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# Workplace Bullying and Its Prevention in the Accounting Office

C. W. Von Bergen & G. Stevenson Smith Southeastern Oklahoma State University

C. W. Von Bergen, Ph.D.
John Massey Professor of Management
Management & Marketing Department
Southeastern Oklahoma State University
1405 N. 4th Ave. PMB 4103
Durant, OK 74701-0609
Voice Mail: 580-745-2430

Fax: 580-745-7485

E-mail: cvonbergen@se.edu

Homepage: http://carmine.se.edu/cvonbergen

### Abstract

Bullying at work has increased over the last few decades. This paper defines workplace bullying and considers the factors and situations that contribute to its occurrence, its negative effects, as well as organizational strategies for reducing and eliminating this increasing workplace pollutant in accounting offices.

Workplace Bullying and Its Prevention in the Accounting Office "So much of what we call management consists in making it difficult for people to work."

—Peter F. Drucker

Once upon a time—and it will sound like a fairy tale to many people—this country's leaders and citizens cared a great deal about what others thought. "A decent respect for the opinions of mankind" led Thomas Jefferson to set forth the reasons that drove the decision of the American colonies to declare their independence from England. That marvelous phrase is enshrined in the first paragraph of our nation's Declaration of Independence (The Declaration of Independence of the Thirteen Colonies, 1776).

It should be somewhat of an embarrassment, then, that "a decent respect for the opinions of mankind" does not seem important in contemporary U.S. society. Historians may view the dawn of the 21<sup>st</sup> Century as a time of thoughtless acts, rude behavior, and disrespect for others. *USA Today* recently published a feature on the top 25 things that have disappeared in U.S. culture that included indoor smoking, vinyl records, rotary dial phones, and civility (2007).

Societal rudeness is also reflected in the workplace and has led to added levels of incivility, disrespect, and abuse and this lack of courtesy has made it difficult for people to do their jobs as business guru Peter Drucker indicated in the paper's introduction. Estimates of the prevalence of bullying in the U.S. vary. For example, a study by Namie and Namie (1999) reported that a full 66 percent of all respondents experienced or witnessed workplace bullying

while Keashly and Jagatic (2000) randomly sampled Michigan residents and found that 16.7% of respondents reported a severe disruption of their lives from workplace harassment. These are probably conservative estimates based on research by Salin (2001) who found that that despite being subjected to frequent bullying behavior, most targets of bullying were disinclined to label themselves as bullied and did not always report incidents of bullying because they feared retribution or payback from the bully, believe that no-one will act on the problem, fear being labeled "weak" or "whining," or think that reporting will affect their career.

There appears to have been a confluence of dynamics taking place over the last several years that have accelerated the rate and severity of bullying in the workplace including job cuts, pressure for greater productivity, autocratic work environments, and workplace diversity (Harvey, Heames, Richey, & Leonard, 2006). Regardless of the causes, it seems that American culture has come to embrace impulse over restraint, notoriety over achievement, rule breaking over rule keeping, and provocative expression over politeness (Johnson & Indvik, 2001). Bullying Within the Accounting Profession

Within the accounting profession at least two kinds of bullying exist: 1) bullying by a client of an accounting professional under the guise of client management, client pressure, aggressive earnings management practices, or audit pressure to support client-preferred reporting methods (Felix, Gramling, & Maletta, 2005); and 2) bullying by coworkers, especially managers, supervisors, or partners of firms. This paper focuses on the latter type of bullying which has been only briefly considered in the accounting literature (Stanley, 2004), and rarely discussed in corporate America. Thus, the purpose of this article is to provide a broad review of current research on workplace bullying and to suggest organizational remedies for accounting offices. *Bullying defined* 

There is no single agreed upon definition of bullying. Further complicating understanding, bullying often goes by different names including workplace interpersonal mistreatment, psychological aggression, emotional abuse or harassment, incivility, abusive supervision, and petty tyranny. Common to most definitions of bullying, however, is behavior that intimidates, humiliates, and/or undermines a person and that is repeated over time. A definition of bullying, adequate for our purposes, is provided by a draft Oregon state statute defining workplace bullying as "derogatory remarks, insults or epithets, physical conduct that a reasonable person would find threatening, intimidating or humiliating, or the gratuitous sabotage or undermining of an employee's work performance" (Oregon Senate Bill 1035, 2007).

Bullying lies on a continuum anchored by on-the-job incivilities on one end and physical violence on the other (see Figure 1). At the extreme end of this continuum lies physical assault, battery, homicide, and other violent overt behaviors detailed within the criminal codes of all industrialized countries (Mayhew, McCarthy, Chappell, Quinlan, Barker, & Sheehan, 2004). At the other end is workplace incivility which often refers to relatively covert antisocial boorish activities such as rudeness, swearing, interrupting, and isolating (Pearson & Porath, 2005). Figure 1. Continuum of Hostile Workplace Behaviors.

	:	
Severer□		
Incivility	Bullying	Physical Violence

Bullying is not about a "clash of personalities," a "misunderstanding," or "miscommunication" (Namie & Namie, 2003, p. 73). Nor should it be confused with "joking" or "horseplay," which are characterized by a lack of animosity. Bullies routinely practice psychological violence against specific individuals whom they intentionally try to harm, often devastating the target's emotional stability. There are two types of bullies: individual and group.

"Bullying is ... mostly sub-lethal, non-physical violence..." (Namie, 2003, p. 1) and "...is driven by the perpetrator's need to control another individual, often undermining legitimate business interests in the process" (Namie, 2003, p. 2-3). It typically involves an array of low-level aggressions often disguised as joking and initiation rites that disguise and mask sadistic behaviors (Mayhew et al., 2004). Just as one court opined about retaliatory behavior in organizations, "[T]he law does not take a 'laundry list' approach to retaliation, because unfortunately its forms are as varied as the human imagination will permit" (*Knox v. State of Indiana*, 1996), the same thing could be said of bullying; it's varieties are endless. Nevertheless, it appears that certain types of conduct have been found to support claims of workplace bullying behaviors directed toward a target employee (Fox & Stallworth, 2006; Keashly & Newman, 2001, Vega & Comer, 2005). These are listed in Figure 2. While one behavior may not indicate bullying, the more behaviors exhibited the higher the probability the person is a bully.

Figure 2. Examples of workplace bully behavior.

verbal abuse (yelling, cursing, angry	repeatedly threatening job loss or demotion,
outbursts, foul, rude, and abusive language)	or blocking a job promotion without cause
made aggressive or intimidating eye contact	leaving target out of meetings or failing to
or physical gestures (e.g., finger pointing,	show up for target's meetings for no
slamming objects, obscene gestures)	legitimate reason
humiliating and demeaning conduct in front	confusing and contradictory instructions or
of other workers or clients	constantly changing instructions
ridiculing taunts, insults, and put-downs	undermining work performance
situating workspace in a physically isolated	leaving offensive messages on emails or
location	telephone
intentionally destroying, stealing, or	hiding documents or equipment necessary for
sabotaging target's work materials	target to complete work

Thus, bullying may include subtle acts like devaluation of a colleague's work or socially isolating the target person, or more serious encounters.

Bullying often involves the use of intimidation in relationships between colleagues and a misuse or abuse of power where targets can experience difficulties in defending themselves. Regardless of how bullying is manifested—either verbal assaults or strategic moves to render the target unproductive, unsuccessful, or emasculated—it is the aggressor's desire to control the target that motivates the action (Namie, 2003).

## Group bullying

Davenport, Schwartz, and Elliott (1999) emphasize the effects of abusive *group* behavior on the individual. They have adopted the term "mobbing," which is commonly used in Europe. The term mobbing refers to the collective behaviors of "ganging up" on an individual target and involves abusive group behavior. Davenport et al. (1999) describe mobbing as an emotional assault. It begins when an individual becomes the target of disrespectful and harmful behavior. Through innuendo, rumors, and public discrediting, a hostile environment is created in which

one individual gathers others to willingly, or unwillingly, participate in continuous malevolent actions to force a person out of the workplace. Because the organization ignores, condones or even instigates the behavior, it can be said that the victim, seemingly helpless against the powerful and many, is indeed mobbed (McCord & Richardson, 2001). *Consequences of Bullying* 

To the individual victim

Bullying can have severe consequences for job satisfaction (Einarsen & Raknes, 1997) and health (Einarsen, Matthiesen, & Skogstad, 1998). Physical, mental, and psychosomatic health symptoms are well established; for example, stress, depression, reduced self-esteem, self-blame, phobias, sleep disturbances, digestive, and musculoskeletal problems. Post traumatic stress disorder, similar to symptoms exhibited after other traumatic experiences such as disasters may occur. Symptoms may persist for years after incidents. Other consequences might be social isolation, family problems, and financial problems due to absence or discharge from work.

To the organization

Extensive injury also occurs to organizations, with a correlation having been found between bullying and staff turnover, absenteeism, intention to leave, lowered morale, reduced productivity, and organizational loyalty (Rayner & Cooper, 1997; Yamada, 2000). In 2002, the *Orlando Business Journal* reported on a study of 9,000 federal workers indicating that 42 percent of female respondents and 15 percent of male respondents had experienced bullying-type behaviors over a two-year period, "resulting in a cost of more than \$180 million in lost time and productivity" (Urbanski-Farrell, 2002). Other researchers have found that bullying behaviors are linked to employees' retaliatory behaviors (Bies & Tripp, 2005; Skarlicki & Folger, 1997), counterproductive behaviors (Duffy, Ganster, & Pagon, 2002), and withdrawal of leader support (Tyler & Blader, 2000).

Bullying and its tolerance are bad management and poor business practices. Bullies not only stifle productivity and innovation throughout the organization, they most often target the best employees because it is precisely these persons who are the most threatening to them. As a result, firms are robbed of their most important asset in today's competitive environment (Glendinning, 2001). Given that bullying occurs, what can employers do to prevent or reduce it? *Combating and preventing workplace bullying* 

Creating a "bully-free" environment is a proactive step that should be taken to improve an organization's strategic position in today's highly-competitive global economy. By developing a "bully-free" environment, an organization can create a culture of respect in which innovation, performance, and healthy communication can flourish. To become a top performer in any industry organizations must be able to recognize and rid itself of bullying or risk losing their talented and otherwise dedicated employees. Hence, the following suggestions are offered to those in accounting organizations that want to contain and correct such activity.

Establish organizational values for dignity and respect of all workers

Moral philosopher Immanuel Kant developed an ethical framework which asserts that people are entitled to respect because they are moral beings possessing dignity (Kant, 1964). Numerous organizations have followed Kant's "categorical imperative" establishing organization-wide expectations of civil interactions among employees based on dignity and respect. Some examples include:

• We treat each other with respect (from Boeing's [aircraft] integrity statement)

- Above all, employees are provided the same concern, respect, and caring attitude within the organization that they are expected to share externally with all customers (from Southwest Airlines' mission statement)
- We are responsible to our employees. . . . We must respect their dignity (from the Johnson & Johnson's [pharmaceutical] credo)
- All Team Members are treated with dignity and respect (from Tyson Foods' Team Member Bill of Rights)

Whereas, many organizations create stringent guidelines about how employees should treat customers, few articulate how employees should treat one another (Pearson & Porath, 2005). Guiding principles indicated above are a first step in establishing a culture of workplace dignity and respect.

Develop a policy on workplace bullying

The cornerstone of employers' efforts to prevent bullying is a policy statement. Such expressions have been found to facilitate change (Glover, Cartwright, Gough, & Johnson, 1998). A widely circulated written policy statement puts all employees on full alert that the employer actively seeks to identify and eliminate all instances of workplace bullying.

Simple teasing, offhand comments, and isolated incidents (unless extremely serious) do not usually amount to bullying. Severe and persistent negative behaviors do. The goal of an employer's efforts to prevent job-related bullying is simply to prevent or punish harassing behavior within the limits of the employer's authorization.

A general policy pledging a nondiscriminatory workplace is not enough. The bullying policy statement should be a clear, emphatic, and easily understood condemnation and prohibition of abuse. It should be free of confusing legal jargon. Finally, it should include examples of conduct that are targeted for immediate elimination.

The policy statement should be as specific as possible about the types of actions that are outlawed, while making it clear that the list is only representative, not exhaustive, of all possible violations. Additionally, employees should be made aware that their conduct away from the facility, office, or plant that is work-related (e.g., after-hours events sponsored by the organization) is also subject to the policy.

Pay attention to who is hired

Studies by Pearson and Porath (2005) have indicated bullies tend to leave a trail of ill-mannered behaviors, and employees can readily identify repeat offenders. Such bullies tend to be known throughout their departments and often by subordinates and colleagues across their organizations. Despite this trend, however, Pearson and Porath (2005) found that bullies were often passed around like organizational hot potatoes, with each manager hoping to eliminate the problem by handing it off to another department. In hiring inside job candidates, a reference check should not be limited to the list of contacts provided by the job candidate. Rather, those within the firm who are involved in the candidate selection process should be encouraged to talk with personal contacts at various organizational levels with whom the candidate has worked. To avoid hiring bullies from outside the firm, job candidates' references should be checked thoroughly, especially when the candidate will have significant organizational stature. When search firms have been used to identify candidates, they should not be the sole source entrusted to check references of final candidates.

Additionally, organizations may want to consider using psychological testing. For example, the Conditional Reasoning Test of Aggression (CRT-A; Harcourt Assessment Inc., 2005) helps employers screen out applicants with aggressive tendencies. The CRT-A is an

effective instrument for identifying aggressive-prone individuals and may serve to pinpoint those less likely to respond inappropriately to stress, frustration, or anger.

Consider adopting a 360-degree performance appraisal system

Curtailing bullying may be the ultimate rationale for 360-degree feedback (Bohlander & Snell, 2004). By soliciting anonymous feedback from ones superiors, subordinates, and peers, managers and executives can build candid perspectives about bullies and detect patterns of abusiveness to ferret out offenders. Indeed, instigators who are disrespectful to their subordinates or peers are often seen as experts at managing upward (Pearson & Porath, 2005). They may take great care in controlling their bullying behavior so that it dodges the attention of those who have the organizational power to correct it. Managers who are concerned about bullying should seek feedback about employee-to-employee interactions and clear the path for problems to surface, whether through human relations channels or through open door policies. When reports of instigators' bullying acts do not match their image projected in an interview those in charge should withhold judgment, gathering additional information from lower levels of the organization to assure that savvy instigators are not feigning a positive image to superiors.

Institute complaint procedures

An effective complaint procedure encourages employees to report bullying conduct before it becomes severe or pervasive. If an employee promptly uses the procedure, the employer often can stop the bullying before actionable harm occurs. The procedure for reporting incidents of bullying should do the following: specify the steps to take to initiate a bullying complaint, encourage (but not require) the alleged victim to confront the offending person, prohibit retaliation against anyone reporting bullying, encourage employees to report all occurrences of bullying, and promote confidentiality.

It is important that employees understand the operation of the complaint process and how to initiate a charge. Employees should be given the names of a variety of individuals who are authorized to receive complaints. The more people who are listed the easier it will be for reports to be made. The publication of names, locations, and phone numbers of people to whom reports may be submitted will ease the alleged victim's stress of reporting. The written process should also specify times and locations where complaints are received that are convenient to employees. Officials need to be available whenever and wherever employees are normally at work.

A complaint process can be attached to the company's bullying policy statement and might read as follows, "Any employee who believes that he or she has been the victim of bullying, discrimination, or retaliation by any work-related individuals, including but not limited to corporate officers, supervisors, coworkers or customers, or has witnessed such conduct should immediately report the incident to their supervisor or to [list individuals who are designated to receive complaints, with phone numbers and office location]."

Suggesting, but not requiring, confrontation with the alleged bully may be effective in stopping bullying behavior. It is possible that the harasser may not be aware that his or her conduct is offensive. A simple request to cease the offensive conduct may be all that is required to correct the situation before it becomes severe. Such notification has other potential benefits. It puts the offended persons in greater compliance with the mandate that they take reasonable care to avoid harm. Also, it helps to deny offenders the use of the defense that they were ignorant that their words or behaviors were considered offensive—a defense that is often well received by investigators, arbitrators, and panels. Employees should also inform the offender that the actions are considered offensive and unwelcome and that they should be halted immediately.

Employers should encourage employees to report any occurrences of bullying. A seemingly isolated incident may be part of a pattern of conduct or, when combined with other seemingly harmless incidents, may rise to the level of severe and pervasive. Thus, any incident of bullying, even seemingly minor ones, should be reported promptly so that appropriate action may be taken to ensure that such activity does not continue. Early reporting will allow for employer intervention and corrective action before a situation escalates.

Reports of bullying should be dealt with in a confidential manner and information shared only with those who have a need to know. However, complete confidentiality cannot be assured and employees must be informed that an appropriate investigation of the complaint will require sharing information with others as required to properly explore and correct the harassing conduct. Employers have a duty to promptly investigate allegations of bullying and will need to share information with the alleged bully, witnesses, and others who may become involved.

Closely related to the complaint procedure is a system for investigation. An effective investigative process must be sensitive to and respectful of the interests of all parties involved. Once an employer becomes aware of bullying from a complaint or otherwise, the guidelines should establish a duty for the employer to investigate. Additionally, to avoid charges of favoritism, standard but flexible guidelines for investigations should be established before claims are received. People authorized to conduct investigations should be adequately qualified and trained on harassment and discrimination law, company policy, and in skills needed to conduct investigations that requires interviewing techniques and evaluating credibility. Investigators must maintain their objectivity and refrain from forming or expressing early opinions to parties or witnesses during the investigation process. In the event that a company executive is the focus of the bully claim, an outside independent investigator should be considered. Investigators must realize the impact that bullying can have on victims, but should also realize that a false claim of bullying can negatively impact the career of the accused. Defamation is a genuine concern.

Distribute policy

To be optimally effective the bullying policy should be distributed in writing, to all employees, on multiple occasions, with an acknowledgment from each employee that the policy was received, read, and understood. A policy that is not properly distributed tends to have little effect. Employers must therefore ensure that each employee is provided with a written copy of the policy (McCune, 1997). Distribution should take place at the time of initial hiring, with subsequent distributions thereafter. Employee handbooks, annual performance reviews, periodic training sessions, company newsletters, and manuals provide opportunities to enhance policy distribution, ensuring awareness by all employees. Permanent and prominent placement of the bullying policy on bulletin boards and the company computer network can also be effective. In addition, employers should appoint knowledgeable individuals to be generally available in a confidential setting to respond to employee questions concerning the policy. Finally, written acknowledgment of receipt of a copy of the policy and knowledge of its contents will prove helpful against a subsequent charge of bullying.

Monitor turnover rates, employee satisfaction surveys, and exit interviews

A key indicator of employee dissatisfaction with their job is quitting (Griffeth, Hom, & Gaertner, 2000) and is particularly important to track. For every eight employees who see themselves as targets of bullying, one is likely to exit. To complicate matters, most of those who leave because of bullying do not report the real reason that they are exiting. Some do not tell because they think that the organization does not care; others are afraid they will sound weak or

whiny. Many have reported that they remain silent because they believe that in their organizations the potential for negative repercussions outweighs the hope of corrective action.

To exacerbate the situation, when bullying is the reason for departure the signals are hard to recognize. Most employees do not storm out in a huff immediately following an incident. Rather, targets of bullying tend to remain in their jobs for months, years, or decades, working with less effort and enthusiasm while lining up new positions in other departments or organizations (Pearson, Andersson, & Porath, 2004). Given the time gap between bullying and the target's departure, any institutional memory that might have connected the event to the exit fades. As a result, this dramatic impact of bullying may not leave a highly discernible trail. Nonetheless, facts known by departing employees are crucial to correcting bullying. In some cases, organizations should consider conducting post-departure interviews with former employees to track potential bullying after those employees have distanced themselves from the organization and they are stable in their new work environments. The cost of doing so is minimal, and if the organization is serious about rooting out bullying, the insight gained through candid disclosures can be invaluable.

Provide training in social skills and interpersonal communication

Many persons become involved in bullying encounters because they do not know how to respond to provocations from others in a way that will soothe these persons rather than fan the flames of intimidation characteristic of bullying. Similarly, they do not know how to make their wishes known to others and they grow increasingly frustrated when people do not respond as they desire. Often, they have an abrasive style of self-expression coupled with insensitivity to others' emotional states. Consequently, they experience severe, repeated frustration, and say or do things that frequently anger their coworkers. Persons lacking in social skills seem to account for a high proportion of varying degrees of violence and bullying in many societies (Toch, 1985). Thus, equipping employees with social skills they lack may reduce incidences of bullying.

Take claims of bullying seriously

If it is determined that bullying occurred, effective remedial action is required. Severity of the conduct, history of similar conduct, and number of violations of any type are factors bearing on the action to be taken. Remedial actions range from a warning letter to required training and on-going close monitoring. Ultimately, termination of employment should be considered in preventing bullying in extreme instances or with recalcitrants and action taken promptly. However, these actions must not have an adverse effect upon the claimant. For example, transfers or reassignments of complainants or witnesses to separate them from the bully may be viewed as unlawful retaliation. If remedial action is taken, subsequent monitoring and interviews should occur to ensure that the action has been effective in terminating the bullying, that bullying has not resumed, and that there is no retaliation.

Additionally, some easily implemented internal operating procedures and policies can help to prevent bullying. For example, decisions on hiring, firing, promotion, demotion, special assignments and the like that can be made by committee, or at least by two individuals, will help to ferret out real or potential bullying. Documentation and preview of such decisions by superiors will also help to assure a legitimate business basis for a tangible job action. Finally, regular reviews of operating procedures, as well as periodic audits of policies, will enhance the opportunity to prevent bullying and serve to aid in the defense of a claim.

Prevent and monitor attempts to retaliate against the complainant

A plan that requires claimants to report bullying to an immediate supervisor is unlikely to be effective when the supervisor is the alleged harasser. Anticipating the possibility that an initial

report may not be handled correctly, efficiently, or in a timely manner, employees should be told of secondary reporting routes. If a complaint involves an immediate supervisor or an employee does not want to report an incident to their supervisor for any reason, or their initial report has not been dealt with in a timely or satisfactory manner, the employee should be encouraged to report the matter promptly to persons specifically designated to receive such reports (e.g., a human resource manager or representative).

Employers must stress that employees will be protected from retaliation for opposing bullying or for participating in proceedings brought by alleged victims. Former employees are also protected. Written policies consistently applied by the employer are of great importance in explaining actions that may be challenged as retaliatory. Employers should indicate that retaliation against anyone who files a complaint in accordance with a bullying policy, provides information related to a complaint, or participates in an investigation is strictly prohibited and will result in appropriate disciplinary action. *Conclusion* 

Bullying remains among the workplace's unchecked scandals, lowering morale and productivity while driving health-care costs up and making employers vulnerable to lawsuits or disability claims. It can destroy individuals, groups, and organizations. It is particularly insidious because bullies tend to focus their poisonous efforts on the organization's most competent workers. Failing to deal resolutely with the complex forces that foster our acquiescence to bullies will only promote the destruction such individuals create.

Thus, the business case for clear and openly supported anti-bullying policies and their strict, timely enforcement is compelling and organizations are responding. For example, American Express, Burger King, and J.C. Penney are firms that have banned verbal harassment on the job. The Oregon Department of Transportation has a policy that prohibits bullying actions such as loud, angry outbursts or obscenities. Additionally, a half-dozen states from New Jersey to Oregon are considering laws that would make workplace bullying an unlawful employment practice and give victims the right to sue an employer that fails to prevent it (Orey, 2007). Even at local levels in California and Rhode Island, there have been initiatives banning workplace bullying (McBride, 2005; Saillant, 2005).

Business groups typically argue against such initiatives indicating that laws already exist to protect workers against a hostile workplace and that the concept of bullying is too subjective and may open the door to more problematic complaints (e.g., a raised voice is perceived as yelling or a rap on the table for emphasis is perceived as threatening). "You could end up with 'He's been mean to me for three months and yelled at me four times' as a triable offense," said Michael Bononi, a Los Angeles attorney specializing in employment law. "It could create a nightmare for employers and the courts. There is no law against being a jerk in the workplace" (Saillant, 2005). Nevertheless, David Ritter, a Chicago attorney who represents companies, says he is taking the proposed laws seriously. He noted that laws barring hostile-environment sexual harassment were initially greeted with skepticism in the 1970s because of the difficulty in defining sexual harassment (Orey, 2007) and a smugness that "boys will be boys and girls will be girls." Today, however, the idea of sexual harassment is accepted as an illegal form of harassment in practically all companies.

A similar evolution with respect to workplace bullying may be occurring. Although no laws have yet passed regarding workplace bullying, abuse, or harassment, legal issues surrounding workplace bullying are surfacing and attorneys are speculating on various approaches addressing whether bullying constitutes constructive dismissal, whether an employee

who suffers harassment at work is entitled to damages for intentional infliction of emotional distress, and whether damager for wrongful dismissal should be increased where psychological harassment is involved (e.g., Yamada, 2000). Interestingly, the reluctance to address workplace bullying through legislation is perplexing given that some 17 states and Guam have enacted legislation aimed at curbing bullying by K-12 students on school property (Dounay, 2005). It appears that we do not want bullying in schools but are willing to tolerate it *at work*.

Currently, Quebec has the only law in North America against bullying. In 2002 it enacted a law prohibiting psychological harassment defined as "any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee's dignity or psychological or physical integrity and that results in a harmful work environment for the employee" (Quebec Commission des Normes du Travail, n. d.). Also, France, Belgium, and Sweden, have legislation prohibiting workplace bullying and mobbing.

American firms must begin to recognize that bullies poison their work environment and that the employer pays for this in lost efficiency, absenteeism, sick leave due to stress-related illnesses, high staff turnover, severance packages, and law suits. Eliminating workplace harassment is one of the many pieces needed to manage people well. This appears to be recognized by Rule 501-2 (Discrimination and Harassment in Employment Practices) of the American Institute of Certified Public Accountants that says that:

Whenever a member is finally determined by a court of competent jurisdiction to have violated any of the antidiscrimination laws of the United States or any state or municipality thereof, including those related to sexual **and other forms of harassment** [emphasis added], or has waived or lost his/her right of appeal after a hearing by an administrative agency, the member will be presumed to have committed an act discreditable to the profession in violation of rule 501 (American Institute of Certified Public Accountants, 2006).

Although workplace bullying is being discussed more than ever before, and there may eventually be specific legislation outlawing such behavior, organizations cannot afford to wait for new laws to eradicate the bullies in their midst. In order to survive, organizations must eradicate workplace bullying before it crushes their employees' creativity and productivity, or even drives out their best employees, thus fatally impacting an organization's ability to compete.

Bullying is not a problem for human resources and the lawyers to solve. They are simply responsible for cleaning up messes and paying legal awards after the fact. Managers are responsible for preventing bullying behavior. Employers need to take appropriate action to protect their employees and their firms from potentially devastating consequences from legal action and large monetary awards. They must be vigilant to ensure that everyone in their organization is informed, educated, and committed to preventing such toxic, costly, and counterproductive behavior in the workplace.

### References

- American Institute of Certified Public Accountants (2006). *Rule 501-2: Discrimination and Harassment in Employment Practices*. Retrieved July 18, 2007, from http://www.aicpa.org/about/code/et 500.html#et 501.03
- Bies, R. J., & Tripp, T. M. (2005). The study of revenge in the workplace: Conceptual, ideological, and empirical issues. In S. Fox & P. E. Spector (Eds.), *Counterproductive work behavior: Investigations of actors and targets* (pp. 65-82). Washington, D.C.: American Psychological Association.
- Bohlander, G., & Snell, S. (2004). Managing human resources. South-Western, Ohio.
- Davenport, N., Schwartz, R. D., & Elliott, G. P. (1999). *Mobbing: Emotional abuse in the workplace*. Montreal: Civil Society Publishing.
- Declaration of Independence of the Thirteen Colonies. (1776, July 4). Retrieved July 8, 2007, from http://memory.loc.gov/cgi-bin/query/r?ammem/bdsdcc:@field(DOCI D+@lit(bdsdcc02101))
- Dounay, J. (2005, April). *State Anti-bullying Statutes*. Retrieved November 20, 2006, from http://63.173.67.18/clearinghouse/60/41/6041.doc
- Duffy, M. K., Ganster, D. C., & Pagon, M. (2002). Social undermining in the workplace. *Academy of Management Journal*, 45, 331-351.
- Einarsen, S., Matthiesen, S., & Skogstad, A. (1998). Bullying, burnout and well-being among assistant nurses. *Journal of Occupational Health and Safety: Australia and New Zealand,* 14, 563-568.
- Einarsen, S., & Raknes, B. (1997). Harassment in the workplace and the victimization of men. *Violence and Victims*, 12, 247-263.
- Felix Jr., W. L., Gramling, A. A., & Maletta, M. J. (2005). The influence of nonaudit service revenues and client pressure on external auditors' decisions to rely on internal audit. *Contemporary Accounting Research*, 22, 31-53.
- Fox, S., & Stallworth, L. E. (2006). How effective in an apology in resolving workplace bullying disputes? *Dispute Resolution Journal*, *61*, 54-63.
- Glendinning, P.M. (2001). Workplace bullying: Curing the cancer of the American workplace. *Public Personnel Management, 30*, 269-286.
- Glover, D., Cartwright, N., Gough, G., & Johnson, M. (1998). The introduction of anti-bullying policies: Do policies help in the management of change? *School Leadership & Management*, 18, 89-105.
- Griffeth, R. W., Hom, P. W., & Gaertner, S. A. (2000). A meta-analysis of antecedents and correlates of employee turnover: Update, moderator tests, and research implications for the next millennium. *Journal of Management*, 26, 463-488.
- Harcourt Assessment Inc. (2005). *Conditional Reasoning Test of Aggression*. Retrieved November 27, 2006, from http://harcourtassessment.com/haiweb/Cultures/enUS/dotCom/Assessment+Center/SubPages/Conditional+Reasoning+Test+of+Aggression+(CRTA%E 2%84%A2).htm
- Harvey, M. G., Heames, J. T., Richey, R. G., & Leonard, N. (2006). Bullying: From the playground to the boardroom. *Journal of Leadership and Organizational Studies*, 12, 1-11.
- Johnson, P. R., & Indvik, J. (2001). Rudeness at work: Impulse over restraint. *Public Personnel Management*, 30, 457-465.
- Kant, I. (1964). Groundwork of the metaphysic of morals. New York: Harper and Row.

- Keashly, L., & Jagatic, K. (2000, August). *The nature, extent, and impact of emotional abuse in the workplace: Results of a statewide survey*. Paper presented at the Academy of Management Conference, Toronto.
- Keashly, L., & Newman, J. H. (2001). *Exploring persistent patterns of workplace aggression*. Retrieved February 12, 2006, from http://www3.uakron.edu/psychology/faculty/moberg/KeashlyNeuman.pdf
- Knox v. State of Indiana, 93 F.3d 1327, 1334 (7th Cir. 1996).
- Mayhew, C., McCarthy, P., Chappell, D., Quinlan, M., Barker, M., & Sheehan, M. (2004). Measuring the extent of impact from occupational violence and bullying on traumatized workers. *Employee Responsibilities and Rights Journal*, 16, 117-134.
- McBride, R. (2005, October 22). The bully business: City could revive anti-bullying bill for the workplace. *Providence (RI) Business News*. Retrieved July 13, 2007, from http://www.bullyinginstitute.org/press/pbn102205.html
- McCord, L. B., & Richardson, J. (2001). *Are Workplace Bullies Sabotaging Your Ability to Compete?* Retrieved June 1, 2006, from http://gbr.pepperdine.edu/014/bullies.html# 10#10
- McCune, J. C. (1997). Get the message. Journal of Property Management, 62, 42-44.
- Namie, G. (2003, November-December). Workplace bullying: Escalated incivility. *Ivey Business Journal*, 68, 1-7.
- Namie, G., & Namie, R. (1999). *Bullyproof yourself at work*. Pfungstadt, Germany: DoubleDoc Press.
- Namie, G., & Namie, R. (2003). The bully at work: What you can do to stop the hurt and reclaim your dignity on the job. Naperville, IL: Sourcebooks.
- Oregon Senate Bill 1035. (2007). *Healthy Workplace Bill for Oregon*. Retrieved July 11, 2007, from http://bullybusters.org/advocacy/pdf-docs/sb1035.intro.pdf
- Orey, M. (2007, May 14). Try this suit on for size, boss. Business Week, 14.
- Pearson, C., Andersson, L., & Porath, C. L. (2004). Workplace incivility. In S. Fox & P. E. Spector, *Counterproductive workplace behavior: Interventions of actors and targets* (pp. 12-34). Washington, D. C.: American Psychological Association.
- Pearson, C. M., & Porath, C. L. (2005). On the nature, consequences and remedies of workplace incivility: No time for 'nice'? Think again. *Academy of Management Executive*, 19, 1-12.
- Quebec Commission des Normes du Travail (n. d.). *Labour Standards: Psychological Harassment*. Retrieved July 10, 2007, from http://www.cnt.gouv.qc.ca/en/lois/normes/normes/harcelement.asp
- Rayner, C., & Cooper, C. (1997). Workplace bullying: Myth or reality—can we afford to ignore it? *Leadership and Organization Development Journal*, 18, 211-214.
- Saillant, C. (2005, December 5). Like other communities around the United States Ventura County may look to a written policy to protect workers from abuse. *The Los Angeles Times*, Retrieved July 13, 2007, from http://www.bullybusters.org/press/latimes120505. html
- Salin, D. (2001). Prevalence and forms of bullying among business professionals: A comparison of two different strategies for measuring bullying. *European Journal of Work and Organizational Psychology*, 10, 425-441.
- Skarlicki, D. P., & Folger, R. (1997). Retaliation in the workplace: The roles of distributive, procedural, and interactional injustice. *Journal of Applied Psychology*, 82, 434-443.
- Stanley, Z. (2004). Golden business ideas. Journal of Accountancy, 198, 124.

- Toch, H. (1985). Violent men. Cambridge, MA: Schenkman.
- Tyler, T. R., & Blader, S. L. (2000). Cooperation in groups: Procedural justice, social identity and behavioral engagement. Philadelphia: Psychology Press.
- Urbanski-Farrell, L. (2002, March 15). Workplace bullying's high cost: \$180M in lost time, productivity. *Orlando Business Journal*. Retrieved July 12, 2007, from http://orlando.biz journals.com/orlando/stories/2002/03/18/focus1.html?t=printable
- USA Today. (2007, June 4). The long goodbye: Top 25 things that have left us. 8B.
- Vega, G., & Comer, D. R. (2005). Sticks and stones may break your bones, but words can break your spirit: Bullying in the workplace. *Journal of Business Ethics*, 58, 101-109.
- Yamada, D. C. (2000). The phenomenon of "Workplace Bullying" and the need for status-blind hostile work environment protection. *Georgetown Law Journal*, 88, 475-536.