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# *Causes and Cures for Workplace Bullying*

*Presented by Michael O'Brien*

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COUNSEL TO GREAT COMPANIES

# Causes and Cures for Workplace Bullying

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Prepared by Michael O'Brien

# What **IS** Workplace Bullying?

Repeated, unreasonable actions

that are intimidating, degrading or  
undermining

**OR**

that disregard an employee's health or  
safety

# What is **NOT** Workplace Bullying?

- Being a demanding boss
- Being direct
- Progressive discipline
- Consequences
- Isolated incidents of yelling, outbursts, swearing
- As a HR professional, you must also be able to defend difficult leaders that are not bullying

# First Principle

If you want to change your organization because you know there is a serious problem with bullying, you must be willing to leave the organization if the organization is unwilling to support you.

# Second Principle

Even if you are willing to commit to changing your organization's culture, you should not attempt it unless:

1. Leadership is willing to commit in writing.
2. Leadership is willing to fund their commitment.

# Why are we seeing more allegations of bullying?

- Cultural shift
- Millennials are less likely to tolerate it
- Notion of “paying dues” is less culturally ingrained
- Vast majority of people have recording and camera capabilities with them at all times
- Organizations are more diverse

# Organizations Ripe for Bullying

- Heavily siloed
- Rigid hierarchy
- Less diverse
- Isolating field work
- Longstanding bullying culture within work specialty
- Leaders are given a “License to Bully”



# Misperceptions

## “It’s Not-Illegal”

- negligent infliction of emotional distress
- intentional infliction of emotional distress
- violation of the covenant of good faith and fair dealing
- will manifest as an illegal discrimination complaint

## More Likely Blue Collar

- can occur in any environment

## Top-Down

- can be bottom-up, peer-to-peer, contractor on employee

## Male Driven

- Is power driven

# Why We See Bullying Manifest as Discrimination

## “Elevator Principle”

Employee feels trapped. First attempts to attain help are fruitless and then starts to panic.



# Types of Bullying-Related Discrimination Claims

- Disparate Treatment
- Adverse Treatment
- Hostile Environment/  
Harassment
- Retaliation



# Does It Matter If It's Not Illegal?

- Low morale
- Reduced productivity
- Increased employee turnover
- Increased risk of reputational harm
- Increase in FMLA, sick leave
- Legal liability from discrimination claims

# Methods of Recognizing Bullying Cultures

- Skip Level Meetings
  - Employee Interviews
  - Online Surveys
  - Trainings
  - External Audit
- Anonymous Hotline
  - Anonymous Surveys
  - Review of Past Complaints
  - Exit Interviews

# Unique Challenge #1: Fear of Retaliation

Bullying is power-driven, and employees are hesitant to “out” powerful bullies.

## Problem 1:

“Don’t shoot the king unless you are going to kill the king”

# Unique Challenge #2: “Missing Stair” Culture

Bullying occurs in public. However, like a broken step in a staircase, once we give up on fixing it, we incorporate it into our stride and stop “seeing” it.

## Problem 2:

Bullying becomes invisible

Leadership is culpable



# Unique Challenge #3: High Performance

## Problem 3: Pride Associated With Survival

“It’s a badge of honor to work with her.”

“There are 100 people who want your spot.”

“She gets results.”

“No one else has ever complained.”

“You must not meet her expectations.”

“She’s old school.”



# Unique Challenge #4: Employee Low Performance

“Just trying to motivate a low-performer.”

“He gets the best out of people.”

“He’s trying to cover up his own failings as an employee.”

“The person making the claim is our lowest performer.”

# How Do You Stop It?

You Must Either Change People...  
or Change People.

# What Does This Mean?

## Your Must Change Through Training:

- Acknowledge in policy that there is a problem
- Explain why it is a problem
- Challenge employees to report and fix the problem
- Train employees and leadership to identify and report the problem
- Commit to lasting change
- You must use progressive discipline to change the bully

# Does Progressive Discipline Work With a Bully?

HR must be prepared to provide a “carrot” and “stick” approach that:

1. **Makes it clear that behavior was inappropriate;**
2. Sets standard that bullying will be met with significant consequence;
3. **Provide training to educate bully/employees; and**
4. Monitor and be ready for retaliation.

# Effective Training

- Comprehensive across organization
- **Allows for randomized attendance**
- Has management buy-in
- **Has management presence**
- Reiterates opportunities for reporting
- **Reiterates anonymous reporting**
- Reiterates that retaliation is prohibited
- **Is part of “culture” onboarding**

# Effective Training Cannot Be “One and Done”

- Employees are cynical about the “issue du jour”

- **Revisit issue with employees regularly:**

Email, refresher training, leadership statements, onboarding, surveys, skip meetings, check-ins

# Effective Reporting Mechanisms

- **Trained Supervisors**
- Human Resources
- **Anonymous Hotline**
- Anonymous Online Reporting

**Each reporting mechanism must know how to proceed according to your policy.**

# Failure to Act Destroys Any Previous Commitment

If employees report bullying, management must take action immediately, including:

1. Investigate
2. Take action if appropriate
3. Circle back to complainant regarding results
4. Provide training to unit
5. Underscore that retaliation will not be tolerated



# If Bullying Persists...

you must change people, meaning  
terminate their employment.

# Challenges Will Arise Immediately

Bullies tend to:

1. Be top performers;
2. Possess institutional knowledge;
3. Possess tremendous social capital; or
4. Have a strong coworker following.

**Lean on documented commitment.**

# Prepare HR for Increased Caseload

Once employees become assured that management takes complaints seriously, be prepared for a pulse in complaints.

Circle back with employees regarding what is and what is not bullying.

# Address Systemic Issues

- Break down silos, cross-pollinate leadership
  - Allow for greater flexibility in communications
  - Prioritize diversity within teams
- Make sure field crews understand that rules apply
  - Pay special attention to units where bullying is seen as a “right of passage”

# Questions?

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