

**BLOGS**

Archives;Harassment;Workplace Policies;Workplace Safety

Important News on the Equal Opportunity Jerk: Minnesota Workplace Bullying Bill Is Reintroduced

When I present harassment training, I tell my audience that harassment is usually *unlawful* only when based on a protected-class status, such as race, gender, age, disability, etc. During the training, I often tell the story of the “equal opportunity harasser” the individual in the workplace who is a jerk to everyone and does not discriminate in picking the targets of his/her jerkiness (that’s my technical term). This is the person who is a jerk to *everyone*. Because this person’s behavior is status-blind, it doesn’t violate discrimination or harassment laws.

Some Minnesota legislators are, however, trying to raise the legal stakes surrounding bullying. On March 20th, the Minnesota legislature introduced a [bill](#) that proposes to make workplace bullying unlawful. The bill would prohibit employees from engaging in “abusive conduct” in the workplace. In addition, the law would make employers liable for such conduct unless the employer can establish an affirmative defense, such as prompt and appropriate action to stop and remedy the behavior. The proposed law defined “abusive conduct” as “conduct, including acts or omissions, that a reasonable person would find hostile, based on the severity, nature, and frequency of the conduct.” The definition goes on to provide some examples that seem targeted at severe, egregious mistreatment of others. You will, however, find no mention of legally protected-class status as a condition of liability.

So, it looks like our equal opportunity harasser is in big trouble, right? Well, not so fast. The “new” bill is actually a reintroduction of a [bill that was proposed in 2011](#) and, at that time, went nowhere. The proposed Minnesota bill is modeled after the “Healthy Workplace Bill” a bill that has been introduced in [29 states over the years including 8 states in 2015](#). So far, none of these proposed state laws have passed, and the chances of the proposed Minnesota bill becoming law seem slim given that Republicans control the Minnesota House.

So, our equal opportunity harasser is in the clear again, right? Again, ... not so fast. The movement to pass workplace bullying law is growing and, at some point, it might succeed. In the meantime, there are other serious issues to consider. As discussed in a previous [post](#), workplace bullying is bad for business, negatively impacting morale, attendance, productivity, work quality, customer service and the bottom line. Given these serious business costs, employers don’t need to and shouldn’t wait to prohibit bullying and to

Related People

Pamela J. Kovacs

Counsel

Minneapolis

612.632.3398

pamela.Kovacs@lathropgpm.com



discipline bullies. Shortly before the first Minnesota workplace bullying bill was introduced in 2011, my colleague gave wise advice in our earlier post about the [steps an employer should take to reduce workplace bullying](#). These are steps that still make sense and can be made today to crack down on and get rid of the bad effects of an equal opportunity "jerk."