

Workplace Bullying: A Global Health and Safety Issue

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Overview of Workplace Bullying:

Significant changes in the workplace have resulted in new challenges with regard to workers' safety and health. Occupational health and safety laws have long dealt with physical risks, and now psychological risks such as bullying, violence, harassment, discrimination and stress are beginning to be treated similarly. Sometimes termed work-related psychosocial risks, these issues have been identified as one of the major contemporary challenges for occupational health and safety. In today's workplaces, the approach by management should emphasize both physical and psychological health and behavior.

Specifically, workplace bullying has been identified as a challenge for occupational health and safety and is linked to other emerging risks as work-related stress, sexual harassment, and violence.

What Bullying Is, and Isn't

Bullying and harassment are terms that describe a wide variety of negative workplace behaviors including verbal threats, personal attacks, innuendo, and deliberate isolation of a colleague. Separate incidents may be relatively innocuous but are often sustained or persistent in character; it is their cumulative effect that is damaging.

Different terms are used by different countries for the hostile behavior often referred to as **bullying**. Terms include **moral harassment or harassment, psychological violence, and mobbing**. **Mobbing** is a term of European origin corresponding to the terms workplace incivility or harassment. Additional terms include: **Work or Employee Abuse, Mistreatment, Emotional Abuse, Bossing, Victimization, Intimidation, Psychological terrorization, Harcèlement Moral, Harcèlement Psychologique, Assédio no Local de Trabalho, Acoso Moral, Assédio Moral, Maltrato psicológico.**

Anglo-Saxon jurisdictions, including the United Kingdom, the United States, and Australia, tend to use the term "workplace bullying," while French-speaking jurisdictions, refer to "harcèlement moral," or moral harassment,' as in France and Belgium or "harcèlement psychologique" or psychological harassment, as in Quebec. Scandinavia and Germany use the term "mobbing".¹

There are a variety of terms for workplace bullying, mobbing, psychological abuse, and/or harassment. Mobbing at work is characterized by the systematic psychological abuse or humiliation of a person by an individual or a group, with the aim of damaging his/her reputation, honor, human dignity and integrity, and ultimately driving the victim to quit the job.

Swedish psychologist Heinz Leymann was the first to use the English term 'mobbing' to describe hostile behavior by employees in the workplace. Leymann defines mobbing as 'hostile and unethical communication, which is directed in a systematic way by one or a few individuals mainly towards one individual who, due to mobbing, is pushed into a helpless and defenceless position, being held there by means of continuing mobbing activities'.

According to the **European Agency for Safety and Health at Work** no single definition of bullying has been agreed upon internationally.

Definitions include the following:

- The International Labor Organization (ILO) defines **bullying** as: “any incident in which a person is abused, threatened or assaulted in circumstances relating to their work. These behaviours would originate from customers, co-workers at any level of the organization. This definition would include all forms of harassment, bullying, intimidation, intimidation, physical threats-assaults, robbery and other intrusive behaviours.”
- The Workplace Bullying Institute (WBI) defines **bullying** as: “repeated mistreatment: sabotage by others that prevented work from getting done, verbal abuse, threatening conduct, intimidation or humiliation.”
- An expert in the field of workplace bullying, Professor Staale Einarsen from the University of Bergen in Norway, proposed a 2003 definition of **bullying at work** which is widely accepted²: “Harassing, offending, socially excluding someone or negatively affecting someone’s work tasks. In order for the label bullying (or mobbing) to be applied to a particular activity, interaction or process it has to occur repeatedly and regularly (e.g., weekly) and over a period of time (e.g., about six

¹ The Law Of Workplace Bullying: An International Overview Katherine Lippel, 2010 at <http://www.proyectoaraucaria.cl/documentos/20101126105135Lippel.pdf>.

² Based on text on Eurofound website at <http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/MOBBING.htm>.

months). Bullying is an escalating process in the course of which the person confronted ends up in an inferior position and becomes the target of systematic negative social acts. A conflict cannot be called bullying if the incident is an isolated event of if two parties of approximately equal 'strength' are in conflict.”

- **ILO Report--Bullying - Workplace bullying** constitutes offensive behavior through vindictive, cruel, malicious or humiliating attempts to undermine an individual or groups of employees through such activities as: Making life difficult for those who have the potential to do the bully's job better than the bully; Shouting at staff to get things done; Insisting that the bully's way of doing things is the only right way; Refusing to delegate because the bully feels no one else can be trusted; and Punishing others by constant criticism or by removing their responsibilities for being too competent.
- **ILO Report-Ganging up or mobbing** involves ganging up on or mobbing a targeted employee and subjecting that person to psychological harassment. Mobbing includes such behavior as making continuous negative remarks about a person or criticizing them constantly; isolating a person by leaving them without social contacts; gossiping or spreading false information.
- **Harassment** refers to repeated, unreasonable behavior directed towards an employee, or group of employees, aimed at victimizing, humiliating, undermining or threatening harassed person. (**OSHA Europe**)
- **Psychological violence** was defined by the **Occupational Society and Health Administration (OSHA)** (2002), as violence carried out in the workplace which can include aggressive acts or harassment with harmful intention

Another term for workplace bullying is “status-blind harassment” so termed to distinguish it from status based harassment targeted at classes of workers protected under federal and state statutes such as race, gender, or age.

David Yamada, author of the Healthy Workplace Bill in the United States, lists common bullying behaviors as follows:

False accusations of mistakes and errors;
Hostile glares and other intimidating non-verbal behaviors;
Yelling, shouting and screaming;
Exclusion and the “silent treatment”;
Withholding resources and information necessary to the job;
Behind the back sabotage and defamation;

Use of put-downs, insults, and excessively harsh criticism;
Unreasonably heavy work demands.

He further states: What Workplace Bullying Is *Not*:

Everyday disagreements and “dust ups” in the office;
Someone having a bad day and losing his/her temper;
Reasonable instructions, directives, and employee reviews.

Prevalence of Workplace Bullying

A 2011 Monster Global Poll conducted in May, 2011 surveyed workers worldwide, and posed the question, “Have you ever been bullied at work?” The 16, 517 responses received indicated the following:

64% answered that they had been bullied, either physically hurt, driven to tears, or had their work performance affected;

36% replied that this had never happened to them; and

16% answered that they had seen it happen to others.

The prevalence of bullying is a global phenomenon, affecting all countries, professions, and workers:

83% of European respondents reported that they had been physically or emotionally bullied;

65% in the Americas; and

55% in Asia.

Overall, approximately one in ten European workers report having experienced some form of workplace violence, either physical or psychological, in the previous 12 months with levels of reported psychological violence as high as those of physical violence. The incidence of threats of physical violence tends to be higher than exposure to actual physical abuse. Among types of psychological violence, bullying/harassment is more prevalent than sexual harassment.³

In August, 2010 the Workplace Bullying Institute (WBI) commissioned Zogby International to conduct a survey of adult Americans. The results showed that 35% of Americans reported personally being bullied at work. This study was a follow-up to the frequently cited 2007 WBI-Zogby survey, the comparable prevalence was then 37%. The poll defined workplace bullying as “repeated mistreatment: sabotage by others that prevented work from getting done, verbal abuse, threatening conduct, intimidation or humiliation.” Of the WBI-Zogby respondents, 64% supported having laws to protect workers from “malicious, health-harming abusive conduct” committed by bosses and co-workers. 23.8% opposed laws.⁴

³ European Foundation For The Improvement of Living and Working Conditions Report: Foundation Findings: Physical and psychological violence at the workplace, September 2010.

⁴ The Workplace Bullying Institute (WBI) wrote the survey and commissioned Zogby International to collect data for the second representative study of all adult Americans on the topic of workplace bullying. It may be found at <http://www.workplacebullying.org/research/WBI-NatlSurvey2010.html>.)

The prime perpetrators are bosses. 62% of bullies are men; 58% of targets are women. Women bullies target women in 80% of cases, men bullies target men in 55% of cases. In the large majority of cases, a boss will bully a subordinate, who is powerless to do battle on equal footing for fear of losing his or her job. Often co-workers who are aware of the abuse stay silent, lest the bully turn their wrath in their direction.

Most likely to be victimized are independent, experienced workers: WBI research findings from our year 2000 study and conversations with thousands of targets have confirmed that targets appear to be the veteran and most skilled person in the workgroup. Targets are independent. They refuse to be subservient. Bullies seek to enslave targets. When targets take steps to preserve their dignity, their right to be treated with respect, bullies escalate their campaigns of hatred and intimidation to wrest control of the target's work from the target. Most people suffer in silence. Only 4% of those bullied complained to state or federal agencies and only 3% have sued their bully or employer.⁵

In the United States, workplace bullying has been found to be four times more prevalent than sexual harassment.

United Kingdom: The findings of a June 2011 survey by UNISON, the UK's largest Union, showed that six in ten workers across the UK have been bullied, or witnessed bullying, over the past six months. The union is warning that Government cuts are fuelling workplace bullying and silencing workers fearful of their jobs. One in four workers say that staff cutbacks have led to workplace bullying - double the number from two years ago - and around half say they would be too scared to raise concerns during the period of cuts. Findings from the survey of more than 6,000 staff reveal that one in three employees are being bullied at work across the UK, with many more witnessing it. London had the highest number of workers, who had been bullied, or witnessed bullying - at 83%. The impact on the health of staff is revealed, as the bullied workers say it has led to mental stress, anxiety, anger and lowered motivation. However, more than half say they will stay in their jobs and suffer in silence - compared to only a quarter of staff in 2009.⁶

Denmark: Excerpt from The Copenhagen Post online: (March 25, 2010) The Minister for Employment, Inger Støjberg (Liberals), stated that workplace bullying is now such a huge problem across the country that a special system needs to be set up to tackle it. The minister has proposed creating a hotline for bullied employees to call anonymously if they feel they are being mistreated in the workplace. In severe cases, the Labour Inspectorate will intervene and, if necessary, place the company under supervision. 'There are people who cannot live their lives properly because what is happening at work dominates their every thought, and I think it is difficult for them to raise their voices because doing so is a taboo,' she said. According to figures from the Ministry of Employment, nearly a tenth of employees have been bullied at work. The impact manifests itself in the form of significantly higher absenteeism and, in severe cases, disability.

⁵ Bullying at Work: A National Epidemic? By Laurie Tarkan (MoneyWatch) March 23, 2011

⁶ Press release at http://www.unison.org.uk/asppresspack/pressrelease_view.asp?id=2334.
<http://www.tuc.org.uk/workplace/tuc-19681-f0.cfm#tuc-19681-18>. -

Germany: Experts say workplace bullying is a growing problem in Germany. Labor experts and psychologists estimate that between 1 and 1.5 million people per day are victims of workplace bullying in Germany.⁷

Consequences to Business and Individuals

Workplaces in which bullying and harassment are allowed to occur undermine the pursuit of a business' growth and profitability and may lead to a detrimental impact on the corporate image with the public at large. Employer and organization costs may include those from litigation, increased staff turnover and loss of morale, absenteeism, potential workers' compensation claims, increases in health care and disability costs, early retirement costs, and counseling program costs.⁸

Specifically, the costs of workplace bullying include time and production lost due to factors which include employees' preoccupation with negative circumstances, and resulting costs to the company's overhead, loss of skill and experience when a worker leaves due to being bullied, lowered employee morale, medical and insurance costs, and harm to a company's reputation.

Studies and research worldwide has found that bullying, an internal occurrence undertaken by manager and/or co-workers, leads to more workers leaving their job than violence, which is typically inflicted by sources external to a company.

Findings of a Canadian research study published last year in a leading psychology journal showing that bullying is more likely to impact a victim's work performance than sexual harassment.

People who are the targets of bullying may experience a range of effects. These reactions include:

- Shock
- Anger
- Feelings of frustration and/or helplessness
- Increased sense of vulnerability
- Loss of confidence
- Studies and research worldwide has found that bullying, an internal occurrence undertaken by manager and/or co-workers, leads to more workers leaving their job than violence, which is typically inflicted by sources external to a company.
- Physical symptoms such as inability to sleep and loss of appetite
- Psychosomatic symptoms such as stomach pains and headaches
- Panic or anxiety, especially about going to work

⁷Article may be found at: <http://www.dw-world.de/dw/article/0,,5150735,00.html>.

⁸ Preventing Violence and Harassment in the Workplace at:
<http://www.workplacebullying.org/res/articles/F6.pdf>.

- Family tension and stress
- Inability to concentrate, and
- Low morale and productivity.⁹

How Bullying is Treated in the Workplace Around the World

Provisions addressing the emerging workplace health and safety issues of bullying are rapidly moving from recommended to required components of health and safety programs in many countries. New legislation has been coming into force to protect workers from bullying. Canada, Australia, and nine European countries have enacted anti-bullying laws, including Sweden, France, and most recently, Serbia.

Europe

Under workplace health and safety legislation, employers in most countries have a duty of care to provide a safe work environment for employees. This requirement is often interpreted to require ensuring persons in the workplace are both mentally and physically safe at work and that their health is not adversely affected by work, and has been also interpreted to require a workplace free from bullying.

There are considerable differences in the nature of bullying across Europe. Early European countries to enact workplace bullying laws were Sweden and France, and countries including Norway, Denmark, and the Netherlands, have followed suit. Recently, a new Serbian law prohibiting workplace bullying became effective. The United Kingdom does not have a specific or explicit law against bullying in the workplace, but these claims may be brought under a variety of laws.

No specific European legislative provisions refer explicitly to violence and bullying at work. However, it is often considered implicitly to fall within the scope of the EU framework directive on health and safety at work dating back to 1989 (Council Directive 89/391/EEC). Under this workplace health and safety legislation, employers have a duty of care to provide a safe work environment for employees, visitors, and contractors. The employer's duty of care requires ensuring persons in the workplace are both mentally and physically safe at work and that their health is not adversely affected by work. This requirement is often interpreted to include a workplace free of bullying and violence and other forms of harassment. For example, in EU-OSHA's Europe-wide establishment survey on new and emerging risks (ESENER), it is stated that management of work-related stress, violence, bullying and harassment fits clearly within the EU framework of OSH management as set out in Directive 89/391/EEC.

Additionally, if bullying involves any element of sexual harassment or anti-discrimination, then action may be also taken under other applicable laws.

⁹Canadian Centre for Occupational Health and Safety at www.ccohs.ca

In some countries, legislation is in force or new provisions have been incorporated into existing legislation to protect workers from bullying. Here is a brief summary of a few workplace bullying laws, and in some cases, articles on how and if these laws are working.

Belguim

The Royal Decree of 17 May 2007 concerning the Prevention of Psychosocial Load Caused by Work, Including Violence, Harassment, and Sexual Harassment at Work is applicable to employers and workers and the assimilated persons as referred to in the Act of 4 August 1996 (see below) concerning the well-being of workers during the execution of their work.¹⁰

Psychosocial load caused by work is defined as: any load of a psychosocial nature, caused by the execution of the work or arising as a result of the execution of the work, which has a detrimental effect upon the physical or mental health of the person.

- General principles concerning the prevention of psychosocial load caused by work require that the employer:
 - Identify situations that can generate a psychosocial load and determine and evaluate its risks.
 - Perform a risk analysis, taking into account situations causing stress, conflict, violence, harassment, or sexual harassment at work.
 - The risk analysis shall be performed in collaboration with the authorized prevention advisor and shall take into the account the work content, working conditions, the living conditions at work, and work relationships, and shall allow the employer to take appropriate prevention measures in order to prevent any psychosocial load.
 - On the basis of the risk analysis, determine prevention measures.
 - Communicate the results of the risk analysis to the Committee for Prevention and Protection at Work and request the Committee's opinion;
 - Perform a risk analysis of all the incidents that have formed the subject of a substantiated complaint;
 - Appoint an authorized prevention advisor;
 - Appoint a confidential counselor and ensure that he/she always performs his/her tasks in an efficient way;
 - Take all necessary measures to ensure that employees and Committee members have all necessary information available with regard to results of the risk analysis, applicable prevention measures, procedures to be applied when a worker considers him/herself to be a victim of violence, harassment, or sexual harassment at work; and
 - Ensure that workers and Committee members receive all necessary training to enable them to adequately apply prevention measures and procedures.

The Decree sets forth the contents and procedure for filing a complaint.

¹⁰ The Law may be found at:
<http://www.employment.belgium.be/WorkArea/showcontent.aspx?id=32252>.

The Welfare Act (Act of 4 August 1996 on welfare of workers in the performance of their work), also known as the Act on Welfare, is the basis for the legislation on health and safety at work and applies to every employer who employs workers in Belgium. It lists the general obligations of employers and workers and requires employers to take the necessary measures to promote workers' well-being. Amendments include the Law of 11 June 2002 relating to Protection from Violence, Moral Harassment and Sexual Harassment at the Workplace and the Act of 10 January 2007 addressing the psychosocial load caused by work, including violence, harassment, and sexual harassment.

The Welfare Act defines: Violence at work as acts where a worker is psychologically or physically threatened or attacked during work.

Harassment at work as behavior "the consequence of which is that the personality, dignity or physical or psychological integrity of a worker.. is affected in the execution of his/her work, that his/her position is placed at risk or that a threatening, hostile, insulting, demeaning or hurtful environment is created manifesting particularly in words, threats, actions, gestures or one-sided communication. Such behavior is frequently associated with religion or beliefs, disabilities, age, sexual orientation, gender, race or ethnic orientation."

Key requirements include ensuring the employer refrain from any act of violence, harassment, and sexual harassment at work and to determine which measures must be taken to prevent violence, harassment, and sexual harassment at work, based on a risk analysis, which shall include the following minimum measures:

Material and organizational measures that can prevent violence, harassment, and sexual harassment at work;

Procedures for advising persons who declare they have been the object of violence, harassment or sexual harassment at work; and

Informing and training workers.

The employer shall appoint a prevention advisor knowledgeable in psychological aspects of violence and harassment at work, or if the employer employs fewer than 50 workers, shall call upon a prevention advisor who is part of an external service for prevention and protection at work.

Ensure that workers who, in the execution of their work, have been the object of violence at the workplace, receive suitable psychological support from specialized services or institutions.

Not dismiss an employee who has filed a harassment complaint.¹¹

Finland:

The Occupational Health and Safety Act, No. 738/2002 covers physical and psychological violence, including threats of violence, harassment, sexual harassment, and bullying.¹²

¹¹ The Act may be found at: <http://www.employment.belgium.be/WorkArea/showcontent.aspx?id=1896>. or at: <http://www.beswic.be/fr/legislation/the-belgian-legislation/Law-of-4-August-1996-on-the-Welfare-of-workers-at-work.pdf>.

¹² The Act may be found at: <http://www.finlex.fi/en/laki/kaannokset/2002/en20020738.pdf>.

It defines psychological violence: intentional use of power against another person or group that can result in harm to physical, mental, spiritual, moral or social development.

- Key requirements include the following:
 - The work and working conditions in jobs entailing an evident threat of violence shall be so arranged that the threat of violence and incidents of violence are prevented as far as possible.
 - Appropriate safety arrangements and equipment needed for preventing or restricting violence and an opportunity to summon help shall be provided at the workplace.
 - The employer shall draw up procedural instructions for such jobs and workplaces. In the instructions, controlling threatening situations must be considered in advance and practices for controlling or restricting the effects of violent incidents on the employees' safety must be presented.
 - If harassment or other inappropriate treatment of an employee occurs at work and causes hazards or risks to the employee's health, the employer, after becoming aware of the matter, shall be available means take measures for remedying this situation.

About 140,000 Finns are bullied at their workplaces.

According to statistics, bullying has increased: in 2011, 29% of wage-earners say that there is constant or occasional bullying at their workplaces. In 2010, 24% of wage earners reported the existence of bullying.

The problem is more common at state or municipal workplaces than in private companies. Women complain of bullying significantly more than men do.

Victims of workplace bullying often complain that it is hard to get justice for the heavy-handed treatment. According to the law, an employer is obligated to intervene in cases of harassment or inappropriate behavior. "The matter needs to be brought to the attention of the manager. This creates an obligation for the employer to intervene in the matter", says Maarit Vartia-Väänänen of the Finnish Institute of Occupational Health. She says that especially large workplaces have noticed the problem of bullying, and procedures have been instituted for such cases. "It is important to get a neutral person without preconceived ideas to mediate. Such a person could be a shop steward or someone from occupational health. In a small company it is possible to ask for help from the labour union."

If bullying continues, the matter can be taken up with the occupational safety authorities of Regional State Administrative Agencies. However, advocates for victims of bullying say that this is of no use. "Occupational safety officials discount most of the complaints. The matters are left there and they do not move on to a police investigation", says Heikki Dillström, the founder of the [työpaikkakiusatut.net](http://tyopaikkakiusatut.net), a website set up to support victims of workplace bullying.

Helsingin Sanomat asked Regional State Administrative Agencies for figures on how often they receive reports of bullying and other inappropriate treatment at workplaces. Only a couple of the offices kept records of people making contact: in Southern Finland there were 307. Of these, 80

led to an investigation, and four were brought to the police. Hundreds of contacts across Finland as a whole led to action by officials in 206 cases. Eight of these led to a police investigation. Decisions by occupational safety officials cannot be appealed.

“Inspectors do not visit workplaces, nor do they interview witnesses. The decision is made on the basis of a written response by the employer. This makes it easy to come to the conclusion that no laws have been broken,” Dillström says. Senior Inspector Jenny Rintala of the occupational health section of the Regional State Administrative Agency of Southern Finland confirms that decisions are usually made on the base of written reports by the two sides. Rintala says that events at workplaces are often perceived as bullying that do not fit the legal definition of harassment or inappropriate treatment.¹³

France:

The Labour Code (also referred to as the Code du travail) applies to private and public employers, imposes an obligation on employers to prevent psychological harassment (“harcèlement moral”). Moral harassment is defined in the Code by a prohibition: no employee shall suffer repeated acts of moral harassment that are aimed at, or may result in, a degradation of his or her working condition and are likely to harm his or her individual rights and dignity, or affect his or her health or career.

The Code states: No employee shall undergo repeated acts of mobbing which effect a degradation of working conditions likely to infringe his rights and dignity, to alter his physical or mental health or compromise his professional future.

No employee may be sanctioned, licensed or subject to discriminatory measures, directly or indirectly, of compensation, training, reclassification, naming, qualification, classification, career advancement, or mutation or contract renewal for having suffered or refused to undergo repeated moral harassment acts or to have evidence of such acts.

Employer liability: Companies may be held liable for acts of moral harassment committed against their employees irrespective of the fact that they are not authors of the harassment and took proactive measures to prevent it.

Serbia:

The Bill On The Prevention Of Abuse At Work, effective June 2010,¹⁴ regulates the following: prohibition of abuse at work and in relation to work, measures to prevent abuse and improve relationships at work; procedure for the protection of persons exposed to abuse at work; and work-related and other issues of importance to the prevention of and protection from abuse at work and in relation to work. Full and part-time employees are covered. The provisions of the bill also apply to cases of sexual harassment.

¹³ From Helsingin Sanomat / First published in print

28.2.2012 <http://www.hs.fi/english/article/Victims+of+workplace+bullying+often+left+alone/1329103517855>

¹⁴ The law may be found on the Serbian Government Ministry of Labour and Social Policy website, in Serbian only, at: www.minrzs.gov.rs.

Abuse is defined as “any active or passive behavior of the employee or group of employees with an employer that is repeated, which is aimed at or of violating the dignity, reputation, personal and professional integrity, health, status of the employee and which causes fear or creates a hostile, humiliating or offensive environment, deteriorating conditions of work, or causes the employee to isolate or specify on their own initiative to cancel the contract or terminate the employment relationship.” Abuse also includes participating, or encouraging or inciting other to the behavior specified above. A perpetrator of abuse may be the employer, a person authorized by an employer as a legal entity, or group of employees employed by the employer.

The employer is required to organize the work in a way that as far as possible prevents the occurrence of abuse at work and in relation to work and to provide the employees working conditions in which they will not be exposed to abuse at work and related to the work by the employer, a responsible person, or an employee of the employer.

The employer is also required to protect employees from abuse by providing the employee, prior to coming to work, written notice of the prohibition of abuse and exercise the rights, duties and responsibilities of the employee and employer regarding the prohibition of abuse; and implementing measures to inform and train employees and their representatives to identify the causes, forms and consequences of carrying out abuse.

The employer is liable for damage caused by the responsible person or employee performing assault causing another person with the same employer, in accordance with the law.

Americas

United States

Despite these findings of the bullying survey mentioned above, an employee can still be a target of bullying in the workplace in the United States and have no legal recourse, as state and federal laws generally do not cover acts of bullying. Victims of bullies are not protected under discrimination laws, which protect workers from sexual harassment or if they are a member of a group (based on gender, race, ethnicity, etc.) and their harasser is not a member of that group. According to the WBI/Institute, "the primary reason bullying occurs so frequently in workplaces is that bullying is not yet illegal."

State legislators have been using the Healthy Workplace Bill as a model.

The bill includes the following provisions:¹⁵

- It shall be an unlawful employment practice to subject an employee to an abusive work environment as defined.
- An abusive work environment exists when the defendant, acting with malice, subjects an employee to abusive conduct so severe that it causes tangible harm to the employee.

¹⁵www.healthyworkplacebill.org.

- Abusive conduct is conduct, including 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.
- Tangible harm is defined as psychological harm or physical harm.
- Psychological harm is the material impairment of a person's mental health, as established by competent evidence.
- Physical harm is the material impairment of a person's physical health or bodily integrity, as established by competent evidence.

The Healthy Workplace Bill requires establishing that a defendant acted with malice, which is defined "as the desire to cause pain, injury, or distress to another."

Strict liability is imposed upon employers for actionable behavior: An employer shall be vicariously liable for an unlawful employment practice, as defined, committed by its employee.

The Bill provides employers with an affirmative defense when the employer exercised reasonable care to prevent and correct promptly any actionable behavior; and the employee unreasonably failed to take advantage of appropriate preventive or corrective opportunities provided by the employer. Retaliation is prohibited.

As of February 2012, there are Healthy Workplace bills active in 13 states, with 7 current bills. States which have introduced anti-bullying legislation since 2003 include California, Connecticut, Hawaii, Illinois, Massachusetts, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Vermont, Washington, Wisconsin, Maryland, and Minnesota. None of the bills have been enacted. In 2010, a Healthy Workplace Bill in New York targeting workplace bullying was passed by the Senate by a margin of 45 to 16. The bill would permit workers to sue for physical, psychological, or economic harm due to abusive treatment on the job. Wrongful conduct must be shown to have been done with malice, and in most cases that has to have been repeated. The legislation was re-introduced in 2011 and is still active.

Canada

Quebec: Quebec was the first North American governmental entity to pass anti-bullying legislation. Quebec's Psychological Harassment at Work Act, Commission des normes du travail, An Act Respecting Labour Standards, Sec. 81-19, became effective in 2004. It states that: Every employee has a right to a work environment free from psychological harassment. Every employer must take reasonable action to prevent psychological harassment and, whenever they become aware of such behavior, to put a stop to it.

Manitoba: Amendment to Workplace Safety and Health Act, Workplace Safety and Health Regulation, Man. Reg. 147/2010 Changes to the Workplace, Safety and Health Regulation

introduced new requirements to protect workers from psychological harassment in the workplace, such as intimidation, bullying and humiliation, and came into force on February 1, 2011. Normal and reasonable management actions, including discipline, are not defined as psychological harassment.

Employers are required to put in place measures to prevent harassment and address it if it occurs. Manitoba Labour and Immigration will help develop and implement policies and educate employers and employees on their responsibilities to ensure a respectful and healthy workplace.¹⁶

Ontario: Bill 168: The Ontario Occupational Health and Safety Act (OHS Act) was amended in June 2010 to include Bill 168, workplace violence and harassment/bullying legislation which requires employers to take action when a worker is threatened or is an abuser. The amendment includes the protection of employees from psychological harassment, workplace violence, including issues of domestic violence in the workplace. It requires all employers in Ontario with more than five workers to conduct an annual workplace risk assessment to identify workplace violence, bullying and harassment. Bill 168 defines workplace violence and harassment and describes employer duties, and applies to all workplaces covered by the OHS Act.

Bill 168- one year later article. Canada Safety Reporter June 22, 2011¹⁷ states:
In the year after Ontario passed amendments to the Occupational Health and Safety Act to address workplace violence and harassment, the province has issued about 1,100 orders related to the new legislation, according to the Ministry of Labour.

The legislation requires employers to assess workplace violence risks and develop workplace violence and harassment policies and programs.

From June 15, 2010 to March 31, 2011, Ministry of Labour inspectors investigated more than 400 complaints involving workplace violence and issued about 600 orders associated with the new legislation. They also investigated more than 1,000 complaints involving workplace harassment. Altogether, they issued about 1,100 orders associated with the new law.

However, a year after passage of Bill 168, it was found that despite legislation protecting employees from workplace harassment, at least one-half of leaders are bullies and the overall level of awareness and understanding of what constitutes bullying is low, found research conducted by Iceberg Navigation, a Toronto-based organization that helps workplaces navigate workplace harassment.¹⁸

¹⁶The Amendment may be found at: <http://web2.gov.mb.ca/laws/regs/2010/147.pdf>

¹⁷ <http://www.safety-reporter.com/articleview?articleid=10598&headline=ontario-issues-about-1100-orders-associated-with-bill-168>.

¹⁸ June 17, 2011 Canadian HR Reporter--<http://www.hrreporter.com/ArticleView?articleid=10483&headline=one-half-of-leaders-still-bullies-despite-workplace-legislation-research>.

Asia Pacific

Australia: All employers have an obligation, under legislation and common law, to provide safe and healthy workplaces and to work against potential risks to the health and safety of employees. Both State and Federal Government administer occupational health and safety legislation. There are two Acts administered by the Federal Government: the Occupational Health and Safety (Commonwealth Employment) Act 1991 (the OHS (CE) Act), and the Safety, Rehabilitation and Compensation Act 1988 (the SRC Act). Each state of Australia also administers state legislation. There are statutory bodies responsible for administering the Acts and managing the State's workplace safety, injury management and workers compensation systems.

Victoria: Legislation against bullying in Victoria comes from Worksafe Victoria. A corporation can be found liable for not providing a safe place for their employees to work if bullying endangers a worker's health causing stress or any other physical harm. Preventing and responding to bullying at work by Worksafe Victoria (June 2009) is a publication which covers preventing and responding to bullying at work mean to assist people with duties under occupational health and safety laws (OHS laws) to comply with those laws in relation to bullying at work.

Queensland is one of two States in Australia with a Code of Practice specifically for workplace bullying. Western Australia also has a Code of Practice focusing on the general principles applying to the prevention and management of bullying at work.

In May 2011, Comcare, a governmental organization which partners with workers, their employers and unions to keep workers healthy and safe, released guidelines and tools for both employers and workers aimed at preventing workplace bullying as part of a Comcare anti-bullying campaign, launched to raise awareness of bullying at work and how to report cases under Occupational Health and Safety Regulations. The campaign followed a compliance audit of select organizations which found a widespread lack of knowledge that bullying incidents were reportable safety incidents, what constituted bullying and what workers can do when confronted by bullying. Comcare implements the Australian Government's policies in federal workplaces to drive social inclusion and productivity. Employers are responsible for notifying Comcare about workplace bullying incidents.

New Zealand:

The Health and Safety in Employment Act 1992 ('HSE') requires employers to ensure the safety of employees while at work. This includes protection from physical and psychological harm and ensuring that employees are not exposed to hazards at work. There is an implied duty in the context of workplace bullying that is the duty of an employer to provide a safe and secure workplace. The employer is required to take reasonable steps to protect employees from harm. Harm is defined as including illness, injury, and physical or mental harm caused by workplace stress.

The Harassment Act No. 92/1997 provides legal protection from acts of harassment in the workplace and elsewhere. It defines harassment as a pattern of behavior directed against another person that includes doing any specified act to the other person on at least 2 separate occasions within a 12 month period.

A specified act of harassment includes watching, loitering near, or preventing or hindering access to or from the business or employment; following, stopping or accosting that person; entering or interfering with property in that person's possession; making contact with that person, whether by telephone, correspondence, or in any other way; giving offensive material to that person, or leaving it where it will be found by, given to, or brought to the attention of that person. The Act defines serious types of harassment as criminal offences. This applies to a person harassing another and acting in a way that causes the person to fear for his or her safety.

Information on bullying in the form of a fact sheet may be found at the Department of Labour website at: <http://www.osh.govt.nz/publications/factsheets/bullying.html>.

Middle East/Africa

Turkey

An amendment to Article 417 of the Debts law, passed by the Turkish parliament in January 2011, makes it an offence to commit certain acts or fail to take action to prevent the commitment of such acts related to protecting employees from psychological abuse in the workplace. An employer should protect employees from **psychological abuse in the workplace**, which is defined as including verbal insults, belittling, leaving a person alone on purpose, excluding an employee from company activities, and assigning a worker either too little or too much work.

Other Instruments:

Some countries have opted for non-regulatory instruments, such as Framework Agreements, Codes of Practice, and provisions in collective agreements.¹⁹

An example of a non-regulatory instrument is the EU's Framework Agreement on Harassment and Violence at Work, 2007, was signed on April 26, 2007 by the social partners ETUC, BUSINESSEUROPE, UEAPME, and CEEP.

The Agreement aims to prevent and, where necessary, manage problems of bullying, sexual harassment, and physical violence at the workplace by increasing the awareness and understanding of employers, workers and their representatives of workplace harassment and violence, and provide employers, workers and their representatives at all levels with a framework to identify, prevent and manage problems of harassment and violence at work. The Agreement does not address bullying by name.

It defines harassment and violence as unacceptable behavior by one or more individuals that can take many different forms. It states that harassment occurs when someone is repeatedly and deliberately abused, threatened and/or humiliated in circumstances relating to work.

The Agreement recognizes that harassment and violence can:

¹⁹ European Foundation For The Improvement of Living and Working Conditions Report: Foundation Findings: Physical and psychological violence at the workplace, September 2010

Be physical, psychological, and/or sexual;
Be one of incidents or more systematic patterns of behavior;
Be amongst colleagues, between superiors and subordinates or by third parties such as clients, customers, patients, pupils, etc;
Range from minor cases of disrespect to more serious acts, including criminal offences, which require the intervention of public authorities.

Employers are required to publish a statement that makes it clear that violence and harassment in the workplace will not be accepted; specify procedures to be followed where cases arise; and ensure procedures are underpinned by a short checklist of simple principles included in the social partners agreement.

The Agreement must be implemented by the national social partners in EU Member States within 3 years, in accordance with the procedures and practices specific to management and labor in the Member States and in the countries of the European Economic Area.²⁰

Codes of Practice

Ireland: Has three Codes of Practice are designed to provide guidelines on arrangements, procedures and guidance generally on tackling workplace bullying, harassment and sexual harassment. Failure to follow a Code of Practice is not an offence but a Code may be admissible in court.

The [Code of Practice on the prevention of Workplace Bullying made under the Safety, Health and Welfare at Work Act, 2005](#) is under the remit of the Health and Safety Authority, and outlines the procedures which should be in place in organizations so that the hazard of workplace bullying can be effectively and consistently addressed. It also provides guidance for employers, employees and trade unions on how to prevent a bullying culture from developing and identifies those responsible for its management and control.²¹

Australia: In September 2011, Safe Work Australia released a Workplace Bullying Draft Code of Practice for public comment to support the Model Work Health and Safety Act. The public comment period ran through December 16, 2011.

The Code of Practice provides practical guidance on what bullying is, how to prevent bullying from becoming a health and safety risk in the workplace and what to do if it does occur. The Code is applicable to any workplace and contains information that is relevant to all persons conducting a business. The introductory chapter defines what bullying is and is not, and additional chapters cover identifying and assessing the risk of workplace bullying, controlling

²⁰ The agreement may be found at: http://ec.europa.eu/employment_social/social_dialogue.
Joint Guidance implementing the European social partner agreement is available at:
<http://www.hse.gov.uk/violence/preventing-workplace-harassment>.

²¹ Further information and Codes may be found at:
http://www.hsa.ie/eng/Workplace_Health/Bullying_at_Work/Codes_of_Practice.

the risk of workplace bullying, responding to workplace bullying, and monitoring and reviewing control measures.

One of the features of the model health and safety laws is the introduction of approved Codes of Practice. Although the Codes of Practice will not have statutory force like the Act and Regulations, application of an approved Code of Practice on a subject matter is admissible as evidence of whether an obligation under the Act has been complied with.

Under the code, bullying is defined to include spreading misinformation or malicious rumors, yelling or screaming out criticism, teasing or regularly making someone the brunt of pranks or practical jokes, unreasonably overloading a person with work or not providing enough work, and setting difficult deadlines. The code declares that a single instance of unreasonable behavior is not bullying, but could escalate and should not be ignored. The union wants examples of bullying to also include spreading rumors or innuendo, and wants the code to explicitly state that "single incidents can still create a risk to health and safety."

However, as of February 2012, Safe Work Australia has flagged changes to its draft code on workplace bullying after both unions and employer groups complained the code is not specific enough about what constitutes bullying behavior.²²

Labor Union Contracts

France: The National Interprofessional Agreement (ANI), designed to educate workers and employers about harassment and violence at work, was signed by all French trade unions on March 26, 2010, transposing the European Framework Agreement of 15 December 2006 on this topic.²³ An order issued by the French government on July 23, 2010 further widens the scope of the ANI to cover employees and employers in all sectors.

The objective of the ANI is to educate employers, workers and representatives on the problems of harassment and violence at work by defining these issues and proposing measures with which to identify, prevent and manage them

Under the Agreement, employers must demonstrate vigilance towards signs of harassment and violence such as repeated personal conflicts, frequent complaints from employees, or violent acts against staff or others. An employer, in consultation with employees and/or their representatives, shall take the necessary measures to prevent such abuses. The Agreement calls for an audit of these measures by employers, awareness-raising and training for line managers and employees on these issues, and suggests the establishment of an internal alert procedure.

²² The Draft Code may be viewed at <http://www.safeworkaustralia.gov.au/Legislation/PublicComment/Pages/Model-WHS-CoP-Public-Comment.aspx>. <http://safeworkaustralia.gov.au/Legislation/PublicComment/Documents/Draft%20Model%20Work%20Health%20and%20Safety%20Codes%20of%20Practice%20Public%20Comment/Draft%20Model%20Codes%20of%20Practice%20for%20Public%20Comment/Preventing-and-Responding-to-Workplace-Bullying.pdf>.

²³ The Agreement on **harassment and violence** at work may be found, in French, at: http://www.medef.com/fileadmin/www.medef.fr/documents/Harcelement/Accord_harcelement.pdf.

The Agreement further provides that an employer shall not discipline, dismiss, or subject to any form of direct or indirect discrimination, an employee who believes he/she has been subjected to harassment or violence for rejecting, or complaining about, decisions affecting their remuneration, training, job reclassification, work assignment, qualifications, job evaluation, professional promotion, job relocation or the renewal of their contract.

Where there is evidence of harassment or violence affecting employees' health, an employer must implement specific protection measures, including medical and psychological support, and there should be the assumption that the employee will keep their job or return to work. If it is determined that harassment or violence has taken place, appropriate measures must be taken against the perpetrator(s), the penalties for which will be set out in the company's own policy.

United States: Massachusetts public employee unions affiliated with the Service Employees International Union (SEIU-Locals 509 and 888) and the National Association of Government Employees (NAGE -Units 1, 3, and 6) approved a new collective bargaining agreement covering over 21,000 state workers that includes protections against workplace bullying and abusive supervision. The new agreement became effective July 1, 2009 and runs for three years. This is the first Anti-Bullying Provision in a major collective bargaining agreement in the U.S.

SEIU/NAGE bargaining teams proposed adding bullying and abusive supervision to the contract during negotiations with the Commonwealth of Massachusetts. Dubbed the "mutual respect" provision in the new contract, it is believed to be one of the first major American collective bargaining agreements to include express protections against bullying at work. Here is the provision:

Article 6A Mutual Respect

The Commonwealth and the Union agree that mutual respect between and among managers, employees, co-workers and supervisors is integral to the efficient conduct of the Commonwealth's business. Behaviors that contribute to a hostile, humiliating or intimidating work environment, including abusive language or behavior, are unacceptable and will not be tolerated. Employees who believe they are subject to such behavior should raise their concerns with an appropriate manager or supervisor as soon as possible, but no later than ninety (90) days from the occurrence of the incident(s). In the event the employee(s) concerns are not addressed at the Agency level, whether informally or through the grievance procedure, within a reasonable period of time, the employee or the union may file a grievance at step 3 of the grievance procedure as set forth in Article 23. If an employee, or the Union, requests a hearing at step 3, such hearing shall be granted. Grievances filed under this section shall not be subject to the arbitration provisions set forth in Article 23. No employee shall be subject to discrimination for filing a complaint, giving a statement, or otherwise participating in the administration of this process. An alleged violation of the provision may be grieved, but it may not proceed to arbitration.

Court Decisions

France: Harassment of a superior, February 1, 2012. The Criminal Chamber of the French Supreme Court has ruled that an employee may be convicted of harassment under articles L1152-1 and 222-33-2 of the French Labour Code even if the individual concerned is actually the subordinate of the victim. These provisions do not specify the relative status of the parties. In the case in question the employee had harassed his superior for several years by spreading false rumours and through the portrayal of his victim as professionally incompetent. This had led to the victim's eventual suicide (Cass.Crim, December 6 2011, no 10-82266).

Italy: An April 2010 Italian Supreme Court decision established that an employee's superior can be held liable for bullying in the workplace, and for consequent economic and non-pecuniary damages, when such behavior is intentionally damaging to the employee's professional dignity.

Ontario: A decision arising from the Bill 168 amendments to Ontario's Occupational Health and Safety Act (OHSA), *The Corporation of the City of Kingston and C.U.P.E., Local 129*, determined verbal threats of workplace violence constitute violence under the new law, which came into force on June 15, 2010. Donna Hudson, a former employee of the City of Kingston, Ont., grieved the termination of her employment when she was dismissed for uttering a death threat against a co-worker. Although she admitted having "anger management problems," she claimed the termination of her employment was not appropriate.²⁴

In July 2010, the Ontario Superior Court of Justice ruled that an employee was constructively dismissed from his employment after he endured months of harassment by his coworkers. The plaintiff argued that his employer knew that harassment was occurring but took no effective action to eliminate it, that this ongoing and repetitive harassment created a poisonous environment, and that by allowing it to continue to exist, the employer repudiated a fundamental term of his employment contract, namely to provide a working environment without harassment. The Court found that in allowing the harassment to continue after the employee made a verbal complaint to his manager, the employer breached its duty to the plaintiff to provide a work environment free of harassment. December 18, 2011

The Way Forward

Bullying expert Staale Einarsen of Norway, speaking at the Work, Stress, and Health 2011 conference last May, described the workplace bullying field as "exploding." As discussed below, a number of different avenues are being taken to address this emerging health and safety issue.

Europe: Psychosocial Risk Management - European Framework (PRIMA-EF), 2006-2009
A collaborative project funded by the EC 6th Framework Programme, a 24 month initiative focusing on the development of a European framework for psychosocial risk management with a special focus on work-related stress and workplace violence, including harassment, bullying, and mobbing.

²⁴ Decision is at <http://www.canlii.org/en/on/onla/doc/2011/2011canlii50313/2011canlii50313.html>.

PRIMA-EF aimed at providing policy makers, employers, trade unions, experts and employees with a comprehensive best practice framework for psychosocial risk management at the workplace. PRIMA-EF is part of the World Health Organization's Healthy Workplaces Framework. The initiative was led by the Institute of Work, Health and Organizations, and the University of Nottingham.

In March 2012 PRIMA EF was expected to launch a free psychosocial e-training platform for any company on psychosocial risk management. The Psychosocial Risk Management – Vocational Education and Training (PRIMAEt) project focuses on the development of a training programme for promoting psychosocial risk management at the workplace delivered by means of a virtual learning environment (VLE). PRIMAEt builds on research conducted through the PRIMA-EF project.²⁵

PAS 1010: 2011 Guidance on the management of psychosocial risks in the workplace published by BSI (UK), published on March 24, 2011: The PRIMA-EF Consortium worked with the British Standards Institute (BSI) towards the development of a Publicly Available Specification (PAS) for psychosocial risk management. It is expected that the standard (PAS 1010) will set a consensus led benchmark for psychosocial risk management and will increase and enhance awareness in this area. It may be a route to promote best practice and a practical tool to help OSH managers and specialists, human resources managers, owners of SMEs, and employee representatives successfully implement and maintain psychosocial risk management.

Information on the standard states: “Psychosocial risk management (the management of risks associated with work organization and the social context of work which have the potential for causing psychological or physical ill health) forms part of the European Council Directive 89/391/EEC, which stipulates the assessment and management of all types of risks to workers’ health as employers’ responsibility. There is currently no recognized standard or official benchmark for good practice for psychosocial risk assessment and management so the new BSI standard, called a PAS (Publicly Available Specification), will help assessors address this area of workplace health.”²⁶

Belgium: New Recommendations Concerning Workplace Bullying²⁷

On July 14, 2011, the House Committee on Social Affairs of the Belgian Parliament adopted a proposal (the "Proposal") containing a number of recommendations to strengthen the fight against workplace bullying by making changes to the existing legal framework and in particular to the Law of 4 August 1996 on the wellbeing of employees in the performance of their work (the "Law on Wellbeing at Work") The proposals clarify the distinctions between formal and informal internal procedures for making complaints about violence, bullying or sexual harassment. Now the subject of violence, bullying or sexual harassment at the workplace can initiate an internal procedure, file a complaint with the supervisory officials or initiate court proceedings. The Proposal clarifies the distinction between informal and formal internal

²⁵ Information is available at <http://prima-ef.org/primaet.aspx>.

²⁶ See: <http://osha.europa.eu/en/news/uk-2011-guidance-on-the-management-of-psychosocial-risks-in-the-workplace-published-by-bsi>.

²⁷ Federation of European Employers

procedures and the different steps in each procedure. An employee who filed a substantiated complaint is protected against dismissal. This means that the employer must not terminate the employment contract or modify unilaterally the working conditions, except for reasons that are unrelated to the complaint. In case of a dismissal in violation of this protection, the employee is entitled to compensation of six months' gross salary. Where a victim finds it impossible to continue working in their job the committee believes they should be entitled to terminate their employment without notice and receive severance pay. Employers should also be obliged, in such circumstances, to provide outplacement services. Where it is eventually confirmed that violence, bullying or sexual harassment has taken place compensation to the value of six months' gross salary should be awarded. The Proposal also recommends adjusting criminal sanctions to reflect better certain aggravating circumstances, e.g., the fact that the harassment takes place in a hierarchical relationship. The Proposal also recommends extending the statute of limitation to ten years (instead of five years) would enhance the protection of victims.

The Proposal does not have any legal effect. However, the recommendations may be taken up in a draft law.

Canada: Canada is developing a National Standard for Psychological Health and Safety in the Workplace. The new voluntary national standard will provide employers across Canada with a set of best practices that could lead to measurable improvements in workplace mental health. The CSA, which develops standards for business, industry, government and consumers, released the draft Standard on November 1, 2011 for a period of public consultation which ended on January 6, 2012.

The final Standard, which is expected to be published in early 2012, is intended to provide organizations with the necessary tools and guidance to achieve "measurable improvements in psychological health and safety" for Canadian employees and prescribes specific steps for employers to take to develop and maintain psychologically healthy and safe workplaces. As currently drafted, the steps prescribed and obligations imposed by the Standard are significantly broader than those currently imposed on employers under occupational health and safety and human rights legislation and the breadth of the Standard raises concerns about its viability for Canadian employers.

Workplace mental health may be viewed as including the occupational hazards of stress, bullying, depression and suicide. Canada is the first country in the world to develop such a standard.²⁸

Canada: A large Nova Scotia public sector Union, Nova Scotia Government and General Employees Union (NSGEU), is trying to get the word bully into workplace violence regulations. The behavior is presently called psychological harassment. The Union represents 29,000 government employees. It launched an anti-bullying program last fall (2010) that provides free workplace programs, and to date, approximately 4,400 people have taken the workshop. Some employers, such as Capital direct health authority, are making it mandatory.

²⁸ Further information is at <http://www.mentalhealthcommission.ca/English/Pages/Workforce.aspx>.

United States: OSHA Anti Bullying Policy: The Occupational Safety and Health Administration adopted a safety program for its own workers which includes a workplace anti-bully policy in June 2011. The policy is contained in a 278-page document, the OSHA Field Health and Safety Manual, which was released on May 23, 2011.²⁹ The manual outlines safety practices for OSHA's field offices. It was drafted in cooperation with the National Council of Field Labor Locals, a union that represents OSHA workers. The stated purpose of the workplace bullying policy, contained in the manual's "Violence in the Workplace" chapter 10 is: "To provide a workplace that is free from violence, harassment, intimidation, and other disruptive behavior."

The manual defines "intimidating behavior" as "Threats or other conduct that in any way create a hostile environment, impair Agency operations, or frighten, alarm or inhibit others. Verbal intimidation may include making false statements that are malicious, disparaging, derogatory, disrespectful, abusive, or rude."

Under the Responsibilities section, the manual states: Employees will treat all other employees, as well as customers, with dignity and respect. Management will provide a working environment as safe as possible by having preventative measures in place and by dealing immediately with threatening or potentially violent situations. No employee will engage in threats, violent outbursts, intimidation, bullying, harassment, or other abusive or disruptive behaviors.

The General Duty Clause of the Occupational Safety and Health Act of 1970 requires employers to "furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees...."

Conclusion

Workplace bullying is a health and safety issue but may also come under the authority of variety of departments or agencies. It is a Human Resources issue, often a legal issue, and a personal and public health issue. Workplace bullying is a growing concern not just to employers but to their employment practices liability insurers. There is a growing trend in the United States in the number of employers requesting that insurance carriers include workplace bullying in their employment practice liability insurance policies.³⁰

The costs of workplace bullying are far reaching for both employees and companies. With that in mind, bullying need to be fully and carefully identified and incorporated into risk assessments. Policy statements, conveying clearly bullying is not tolerated and there will be consequences, should be developed and disseminated. Managers should be trained to recognize signs of bullying and to be responsive in taking action. There need to a complaint and investigation processes, and resolution/action and follow-up.

A lack of tolerance for bullying needs to be worked into the policies and culture of the workplace. It remains to be seen how this will happen, but there is motion.

²⁹The Manual is at [http://op.bna.com/env.nsf/id/sbra-8hdrfp/\\$File/OSHA%20manual.pdf](http://op.bna.com/env.nsf/id/sbra-8hdrfp/$File/OSHA%20manual.pdf).

³⁰<http://www.propertycasualty360.com/2011/04/11/what-employers-need-to-know-about-workplace-bullying>, April 11, 2010

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http://osha.europa.eu/en/publications/reports/en_esener1-summary.pdf.
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http://osha.europa.eu/en/publications/annual_report/2009full.
- 'Prevention Of Psychosocial Risks And Stress At Work In Practice' at:
<http://agency.osha.eu.int/publications/reports/104/en/index.htm>.
- 'How To Tackle Psychosocial Issues And Reduce Work-Related Stress' is available from:
<http://agency.osha.eu.int/publications/reports/309/en/index.htm>. This report describes a number of practice examples from Member States on the prevention of stress, bullying, and violence, and highlights the success criteria that can be applied to different situations and environments in attempts to address such problems.
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