

# Pass the Workplace Psychological Safety Act to hold employers accountable for psychological abuse at work

## Misuse of power violates workers' right to psychological safety

Workplace bullying and mobbing are forms of **psychological abuse** that violate an employee's inherent basic human right to dignity. Workplace psychological abuse is an issue of employee exploitation. Employers are not explicitly liable for the psychological harm of their employees and are negatively incentivized to address abuse at work even if they claim to value safe workplaces.

**Workplace psychological abuse is highly affiliated with physical and mental health injuries** — more prevalent than sexual harassment. The phenomenon has been dubbed a silent epidemic and is a public health threat affecting more than 60 million employees in the United States (the equivalent of the entire population of Italy).

**Abuse of power is often a symptom of implicit bias** — a problem anti-discrimination law stopped helping since the '80s when courts moved from focusing on impact to intent. Intent is a high threshold that makes the law an epic failure when it comes to disrupting hierarchies at work around demographics.

## HOW WORKPLACE PSYCHOLOGICAL ABUSE WORKS

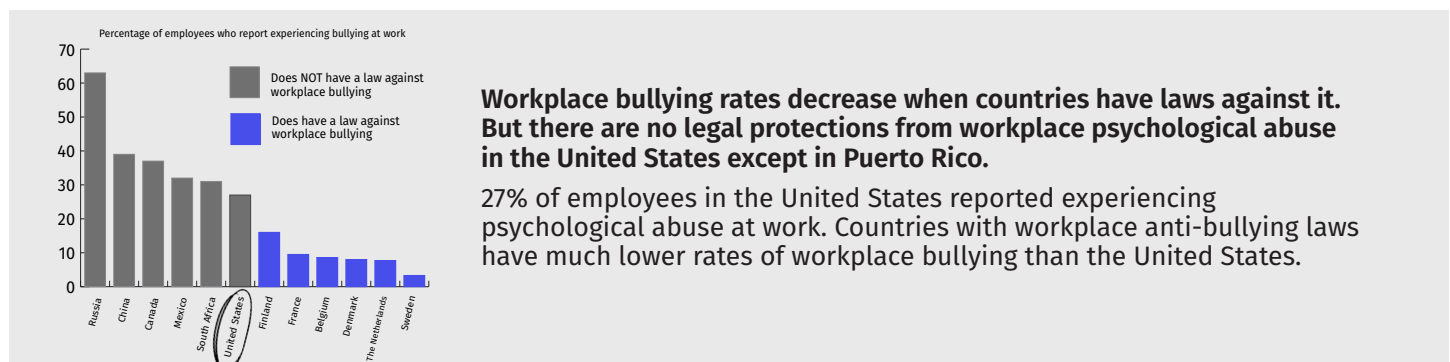
- 1 Workplace bullying typically begins when one employee, who is generally insecure and/or jealous, is threatened by the competence or demeanor of another employee.** The bully targets an unsuspecting employee to minimize and/or eliminate the perceived threat the employee poses to them. Bullies use persistent psychological abuse to control the narrative. They try to convince the employee they are incompetent and others the employee is incompetent. Common tactics include false accusations, exclusion, and job or career sabotage.
- 2 When employees report psychologically abusive behavior to proper workplace authorities in toxic work environments, those authorities ignore their complaints.** Employers are not liable for psychologically abusive behavior. Employer typically mislead unsuspecting employees to believe they have legitimate complaint processes to remedy problems.
- 3 Employers typically fail to alter employees' work environments.** Employers don't often remove the stressors. The emboldened bullies continue to harass and abuse targets without consequence or deterrent. Employers unnecessarily prolong complaint processes.
- 4 Unsuspecting employees voluntarily leave, die, or are fired, succumbing to the silent-killer stress of the work environment.** There is significant physical, mental, and emotional injury as well as severe economic harm. Game over. The bully wins. Their perceived competition is gone. The employer wins. Their perceived threat of liability is gone. The unsuspecting employee does nothing to provoke either.
- 5 Trauma upon trauma.** When employees realize the institutional complicity of tampering with their health and livelihood, forcing them off the payroll to avoid liability, trauma upon trauma occurs. Employees further realize there is no legal recourse for any of it.

### ORGANIZATION COSTS

Higher absenteeism, turnover, training costs, and employee benefits costs  
Lower task performance, productivity, and morale

### HUMAN COSTS

Psychological distress (anxiety, depression, burnout)  
Physiological outcome (heart disease, obesity, sleep problems, cancer, PTSD, suicidal thoughts, suicide)  
Job and/or career loss and other financial harm



## THE WHY BEHIND THE WORKPLACE PSYCHOLOGICAL SAFETY ACT

Employers **choose** to avoid a perceived threat of liability over human well-being. **The Workplace Psychological Safety Act (WPSA) provides a cause of action for employees who suffer from workplace psychological abuse when their employers choose abuse over well-being.**

- 1 There is no current law that protects workers from workplace psychological abuse.** Unless you're a member of a protected class (sex, race, age, etc.) under the Title VII of the Civil Rights Act — and can prove the abuse is from your protected class membership — you don't have rights to psychological safety at work under law. Intentional Infliction of Emotional Distress (IIED) law requires victims to not only prove the abuser's intent but also to show severe emotional distress, a near impossible threshold to prove.

- 2 Proving intent doesn't work with anti-discrimination law — and it won't work with mistreatment in general.** Anti-discrimination law used to work when it focused on impact. The courts' shift in the '80s to a focus on intent has rendered anti-discrimination law nearly useless. It's no secret it's an epic failure. The WPSA does not require victims to prove their abuser's intent, so it would strengthen protections for women and workers of color who can prove toxic behaviors but not discriminatory intent.
- 3 Oftentimes, employers don't enforce their own policies or practice what they preach around training — and even retaliate against those who report abuse.** There is no law stating employers have to follow their own policies. Tennessee passed a bill incentivizing workplace anti-abuse policies, and California passed a training-only bill. Neither are effective. Policy and training laws alone don't work. In addition, workers compensation laws don't recognize toxic work environments or psychological injury. They are employer-controlled and require employees to waive their right to sue.
- 4 Employers need accountability to make our workplaces psychologically safe.** The WPSA creates an incentive for employers to actually prevent and address workplace psychological abuse. The WPSA requires employers to do what's right to get in front of the health and economic harm to employees before it can occur.
- 5 We can prevent harm of any kind.** No law will eradicate an issue, but the goal is to prevent workplace psychological abuse as much as possible. Prevention means not waiting until harm occurs (not just psychological or physical harm). Sexual harassment law acknowledges a toxic work environment is enough for legal recourse. The WPSA sets its baseline for a legal claim at a toxic work environment, consistent with sexual harassment law.
- 6 A remedy must be available to all workers.** Our legislators designed our pay-to-play legal system to favor those who can afford lawyers. We must do better. As with regulations for other harms, we must also put money toward this problem if we want to fix it. Making abuse illegal regardless of protected class status (giving more protections to members of protected classes) would ensure that everyone, especially our most vulnerable low-wage workers, can access a remedy while still providing for a private action.

## WHAT THE BILL DOES

- 1 It gives targeted employees legal recourse for employers creating a toxic work environment with a focus on specific, common behaviors that a reasonable person would deem toxic.** Targeted employees will be able to: file a restraining order against the employee who violates this Act depending on state law; call for an internal investigation; bypass a rigged internal process by reporting to a state human rights commission; or sue the employer and/or individual(s) in violation of this Act directly for economic, compensatory, and/or punitive damages and attorney's fees. Employees can also sue criminally and choose to anonymously publicly disclose the case outcome, removing employers' ability to silence them with non-disclosure agreements.
- 2 It requires employers to acknowledge, monitor, detect, prevent, discourage, and adequately address incidences of psychological abuse.** Employers will be required to: adopt and implement policies and training and conduct an annual anonymous workplace climate survey to monitor the prevalence of abuse in their workplaces.

## TAKE ACTION

**Visit [WPSAct.org](https://WPSAct.org) to email your state legislators to ask them to support the Workplace Psychological Safety Act.**

Use the map under "Take Action" to quickly send a letter to ask for protections for workers. You can use the template letter or share your own story.

## LET'S MAKE OUR WORKPLACES SAFER TOGETHER.

Sources: Cunliff, L., & Mostert, K. (2017). Prevalence of workplace bullying of South African employees. *SA Journal of Human Resource Management*. Retrieved April 20, 2022, from <https://sajhrm.co.za/index.php/sajhrm/article/view/450/506>; Hango, D., & Moyser, M. (2018). Harassment in Canadian workplaces. *Insights on Canadian Society*; Hansen, A. M., Hogh, A., Persson, R., Karlson, B., Garde, A. H., & Ørbaek, P. (2006). Bullying at work, health outcomes, and physiological stress response. *Journal of Psychosomatic Research*, 60(1), 63-72. <https://doi.org/10.1016/j.jpsychores.2005.06.078>; Hauge, L. J., Skogstad, A., & Einarsen, S. (2010). The relative impact of workplace bullying as a social stressor at work. *Scandinavian Journal of Psychology*. <https://doi.org/10.1111/j.1467-9450.2010.00813.x>; Herscovici, M. S., & Rafferty, A. E. (2012). Predicting abusive supervision. *Contemporary Occupational Health Psychology*, 92-108. <https://doi.org/10.1002/9781119942849.ch8>; Herscovici, M. S., Reich, T. C., & Niven, K. (2015, January 1). Workplace bullying: Causes, consequences, and intervention strategies. *LSE Research Online*. Retrieved April 19, 2022, from <http://eprints.lse.ac.uk/66031/>; Mikkelsen, E. G., & Einarsen, S. (2002). Basic assumptions and symptoms of post-traumatic stress among victims of bullying at work. *European Journal of Work and Organizational Psychology*, 11(1), 87-111. <https://doi.org/10.1080/1359432014300086>; Nielsen, M. B., Matthiesen, S. B., & Einarsen, S. (2010). The impact of methodological moderators on prevalence rates of workplace bullying: A meta-analysis. *Journal of Occupational and Organizational Psychology*, 83, 955-979; Ng, C. S., & Chan, V. C. (2021). Prevalence of workplace bullying and risk groups in Chinese employees in Hong Kong. *International Journal of Environmental Research and Public Health*, 18(1), 329. <https://doi.org/10.3390/ijerph18010329>; Niedhammer, I., David, S., Degioanni, S., Drummond, A., & Philip, P. (2009). Workplace bullying and sleep disturbances: Findings from a large scale cross-sectional survey in the French working population. *Sleep*, 32(6), 1211-1219. <https://doi.org/10.1093/sleep/32.9.1211>; Schat, A. C. H., & Frone, M. R. (2011). Exposure to psychological aggression at work and job performance: The mediating role of job attitudes and personal health. *Work & Stress*, 25(1), 23-40. <https://doi.org/10.1080/02678373.2011.563133>; Sepúlveda-Vildosola, A. C., Mota-Nova, A. R., Fajardo-Dolci, G. E., & Reyes-Lagunes, L. I. (2017). Workplace bullying during specialty training in a pediatric hospital in Mexico: a little-noticed phenomenon. *Rev Med Inst Mex Seguro Soc*, 55, 92-101; Sprigg, C. A., Martin, A., Niven, K., & Armitage, C. J. (2010). Unacceptable behaviour, health and well-being at work: A cross-lagged longitudinal study. *Institution of Occupational Safety and Health*; Vartiainen, M. (n.d.). Workplace Bullying and Harassment in the EU and Finland. *Finish Institute of Occupational Health*. Retrieved 2022; Vie, T. L., Glaso, L., & Einarsen, S. (2011). How does it feel? workplace bullying, emotions and musculoskeletal complaints. *Scandinavian Journal of Psychology*, 53(2), 165-173. <https://doi.org/10.1111/j.1467-9450.2011.00932.x>; Wu, T.-Y., & Changya Hu. (2009). Abusive supervision and employee emotional exhaustion. *Group & Organization Management*, 34(2), 143-169. <https://doi.org/10.1177/1059601108331217>



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