

A solid yellow right-angled triangle pointing downwards and to the right.

**BLOGS**

Archives;Harassment;Workplace Safety

## **Bullying in the Workplace: Although Perhaps Not Illegal, it Certainly Comes with a Cost**

I recently read an interesting [article](#) noting the increase of employees reporting that they have been treated rudely or uncivilly by a boss or colleague in the workplace. The topic of workplace bullying or the bully boss has received significant attention over the last few years. Some [researchers](#) have noted that even highly performing employees may face this type of negative behavior. It is a situation that can create frustration for employers, but which typically does not give a bullied employee a legal claim unless the workplace bullying is tied to unlawful discrimination, sexual harassment, or prohibited retaliation.

Most workplace hostility does not involve unlawful conduct and instead arises in situations, commonly encountered by employment attorneys, of equal opportunity jerks. Or, as I sometimes refer to it, harassment with a little h. By that I mean that it is not legally actionable harassment (which would be harassment with a big H). Although there have been efforts by some states going back more than ten years to enact workplace bullying laws, rude, boorish, and hostile behavior in the workplace generally does not trigger any legal issues (assuming, of course, that the hostility does not escalate to the point of constituting a physical assault or threatened assault). Giving that message to concerned employees, however, provides them little solace and may actually tend to worsen morale by causing employees to feel that their concerns have been minimized.

But even if there is no legal cost to such harassing behavior, it doesn't mean that there might not be a significant business cost of that behavior for an employer. Those who have studied the issue of abusive or stressful workplaces have often theorized that they create a negative impact on employee productivity, which is a logical assumption. In addition, bullying can create quality issues if a bullied employee is too afraid to speak up and point out mistakes. From a lawyers perspective, it is also logical to conclude that employees who generally feel mistreated and undervalued are more likely to assert legal claims, whether discrimination charges before a governmental agency or commencement of a lawsuit in court, even in the absence of a solid legal basis for a claim. Such employment-based claims can cause business disruption, harm to employee morale, and legal fees and expenses in defending against them even for bogus claims. The desire to avoid these potential collective costs should cause careful and reasonable employers to take seriously the issue of bullying or hostile behavior in the workplace and to take steps to address that counterproductive behavior.