

To; [Legislator's Name] {Legislator's email address}

I have been a person that has been bullied and or abused in the workplace. I have been bullied for the last few years by my perpetrator for that period. I have been to my Human Resources Department, My Union plus anyone who would offer me a solution and they all tell me the same thing, "I am sorry, but we cannot help you even though we feel that you may have a valid complaint."

Let us first define for you some terms for you, so that you may understand what we are talking about. Then we will briefly discuss some background of the issue. Next we will briefly discuss with you what we found that the problem is. Finally we have a solution that we would like you to adopt as a solution to this problem that has become an endemic in our society.

Definition of Bullying in the Workplace

Repeated, health-harming mistreatment that disrupts the flow of work. This abusive misconduct by one or more people can take the form of:

- Verbal Abuse • Physical and/or nonverbal behaviors that are threatening, intimidating, or humiliating
- Work interference or sabotage
- Or any combination of the above

Examples of behavior observed in the workplace:

- Yelling at a target
- Slamming doors; papers or books on a desk
- Gaslighting
- Work sabotage
- Isolation of a target
- The "silent treatment"
- Sending targets messages through third parties
- Disparate treatment
- Assigning work against medically ordered restrictions when a target is temporarily or permanently disabled.

Background of the Issue

These events can be a constant in an employee's work life, leading to an allostatic overload. Targets usually feel shame. Over time, this abuse can lead to post traumatic stress disorder, heart attacks, strokes, headaches, and gastric disorders. Bullying can lead to workman's compensation claims and state disability claims. This can precipitate higher insurance costs to the employer, lead to higher employee turnover and increased usage of sick leave. Additionally, when a target is off work, increased workloads fall on other employees who have had to witness the abuse of a coworker. Frequently, the target is a stellar employee who really knows and loves their job. Targets are most often dedicated employees, who come to work to do a 'good' job for their employer.

The Problem; A Hole in Our Laws

For targets to fight this sort of behavior, they must jump through a battery of legal hoops. Even when they do so and find an attorney, they are usually told despite suffering harassment, it would not be considered illegal discrimination. The only recourse is to go back into the workplace, suffer further abuse, and then try to file a case for retaliation. Few injured targets are emotionally and physically able to do so. Targets leave jobs and perpetrators go on to find a new target.

What We Propose; The Workplace Bullying Accountability Act

We offer a drafted bill with the purpose of incentivizing employers to write and follow policies ridding their workplaces of abusive behavior. Our proposal includes:

- 1. Duty of Care** — The Workplace Bullying Accountability Act (WBAA) creates a duty of care for employers to safeguard their employees from workplace bullying. Employers fulfill their duty by taking reasonable measures to prevent and respond to workplace bullying.
- 2. Definition** — The WBAA uses a definition of workplace bullying built around the concept of an abusive work environment. It is modeled after the U.S. Supreme Court's definition of a hostile work environment as applied to sexual harassment. However, the WBAA definition protects all employees from severe, generic workplace abuse, rather than being limited to mistreatment based on sex or another protected class status.

3. **Duty to prevent** — Employers can meet their preventive duty of care by creating workplace anti-bullying policies and procedures for reporting, as well as engaging in annual employee education. Most employers can seamlessly integrate these elements into current HR practices concerning sexual harassment.

4. **Duty to respond** — Employers can meet their responsive duty of care by following their policies and procedures, providing relief for workers who have been subjected to bullying, and instituting remedial and disciplinary measures for employees who engage in bullying. When an employer offers relief to a bullied employee, that employee has a duty to reasonably evaluate the adequacy of the response.

5. **Legal claim** — When the employer fails to meet its duty of care, an employee may file a lawsuit for failure to fulfill that duty, with potential remedies resembling standard contract damages.

6. **Retaliation** — The WBAA also creates a duty to refrain from retaliating against employees protected by this statute, a failure of which may serve as the basis of an independent legal claim.

7. **Primary goal of prevention and internal resolution** — The WBAA is designed to encourage prevention and prompt internal resolution, with litigation as a last resort. While some might understandably favor workplace anti-bullying bills that open multiple avenues for aggressive litigation seeking significant damages, the WBAA implicitly recognizes that employment lawsuits delivering huge settlements and verdicts are very rare, even when large awards are legally possible. In addition, these lawsuits can go on for years, often proving to be a stressful and even traumatic experience for everyone, regardless of the results.

8. **Friendly to human resources policies and collective bargaining agreements** — The WBAA is both HR and CBA friendly, in that it is designed to fit comfortably with current HR policies and can be integrated easily into CBA grievance and arbitration procedures.

9. Designed to be introduced in state legislatures – The WBAA is designed to be introduced in state legislatures, but it can be adapted to virtually any jurisdiction.

Attached to this email are a draft of our proposed bill and the latest copy of our national Zogby survey that we do every 3 years to show how common the issue really is on a national basis.

Respectfully Submitted,

[Your name here]

California Healthy Workplace Advocates