

[Senator/Assemblymember/Congressman] \_\_\_\_\_ -- I am contacting you on behalf of the **California Healthy Workplace Advocates** and the **Workplace Bullying Institute**. We are seeking a sponsor for our **Workplace Bullying Accountability Bill** to fill the gap in protection for workers.

I have attached materials about the proposed bill, along with my personal story and statistics on the effects of abusive conduct on workers, including a breakdown of the effects on LGBTQ+ workers. You will see from my personal statement that my physical, financial, and mental health were severely affected by being bullied in the State university system. Dr. Gary Namie of the Workplace Bullying Institute conducts regular surveys on this issue. One of the attachments is the most recent report for your review.

Our proposal is designed to incentivize employers to rid their workplace(s) of Bullying and Abusive behaviors by developing policies that forbid this kind of behavior and enforcing through the development and enforcement of effective workplace policies written by the employer. This letter will introduce you to how we define the issue, some background on the issue, and the problems that we have with the current laws regarding this issue. I will also enclose our proposal. We know how big of an issue these sorts of behaviors can be. If the employer does like our proposal states, we figure that the employer will save money in the following areas; 1) costs of lawsuits, 2) workman's compensation insurance, 3) sick leave, 4) employee turnover, 5) training, 6) SDI leave costs and many more.

#### 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 co-worker. 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.

The goal is to correct and prevent Abusive Conduct in the California workplace, which is extremely common and costly to the employer, to our State, and to our families and culture. For some more information on the issue, you might want to look at our website at <https://www.bullyfree-workplace.org> and go to our research page, and you will find some studies there on some common issues that targets have to deal with.

Thank you for your time. Please let me know if you need anything further from me. I have attached my contact information.

Respectfully Submitted,

California Healthy Workplace Advocates

Contact Number(s):