When an employee makes a complaint, whether it’s an accusation of sexual harassment, bullying or an alleged workplace safety hazard, you have an obligation to conduct a thorough and timely investigation. In many circumstances, the filing of a complaint sets in motion several legal and regulatory requirements for a business.

How this checklist helps you

This checklist will help you conduct a timely and thorough investigation so that you can determine a proper and appropriate response.

How to use this checklist

Use this checklist to gather the necessary information you need to obtain a clear picture of what happened.

Checklist of steps to take when conducting an investigation

| Step | Action | Considerations |
|--------------------------|---|--|
| <input type="checkbox"/> | Notification is made / Allegation made by one person | Investigation should begin within 72 hours Is this a concern or a formal complaint? A concern gives the complaining party some cover while a formal complaint is formal and out in the open. |
| <input type="checkbox"/> | Investigation: pre steps—get organized and set time aside to conduct a timely and thorough investigation. | Look at and consider the files on each of the parties Ask yourself, “is it in their character to do what is alleged?” |
| <input type="checkbox"/> | Interview the alleged victim first | Ask the who, what, when, where and why questions. Determine if this is a concern or complaint? Ask for names of potential witnesses (actual or character). Look for specifics and consider “is this plausible?” |

| Step | Action | Considerations |
|--------------------------|--|--|
| <input type="checkbox"/> | Interview the alleged perpetrator next. | Look for specifics and consider "is this plausible?" |
| <input type="checkbox"/> | Interview all the witnesses from both sides. | |
| <input type="checkbox"/> | Assemble the findings. | |
| <input type="checkbox"/> | Draw a conclusion. | |
| <input type="checkbox"/> | Make a decision regarding next steps. | |



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