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HOUSE OF REPRESENTATIVES
COMMONWEALTH *of* PENNSYLVANIA

House Democratic Policy Committee Hearing
Workplace Psychological Safety

Wednesday, August 14, 2024 | 10:00 a.m.
House Speaker Joanna McCClinton

OPENING REMARKS

10:00 a.m. Speaker Joanna McCClinton, D-Delaware, Philadelphia

PANEL ONE

10:05 a.m. Lauren J. Footman, Chief Executive Officer
Lauren J. Footman, LLC

Michelle Warner, Esq., Attorney

Q & A with Legislators

PANEL TWO

10:35 a.m. Dr. Stephanie Perry, LSW, DSW
Workplace Civility Advocate

Kiana Jackson, Impacted Person

Q & A with Legislators

PANEL THREE

11:05 a.m. Chris Hallock, Deputy Secretary of Safety and Management Relations
PA Department of Labor

Testimony to the Pennsylvania House Democratic Policy Committee
on Workplace Psychological Safety
Wednesday, August 14, 2024
Lauren J. Footman, CEO
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Esteemed Members of Pennsylvania House Democratic Policy Committee,

Thank you for the opportunity to present my testimony today. My name is Lauren Footman, and I come before you as a practitioner, researcher, and survivor of workplace psychological abuse. My experiences, both personal and professional, highlight the urgent need for comprehensive workplace psychological safety legislation in Pennsylvania.

As a Practitioner:

In my professional roles as an Human Resource and Diversity Equity and Inclusion professional, I have witnessed firsthand the profound impact of psychological abuse in the workplace. The National Institute for Occupational Safety and Health (NIOSH) housed in the Centers for Disease Control and Prevention (CDC), identifies bullying as a significant workplace psychosocial hazard. NIOSH defines psychosocial hazards as factors in the work environment that cause stress, strain, or interpersonal problems for workers, with bullying involving harmful actions intended to humiliate, offend, or undermine individuals.¹

In these capacities I have seen how systemic issues contribute to these hazards, particularly for marginalized groups. In my role, I have observed that psychological abuse disproportionately affects individuals from underrepresented backgrounds, including Black women, who often face intensified scrutiny and are unfairly deemed expendable. This discrimination exacerbates the already severe impacts of psychological abuse, leading to profound mental and physical health issues and undermining organizational effectiveness.

As a Researcher:

My academic work has deeply explored the issue of workplace psychological abuse. My master's research at the University of Pennsylvania focused on the "emotional tax" in the workplace within the context of corporate America. This research highlighted the disproportionate emotional burden borne by employees, particularly those from marginalized groups, and revealed how this burden contributes to significant stress and disengagement.

Currently, my doctoral research at Saint Joseph's University expands on this foundation, examining the emotional tax within public sector organizations. This ongoing research underscores that psychological abuse and its effects are not confined to private industry but are prevalent across various sectors, further emphasizing the need for robust protective measures.

¹ <https://www.cdc.gov/niosh/learning/safetyculturehc/module-2/8.html>

As a current faculty member teaching courses on DEI, organizational dynamics, I emphasize the critical importance of psychological safety. We know that employees perform better when they feel respected, valued, and fairly compensated. Investing in psychological safety ultimately benefits organizations financially as well. The costs associated with turnover—including recruiting, administrative expenses, lost productivity for those who must cover additional work and train new employees, and the time it takes for new hires to reach the performance level of their predecessors—can be significant. For example, the cost of turnover is estimated to be 6-9 months of the position's salary. Thus, an employee earning \$60,000 per year can cost an organization between \$30,000 and \$45,000 when they leave.²

Moreover, the financial impact of harassment is considerable. The average cost to defend a harassment lawsuit is \$250,000, while the average jury award is \$600,000. Additionally, the average annual hidden cost of harassment per employee ranges between \$300 and \$1,000.

³These figures illustrate that addressing workplace psychological safety is not just a moral and ethical obligation but also a financially sound strategy for organizations.

As a Survivor:

My personal experience with workplace psychological abuse has been deeply painful and revealing. I have faced retaliation for whistleblowing, including shunning, deliberate exclusion from meetings, and marginalization. The removal of financial resources for my office, and the spread of harmful sexualized rumors about my professional success, being told I was not worth helping because I was not an attractive white woman like my colleague, coupled with distressing incidents like having my abuser rev his RAM truck engine at me which all compounded the psychological and physical toll.

The subsequent removal of my office and staff while I was addressing the health impacts of this abuse exemplifies the pervasive disregard and sense of expendability experienced by individuals like myself. In this particular organization, such treatment was unfortunately standard protocol: endure harassment, attempt to recover, only to face job loss, a tainted professional reputation, and ongoing physical and mental distress. These experiences reflect a broader systemic issue where there are often insufficient protections in place for everyday workers. The lack of adequate safeguards contributes to a work environment where individuals, particularly those from marginalized groups, face disproportionate harm and feel vulnerable to exploitation and abuse.

The Need for Legislation:

The urgent need for workplace psychological safety legislation in Pennsylvania cannot be overstated. Such legislation would provide essential protections against psychological abuse,

² <https://www.workplacebullyingcoalition.org/workplace-bullying-research#:~:text=The%20average%20cost%20to%20defend%20employee%20%28Legal%20Risk%20Management%29.>

³ <https://www.workplacebullyingcoalition.org/workplace-bullying-research#:~:text=The%20average%20cost%20to%20defend%20employee%20%28Legal%20Risk%20Management%29.>

establish clear standards for acceptable behavior, and create effective mechanisms for reporting and addressing complaints. It would also address the systemic issues that disproportionately affect marginalized employees, ensuring that all individuals, regardless of their background, can work in environments free from fear and discrimination.

Moreover, implementing this legislation would contribute to reducing the stigma surrounding mental health, acknowledging that psychological safety is crucial for all employees. Recognizing and addressing psychological abuse is vital for promoting a respectful and supportive workplace culture.

In conclusion, the need for workplace psychological safety legislation is pressing and essential. My experiences as a practitioner, researcher, and survivor underscore the importance of taking action to protect employees and foster healthier work environments. I urge you to support this critical legislation and make a meaningful difference in the lives of workers across Pennsylvania.

Thank you for your attention to this important issue.



Testimony of Michelle Warner, Esq., BCC, ACC

before the

Pennsylvania House Majority Policy Committee

August 14, 2024

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Speaker McClinton, Chairman Bizarro and members of the Committee. Thank you for the invitation to speak about the need for psychological safety in the workplace.

My name is Michelle Warner, and I am the founder of MW Coaching & Consulting, LLC. In addition to being a certified executive coach (BCC, ICF-ACC), I am an attorney admitted to practice in Pennsylvania, Delaware and New Jersey. I have over 25 years of experience as both an attorney and a non-profit board member. As an advocate and trusted advisor, I've guided individuals and organizations through complex challenges in both government and the private sector in industries ranging from aviation to corrections, agriculture to education and beyond. While my testimony today reflects my diverse work history, the opinions I express here are my own. My testimony neither represents the opinion of any client or organization with whom I have worked, nor is it meant to suggest that these clients or organizations are not psychologically safe work environments.

Understanding Psychological Safety

Psychological safety refers to an environment where individuals feel safe to express their thoughts, ask questions, and admit mistakes without fear of retribution. In the workplace this is demonstrated by a culture that fosters trust, inclusion, and openness, allowing employees to bring their full selves to work.

Psychological safety is not just a "nice-to-have" but a fundamental requirement for high-performing teams. In environments where psychological safety is prioritized, employees are more engaged, innovative, and committed to their work. They are more likely to collaborate effectively, speak up about potential issues, and contribute to problem-solving, leading to improved outcomes for organizations. According to 2024 HR statistics from [Forbes](#), companies with highly engaged employees are 21% more profitable and 17% more productive.

The Consequences of a Lack of Psychological Safety

According to a 2023 [Harris Poll](#), 71% of American workers have had a toxic boss at some point during their career and 69% of those employees are planning to quit because of that boss' behavior.

Unfortunately, the absence of psychological safety can have dire consequences. When employees feel intimidated, marginalized, or fearful of speaking out, they may disengage, leading to reduced productivity, higher turnover rates, and even mental health issues such as anxiety and depression. In the worst cases, toxic work environments can lead to harassment, bullying, and other forms of workplace abuse, creating significant legal and financial risks for employers.¹

The Business Case for Psychological Safety

Investing in psychological safety is not just about doing the right thing—it's also good business. According to 2024 HR statistics from [Forbes](#), every time a company has to replace an employee it costs the company one-third of that employee's salary. High turnover rates cost companies millions of dollars each year. Psychologically safe workplaces are more resilient, adaptable, and capable of navigating challenges. Organizations that prioritize psychological safety are better equipped to attract and retain top talent, reduce absenteeism, and enhance overall employee satisfaction.

The Role of Legislation

While many forward-thinking organizations have already embraced psychological safety through initiatives like training that focuses on civility in the workplace or bystander intervention, voluntary adoption is

¹ [Drake Management Review, Volume 12, Issue 1/2 October 2022](#)

<https://www.eeoc.gov/eeoc-select-task-force-study-harassment-workplace>

not enough. Too many workers still suffer in environments where fear and intimidation are the norm.

[The Healthy Workplace Act](#) seeks to fill the gap between the legal definition of a hostile work environment that prohibits unlawful harassment or discrimination based on a protected category and what most employees would consider a hostile work environment—namely an environment that is filled with verbal abuse and insults or threatening or humiliating conduct.

Conclusion

It is long past time for us to end a culture of “that’s just the way X is, they are mean to everyone” as an excuse to ignore toxic high performers at any level.

Discussions such as the one we are having today and raising awareness of resources and training opportunities are crucial steps toward creating workplaces where every individual can thrive.

Thank you for your time. I am happy to answer any questions you may have.

HOUSE DEMOCRATIC POLICY COMMITTEE HEARING: WORKPLACE PSYCHOLOGICAL SAFETY ACT

AUGUST 14TH, 2024

Written Testimony by Dr. Stephanie N. Perry, LSW, DSW
CEO of Crown Innovative Solutions | Workplace Civility Advocate

Biography:

Dr. Stephanie N. Perry, a Licensed Social Worker with over 20 years of experience, is a thought leader in social work, training, and management. Her expertise has been instrumental in helping organizations achieve their goals by creating successful operational structures and providing advice and guidance for tailored approaches to leadership. She prides herself on being an inclusive leader who utilizes a human-centered design approach to enhance the delivery of human services. Her academic qualifications include a Bachelor of Addictions Counseling from Drexel University, a Master of Social Service Management from Bryn Mawr College, and a Doctor of Social Work from Capella University.

Dr. Perry's commitment to improving systems is evident in her work. Her doctoral capstone, which focused on workplace incivility and its impact on helping professionals, has led to practical recommendations disseminated to human service organizations and governing bodies. This work has inspired her to found Crown Innovative Solutions, LLC—a company that provides civility- and leadership-focused training to promote equity and prosperity within community-based organizations serving vulnerable populations.

Dr. Perry's dedication to her work is unwavering. She is committed to continuing her research into workplace incivility and its relationship to workplace bullying and psychological safety. Her goal is to educate and inspire new professionals on the importance of workplace civility. This commitment to research and education is a testament to her passion for the field and her desire to share her knowledge with others.

Testimony:

To the esteemed members of the Pennsylvania House Democratic Policy Committee Hearing, I, Dr. Stephanie N. Perry, am deeply grateful for the opportunity to discuss the impact and importance of embracing the Workplace Psychological Safety Act. With a diverse educational, professional, and personal background, I have over 20 years of combined experience serving the public and private sectors as a social worker,

human service professional, civil servant, and organizational consultant. Throughout my experience, I have worked in a psychologically unsafe work environment, which impacted me as a witness and a target of workplace bullying, which stems from workplace incivility. Those experiences with workplace bullying led me to pursue my scholarly focus and passion on how to prevent workplace incivility, in which bullying falls on the spectrum of behaviors seen in a toxic work environment.

Recently, I completed a doctoral capstone that delved into workplace incivility and its impact on the well-being of social workers and human service professionals. While the research was specific to the industry, the extrapolated data and recommendations benefit any government, organization, or employer looking to ensure the workplace is psychologically safe. I am a proud supporter and advocate of the Workplace Psychological Safety Act. Today, I advocate for employees and job seekers impacted by one of the most extreme forms of workplace incivility, which is bullying.

As I reflect on the Workplace Psychological Safety Act and the countless incidences of workplace bullying, I consider my story and the personal stories of others who have been traumatized to the point of no repair or delay in healing due to a system designed to treat the victim as a perpetrator. There is a lack of clear policies and promising practices for employees subjected to psychologically unsafe work environments. Previous and current research results have established recommendations and reasons why a legislative action such as the Workplace Psychological Safety Act should be implemented in Pennsylvania. Let us explore the current reasons and recommendations.

Research:

Workplace Psychological Safety involves a spectrum of behaviors, beginning with incivility in the workplace, which is a derogatory behavior that affects the whole or a person since it disturbs the physical and mental health, self-esteem, and mental well-being of targets and witnessesⁱ. In the 2021 Workplace Bullying Institute survey, 49% of American adults are affected by workplace mistreatments, such as incivility and bullying. Thirty percent of American adults reported that they directly experienced

abusive conduct at work, and 19% reported that they witnessed it. The 30% is insurmountable as it is representative of 79.3 million U.S. workers that have been directly or indirectly impactedⁱⁱ.

The law, policies, and procedures remain unclear for many employees, job seekers, and organizations. Many do not know how to identify and address workplace incivility when they have experienced or witnessed it. Individuals who have been targeted reported several effects, such as physical symptoms, psychological impacts, decreases in mental health, and social effects because of uncivil behaviors in the workplace; however, research on this issue is minimal, and there remains a gap in research on the immediate effects and outcomes of incivility and bullying. The impact of uncivil behavior is not just an experience among the victims and those who witness the demeaning behavior of targeting others; it also affects the organization and adversely impacts the financial viability of the workplace (Cassie & Crank, 2018).

According to SHRM, 58% of employees quit their jobs due to a toxic workplace culture, and the annual cost of culture-related turnover is \$223 billion. The numbers are staggering, but they do not lie.ⁱⁱⁱ Lastly, the Massachusetts Healthy Workplace Advocates (2015) conducted their research, determining that workplace incivility can contribute to varied expenses and losses involving the employee, impacting the organization's bottom line. According to the findings, the estimated economic cost for uncivil behavior was directed toward one employee earning an annual salary of \$50,000, which is \$187,250^{iv}.

Reasons: Participant Impact Stories

The most important commodity to any business is human capital. Without people, there is no business; therefore, there is no economy. The reasons for passing the Workplace Psychological Safety Act are simple: putting people first. These are the recent statements of my study participants who have witnessed or experienced a lack of psychological safety in the workplace.

1. **To create policies and procedures for protection:** Participant 15 stated, “The lack of clear and practical policies makes it much harder for supervisors to address incivility or other interpersonal conflicts with staff, like bullying. Often, the lack of support with a policy or the inability to enforce the consequences causes our colleagues or subordinates to view us as ineffective supervisors who do not want to deal with conflict, which results in the social workers taking matters into their own hands.
2. **To empower employees and employers:** Participant 16 stated, “A beautiful thing can occur when employees feel empowered to be heard. Employees will begin to advocate for themselves and others for a better onboarding process, a change in policies and procedures, and improved training. This responsibility lies with the employer recruiting and providing orientation to set the expectations for the workplace. Once the expectation is set, reinforcing then becomes a joint responsibility.”
3. **Addressing workplace challenges through joint visions and mission:** Participant 3 stated, “There is overwhelming value when employers and employees have a joint vision and mission. It means that both parties are working towards the intended goal. If this approach is taken in developing a workplace that is safe and free of retaliatory acts, the possibilities could be endless for the impact an organization could have on its internal and external customers.”

Recommendations

1. **Expand and enforce accountability and resources:** Employers should be required to be progressive by offering various platforms, training, educational opportunities, and motivations that promote healthy actions and mindsets to impact their workforce while developing a resilient workplace positively. This change toward becoming a progressive employer begins with revising and expanding workplace policies. Therefore, employers and organizations are encouraged to seek out evidence-based anti-workplace incivility and bullying programs, resilience models tailored to the workplace, engagement to better understand the needs of their workforce,

increase diversity by including employees in the participation of workplace design and involving subject matter experts to support this level of workplace transformation.

2. **Provide proactive platforms and a safe process of transparency to address workplace psychology safety:** Acknowledge that any industry is susceptible to workplace incivility and bullying, like troublesome and threatening conduct observed in school-age students and youth (Getz, 2013). This is why passing the Workplace Psychological Safety Act is essential. It recognizes that a new and proactive approach allows employees and organizations to respond to adverse conduct in the workplace rather than reactive responses such as bullying, retaliation, and resignation.
3. **Acquire Data to support an evidence-based approach to workplace psychological safety:** According to the American Psychiatric Association Foundation (2017), a resilient workplace is built on empowerment, purpose, trust, and accountability principles. This first involves developing employers' policies, legal requirements, and principles to be explicit about the zero-tolerance of workplace incivility or other negative workplace behaviors such as bullying with evidenced-based data. This requires future research to examine workplace psychological safety as a continuum of behavior that impacts job seekers and a concerted effort to establish an approach to collect statewide qualitative and quantitative data to drive evidence-based practices.

Closing Remark:

From my testimony today, I hope that you will acknowledge that there are solid implications for amendments to federal, state, and local government to expand workplace policies that surpass discrimination while holding employers accountable, providing needed resources, increasing awareness by training at the government, organizational, and community levels, implementing resilience workplace models that address incivility preemptively, and future research for ongoing improvements. The Workplace Psychological Safety Act provides the foundation and enforceable authority

to change the landscape of toxic work environments. The Workplace Psychological Safety Act begins to provide a foundation springboard for action while influencing a broader spectrum of critical matters directly affecting employee fulfillment, functioning, and security while upholding the core values and mission of improving productivity and increasing return on investment across Pennsylvania (Georgakopoulos & Kelly, 2017; Perry, 2024), which provides a higher return on investment while benefiting the Pennsylvania workforce and economy. Again, thank you for your time and open-mindedness as you reflect on my testimony.

ⁱ Faculty-to-faculty incivility in social work education. <https://doi.org/10.1080/10437797.2019.1671271>

ⁱⁱ Workplace Bullying Institute (2022). 2021 WBI U.S. Workplace Bullying Survey. <https://workplacebullying.org/2021-wbi-survey/>

ⁱⁱⁱ High Cost of a Toxic Workplace Culture, https://www.shrm.org/content/dam/en/shrm/research/SHRM-Culture-Report_2019.pdf

^{iv} Workplace incivility and turnover intention in organizations: <https://doi.org/10.3390/ijerph19010025>

^v Tackling workplace bullying: A scholarship of engagement study of workplace wellness as a system. <https://doi.org/10.1108/IJWHM-11-2016-0081>

Kiana Michelle Jackson
Psychological Abuse in the Workplace
Written Testimony
8/14/2024

Previous Employment Information:
Global Leadership Academy Southwest (GLASW)
School Operations Manager
February 2022-May2022

My name is Kiana Michelle Jackson. I am a 32 year old graduate of Eastern University with a Bachelors of Science in Early Childhood Education. Psychological Abuse within the Workplace is a battle that I have heard countless stories about but never in my life did I imagine that I would be apart of the stigma. Written below is a detailed account of my short tenure while being employed with Global Leadership Academies that was shared with Charter School Board Officials:

My name is Kiana M. Jackson. I am the most recent School Operations Manager at Global Leadership Academy Southwest. I am writing this letter to inform you of my short, yet impactful experience while serving GLASW.

I accepted the position of School Operations Manager with high hopes of creating, implementing, and cultivating the Mission of this organization. I came with a willing heart and a readiness to take on the demands and challenges of this position, while remaining hopeful of the impact that I aspired to make. I would like to share with you my experience in hopes that it will change the trajectory of this school overall.

I began the position of School Operations Manager on February 15, 2022. Throughout my interview process with both the Chief Operations Officer and CEO, I inquired about the training process and asked multiple questions regarding this position and how major of a role it was. I was advised that this role was extremely prominent and came with a plethora of learning opportunities as well as the opportunity to develop and train those under my leadership. I was told that I would be given assistance in how to navigate this role and that the tools needed to succeed would be readily available. Unfortunately, this was false. I was never properly trained nor given the tools needed to keep up with the demands of this position. A key aspect of this role includes the ordering of school supplies, purchase orders, weekly financial transactions etc. It became cumbersome and most days felt impossible to keep up with these tasks as there was no manual given as to where vendor information was and how I could receive it.

As the CEO & Principal of Southwest, she was unaware of this herself and stated that she was under the impression that the onboarding process was handled by the COO. This was confirmed when the CEO and Assistant Principal proceeded to call me into the school basement to reprimand me for “neglecting” the proper upkeep of the maintenance supply closet. In which I questioned the appropriateness and professionalism of her actions by choosing to have a meeting in a basement. In that moment I could see that a lack of judgement was used, and the CEO was only concerned about getting her point across. After speaking to the maintenance team, I was advised that the basement was and is still an ongoing process and that it did not just get that way overnight.

The most exhausting and lasting situation that occurred while employed here was the constant feelings of intimidation, manipulation, character assassination and lack of respect displayed by both the CEO and Assistant Pricipal. There are a plethora of examples that I can provide to

support this claim. The most prominent was my final meeting with the CEO, in which she alerted me at 9:30pm on Wednesday, May 4th that she would like to have a recorded zoom meeting with me on Thursday, May 5th, to which I requested HR presence in hopes to feel supported. I was blindsided by this meeting as it also entailed her giving me a 90day review- in which I still had 10 days left before completing the probationary period. I was never told I would receive this review, nor did she share what I was being reviewed on. I asked for HR representation to attend this recorded meeting; however, the CEO did all that she could to disrespect, talk down, insult and disregard me as a human as well as an employee of GLASW. The CEO proceeded to “hang up” and end the zoom meeting abruptly and refused to allow me to finish addressing my concerns with her. Her overall demeanor and conversation were professionally and personally abhorring. This occurred because during my short time here, I began to shed light on certain employees that were assigned to me that had not been performing to the best of their ability.

Upon ending this meeting, I inquired with HR about the outcome of the meeting. The HR representative at the time advised me that an investigation would need to take place with GLA's HR consultant. That investigation was never completed, and I was terminated at 9:30pm on Thursday, May 5th, 2022. Thus, I question the integrity and character of Global Academies overall.

Finally, although my time at GLA was short, it was my pleasure to lead some of the most wonderful people who have expressed that they were pleased to have me as their supervisor. Their ability to communicate with me and the comfortability levels grew with me as they saw me as a safe space. They shared with me on several occasions that they did not feel comfortable expressing their concerns with the CEO, Assistant principal or any other authoritative figure at GLASW.

This letter does not afford me the capability to fully express the turmoil that I experienced daily while at GLA. However, as stated previously, it is my hope that shedding light on the unprofessionalism and bullying shown by the CEO, Assistant Principal and other authoritative figures at GLASW, that no other employee no matter their position will be made to feel or endure what I went through.

The Psychological abuse that I experienced while working here took a toll on me mentally, physically and emotionally. It is my hope that my story can be shared with others as a tool to understand that your traumas do not define you and that your voice matters.



Written Testimony of Christopher Hallock
Deputy Secretary, Bureau of Safety and Labor-Management Relations
Department of Labor & Industry

Speaker McClinton, Chairman Bizzarro, and members of the Committee, thank you for inviting me to testify today. My name is Christopher S. Hallock, and I am the Deputy Secretary of Safety and Labor Management Relations for the Pennsylvania Department of Labor and Industry (L&I). The Bureau of Occupational and Industrial Safety (BOIS) is one of the four Bureaus I oversee. BOIS administers and enforces safety standards related to asbestos occupations, boilers, building construction (Uniform Construction Code), elevators (Uniform Construction Code), flammable and combustible liquid, lead occupations, and liquefied petroleum gas. BOIS also administers Pennsylvania's General Safety Law¹, as it relates to public sector employees². The General Safety Law provides for the safety, protection, and health of workers while on the job by prescribing regulations and restrictions concerning the equipment, apparatus, materials, devices, and machinery used.

The regulations³ promulgated under the General Safety Law require all establishments where persons work to be constructed, equipped, arranged, operated, and conducted to provide reasonable and adequate protection for the life, limb, and safety of all persons employed therein. All belts, pulleys, gears, chains, electrical equipment, and other apparatus must be properly guarded to protect workers from injury. All dust, fumes, vapors, and gases created by a manufacturing process that are harmful to persons employed must be removed at the point of origin or personal protective devices must be provided. All pits, quarries, trenches, and excavations must be properly shored, braced, or otherwise guarded to provide reasonable and adequate protection for workers. Scaffolds, ladders, window cleaning devices, and safety belts must be designed, manufactured, and erected for safe operation. All railroad operations not subject to the jurisdiction of the Public Utility Commission must be maintained in a manner to prevent unreasonable or unnecessary hazards to workers or the public.

The workplace protections that BOIS enforces involve only a workers' physical safety. There is currently no state law under BOIS' jurisdiction that provides protection for nonphysical injury. A worker that is the victim of psychological abuse or a hostile workplace may be able to file charges with the Pennsylvania Human Relations Commission or the Equal Employment Opportunity Commission for alleged violations of the Pennsylvania Human Relations Act or Title VII; however, these laws only protect persons in a protected class and provide relief only if the individual proves that the hostile treatment was due to their being in a protected class. Pennsylvania workers deserve better. Psychological safety is a key component of a healthy and productive work environment. Psychological safety reduces stress and burnout. A supportive environment helps workers manage their workloads better and maintain a healthier work-life balance. It also improves worker engagement and retention. Increased engagement can lead to higher job satisfaction and lower turnover rates.

There are also numerous benefits for employers. A psychologically safe workplace allows employees to take calculated risks and experiment with new approaches. This freedom can lead to innovative

¹ 43 P.S. §§ 25-1 – 25-15.

² Private sector workers fall under the jurisdiction of the federal Occupational Safety and Health Act of 1970.

³ 34 Pa. Code §§ 6.1-47.398



solutions and improvements that drive the organization forward. It enhances team collaboration. Teams that feel psychologically safe are more cohesive and effective. Workers are more likely to support each other, share knowledge, and work collaboratively towards common goals. A psychologically safe workplace builds trust and respect. When workers trust that they can speak up without negative consequences, it strengthens relationships and builds a more positive workplace culture.

The Pennsylvania Department of Labor and Industry is supportive of initiatives that promote and increase workplace safety. Further, we believe protections for workers from psychological abuse would empower workers and foster a more productive workplace for employers.

Thank you.

Workplace Psychological Safety Act

Findings:

- 1. U.S. workers have a right to physically and psychologically safe work environments.** The Occupational Safety and Health (OSH) Act of 1970, 29 USC 651, Congressional Findings and Purpose states, "...to provide for the general welfare, to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources... to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions...including the **psychological factors** involved, and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems... establishing causal connections between diseases and work in environmental conditions... by providing medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience...by encouraging the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws... by providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem..." (*United States Department of Labor*). The OSH Act of 1970, 29 USC 654, Duties states, "(a) Each employer shall furnish to each of his employees employment and a place of employment which are free from **recognized hazards** that are causing or are likely to cause death or serious physical harm to his employees; shall comply with occupational safety and health standards promulgated under this Act. (b) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct" (*United States Department of Labor*).
- 2. Psychosocial hazards are aspects of the design and management of work and its social-organizational context that have the potential to cause physical and psychological harm (Cox, Randall, 1996).** Exposure to psychosocial hazards is an occupational health and safety threat predicted to affect many of the 169.6 million U.S. workers by 2030 and result in adverse mental and physical health, leading to increased morbidity, mortality, and disability (Schute, et al, 2024). Beyond their effects on employee health, psychosocial hazards can impair workers' ability to participate effectively in the work environment with other employees as well as outside of work (Chen, et al, 2022).
- 3. The National Institute for Occupational Safety and Health (NIOSH), established by OSHA, is a research agency focused on the study of worker safety and health. It is part of Centers for Disease Control and Prevention (CDC), in the Department of Health and Human services. NIOSH recognizes bullying (one employee targets or "bulls-eyes" another employee) as a workplace psychosocial hazard (CDC, 2022),** defining psychosocial hazards as factors in the work environment that can cause stress, strain, or interpersonal problems for the worker and defining bullying as unwanted harmful actions intended to humiliate, offend, harm, undermine, or degrade, and can cause lasting physical and psychological damage.

4. **Psychosocial hazards are considered as significant as physical, biological, chemical and enviromechanical hazards and can contribute to diminished mental health.** Psychosocial hazards are “psychosocial factors that are perceived or experienced as unfavorable and can cause damage. Damage from a psychosocial hazard is in the **mind** of the individual exposed, which in turn influences their behavior. The resulting action could expose the individual to harm and cause similar or different harm to others” (Daniels, 2022). Bullying and harassment are among the most significant psychosocial hazards (International Organization for Standardization, 2021). According to the World Health Organization/International Labour Organization joint policy brief on Mental Health at Work, “unsafe working environments create risk factors for mental health.” Exposure to psychosocial hazards produces psychosocial risk. Psychosocial risk relates to the potential of these types of hazards to cause several types of outcomes on individual health, safety, and well-being and on organizational performance and sustainability.
5. **Psychosocial hazards can occur concurrently with and be influenced by other hazards. NIOSH also recognizes toxic work organizations, where there is a poor safety climate and lack of commitment to occupational safety, as a psychosocial hazard (CDC, 2022).** NIOSH also recognizes violence and incivility as psychosocial hazards, defining violence as “any physical assault, threatening behavior, or verbal abuse occurring in the work setting” and incivility as “...rude and discourteous actions of gossiping and spreading rumors, and refusing to assist a coworker...May also include name-calling, using a condescending tone, and expressing public criticism which can compromise coworker dignity and demonstrates a clear lack of respect” (CDC, 2022).
6. **Disregarding psychosocial hazards in the U.S. workplace violates basic human rights.** The social and economic well-being of every country depends on balancing employer accountability with workers’ rights to ensure healthy and productive workers. Article 1 of the Universal Declaration of Human Rights states, “All human beings are born free and equal in dignity and rights” (United Nations). All people – regardless of their gender, race, disabilities, sexual orientation, gender identity, age, income, religion, faith, and political affiliations – deserve the right to work in safe environments free from all forms of abuse and oppression.” The right to dignity must be assured in the workplace.
7. **Employers are not liable for psychological safety nor do they want to be. They disregard the existence of psychosocial hazards and any complaints thereof to avoid liability, further jeopardizing the safety of employees and the work environment. Employers need to be held accountable for toxic, psychologically unsafe work environments that jeopardize employee safety.** The U.S. has the worst record among major developed countries when it comes to workers’ rights. “The International Trade Union Confederation’s 2022 Global Rights Index indicates 65 major developed countries have fewer systematic violations of workers’ rights than the U.S.” (#creator & #identity, 2021).
8. **The phenomenon of workplace bullying is a pervasive problem in U.S. workplaces and follows a typical playbook according to researchers:** A 2019 survey revealed that 94 percent of 2,081 employees indicated they experienced bullying in the workplace (Workplace bullying: What can you do?, 2019).
 - a. **Bullying begins between individual employees (interpersonal abuse). The bully is afraid the employee will outshine them, so they begin a targeted campaign of psychologically abusive behavior against that employee.** “In workplace bullying, the exercise of power and control over another provides the ignition for aggressive and abusive

behavior” (Duffy & Sperry, 2014). The behavior, such as failing to provide workplace support or withholding necessary information or exclusion from important meetings, can be highly covert attacks in private settings or overt passive-aggressive attacks (Baron & Neuman, 1996). Workplace bullying typically involves “threats to professional status and isolating and obstructive behavior (i.e., thwarting the target’s ability to obtain important objectives)” (Keashly & Neuman, 55).

- b. **The targeted employee, who is typically exemplary, reports the abuse through the proper channels of the organization. In psychologically safe work environments, the employer is “responsive to [the] complaint from [the] employee about [the] toxic work environment”** (Duffy & Sperry, 2014). Employers have systems in place to monitor and manage unacceptable misconduct. They effectively deter psychologically abusive behaviors by dealing with the perpetrator through counseling, training, or removal.
- c. **In psychologically unsafe work environments, the abused employee is further abused (organizational abuse). They are misled to believe there is a complaint and investigatory process, however, the employer remains “unresponsive to [the] employee complaint” (Duffy & Sperry, 2014), significantly exacerbating the toxicity of the work environment.** The majority of U.S. employers respond to abusive bullying behavior with denial of its existence, support for the perpetrator, and retaliation against the targeted employee (Rayner, 2003). Employers further victimize the targeted employee by withholding support. In a study of 138 leaders, “71 percent [of leaders] condone bullying.... The notion that bullying causes targets to reduce their level of engagement, commitment and performance was widely rejected,” found expert Andrew Faas (2014).
- d. **The abused employee, not the bully, is the one perceived to be a threat of liability to the employer. The abuse morphs into organizational bullying (representative employees also target the employee), often referred to as “bullying on steroids” due to the magnification of the abuse and subsequent traumatic harm.** Employees experience a second round of mistreatment, or “institutional betrayal,” as the employer or its representative employees deny the existence of the problem, reposition the employee as the offender, and support the perpetrator (Smith & Freyd, 2014). Targeted employees should “expect personnel/human resources to disbelieve [them] and deny the bullying” (the Tim Field Foundation, 2017). When employees report the misconduct and mistreatment, organizational members typically use unethical communication and misuse investigatory and disciplinary channels to eliminate the targeted and further victimized employee from the organization and strip the victim of respect, status, and influence (Duffy & Sperry, 2014). “Workplace mobbing... includes a form of unethical communication characterized by failure to act or silence in the face of worker mistreatment. These kinds of aggressive acts against a victim include acts of omission that involve failure to take action when action is called for” (Duffy & Sperry, 2014).
- e. **Institutional complicity: “The dominant story is set and narrated by the employer” (Duffy & Sperry, 2014).** After pushback and reporting efforts fail, the targeted and further victimized and abused employee realizes they have been betrayed and are trapped; they have no choices left. The bully won’t let up, and the employer won’t help. Silent killer stress has been taking its toll with significant physical and mental manifestations. Employees voluntarily leave because of the incurred health harm (injury), are fired for no longer being able to perform their job because of the incurred health harm (injury), or die from the incurred health harm, all alleviating the employer from any threat of liability. Researchers call

this response “expulsion,” a process of dehumanization (Leymann, 1996; Glambek et al., 2015).

- f. **Bullies rarely lose their jobs, undermining what is and isn’t acceptable behavior in the workplace and proliferating the toxicity of an already unsafe work environment.** (Glambek et al., 2015). When employers tolerate workplace bullying, bullies become even more aggressive (Bandura, 1973). The toxicity of the work environment is further bolstered by the silence of bystander employees who know they will not receive support from management (O’Reilly & Roberts, 1976). The late anti-bullying activist Tim Fields stated, “When bullies act with impunity, the institutional culture comes to be dominated by fear and self-seeking behavior... Innovation and cooperation become risky and thus rare.... The serial bully’s inefficiency and dysfunction... can spread through an organization like a cancer” (Vaknin, 2017). Disengagement is the approach experts recommend to targeted and victimized employees for self-protection (Klein, 2005).
- g. **The realization of institutional betrayal leads to psychological trauma (Duffy & Sperry, 2014). The misleading and lack of response and/or action by employers blindsides the abused and victimized employee. In the aftermath when the premeditation is typically discovered, health harm and job loss has already occurred, and the employee’s sense of safety has been shattered.** Workplace abuse causes trauma, according to the American Academy of Experts in Traumatic Stress (*Workplace bullying - the devastating experience*). Depression is highly affiliated with direct personal denigration and being treated as invisible (Vartia, 2001). Targeted employees show decreased interest in their appearance, punctuality, and productivity (Field, 2009); some employees become defensive, hypervigilant, or socially withdrawn (Mills et al., 2008). When victimized employees realize what has happened and attempt to address it in the aftermath, they find out they have no legal recourse, face employer allegations of mental illness, and are not readily believed by doctors, therapists, family, and friends. Some experience “a feeling of desperation and total helplessness, a feeling of great rage about lack of legal remedies, great anxiety, and despair” (Leymann, 1996).
- h. **Dubbed a silent epidemic (McAvoy & Murtagh, 2003), bullying and the institution’s complicity, exacerbating the toxicity of the work environment, often leads to severe, long-term injury — physical, psychological, emotional, professional, and economic.** Targeted employees suffer from a variety of resultant physical, mental health, and professional issues, including but not limited to: hypertension, heart disease (Kivmäki et al., 2003), depression (experienced by approximately 40 percent of targeted employees) (Butterworth et al., 2013), substance abuse (Richman et al., 1996), insomnia, chronic fatigue, stress-induced illnesses, anxiety disorders (including panic attacks), post-traumatic stress, paranoia and hypervigilance, confusion and self-doubt regarding one’s own perceptions (subsequent to abusive “gaslighting” tactics and distortion), dissociative reactions, intense feelings of shame and humiliation, overwhelmed coping skills, and impaired cognitive function. Workplace threats from co-workers bring intense fear and worry, which trigger a physiological fight-or-flight response (Ursin & Eriksen, 2004), which can also become life-threatening. Chronic stress associated with bullying contributes to bipolar disorder, suicidal ideation (Nielsen et al., 2016), and suicide (Leymann, 1996). These effects can be associated with subsequent deterioration of work product with the potential to contribute to a vicious cycle, further damage to professional reputation, job loss, and the

- jeopardizing of future career and financial prospects — which often keep the targeted employee trapped in the abusive situation, exacerbating adverse effects.
- i. **The psychosocial hazards of workplace bullying and the institution’s complicity of exacerbating the toxicity of the work environment cause physical injury to brain architecture that is visible on brain scans.** Extensive, peer-reviewed, replicated neuroscientific and neurobiological research documents the damage that can occur to brains by all forms of bullying, harassment, and abuse (Fraser, 2022). Non-invasive technology (MRI, fMRI, EEG, etc.) for at least two decades reveals the way in which brains undergo physical changes from bullying behaviors (<https://www.psychologytoday.com/ca/blog/the-bullied-brain>). These invisible injuries — invisible to the naked eye — parallel the invisible injury that occurs from smoking and second-hand smoke. In the relatively recent past, laws were written to protect workers from smoke because non-invasive technology (X-ray) revealed the damage that could occur to the body, especially the lungs, from smoking and second-hand smoke. These laws were designed to protect the health and well-being of individuals in the workplace and in areas outside of the workplace. We have comparable research on the invisible injury done to brains from bullying and from witnessing or being a bystander to bullying (like second-hand smoke). It’s toxic. It does damage. The damage can be measured by medical technology and assessed by medical experts. The health of the targeted, the perpetrator, and the bystander can all be significantly harmed. It is time for laws to protect the brains of workers in the workplace.
 - j. **Bystander research shows they are also adversely impacted.** Bystanders suffer from a reduction in their sense of well-being, which can undermine their physical health (*Workplace bullying is more harmful than we realized*). Bystanders experience depression (Emdad et al., 2013), sleeping problems, headaches, strain, fatigue, and lack of energy (Vartia, 2001), mirroring some of the same issues suffered by targeted employees. In fact, they quit at almost the same rate as targeted employees (Rayner, 1997). “Researchers in the U.K. found that more than one-third of witnesses wanted to intervene to help victims but were afraid to do so” (Sutton, 2007). Even HR representatives are not protected against retaliation if they side with a bullied employee because workplace bullying is not illegal in the U.S.. Many employees leave the organization, changing the face of the remaining workforce (Rayner, 1997). Fear has a commanding influence over employees’ interpersonal interactions and undermines healthy cooperation (Deutsch, 1973) as well as employee problem-solving and performance (Boss, 1978; Zand, 1972).
9. **Institutional and societal costs affiliated with bullying and the institutional complicity that accompanies it are exorbitant.** The institutional costs of tolerating bullies far outweigh the benefits, even when the bully is a superstar (Housman and Minor, 2015). Researcher Christine Porath said that “time wasted at work or spent searching for another job could cost companies up to \$300 billion a year (more than the total net profit of the Fortune 500 companies)” (2016). Some of the business costs associated with workplace misconduct include productivity, absenteeism, rehiring and legal costs (Meidav & Vault Platform, n.d.) as well as retrospective costs to its image, reputation, and credibility (Segal, 2022). The associated societal costs of TANF, SNAP, and the healthcare systems fall on unwitting taxpayers, as our government and hospitals are left to deal with sick, traumatized, unemployed, and uninsured citizens. “...the United States experiences about fifty-nine thousand excess deaths and about \$63 billion in incremental costs annually compared to what would be predicted given its per capita income

level. Considering the total toll previously estimated (of about 120,000 excess deaths and \$180 billion in costs), our analyses indicate that about half of the deaths and about a third of the incremental costs from workplace conditions appear to be potentially preventable if the United States were more similar to other advanced industrialized economies,” according to Stanford professor Jeffrey Pfeffer in this book *Dying For A Paycheck* (2018).

10. **Institutional complicity contributes to fear of violence.** Employer inaction to address psychologically abusive behavior in the workplace significantly contributes to and exacerbates the prevalence of workplace violence. Workplace mobbing expert Kenneth Westhues notes that both the mobbers’ fear of violence from the targeted employee and the targeted employees’ fear of violence from the mobbers exists when mobbing occurs, making the work environment both toxic and unsafe (Checklist of mobbing indicators).
11. **Toxic work culture tops the list of factors that contribute to psychologically unsafe work environments as shown by record attrition rates (employees lost over a period of time who are not replaced).** “Between April and September 2021, more than 24 million American employees left their jobs, an all-time record” (*Featured JLT searchable databases*). A 2022 MIT Sloan study found that “...corporate culture is a much more reliable predictor of industry-adjusted attrition than how employees assess their compensation. A toxic corporate culture... is 10.4 times more powerful than compensation in predicting a company’s attrition rate compared with its industry” (Sull, 2022). We lose more workers each year — at least 4,000 — to preventable occupational injury, including psychological injury (Published by Erin Duffin & 30, 2022), than we did on 9/11 — 2,977 (*Casualties of the September 11 attacks*, 2022). After 9/11, our government instituted expensive and comprehensive homeland security regulations to prevent another dramatic loss of life. Yet we have a gaping hole in our workplace safety policy.
12. **When countries have laws against bullying and acknowledge psychological safety, incidences of workplace bullying decrease, improving the safety of the work environment.** Countries with workplace bullying legislation experience 0.6 percent (Bulgaria) to 9.5 percent (France) rates of workplace bullying (Hershcovis et al., 2015). Yet 19 percent of U.S. workers say their workplace is very or somewhat toxic according to the American Psychological Association’s 2023 Work in America Survey; “22% of workers experienced harassment at work in the past 12 months” (American Psychological Association, 2023). This survey was prompted by U.S. Surgeon General Vivek Murthy’s first-ever release of the Surgeon General’s Framework for Workplace Mental Health and Well-Being in 2022 (Office of the Surgeon General, 2022). His five essentials for pursuing workplace mental health and well-being include protection from harm (including security and safety) and mattering at work (including dignity and meaning). Yet the U.S. is the only western industrialized nation without anti-bullying legislation that addresses the relevance of psychological safety in the work environment despite decades of research (with the exception of the U.S. territory of Puerto Rico). More extensive research studies have come from other countries because they have complete data at the national level 1) because they recognized psychological safety as a component and 2) their single payer universal healthcare systems provide comprehensive data on health outcomes that we lack in the U.S.. In fact, workplace psychological safety is the only component of worker total health unaddressed in U.S. law according to NIOSH in their April 2016 National Agenda to Advance Total Worker Health® Research, Practice, Policy, and Capacity (*A national agenda to advance total worker health research, practice...*), yet all the parts of the system influence each other (for example, stress leads to substance abuse, which can increase onsite injuries). We do not have effective

employee health programs in the U.S. workplace because we leave out a major piece of the puzzle and do not factor in psychological safety.

13. **The psychosocial hazards of workplace bullying, and the institutional complicity that accompanies it, demonstrate the institution's lack of commitment to employee safety and occupational safety. They are not isolated problems but rather practices embedded and systemic in the totality of unaddressed and overlooked issues within the American workplace such as sexism, racism, ageism, homophobia/transphobia, classism, etc., despite anti-discrimination laws.** The courts' shift in the 1980s from viewing the discriminatory *impact* on an aggrieved party to having to prove the *intent* of the perpetrator has rendered anti-discrimination laws ineffective at dismantling social hierarchies, leaving both those in protected groups and outside of them unprotected from workplace psychological abuse according to researchers Ellen Berrey, Robert L. Nelson, and Laura Beth Nielsen in their landmark study on the long-term effectiveness of anti-discrimination law in *Rights on Trial*. While hostile work environments are prohibited under such federal anti-discrimination statutes as Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act of 1990, victims do not have a legal claim if they cannot tie the abuse to discriminatory intent. A hostile work environment not associated with an employee's membership in a protected group is not actionable under these laws. "The courts have moved in the direction of treating employment discrimination as a set of individual cases of intentional misbehavior, while the social science literature on discrimination increasingly points to a widespread, systemic character of bias in the organization of workplaces" (Berrey et al., 2017). Employers often choose to view psychological abuse complaints through a loophole in anti-discrimination law, an inadequate lens, to remove the reporting employee, perceived as a threat of liability.
14. **Data shows lack of commitment to psychological safety in the work environment.** The 2016 EEOC Select Task Force for the Study of Workplace Harassment found that "...[in a survey regarding racial and ethnic harassment,] 70 percent of the respondents reported experiencing some form of verbal harassment and 45 percent reported experiencing exclusionary behaviors" and "35 percent of LGB-identified respondents who reported being 'open' at work reported having been harassed in the workplace" (*Select task force on the study of harassment in the Workplace*). Psychological harassment has yet to be made illegal. Discriminatory harassment and sexual harassment are the only two illegal forms of harassment under laws in the U.S..
15. **Training and policies alone have failed to improve the psychological safety of the work environment.** "[There is a] trend in which courts have excused employers from liability if employers have adopted policies..., even when the policy may not actually be effective" (Berrey et al., 2017). "Courts increasingly defer to defenses based on employers' assertions that they have compliance structures in place, without probing as to whether these systems amount to anything more than symbolic compliance." A requirement for training on workplace bullying in California and a model policy for workplace bullying in Tennessee haven't decreased the behavior or shown any improvement in psychological safety at work because employers do not enforce or abide by their own policies.
16. **Workers compensation insurance plans and common law tort provisions do not provide adequate relief to employees harmed by toxic work environments.** Employers, who pay the premiums, are the owners of workers compensation insurance plans and exercise control over them. In toxic work environments, employers challenge and/or deny workers' compensation claims made by physically and psychologically injured workers, keeping premiums low and the

acknowledgement of psychological injury below detection out of fear of liability. Intentional Infliction of Emotional Distress law requires proof of intent, an extremely high threshold, and severity that requires harm to have occurred. Both have been insufficient to change work cultures. A sole option of a direct lawsuit is unaffordable to low-wage workers. Even with illegal discrimination, victims must finance their own legal response, while employers use their vast resources which can include tuition fees, tax dollars, and insurance money to build legal responses into their budgets.

17. **Holding employers accountable for unsafe work environments has proven effective and is the only way U.S. employers have ever improved the safety of employees and the work environment. Employers control the work environment. Laws control the employer. Supreme Court decisions in sexual harassment law determine that damage to the work environment is sufficient for a legal claim.** The Supreme Court has already decided that a hostile work environment is actionable with sexual harassment (*Meritor Savings Bank v. Vinson*, 477 US 57, 1986): “A claim of ‘hostile work environment’ sexual harassment is a form of sex discrimination that is actionable under Title VII. Pp. 477 U.S. 63-69.” In addition, psychological injury need not be proven in sexual harassment cases (*Harris v. Forklift Systems*, 510 US 17, 1993): “To be actionable as ‘abusive work environment’ harassment, conduct need not ‘seriously affect [an employee’s] psychological well-being’ or lead the plaintiff to ‘suffer injury.’”

Toxic, psychologically unsafe work environments violate both human rights and employee rights. They need to be actionable to prevent and dissuade such behavior before psychological injury and/or physical health harm occur or further exacerbate incurred psychological injury and/or health harm.

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Section 1. For the purposes of this section, the following words and phrases shall have the following meanings:

- A. "Adverse employment action", an administrative action which negatively impacts an employee, including but not limited to: a forced resignation, termination, demotion, unfavorable reassignment, failure to promote, disciplinary action, or reduction in compensation.
- B. "Bullying", a psychosocial hazard of employee-to-employee psychological harassment or abuse including but not limited to: verbal, non-verbal, or physical conduct of a threatening, degrading, aggressive, dismissive, intimidating, or humiliating nature such as crafting and spreading a false narrative or the sabotage or undermining of an employee's work abilities and performance.
- C. "Constructive discharge", an adverse employment action where: (1) the employee was subjected to a toxic work environment; (2) the employee resigned because of the toxic work environment; and (3) the employer was aware of the toxic work environment prior to the resignation and failed to correct it.
- D. "Employee", any person who renders services to an employer and receives compensation for them, including full- and part-time paid employees, temporary employees, and independent contractors.
- E. "Employer", a person or entity of any size, including those who employ domestic labor, who obtains services from an employee and hires employees for any compensation.
- F. "Mobbing", a psychosocial hazard of multiple employees-to-employee bullying.
- G. "Organizational bullying", a psychosocial hazard of employer-to-employee institutional complicity that disregards the safety of the employee and workplace environment including but not limited to: bullying; the disregard or cover up of employee complaints of bullying such as failure to provide a legitimate, fair, timely, and transparent complaint process, failure to perform a fact-finding investigation, or failure to provide a fact-based report of findings; retaliation in the form of an adverse employment action, including constructive discharge, for exercising rights in this section or other lawful rights; or mandating mediation, forced arbitration, or a non-disclosure agreement.
- H. "Physical injury", impairment of a person's physical health, brain, or body as established by competent evidence.
- I. "Psychological abuse", also known as "psychological harassment", misconduct through overt or covert acts, omissions, or both that cause distress, confusion, or fear that a reasonable person would find abusive, creating a toxic work environment. It shall be considered an aggravating factor if the misconduct exploited an employee's known psychological or physical illness or disability.
- J. "Psychological injury", impairment of a person's mental health as established by competent evidence.
- K. "Psychological safety", the absence of abuse or harassment.
- L. "Psychosocial hazards", factors perceived or experienced as unfavorable in the work environment that can cause stress, strain, or interpersonal problems and potential damage to the brain including but not limited to: bullying, mobbing, or lack of institutional commitment to occupational safety or safe management practices.
- M. "Representative employee", an administrative employee in leadership or management position whose responsibility is to oversee and enforce organizational policies including but not limited to: legal counsel, chief executive officers, chief administrative officers, chief financial officers, presidents, vice presidents, executive directors, human resource employees, or members of a board of directors.
- N. "Toxic work environment", an employment condition in which a reasonable person would find it intolerable to perform their workplace duties due to psychosocial hazards including but not limited to: bullying, mobbing, violence, and the lack of commitment to occupational safety which has the potential to cause psychological injury or physical injury or both including brain damage and death.

Purpose: To hold employers accountable for toxic work environments that jeopardize the safety of employees and the work environment.

Employers have a general duty to: (i) provide a psychologically safe work environment; and (ii) provide preventative safety measures for all psychosocial hazards so no employee suffers diminished health, functional capacity, or death, altering life expectancy as a result of their work environment.

Section 2.

- A. No employee shall be subjected to a toxic work environment.
- B. No employer or employee shall engage in bullying, mobbing, or organizational bullying of another employee.
- C. No employer shall retaliate against any person in opposition of any unlawful employment practice or who exercises any right under this section because the employee or witness engages in any participation in a claim under this section.

Section 3. Every employer shall take all reasonable safety measures to acknowledge, monitor, prevent, discourage, and adequately address psychosocial hazards in the work environment including corrective action plans and the implementation and enforcement of the following policies and procedures:

- A. Policies against all forms of bullying, including anti-retaliation policies, within 180 days consistent with this section. Policies should include formal and informal reporting methods that include an employee's right to make a complaint outside of the employer's internal reporting procedures. Employers should notify and train all employees, including representative employees, on the employer's reporting provisions and policies; and
- B. Posting of employees' rights under this section and employer reporting policies for all employees to access. Any employer who fails to notify all employees and post notice of employees' rights under this section shall be subject to fines and penalties not to exceed \$100 for each separate offense.

Section 4. The aggrieved employee shall have the following options outside of the employer's reporting system:

- A. File a restraining order against the employee who violates this section;
- B. File a complaint with the state human rights commission;
- C. Sue the employer and/or employee who violates this section through a private right of action. The employer can take action outlined in Section 3 upon notification.

Section 5. An employer shall be vicariously liable for a violation of section 2 of this chapter committed by its employee. Where the alleged violation of said section 2 does not include an adverse employment action, it shall be an affirmative defense for an employer only that:

- A. Reasonable exercise of a supervisor's authority to discipline with just cause in compliance with policies and laws;
- B. Demands for protecting the confidentiality of the services provided by the employer;
- C. The formulation or promulgation of regulations or memoranda to direct the operations and maximize efficiency;
- D. The temporary assignment of additional duties to ensure the continuity of services; and/or
- E. An employer's enforcement of the provision of a human resources regulation, clause of an employment agreement, or obligation, duty, or prohibition established by the General Laws.
- F. Concerted activity under the federal National Labor Relations Act, 29 U.S.C. §151 shall not be construed as psychological abuse.

An employer may defend that the complaint was based on any of the above grounds, but the employee may show the ground was a mere pretext for retaliation.

Section 6. Any employer in violation of Section 2 shall be liable to the affected employee. Employers shall be liable for:

- A. Failing to take the appropriate measures to provide employees with a safe work environment as outlined in this section, including coaching, counseling, or disciplining the violator in the first offense depending on the violation and disciplining the violator in the second offense, including termination;
- B. Engaging in any violation of this section;
- C. Any damages including compensatory and punitive damages to any employee who has been subjected to a toxic work environment as outlined in this section in the scope of their employment. An employee is entitled to recover the greater of all actual damages or \$5,000 for each violation of this section;
- D. All damages including compensatory and punitive damages resulting from any prohibited behaviors of this section carried out by a supervisor or representative employee of such employer for which an employer has been notified in writing by an employee or lawyer representing an employee; and
- E. If not prevailing, be liable for the plaintiff's reasonable attorneys' and witnesses' fees and costs. A prevailing employer shall not be awarded fees and costs.

Section 7. An employee may be individually liable for a violation of section 2 of this chapter.

Any employee, representative or otherwise, who knowingly engages in or promotes any form of bullying shall be civilly liable for an amount equal to double the amount of damages caused by the abuse or negligence to the affected employee.

Any person who reports any form of bullying shall be protected by this section, and no person shall aid, abet, incite, compel, or coerce any action in violation of this section including attempts.

A complainant shall show proof of the violation through direct and/or circumstantial evidence. The employee may bring a prima facie case of violation by proving they reported an incident of workplace psychological abuse and was subsequently retaliated against. The employer may then provide a legitimate and nondiscriminatory ground for the termination. If the employer provides such grounds, the employee shall show the ground alleged by the employer was a mere pretext for termination.

An employer shall not be exempt from liability if the employer or its representative employees or employees in supervisory or management positions knew or should have known of said conduct and failed to address the allegations or promptly correct the situation or alter the work environment.

Complainants who prove a violation of this section shall be entitled to all remedies necessary to make such complainants whole. Such remedies shall factor whether a toxic work environment existed or whether subsequent injury resulted. Remedies shall include but not be limited to:

- A. Reinstatement of work;
- B. Removal of the employee who violated this section from supervisory duties or termination of said employee;
- C. Expenses related to treatment related to the psychological abuse including future medical expenses for resulting physical or psychological injury;
- D. Compensable damages for lost wages and pain and suffering;
- E. Punitive damages to deter future acts of psychological abuse;
- F. Injunctive relief whereby the court may enjoin the defendant from engaging in the unlawful employment practice;
- G. Public notification of the case outcome without disclosing the plaintiff's name if desired by the plaintiff;
- H. Attorney's fees for the prevailing plaintiff; and
- I. Any other relief deemed appropriate including such restorative measures as modification of the disciplinary record of the employee or organizational training.

Any person who has a cause of action under the provisions of this Act shall have the later of a period of three (3) years to file said cause of action from the last alleged psychologically abusive act of the alleged perpetrator. The time period shall be tolled.

With any judicial proceeding instituted for violations of the provisions of this section, the aggrieved person may choose to bring their cause of action through the summary proceeding.

Nothing under this law shall supercede or restrict workers from negotiating broader protections via collective bargaining or other concerted activity.

This act shall take effect 180 days after its passage.

Speaker McClinton, Chairman Bizzarro, and House Democratic Policy Committee members:

My name is Debra Falzoi. I am the co-founder of End Workplace Abuse (EndWorkplaceAbuse.com) and I'm testifying in support of the Workplace Psychological Safety Act.

As a survivor and long-time advocate, I've connected with hundreds of targets of workplace abuse over the last decade. I've researched. I've listened. And I hear the same themes: employers are robbing us of all that we worked for with no consequences, and discrimination law is NOT enough to help us, even though so many targets of workplace abuse are people of color and women.

Perhaps former higher-up at Pinterest Françoise Brougher said it best when she said "They [higher-ups who enable toxic work cultures] make decisions behind closed doors, consciously and unconsciously excluding those who do not look, sound, or behave like them.... A distant, disengaged style of leadership creates an environment where underrepresented people do not have the social handshakes that their mostly male, mostly white counterparts have."

Workplace abuse — false accusations, sabotage, repeated verbal abuse, and exclusion — is not illegal. When a worker, often a high performer, triggers insecurity in a higher-up, they can become the target of false narratives designed to position the abuser as superior and the target as weak. When the target reports the issue to HR, they're most often ignored or vilified to push them out, even if HR expresses empathy, as a way to avoid organizational liability. We call it institutional betrayal. Targets feel another layer of betrayal when they discover they have no legal protections. Those three layers of betrayal trauma often result in anxiety, depression, PTSD, suicidal ideation, and even suicide.

There's a disproportionate harm on women, BIPOC workers, workers with disabilities, workers over 40, and workers in the LGBTQ+ community because we simply don't have adequate protections from bias that manifests itself in abuse of power, yet we're most likely to endure abuse at work. Civil rights law supposedly protects us from discrimination but not without proving intent, which the courts moved to from impact in the 1980s and which renders anti-discrimination law ineffective at dismantling the social hierarchies it was aimed to dismantle. It's a huge gap in the law that's existed for far too long. We need to incentivize employers to prevent this issue in the first place.

Knowing there's a huge asymmetry of power, workers generally don't sue. In fact, only 3% of workers use the system to sue according to the authors of the book *Rights on Trial*, landmark research on the realities of employment discrimination law and how it perpetuates inequality. Of those targets of ILLEGAL discrimination who decide to sue, about 50% win at settlement, which is often kept confidential to protect abusers and

their enabling employers, but these targets win very little. It's a system that doesn't affect change.

So we see a reinforcement of a culture in which employers do as they please to keep themselves in power — with little to no consequences. This bill holds individuals accountable for bullying using a reasonable person standard and employers accountable for addressing abuse beyond discrimination to improve protections for all workers, especially people of color and women. It also tells targets of workplace abuse that the harms they experienced matter and deserve consequences. Our goal is to change the system that's keeping the glass ceiling sturdily in place and preventing the broken rung to get ahead from getting fixed.

You have the power to make change around this issue that affects people's physical and mental health, careers, bank accounts, personal relationships, and even whether they live or die, as Dr. Candia-Bailey of Missouri did earlier this year when her employer did nothing about numerous reports of workplace abuse.

I ask you to introduce the Workplace Psychological Safety Act in Pennsylvania to protect workers.

Sincerely,
Debra Falzoi
Co-founder, [End Workplace Abuse](#)

[Bill findings and language](#)

[Overview flyer](#)

[Fact sheet about women of color](#)

August 7, 2024

Speaker McClinton, Chairman Bizzarro, and House Democratic Policy Committee members:

My name is Vicki Courtemanche. I am the co-founder of End Workplace Abuse (EndWorkplaceAbuse.com) I thank you for the opportunity to testify in support of the Workplace Psychological Safety Act. I want to see employers held accountable for the psychological safety of their employees as well as unsafe working environments.

In 2018, I walked away from my job without another job lined up, which undoubtedly portrays the desperation I felt. My work environment had become so stressful that I finally snapped – *exactly as planned*. Workplace bullying and the institutional complicity that fuels it are not workplace glitches, they are cruel and inhumane workplace practices that no one believes – until it happens to them.

Nine months before I made the mistake of reporting the psychologically abusive behavior of a workplace bully to Human Resources after my supervisor failed to effectively intervene. The bully was withholding vital work product and information, deleted years of my records from a shared file, and took over aspects of my job without conversation. I thought nothing of reporting the unprofessional and unethical behavior to my supervisor and later to Human Resources.

The HR employees explained that they represented our employer and its best interest, not mine. I nodded. I was there in the best interest of our employer. I was told that the situation would be addressed. That there was a viable complaint process, and an investigation would take place. I was comforted by that. That was the second mistake I made. I believed them.

Months ticked by in silence. There was no investigation. The emboldened bully's behavior escalated. HR turned my complaint into a she said, she said and then made one excuse after another to prolong the complaint process. My health declined in sync as I marinated in my stress filled work environment. Then I realized that I was going to be fired. The bully wasn't the only one psychologically abusing me.

Fraud experts refer to it as a cloak of authority. The perpetrators were sitting in an administrative office building on a college campus, cashing six figure paychecks. It never crossed my mind once that the protocol they put forth was fraudulent nor did I ever suspect that they would conspire against me. If they were sitting behind bars, I would've been better able to discern. I was stripped of my humanity and the sanctity of my life was disregarded. I was offered up as a human sacrifice, in the best interest of my employer. My best interest utterly destroyed. I was the one my employer perceived to be a threat of liability, not the bully.

Employers can't be held liable for issues of which they have no knowledge – so they make IT go away. Snapping under stress, *silent killer stress* is as predictable as the sun coming up. No fingerprints, no black and blues. No heart or common decency. Just human carnage. When I went out the door, so did my employer's threat of liability. *Nothing* was ever done to address the situation or alter my work environment with the exception of making it far worse.

My recovery was long and painful. I suffered significant health harm, most notably a brain injury. I will never forget the horror I felt when I realized the *premeditation*. Or in the aftermath when I found out that my FMLA paperwork had been contrived to infer that I was mentally ill, should I dare speak out. Nor, when I found out that I had no legal recourse for any of it. The perpetrators don't just show you to the door, they make sure that you never come back to point an accusatory finger. I was deathly afraid of my abusers *for years* and rightly so. They got away with it all. Multiple crimes and violations of basic human rights under the radar of any form of viable accountability.

My story is not unique - it is eerily similar to **millions of other employees**. Employers are not liable for psychologically abusive behavior. Nor do they want to be - as is horrifically demonstrated in the great lengths they go to keep the status quo. The [Findings Section](#) of the Workplace Psychological Safety Act is comprised of **4 decades of research to educate legislators** on the phenomenon. Researchers refer to these workplace practices as *processes of dehumanization and traumatization*. We need a law.

Employers control the work environment. Laws control the employer.

Vicki Courtemanche
Co-Founder, [End Workplace Abuse](#)

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

Misuse of power violates workers' right to psychological safety

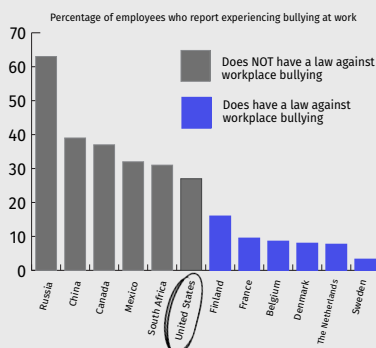
Workplace bullying and mobbing are forms of **psychological abuse** that violate an employee's inherent basic human right to dignity. Workplace psychological abuse is an issue of employee exploitation. Employers are not explicitly liable for the psychological harm of their employees and are negatively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

Workplace psychological abuse is highly affiliated with mental and physical health injuries — more prevalent than sexual harassment. The phenomenon has been dubbed a silent epidemic and is a public health threat affecting millions of employees in the United States.

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, generally insecure, is threatened by the competence or demeanor of another employee.** The bully targets an unsuspecting employee to minimize and eliminate the perceived threat the employee poses to them. Bullies use persistent psychological abuse to control the narrative. They try to convince the employee and others the target 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. Employers 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 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 and 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 occurs. Employees further realize there is no legal recourse for any of it.



Workplace bullying rates decrease when countries have laws against it. But there are no legal protections from workplace psychological abuse in the United States except in Puerto Rico. 27% of employees in the United States reported experiencing psychological abuse at work. Countries with workplace anti-bullying laws have much lower rates of workplace bullying than the United States.

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 legal cause of action for employees who suffer from workplace psychological abuse when their employers choose abuse over well-being.**

- 1 There is no law that protects workers from workplace psychological abuse.** Unless you're a member of a protected class (sex, race, age, etc.) – and can prove the abuse is from your protected class membership – you don't have legal rights to psychological safety at work.
- 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 a failure. The WPSA does not require victims to prove abusers' intent, so it would strengthen protections for women and workers of color who can prove mistreatment 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.**
- 4 Employers need accountability to make our workplaces psychologically safe.** The WPSA creates an incentive for employers to prevent and address workplace psychological abuse. The WPSA requires employers to do what's right before health and economic harm occur.
- 5 We can prevent harm.** No law will eradicate an issue, but the goal is to prevent psychological abuse as much as possible. Prevention means not waiting until harm occurs. Sexual harassment law acknowledges a hostile work environment is enough for legal recourse. The WPSA models that law and sets its baseline for a legal claim at a toxic work environment.
- 6 A remedy must be available to all workers.** Those in power 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 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.

WHAT THE BILL DOES

- 1 It gives targeted employees legal recourse for employers creating a toxic work environment.** Targeted employees will be able to: call for an internal investigation; bypass a rigged internal process by reporting to a state agency; or sue the employer and/or individual(s) in violation of the Act directly for damages and fees. Employees can also 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 psychological abuse.** Employers will be required to implement policies and training and conduct an annual anonymous workplace climate survey to monitor the prevalence of abuse in their workplaces.

Visit WPSact.org to take action.

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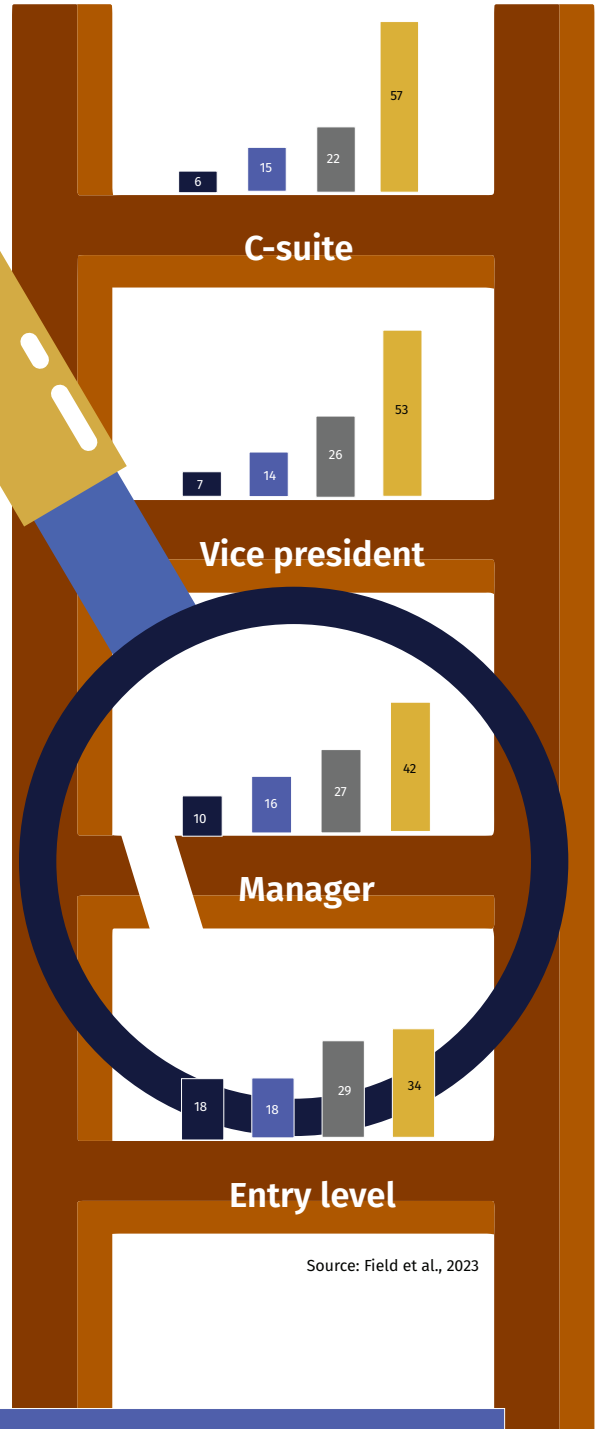
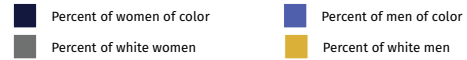


WORKPLACE
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Black and Latinx women in the U.S. don't feel safe or seen at work

As job quality increases, the representation of Black women and men, Latinx women and men, and White women as compared with White men significantly decreases.

Higher quality roles and wages tend to have a higher concentration of White men, who have better roles with higher wages than any other demographic (Biu, 2024).



There's a broken rung on the ladder for women of color for promotion to management



For every 100 men promoted to manager:

- 87 women were promoted.
- 73 women of color were promoted, affecting their representation at nearly every rung and their near absence from the C-suite (Field et al., 2023).

Stereotyping and aggression are the tools that render women of color invisible at work

Women experience dismissiveness and aggression based on negative stereotypes and "othering":

- 2x as likely to be mistaken for someone junior.
- 7x more likely to be confused with someone of the same race/ethnicity for Black and Asian women.
- 2x as likely to hear comments on their emotional state (Field et al., 2023).

Women of color typically respond with self-shielding

78% of women code-switch, or tone down how they look or act to blend in to protect themselves. Black women are more than 2x as likely as women overall to code-switch (Field et al., 2023).

Eventually they suffer burnout and quit



Women who experience aggression are:

- 4x more likely to almost always be burned out.
- 3x more likely to think about quitting their jobs (Field et al., 2023) because more than half said they **didn't feel valued by their organizations or managers or didn't feel a sense of belonging**, especially among women of color (Smet et al., 2021).

The factors that most influence toxic work culture

The more those in power deny women power, the more likely they mistreat them (Sull, 2023).

- Lack of inclusivity.** Women are more likely to negatively assess their employer regarding favoritism with identity (Sull, 2023).
- Lack of respect.** Women used these words more frequently: mistreatment, microaggressions, gaslighting, unfair hiring and promotion decisions, misogyny, sexism, sexual harassment, bullying, rude, disrespectful, acting inappropriately, and racist (Sull, 2023).
- Mistreatment.** Managers or colleagues hurt other employees who lack the power to challenge it (Sull, 2023). Employers most often reinforce reported mistreatment (2021 WBI U.S. workplace bullying survey).

Dr. Amy Edmondson of Harvard says women are less likely than men to speak up without solid data or the conviction they're definitely right about what they'll say. While some may attribute this idea to personality or upbringing, Black women often regulate their tone to avoid the "angry Black woman" stereotype (Tulshyan, 2021).

We do not have protections because we need to pull back the curtain on what's happening and address the root problem.

The promising anti-discrimination laws failed to dismantle social hierarchies, preserving managerial authority dominated by white men, largely due to the courts' shift of focusing on the individual rather than the systemic harm (Berrey et al., 2017).

Anti-discrimination law and Diversity, Equity, and Inclusion (DEI) offices aren't enough to fix the broken rung

Those in power have designed the system to keep themselves in power.



1964

The early years of anti-discrimination law, Title VII of the Civil Rights Act of 1964, seemed promising. The Supreme Court held that discrimination could be presumed with certain workplace practices (passing over quality Black candidates for White candidates, for example) (Berrey et al., 2017).



Late 1980s

Courts limited the likelihood of a discrimination claim getting to trial or proven in court by focusing on intent, a higher threshold. Judges often claimed that employers having any EEO compliance programs in place to prevent discrimination meant discrimination didn't happen and used the same stereotypes against Black and Latinx women, deterring them from using the law (Berrey et al., 2017).



Today, 60 years later

A Rutgers study revealed that "more than a third... of those who reported unfair treatment in the workplace opted not to do anything.... Only 3% said they sued the company or their coworker" (Berrey et al., 2017). DEI programs are often well-intended but don't result in change, though a decrease in DEI efforts may communicate a lack of priority in addressing change. A study shows that "corporate diversity trainings... do not move white women or most people of color into management, and they actually decrease black women's odds of becoming managers by 7%, perhaps because they can breed resentment" (Berrey, 2015). One in three DEI professionals lost their roles over 2022, higher than non-DEI workers during the same year (Alfonseca & Zahn, 2023).

Workplace abuse rates decrease when countries have laws against it
Government involvement helps to reduce workplace bullying as occurred in the Netherlands (D'Cruz et al., 2023).

We need a law to hold employers accountable for toxic work environments and education about legal rights

Employers need accountability to address the broken rung. The Workplace Psychological Safety Act would:

- Give targeted employees legal recourse for employers creating a toxic environment with a focus on specific, common behaviors that a reasonable person would deem toxic, strengthening protections for women of color.
- Require employers to acknowledge, monitor, detect, prevent, discourage, and adequately address incidences of psychological abuse.

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Take action

Visit WPSAct.org to find out how to ask your state legislators to support the Workplace Psychological Safety Act.



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