

How to Adopt and Put to Work a Workplace Bullying Policy

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Workplace Bullying Policy

Topics To Be Covered

1. Obstacles to adopting anti-bullying policies
2. Answers to Obstacles
3. Good Text to Use, and Phrases to Avoid
4. Non-Verbal Aggression
5. Reporting Incidents
6. Collecting Incident Info
7. A few last items

Let's Begin with the Opposite of Bullying

“A Christmas Carol” by Charles Dickens (1843)

- The Ghost of Christmas Past and
Mr. Fezziwig
 - a vision of kind words and looks

The Ghost shows Ebenezer a vision of Mr. Fezziwig's Christmas party then says:

"A small matter," said the Ghost, "to make these silly folks so full of gratitude."

"Small!" echoed Scrooge.

The Spirit signed to him to listen to the two apprentices, who were pouring out their hearts in praise of Fezziwig: and when he had done so, said,

"Why! Is it not? He has spent but a few pounds of your mortal money: three or four, perhaps. Is that so much that he deserves this praise?" ...

A vision of Mr. Fezziwig's Christmas party, continued

“It isn’t that”, said Scrooge... “It isn’t that, Spirit. He has the power to render us happy or unhappy; to make our service light or burdensome; a pleasure or a toil.

Say that his power lies in words and looks; in things so slight and insignificant that it is impossible to add and count ‘em up: what then? The happiness he gives is quite as great as if it cost a fortune.”

“Bullying is not a management style; it is abuse. It is about anger and aggressiveness.”

- Randi C. Wood, LCSW, DCSW, former Director of the Colorado State Employee Assistance Program (C-SEAP)
 - Her article, **“Psychological Abuse At Home and Work”** (2004) is at <https://sites.google.com/site/l12bullying/Home/psychological-abuse-at-work-and-at-home>.

Obstacles to adopting anti-bullying policies, and to putting them to work

1. **Managers' resistance** due to anxiety that a policy would limit their actions
2. **HRs' resistance** due to desire to protect managers.
3. **Organizations' Leaders** who just don't get it.

There may be other resistance not covered here.

Obstacles to adopting anti-bullying policies, and to putting them to work: **Managers**

Managers' resistance due to anxiety that the policy will limit their actions

- Answer: Supervisory **actions taken for legitimate business reasons** are **not** workplace bullying.
- Ex1: Tennessee Advisory Commission on Intergovernmental Relations (TACIR) Model Policy
- Ex2: Minnesota “Respectful Workplace Policy”

Answer to Obstacles from Managers: TACIR Model Policy [1 of 2]

Abusive conduct does not include

- Disciplinary procedures in accordance with adopted policies of [Insert Entity Name]
- Routine coaching and counseling, including feedback about and correction of work performance [But?]
- Reasonable work assignments, including shift, post, and overtime assignments

Answer to Obstacles from Mgmt.:

TACIR Model Policy 2 of 2

Abusive conduct does not include [continued]

- Individual differences in styles of personal expression
- Passionate, loud expression with no intent to harm others
- Differences of opinion on work-related concerns
- The **non-abusive exercise** of managerial prerogative

So, what is “non-abusive” exercise of managerial prerogative”?

- **Factual**, **civil**, **professional** criticism
- Training assignments to develop, **not** to torment, etc.
- “**non-abusive**” conduct **is** conduct **related** to an employer’s legitimate business interests.

California law: ...“abusive conduct” means conduct ..., with malice, that a reasonable person would find hostile, offensive, and **unrelated to an employer’s legitimate business interests.**

The WORKPLACE BULLYING STYLES MATRIX

BULLYING STYLES	VERBAL	NON-VERBAL
ABUSIVE BEHAVIOR THE TARGET CAN HEAR OR SEE	These details are in >>>	https://www.ehstoday.com/safety-leadership/article/21918426/the-dimensions-of-workplace-bullying-behavior .
ABUSIVE BEHAVIOR HIDDEN FROM THE TARGET	These details are in >>>	https://www.ehstoday.com/safety-leadership/article/21918426/the-dimensions-of-workplace-bullying-behavior .
ABUSIVE BEHAVIOR ONLY SUPERVISORS COULD DO	NEXT SLIDE	SLIDE <u>AFTER NEXT</u>
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Verbal bullying -Supervisors only

- Removing responsibilities without cause,
- Frequently changing work guidelines³,
- Setting impossible deadlines or other assignments to set up a person to fail^{3&4},
- Assigning unreasonable duties or workloads;
- Making false statements to employees about their work.
- Assigning menial tasks to a professional who asks too many questions or has unwanted suggestions.
- Assigning a remedial writing course to an excellent writer.¹

Non-Verbal bullying -Supervisors only

- Canceling employee's planned vacation or scheduled training for no legitimate business purpose.¹
- Maliciously blocking applications for training, leave, promotion, or needed accommodations.³
- Under-working someone to create a feeling of uselessness, unwarranted or undeserved punishment, blame without justification⁴
- Excessive micro-managing⁴
- Disregarding satisfactory or excellent quality of work⁶

Answer to Obstacles from Mgmt.: from Minn. HR

- Edwin Hudson, the Deputy Commissioner for Enterprise Human Capital of Minnesota Management & Budget, told me (a few years ago):
- The state had a 4 to 5 percent unemployment rate, so there is **real competition** for talent.
- He hoped the “**Respectful Workplace**” policy would give the state a **competitive edge** in attracting and keeping the best employees.

Minnesota's “**Respectful Workplace**” policy identifies unacceptable conduct (bullying).

For example, disrespectful and/or unprofessional behavior does not include any of the following:

- The normal exercise of supervisory or managerial responsibilities, including, but not limited to performance reviews, work direction, performance management, and disciplinary action **provided they are conducted in a respectful, professional manner.**
- Disagreements, misunderstandings, miscommunication or conflict situations **where the behavior remains professional and respectful.**

Obstacles to adopting anti-bullying policies, and to putting them to work: **HR**

- **Human Resources staff** often think they have a duty to protect managers. (HR and LMR and EEO typically defend managers from complaints of misconduct.)
- "Crucially, **employees** are hesitant to report the abuse, in part because they **fear retaliation and doubt that their employer will take meaningful action to protect them**" ...
 - (SHRM 2018. "Harassment – Free Workplace Series: A Focus on Sexual Harassment.")

Answer to Obstacles from: HR

- HR and LMR and EEO need to protect the organization from improper/abusive conduct (whether prohibited by law or not).
- **Organizational leadership** must make clear that abusive conduct will not be tolerated, otherwise talent will be demeaned and chased away.

If HR fails to respond to aggression, everyone will know.

- “... a recent survey on workplace bullying found that of the 27% of workers who reported feeling bullied to their human resources department, **57%** said no action was taken to address their concerns (CareerBuilder 2012).
- Career builder. 2012, August 29, “CareerBuilder study finds more workers feeling bullied in the workplace.” [HTTPs://CB.com/2Hh52qK](https://CB.com/2Hh52qK)
 - Source: “Employment and Disability: Issues, Innovations, and Opportunities”. **LERA 2019** Chap. 5 “Unwelcoming Workplaces: Bullying and Harassment of Employees with Disabilities”. Page 135

Obstacles to adopting anti-bullying policies, and to putting them to work: **Top Leaders**

“Management doesn’t get it”

Answer:

- It takes time and \$ to recruit and train employees.
- When “talent” leaves, they take their knowledge with them.
- Poorly treated workers may criticize your organization on Glassdoor or similar.
- Some good people will never even apply to you for a job.

What Does the Business Lobby Think? 1/2

"promoting and maintaining **ethical values** within a small business can produce:

- Increased employee loyalty and motivation
- Greater trust and respect between employees and managers
- Respect among employees for the company's vision and mission statement
- Reduced employee turnover

What Does the Business Lobby Think? 2/2

"promoting and maintaining ethical values...

- Increased productivity and a greater sense of teamwork
- Less stress in the workplace
- Higher quality production, both in services and manufactured goods
- Fewer fines and lawsuits from customers, suppliers and employees

Question: Who Said It?

- Answer: **The National Federation of Independent Business (NFIB)**, the most powerful business lobby in the country.
- This was in the NFIB E-News (newsletter) of 4/22/2005, “Promoting and Maintaining Ethical Values Within a Small Business.”

Next: Good text and bad phrases

We look at language to borrow and to avoid.

Good: Tennessee Model Plan [1 of 2]

Abusive conduct includes **acts or omissions** that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, which can include but is not limited to

- Repeated verbal abuse in the workplace, including derogatory remarks, insults, and **epithets**; {??}
- Verbal, **nonverbal**, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or

Tennessee Model Plan [2 of 2]

- The sabotage or undermining of an employee's work performance in the workplace.
- A **single act** generally will not constitute abusive conduct, unless such conduct is determined to be severe and egregious.
- [Stern's example: *Incident of Supervisory Attorney screaming & cursing at a Senior Attorney with door open*]

Non-Verbal Aggression, an illustration

- The @&##! P@@@@@, Sneers, and Darwin
€\$ Stern's scary story
 - Darwin's quotes are in next slide
 - <https://www.ishn.com/articles/103852-unlocking-a-key-to-prevent-psychological-violence>

Non-verbal Aggression & Darwin

“The Expression of the Emotions in Man and Animals” by
C. Darwin, 1872, Chapter 14 <https://www.gutenberg.org/files/1227/1227-h/1227-h.htm>

- “...we still uncover the canine tooth on one side when we sneer at or defy anyone, and we uncover all of our teeth when furiously enraged.”
- "The movements of expression give vividness and energy to our spoken words. They reveal the thoughts and intentions of others more truly than do words, which may be falsified."

Regarding “false words”--bullying includes:

1. Slander, gossip, and innuendo that is false,
2. Spreading false and malicious rumors, gossip, or innuendo.

True statements, that are private or personal, can be malicious and very hurtful.

- Answer: DROP “~~that is false~~” from #1, “~~false and~~” from #2. Also drop “malicious” from #2? What do you think?
- See: www.ccohs.ca/oshanswers/psychosocial/bullying.html

Regarding criticism in front of others -1

“Persistent or constant criticism in front of others for the purpose of humiliating another employee.” (TN Exec. policy)

- To prohibit “*persistent or constant* criticism in front of others” undermines an anti-bullying policy.
- It invites and excuses occasional criticism **in front of others**.
- It **implies** that “occasional criticism of an employee in front of others” is acceptable.
- **Public humiliation is not professional. It is violence.**

Regarding criticism in front of others -2

“Persistent or constant criticism in front of others **for the purpose of humiliating** another employee.” (TN Exec. policy)

- To prohibit criticism “for the purpose of humiliating” undermines an anti-bullying policy.
- It **allows** the bully to say that the criticism was **not** “for the purpose of humiliating” the employee.
- **Public humiliation is not professional conduct. It is violence.**

“Intimidating by **EXCESSIVE YELLING**; ...
“**unreasonably harsh tone**” of voice (TN Exec.)

YELLING at people is excessive, all by itself.

- It is not civil or professional behavior. To prohibit “excessive yelling” implies permission for “ordinary” yelling.

What is an “**unreasonably harsh tone**”?

- To prohibit an “**unreasonably harsh tone**” implies permission for a “reasonably” harsh tone of voice—whatever that is.

What should an anti-bullying policy expect of supervisors?

- Mayor Megan Barry Executive Order # 39
THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY,
October 12, 2017
- “In addition, supervisors **may** also be subject to corrective action or discipline *if they learn of abusive conduct* in their workplace ***and fail to take*** appropriate action.”
 - This should look familiar. Similar wording is in most EEO policies.
- Why is it “may be subject”? I suggest: “will be subject”.

Ideas from Minnesota HR/LR Policy #1432

Examples of disrespectful and/or unprofessional behavior include but are not limited to:

- Exhibiting aggressive behaviors including shouting, abusive language, threats of violence, the use of obscenities or **other non-verbal expressions of aggression**;
- Behavior that a reasonable person would find to be **demeaning, humiliating, or bullying**;

Minn. HR/LR Policy #1432 continued

Examples of disrespectful and/or unprofessional behavior (continued):

- Deliberately destroying, damaging or **obstructing someone's work performance**, work product, tools, or materials; and/or
- Use of this policy and procedure **to make knowingly false complaint(s).**

Minn. HR/LR Policy #1432 re: Retaliation

Retaliation is prohibited against any employee or third party who:

- Initiates a complaint;
- Reports an incident that may violate this policy;
- Participates in an investigation related to a complaint; or
- Is associated or perceived to be associated with a person who initiates a complaint or participates in the investigation of a complaint under this policy

Reporting Incidents

4.1.3.1 Reporting DHS, ISC Guide, 2019

Accurate and early reporting provides for a well-timed intervention. This can be instrumental in resolving issues of workplace incivility and bullying before such issues escalate into physical violence. Developing and implementing reporting procedures **for workplace bullying and incivility** is [just as important as establishing procedures for reporting physical violence](#).

Collecting Incident Info

- Use **Utah's Abusive Conduct Intake Form**
 - <https://dhrm.utah.gov/forms/abusive-conduct-intake-form>
 - It's good, but you can still adapt it. It's two pages.
- See other states and organizations for good intake forms
- Use a person who is trained on conflict management, confidentiality, and ethics.
- *Analyze witness testimony with an open mind.*

Collecting Incident Info Questions:

- **What** happened;
- **Who** was involved;
- **Who** witnessed it;
- **Where & When** did it happen;
- **How** did it happen; and
- **Why** did it happen?

Collecting Incident Info

- ASK YOURSELF: “Is there other information that might **support OR cast doubt** on the testimony of either side?”
- IF SO, look for that additional information, to help you figure out what is really going on.

A few last items: **COMMUNICATE**

- COMMUNICATE your anti-bullying policy
- To all staff, once a year
- To the public on your website
 - Why? It shows that you care about your employees.

A few last items: Training Supervisors

- TRAIN SUPERVISORS every two years, at a minimum
- This is required by the California Abusive Conduct law
 - For state/local government and
 - PRIVATE sector companies with 50+ employees
- Should you do it? SURE.

A few last items:

Who are you going to call? It depends.

- CALL Supervisors, HR, EAP, etc., for psychological violence
- CALL POLICE for acts or threats of physical violence

The NIH “CIVIL” WPV policy makes this distinction. See <https://hr.nih.gov/sites/default/files/public/documents/working-nih/civil/pdf/civil-trifold-brochure.pdf> (Great, short, model policy.)

Does OSHA have a role in this?

Generally, No! But:

- IF an employee becomes mentally ill (ex: depressed or anxious) from bullying/psychological abuse,
- AND requires medical treatment beyond first aid,
- AND a qualified health care professional gives the victim a letter stating that the **illness is work-related**,
- AND victim **VOLUNTARILY** gives letter to supervisor or HR,
- **THEN** the illness is an OSHA RECORDABLE CASE.

Source: <https://webapps.dol.gov/elaws/osharecordkeeping.htm>

Thoughts on Research and Surveys

Please Do Not ask employees if they have been “bullied.”

- They may **not** know that the actions or intentional inactions they saw was bullying/harassment/abuse.
- Instead, ask specifically what happened to them.
- Next slides have some questions for employees.

Reminder: **survey employees, not HR or public affairs**, if you want credible answers. [NIOSH made this mistake years ago.]

Questions about frequency -1:

Never, Once a Year, Occasionally, Frequently

2. Manager/supervisor refuses to recognize my/others' contributions, achievements, and value.
3. Manager/supervisor yells or shouts at _____.
[me/others]
4. Manager/supervisor makes rude, insulting, or offensive comments to _____. [me/others]
5. Manager/supervisor embarrasses _____ in front of co-workers. [me/others]

Questions about frequency-2:

Never, Once a Year, Occasionally, Frequently

6. Manager/supervisor refuses to speak to, meet with, or respond to email from _____. [me/others]

7. Manager/supervisor looks at _____ with sneers, anger, or contempt. [me/others]

10. Manager/supervisor engages in nit-picking, fault-finding, or ridicule for trivial things (including personality and personal interests) towards _____. [me/others]

Questions about frequency-3:

Never, Once a Year, Occasionally, Frequently

11. Manager/supervisor deliberately overloads _____ with work or takes away work to leave low level work or no work at all. [me/others]

15. Manager/supervisor isolates, ignores, sidelines, or freezes _____ out. [me/others]

16. Manager/supervisor intentionally misleads or lies to _____. [me/others]

Other types of questions

18. Have people left, or do they want to leave, because of the behavior of supervisors/managers?

Definitely Yes____ Yes____ No____ Definitely No____

19. Manager/supervisor allows an employee to bully or harass me or other workers.

Definitely Yes____ Yes____ No____ Definitely No____

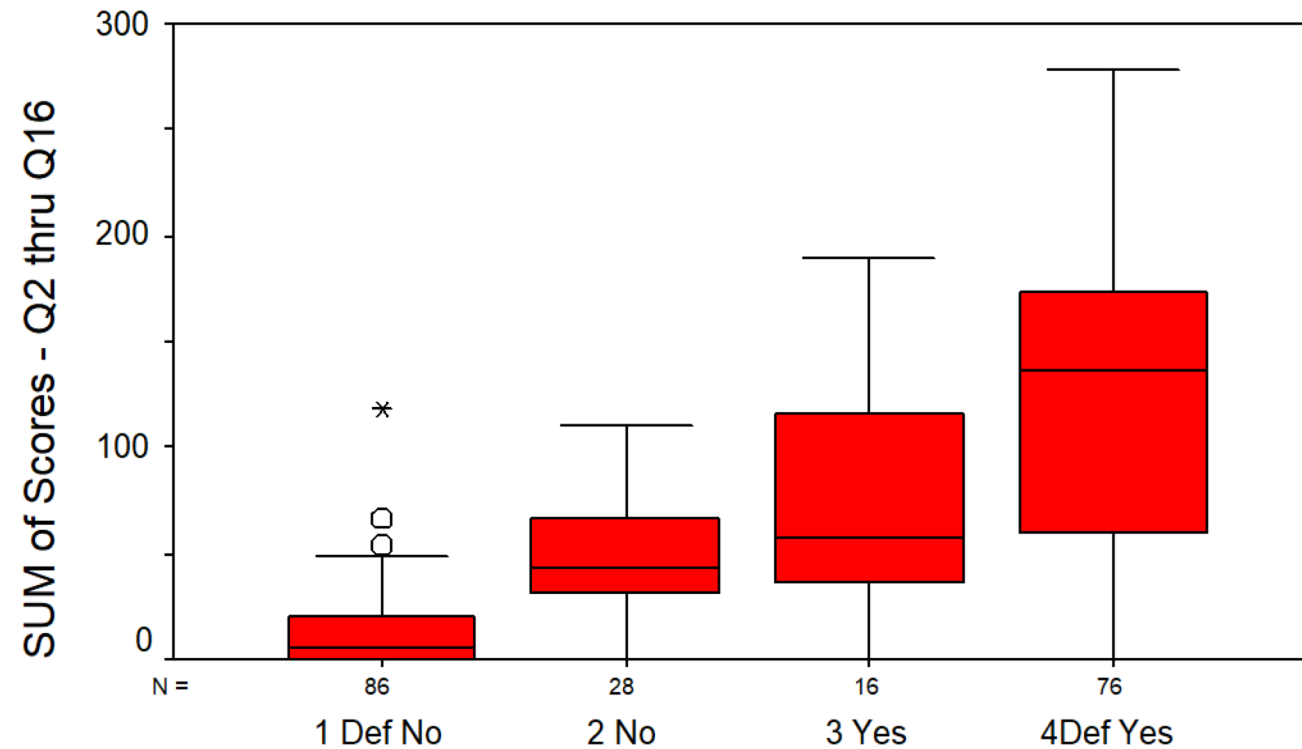
21. Do you think the behavior you described above is bullying, harassing, abusive behavior?

Definitely Yes____ Yes____ No____ Definitely No____

Quantifying Answers to Frequency Q's

- You can assign weights to the Q's with frequency answers.
- I used:
 - **No** = 0
 - Once = 1
 - Occasionally = 3
 - Frequently = 9
- Feel free to try other weights.
- Now, let's look at the weighted answers.

Sum of Frequency-Weighted Scores by Employee Views in Q. 21



Q21. Was the behavior bullying/abusive?

(Weights: Never = 0, Once a year = 1, Occasionally = 3, and Frequently = 9)

A few of my favorites of my articles

- Why Anti-Bullying Policies Should Be Leading Indicators <https://www.ehstoday.com/ehs-outloud-blog/article/21120100/antibullying-policies-should-be-leading-indicators>
- The Dimensions of Workplace Bullying Behavior <https://www.ehstoday.com/safety-leadership/article/21918426/the-dimensions-of-workplace-bullying-behavior>
- Anti-retaliation policies don't always stop bullying <https://www.ishn.com/articles/108546-anti-retaliation-policies-dont-always-stop-bullying>
- Workplace Bullying: How Two Red and Two Blue States Tackled the Issue <https://www.workforce.com/news/workplace-bullying-how-two-red-and-two-blue-states-tackled-the-issue>
- Predicting Failure for Your Workplace Violence Policy <https://www.ehstoday.com/safety/article/21919433/predicting-failure-for-your-workplace-violence-policy>
- Unlocking a key to prevent psychological violence (Non-verbal expression) <https://www.ishn.com/articles/103852-unlocking-a-key-to-prevent-psychological-violence>
- What's Missing in 'No Discipline' Decision for VA Managers <https://www.govexec.com/management/2016/01/whats-missing-no-discipline-decision-va-managers/124914/>

Thanks for your kind attention.

Now, I will try to respond to your questions.

I hope I have some answers for you.

Edward Stern