

The 2023 Two Day Symposium Report Addressing Workplace Bullying in Higher Education



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Released Summer 2024

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To cite this report:

Hollis, L. P.; Carbo, J.; Johnson, S.; Keashly, L.; Mahmoudi, M.; Ochs, H.; Swann, J. & Tye-Williams, S.(2024).The 2023 Two Day Symposium Report Addressing Workplace Bullying in Higher Education. Pennsylvania State University, University, Park, PA.

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Thank you to Leslie Foster, Jeremy Fisher, Joseph Drew, and Tina Kelleher for their insight in developing this white paper.

Purpose Statement

Workplace bullying in American higher education is a pervasive issue that undermines organizational productivity and employee morale. Whether the bully targets a faculty member or a staff member, the victims of this emotional and psychological harassment often find themselves in a workplace with minimal protection against such abuse. To tackle this problem, an interdisciplinary group of researchers, including myself, organized a two-day focus group-style symposium to delve into the critical elements of workplace bullying. We collectively decided to create this white paper, to reach a broad audience of higher education stakeholders who are seeking more information about the impact on institutions, individuals, and potential solutions. As an exemplar, this report presents a cost analysis of faculty workplace bullying throughout the Pennsylvania State System of Higher Education System (PASSHE). The appendix includes institutional policies and the comprehensive law passed in Puerto Rico in 2020, which is the most comprehensive law to date on workplace bullying in the United States.

For anyone who has endured workplace bullying or has a loved one who has endured it, the solutions cannot be implemented soon enough. Those working with a bully know the deleterious impact that an abuser can have on productivity. Nonetheless, despite the fiscal, emotional and psychological costs of workplace bullying, many institutions have been slow to change. Consequently, this white paper aims to offer publicly available information that can aid leaders and individuals in combatting workplace bullying. Given the rising cost of education and the widespread public questioning the value of a college degree, the higher education sector must no longer turn a blind eye to bullying behaviors that erode its esprit de corps.

Please note that this white paper is not for sale; but instead, we are circulating it widely, for free, to inform higher education leaders, bullies, and targets about the deleterious impact of workplace bullying. Feel free to circulate widely to resist bullying in higher education.

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June 2024

The experts in alpha order



Jerry A. Carbo is Professor of Labor Relations and Business and Society at the Grove College of Business at Shippensburg University and the president of the National Workplace Bullying Coalition. Additionally, he is a practicing attorney in the State of West Virginia. Previously, he served the U.S. Equal Employment Opportunity Commission (EEOC) and its Select Task Force on the Study of Harassment in the Workplace. He has over twenty years of experience as a manager, attorney, advocate, and researcher dealing with workplace harassment and bullying. His book, ***Understanding, Defining, and Eliminating Workplace Bullying: Assuring Dignity at Work***, was published by Routledge in 2017.



Leah P. Hollis is Professor in the Department of Education Policy Studies and the inaugural Associate Dean of Access, Equity, and Inclusion at Pennsylvania State University. She is also Founder of Patricia Berkly, LLC, a healthy workplace advocate. Her recent book, ***Human Resource Perspectives on Workplace Bullying in Higher Education***, (Routledge 2021), examines structural problems that enable workplace bullying. She recently published ***Intersecting Distress*** (Routledge 2022), analyzing intersectionality, Black women, and workplace bullying. With over 30 years in higher education, she has written seven books and over 60 articles, essays and book chapters, addressing workplace bullying and equity issues. Dr. Hollis received her Doctor of Education in Administration, Training, and Policy Studies from Boston University, as a Martin Luther King, Jr. Fellow.



Susan Johnson had a forty-year career in nursing on the east coast of North Carolina. Retiring in 2024 she served as an Associate Professor of Nursing and Healthcare Leadership with the University of Washington, Tacoma. Susan's scholarly interests include occupational health, workplace bullying and incivility. As a pioneer in the field, she has written widely on incivility and workplace bullying in the health care system. She has shared her research in the Netherlands, France, Ireland, New Zealand, Italy, Wales, Italy, China, and Canada.



Loreleigh Keashly is Professor in the Department of Communication and a Wayne State University Distinguished Service Professor. Her research, teaching, and consulting all address conflict and conflict resolution at the interpersonal, group, intergroup, and organizational levels. Her specific research focus is the nature, effects, and amelioration of uncivil and bullying behaviors in the workplace, with a particular interest in the role of organizational structure and culture in facilitating, preventing, and managing these behaviors. Recently, she has studied the academic environment, and she advises universities on these issues. She has developed and conducted training in building bystander efficacy to take constructive action. Current works in progress address (1) the power of relationships at work and (2) civility in academia, and Dr. Keashly has published over 50 articles and book chapters. She has been a consultant to organizations and an expert witness on cases of workplace bullying and hostility. With over 30 years of researching workplace bullying, Dr. Keashly holds an earned doctorate from the University of Saskatchewan, Canada.



Morteza Mahmoudi is Associate Professor at the Department of Radiology and Precision Health Programs at Michigan State University. He is the founder of the Academic Parity Movement, which hosts an annual conference on bullying in the STEM fields. His research investigates overlooked factors in nanomedicine and academic bullying and harassment. He received graduate and postgraduate training from the Sharif University of Technology (Iran), University College Dublin (Ireland), École Polytechnique Fédérale de Lausanne (Switzerland), the University of Illinois at Urbana-Champaign, and the Stanford University School of Medicine. In 2021, he published ***A Brief Guide to Academic Bullying***.



Jennifer Swann is a Professor of Biology at Lehigh University. Her current work promotes equity and inclusion leading her to repeatedly uncover incivility among faculty members. As the current ombudsperson at Lehigh University, she recognizes that ignoring incivility yields unproductive academic environments. Therefore, she has begun working in earnest to document these practices and pursue ways to restore harmony and build community. Her work includes guiding Lehigh's

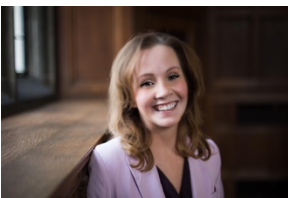
faculty senate in the creation of a faculty code of ethics and obtaining more equitable positions for non-tenured faculty members. Further, she serves on the advisory board for the Academic Parity Movement, a non-profit organization currently working to combat bullying among the faculty in Higher Education.



Stacy Tye-Williams is an Associate Professor of Communication Studies in the Department of English at Iowa State University. Her research and teaching broadly examine effective communication in organizations. She explores both dark and bright side processes in organizational life, ranging from workplace bullying to fostering positive organizational communication dynamics. She is co-chair of the National Communication Association Task Force and is a member of the National Workplace Bullying Coalition (NWBC). Her earned doctorate is in organizational communication is from the University of Nebraska-Lincoln.

SECTION I.

From the Marcon Institute of Lehigh University



Holona Ochs is the Director of the Marcon Institute and an Associate Professor of Political Science at Lehigh University. She has also served as a therapist specializing in trauma-related disorders. Holona's maternal ancestry is Cherokee and Apache, and although some of her family was afraid to "sign the scrolls," she was raised in the Cherokee tradition. Dr. Ochs's research examines the "welfarist left hand" and the "carceral right hand" of governance as manifested in the private for-profit and nonprofit sectors, she draws in her research on her experiences and expertise in the helping professions. Her research agenda aims to generate an understanding of the contractual arrangements that foster mutuality and promote credible commitments in governance.

Opening Lecture- February 24, 2023

Good morning. Thank you all for being here today to discuss the critical issue of workplace bullying. I am Dr. Holona Ochs, Associate Professor of Political Science and the Director of the Marcon Institute.

As Director of the Marcon Institute for Antiracism, I am working to transform procedures that cultivate toxic environments for people of color. I anticipate that the more influential the Institute is in forging antiracist transformation, the more bullying we are likely to experience. I used to be a therapist specializing in treating emotional, physical, and sexual abuse. My experiences and expertise as a therapist taught me that change leads people to escalate control. Challenging coercive control leads bullies to increase the intensity and frequency of the abuse, attempting to force us into victimization; the victimization role, is then coupled with escalating threats implying an "or else" before the change is actualized. I am here today because I refuse to submit to anyone disrupting the "paradise of my classroom" and undermining the value of my contributions. I am optimistic that we can build a stronger resistance to these destructive trends.

In this Black Excellence Month, I'm reminded of a quote from the Rev. Dr. Martin Luther King, Jr. He noted that "[a] civilization can flounder as readily in the face of moral and spiritual bankruptcy as it can through financial bankruptcy" (King, 1967). He defined moral and spiritual bankruptcy as the absence of self-actualized people engaging with one another in an uplifting manner. It is a fundamentally dehumanizing process. Thus, Ibram X. Kendi describes racism as moral and spiritual bankruptcy. Bullying is a symptom of a toxic environment that inhibits learning and growth. It is antithetical to the mission of higher education.

According to the Canadian Distinguished Professor of Critical Studies, Peter McLaren, "All knowledge is forged in histories that are played out in the field of social antagonisms" (Steinberg, 1992, p. 404). The lived experiences of those antagonisms must be excavated for the knowledge created to enrich all our lives rather than merely protect power.

Thich Nhat Hanh taught that "the practice of a healer, therapist, teacher, or any helping professional should be directed toward her or herself first." The academy should be a place of challenge, dialectical interchange, and growth, not an asylum for wounded, damaged people to hide behind their authority. To transform the academy into an intellectual community where all members can thrive, we must attend to the sentient wounds that

engender conflict. In *Teaching to Transgress* (2017), bell hooks gives clear advice about how to do this in the classroom, which applies to creating spaces where faculty can learn from each other.

We have brought together an incredible line-up of scholars to stop the aggressive pushout of people of color, women, and "publics" in particular. Therefore, I am looking forward to learning more about how we can disrupt these expectations, patterns, and practices.

Thank you for attending our symposium.

##

SECTION II.

Two-Part Study on Workplace Bullying

This white paper presents two analyses of workplace bullying in higher education. First, a cost analysis of the PASSHE system is presented. Through an IRB approved data collection conducted in Fall 2022, Hollis conducted analyzed data from n =505 faculty who reported their experiences. Second, based on a two-day focus-group style symposium held in the winter of 2023, Hollis conducted a content analysis of the resulting transcripts. The findings of each study are below. After the definitions are presented in an info graphic, the two studies and respective findings are presented.

Figure 1

DEFINITIONS

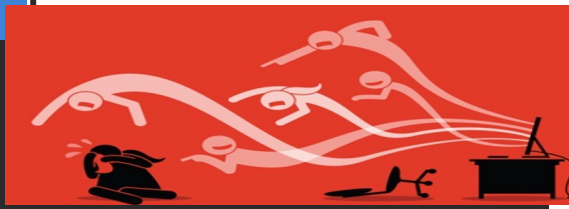


Workplace Bullying: Bullying," means harassing, offending, socially excluding someone or negatively affecting someone's work tasks. This behavior occurs repeatedly and regularly over a period of time about six months..... the escalating process, the person confronted ends up in an inferior position and becomes the target of systematic negative social acts (Einarsen, Hoel, Zapf, & Cooper, 2011, p. 22).

Mobbing: "Ganging up on someone" or psychic terror (Leyman, 1990). In earlier European work, bullying and mobbing were synonyms. Contemporary applications define mobbing as multiple people harassing a single target. Davenport et al. (2003) stated that mobbing is a malicious attempt to force a person out of the workplace through unjustified accusations, harassment, and emotional abuse. This involves rallying others (the gang) into the system of frequent "mob- like" behavior.



Vicarious Bullying: This is a form of organizational aggression when the primary bully sends or inspires a messenger, henchman, to bark orders, diminish accomplishments of staff, and extend the bully's rule through fear (Hollis, 2019).



Target: (Instead of victim) Workplace bullying scholars use the term "target" to indicate that bullies often choose the subject of harassment.



Cyberbullying: This is largely viewed as inappropriate, unwanted social exchange behaviors initiated by a perpetrator via online or wireless communication technology and devices (Piotrowski, 2012, p. 45).

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First Study:

Cost Analysis of Workplace Bullying in the PASSHE schools

In the fall of 2023, faculty at 14 Pennsylvania State System of Higher Education (PASSHE) were surveyed about their experiences with workplace bullying. Part of the survey asked about the amount of time per week that they spent dealing with a bully and asked which salary band best represented their salary.

With the time lost per week and the reported salary band, the median of each salary range was used to calculate how much time is wasted because of bullying.

The fiscal cost of workplace bullying in higher education can potentially compromise the institution's commitment to meeting its objectives. Through this study, the cost of workplace bullying was confirmed by calculating the amount of time wasted and the salary cost per hour. The enormous cost of turnover was associated with the background checks, advertisements, lost productivity, the cost of a search, rehiring, and retraining procedures. Furthermore, the employees who left are often the high performing ones and hence highly sought after talent in the field (O'Connell & Kung, 2007). The specialization of an employee and market conditions also have an impact on employee replacement costs. Accordingly, replacement of some employees can cost as much as 250% of the departing employee's salary (Hester, 2013). This study used Hensen's (1997) report that "the average cost for replacing an employee is 150% of the departing employee's pay" (p. 17), which is also supported by other human resources practitioners (Ruyle, 2012; Seaver, 2015). In other words, if an employee on a salary of US \$50,000 left the organization (the median salary of the participants in this study), the organization spent US\$75,000 to replace that person (Bliss, 2012; Jurnak, 2010) (Hollis, 2015).

Since the data collection occurred, the 14 PASSHE schools, became ten schools with six schools merging into the Commonwealth University of Pennsylvania and the Pennsylvania West University. Such mergers were designed to cut costs across the PASSHE system.

PASSHE System Demographics of the Study

Data were collected through an internet survey in the Fall of 2022. Faculty in the PASSHE System received an invitation and two follow up reminders to complete the study. The first four survey questions asked respondents to report their demographic identities. Next, respondents were given the definition of workplace bullying and asked if they had been affected by bullying in their role as a faculty member. The Figures 2-4 show the demographic breakdown of the sample. Figure 5 shows that of the 505 who answered the question as to whether if they had been affected by bullying, 44% replied in the affirmative.

Figure 2

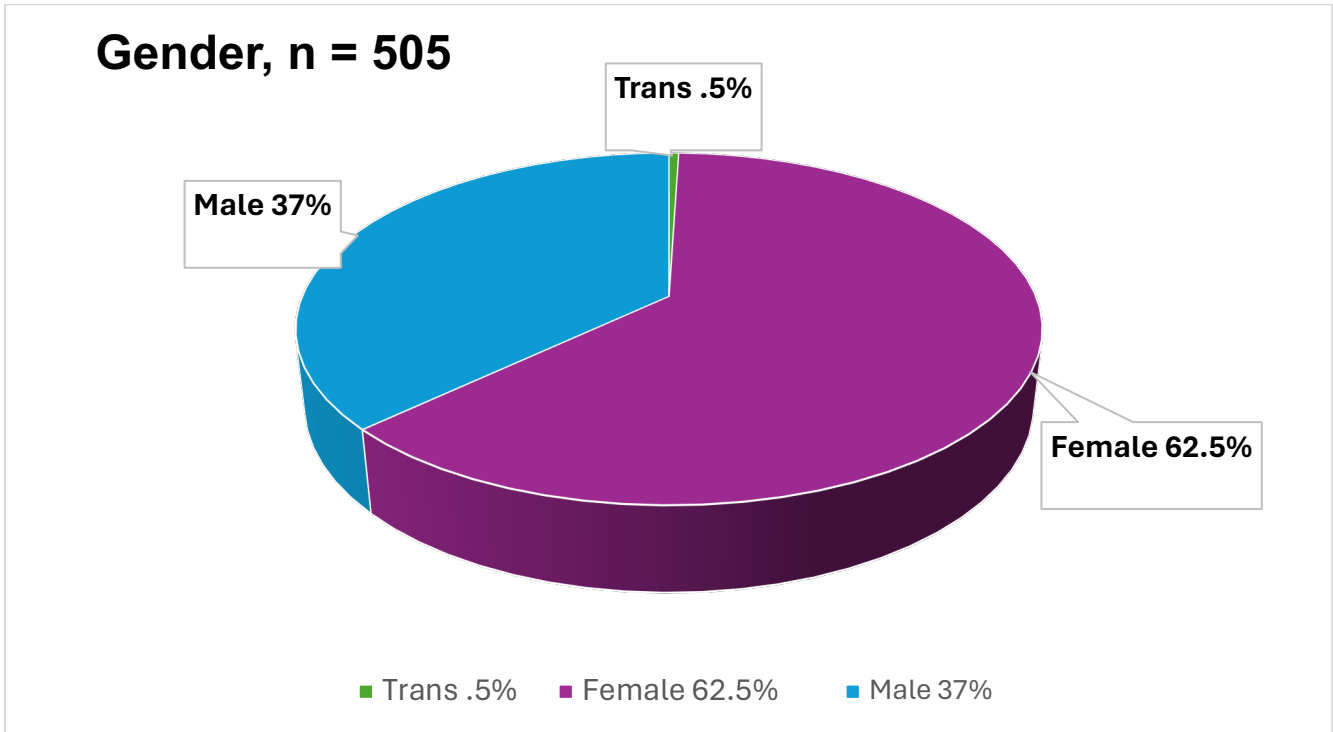


Figure 3

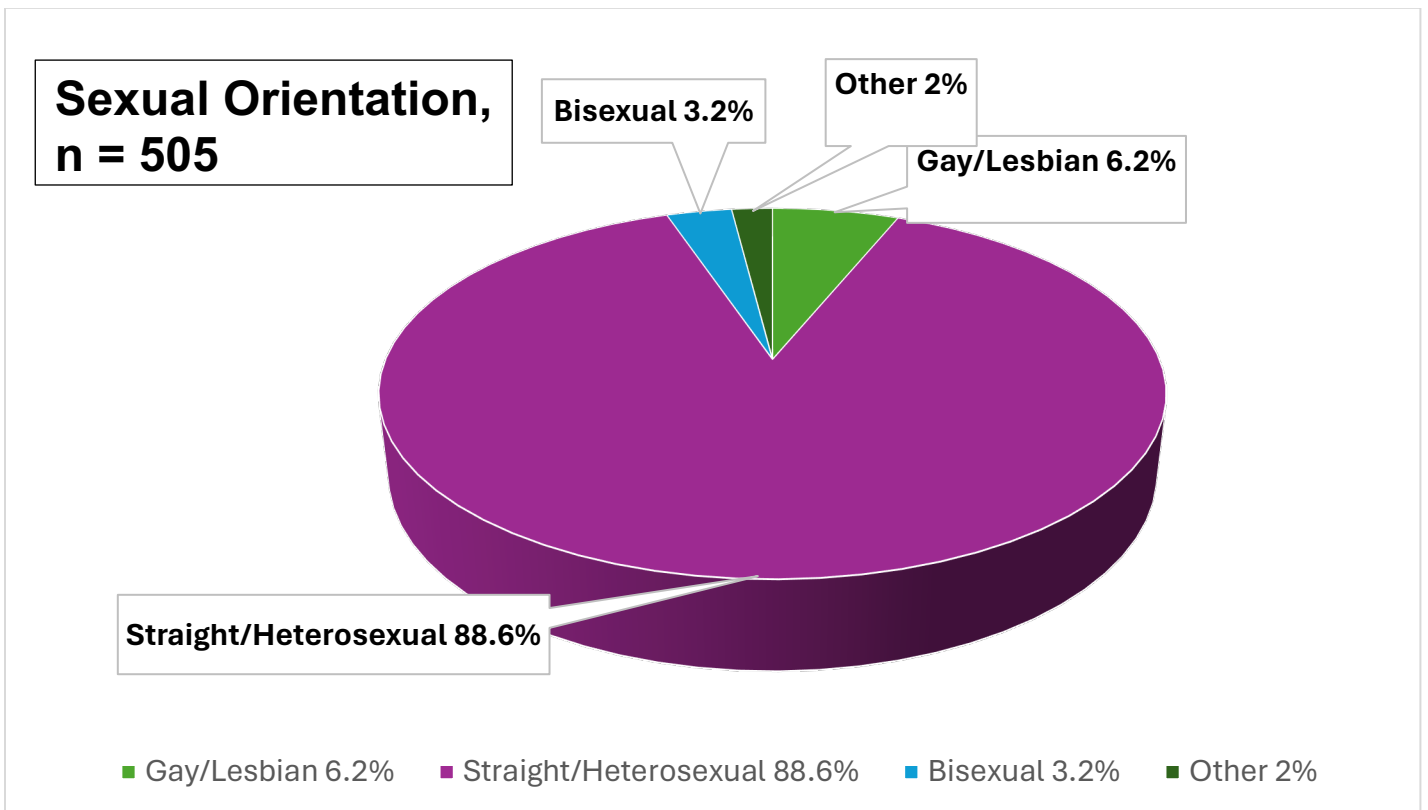


Figure 4

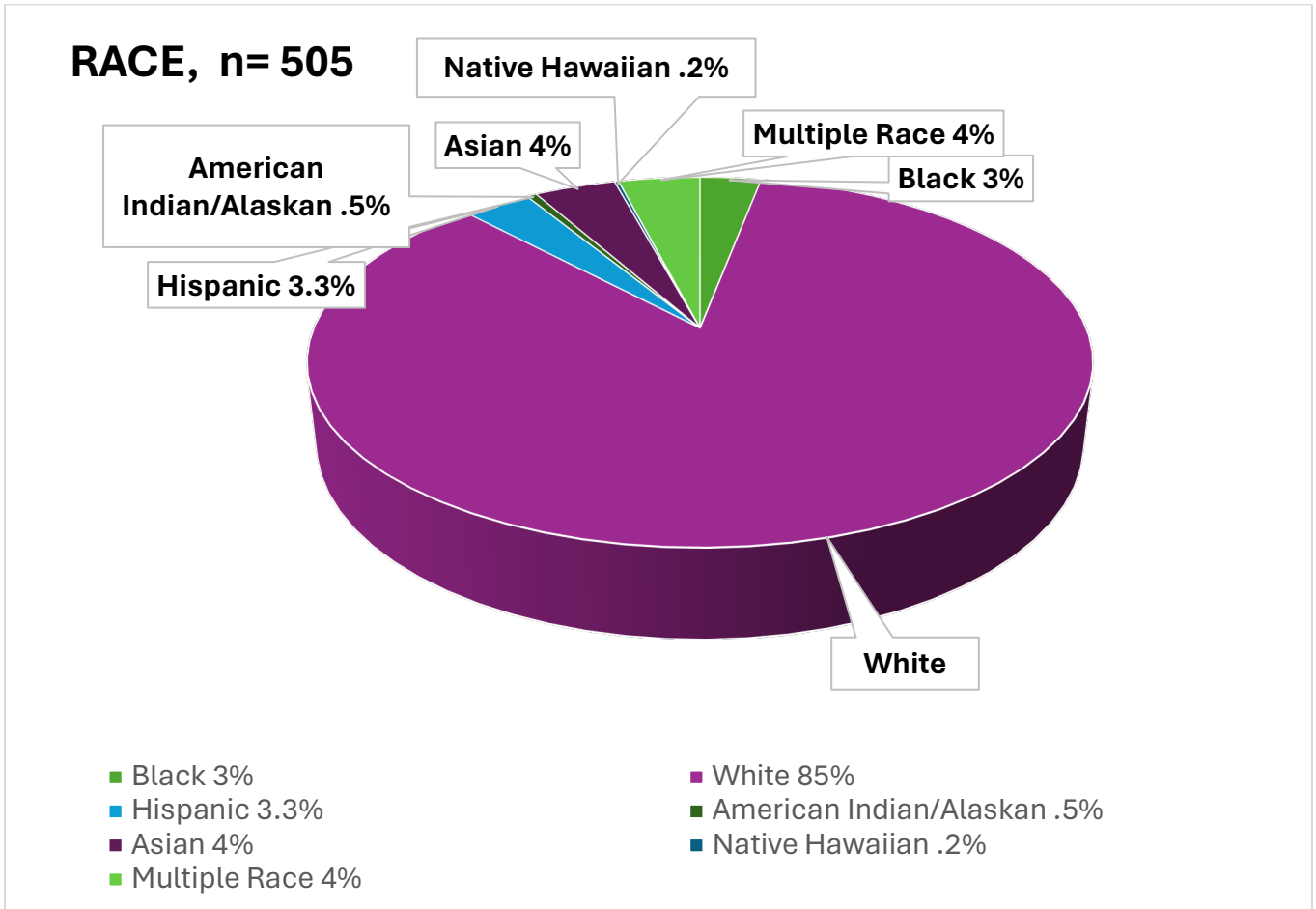
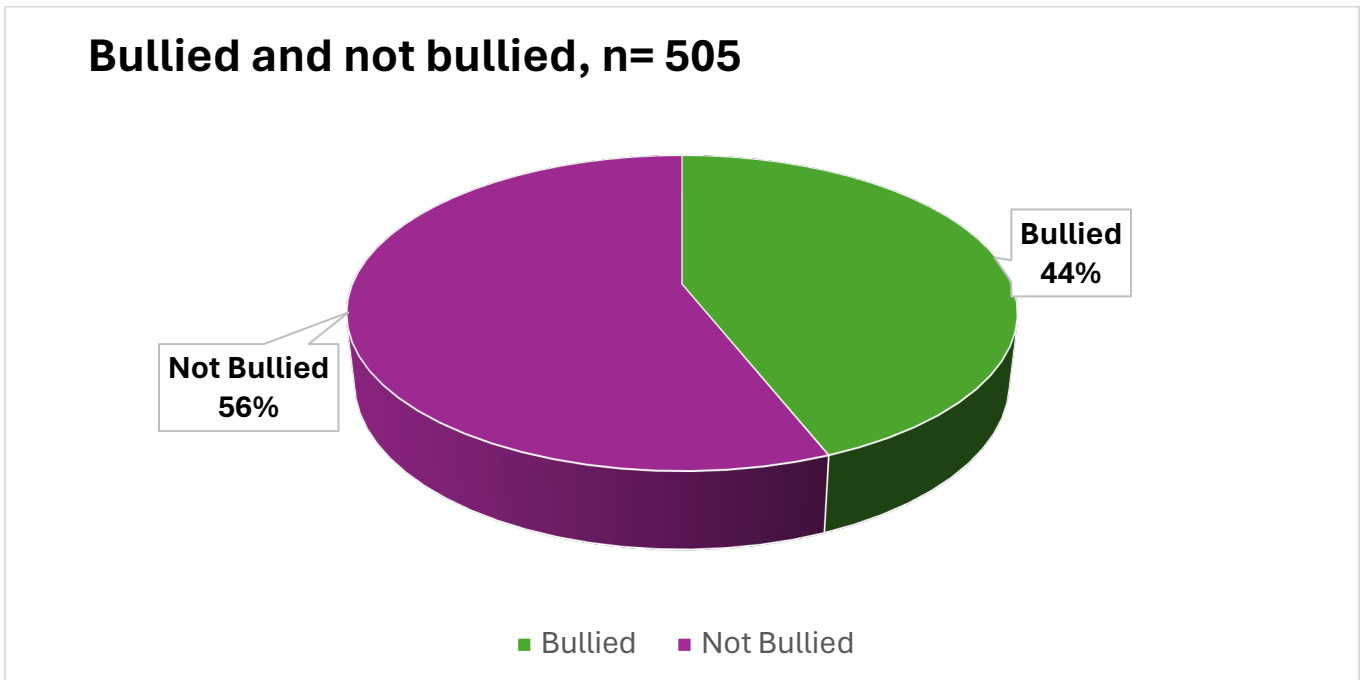


Figure 5



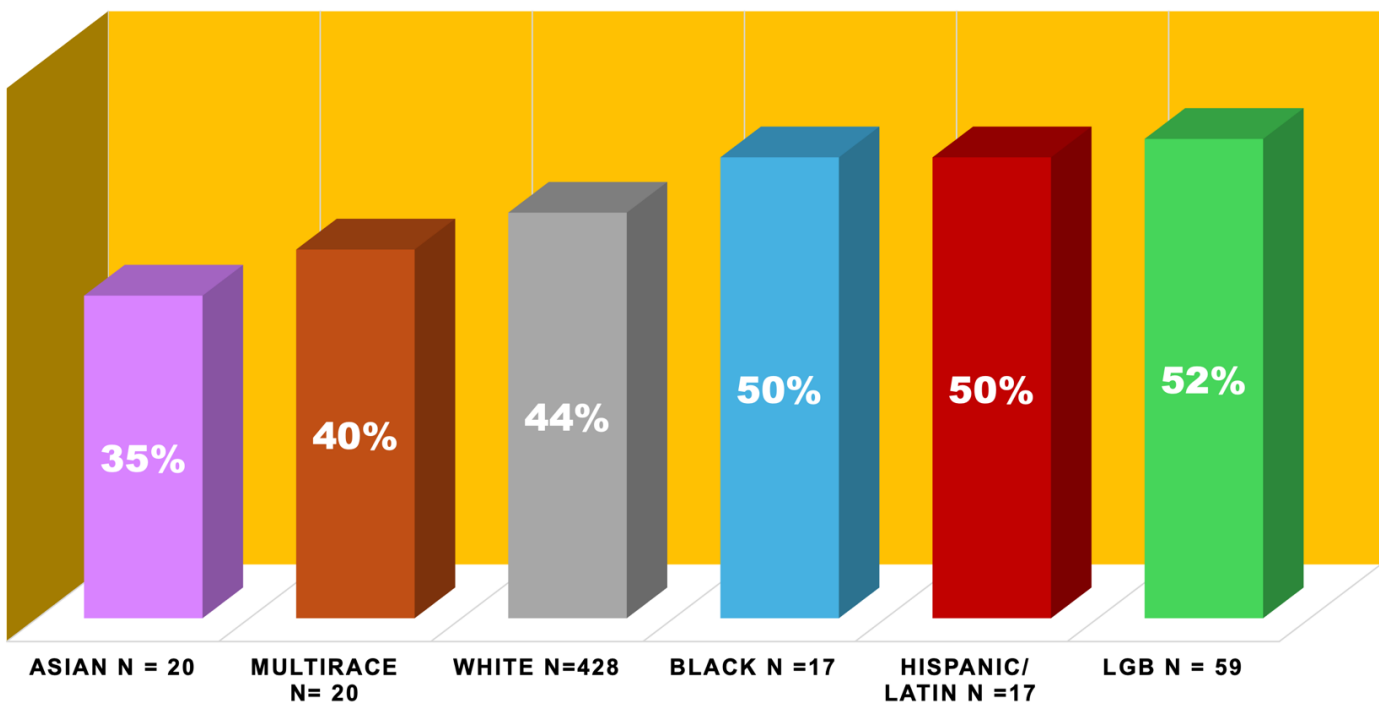
Demographics and Workplace bullying in Higher Education

Consistent with other workplace bullying research regarding race and sexual orientation (Bergbom & Vartia, 2021; Hollis & McCalla 2013; Tye-Williams, et. al 2020), these data also confirm that people of color and gender/sexual minorities proportionally report more workplace bullying. While 44% of the white population reported bullying, Blacks (50%), Hispanics/Latinx (50%), and Gays/Lesbians/bisexuals (52%) reported more bullying. The data also included less than five Pacific Islander, Native American/ Native Hawaiian faculty members. Further, fewer than five transgender respondents answered that they completed the study; with fewer than five for these two populations, reporting specifically about those samples could make them personality identifiable, which is outside the CITI standards for protecting human subjects.

As one assesses faculty bullying, one should also consider the nature of faculty work. Research and teaching duties often occur in libraries, online spaces, and with students. Further, faculty frequently work for nine and a half months instead of 12 months. As a result, faculty have less contact with colleagues when compared to staff and administrators. Reasonably, the cost of workplace bullying for non-faculty employees would be higher because such employees work more closely in person with colleagues and have more exposure to possible bullies.

Figure 6

WORKPLACE BULLYING IN PASSHE BY DEMOGRAPHIC MARKERS



The cost of bullying behaviors

This report included a cost analysis of workplace bullying amongst the faculty for the PASSHE system. Overall, the faculty spent 1.5-2.7 hours per week dealing with workplace bullying. This resulted in 78 hours (1.95 weeks) to 140 hours (3.5 weeks) lost annually. In dollars, the annual cost of this wasted time was \$3278 (the 45K-54K salary band) to \$5397.6 (75-84K salary band), depending on the faculty member's salary band. For this sample of n=289 across eight salary bands, a total of = **\$1,252,916.48** was lost because the faculty was dealing with workplace bullying.

For example, in the top left corner the in the piggy bank info graphic, the salary range was \$125,000 to \$150,000. The mid-point was \$135,500. The hourly salary was 65.13 per hour Seventeen respondents reported from the salary range and they spent an average of 1.59 hours per week at the cost of 65.13 per hour addressing workplace bullying. Each person lost \$5385.12 annually. This calculation was repeated for each of eight salary bands presented in the info graphic.

Calculation:

Annual Salary 135,500 (based on mid-point)

2605 is the weekly salary.

2605/ 40 hours a week = \$65.15 per hour

65.15 per hour x 1.59 (average time people in this salary range spent addressing bullying)

103.56 per week x 52 weeks

= 5385.12 lost annually per person

Please see the infographic below and cost per person in each salary band.

Figure 7

Reported annual cost lost
to workplace bullying
= \$1,252,916.48



Amount wasted per person by salary range

125-150K Midpoint 135.5K, n= 17
2605 weekly salary
40/wk=65.13 /hr. wasted
65.13 x 1.59* hrs. WPB waste
103.56 WPB waste x 52 wks
5385.12 lost per person annually

85-94K Midpoint 90K, n = 42
1731 weekly salary
40/wk=43.28 /hr hourly waste
43.28 x 1.6* hrs. WPB waste
69.25 WPB waste x 52 wks
3601 lost per person annually

55-64K Midpoint 60K, n = 15
1153.85 weekly salary
40/ wk = 28.85 hourly rate
28.85 x 2.33* hrs. WPB waste
67.22 WPB waste x 52 wks
3495.44 lost per person annually

105-124K Midpoint 115K, n=67
2212 weekly salary
40/ wk= 55.3. hourly rate
55.3 x 1.5* hrs. WPB waste
82.95 WPB waste x 52 wks
4313.4 lost per person annually

75-84K Midpoint 80K, n = 42
1538.46 weekly salary
40/wk=38.46 /hr. hourly rate
38.46 x 2.7 *hrs. WPB waste
103.8 WPB waste x 52 wks
5397.6 lost per person annually

45-54K Midpoint 50K, n= 15
961.5 weekly salary
40/ wk=24.04 hourly rate
24.04 x 2.63* hrs. WPB waste
63.23 WPB waste x 52 wks
3287 lost per person annually

95-104K Midpoint 100K, n = 44
1923 weekly salary
40/ wk= 48.1 hourly rate
48.1 x 1.55 * hrs. WPB waste
74.5 WPB waste x 52 wks
3878 lost per person annually

65-74K Midpoint 70K, n = 47
1346.15 weekly salary
40/wk=33.65 hourly rate
33.65 x 2.7* hrs. WPB waste
90.86 WPB waste x 52 wks
4724.72 lost per person annually

*Average number of
hours each salary ban
reported that they spend
weekly addressing
workplace bullying
WPB = workplace bullying

Section III.

Second Study:

2023 Focus Group Symposium

In February and March of 2023, several workplace bullying experts gathered for a free virtual symposium via Zoom to discuss the issues in workplace bullying with an at-large academic audience. The first session was held on February 24, 2023, and the second session was held on March 31, 2024. In sum, the two events attracted over 150 people in a focus group style event to reflect on sub-topics in workplace bullying, such as legal issues, wellness, diversity, the cost and the threat to STEM fields. With IRB approval, we recorded the two-day event, which resulted in 363 single-spaced pages of transcripts.

Emergent Themes from Two-Day Symposium

The two virtual focus groups held on Friday February 24, 2023, and Friday March 31, 2023, hosting over 150 participants and yielded 363 single spaced pages for transcription. The goal was to develop themes, report to participants, and circulate the report widely to the higher education academic community. Krippendorff (2004), a communications scholar, created a qualitative content analysis to use when researchers wish to analyze further artifacts not encapsulated in numeral units. For example, photographs, art, transcripts, and prose from journal articles can all be the subject of analysis, once they are reduced through coding to develop salient themes. Hollis used this method to analyze the transcripts from the February 2023 and the March 2023 focus groups. First, reoccurring phrases and situations were identified in a data reduction process. From the reduction process came open coding, thus identifying similarities in respondents' comments (Cohen, Manion, & Morrison, 2017). Axial coding further reduced such similarities to clusters and then to prominent themes. After reviewing and analyzing the transcripts from focus groups conducted in February 2023, and in March 2023, the following themes emerged.



1. Normalization

Normalization of abusive and coercive behaviors emerged as the most salient theme from the two days of focus groups. Many colleges and universities were described as waving off workplace bullying as a standard part of the day-to-day academic work in American higher education. At times, the aggression came through emails and other electronic communication, also known as *cyberbullying*. Sometimes, multiple people had ganged up on a single person with diminished power. Such gang approaches are categorized as *mobbing*. Regardless of the type of bullying, focus group respondents noted, "Everyone either experienced academic bullying or witnessed academic bullying... yet no one basically talks about it."

“Bullying is not a legitimate expression of academic freedom...”

With higher education entrenched in power differentials and corresponding titles, higher education employees can become entangled with the bullying that involved a full professor abusing an assistant professor. Those higher in the organizational chart can take liberties with their power to crush subordinates. The results culminate in poor health for the target. Further, when higher-ranked faculty abuse their lab assistants and post-doctoral students, the



research itself may be compromised. Lab staff may be forced to falsify data or ignore data that disproved the stated research hypothesis. Yet, higher education often still defaults to believing the results; participants said, "We are willing to tolerate bullying behavior. Another participant noted, "The problem is that targets remain unhealed. Then, when they get into power, they replicate the same bullying behaviors they had to

endure. One of the tactics institutions use in normalizing behavior is that they 'cover it up.' Several participants stated that the "institution does nothing," or an institution will "ignore the problem for decades, obviously with no response...". Participants also reported that institutions use ignorance as an excuse to stand mute when people report workplace bullying. Colleges and

“It’s not restricted to your workplace; it can follow you to your home life or any other part of your life.”

universities also often fail to create safe spaces where targets communicate the problem. Even if reports of bad behavior are encouraged, institutions seldom embrace the urgency in these problems or intervene. Specifically, another participant reported, "The investigative committee validated all of

my allegations yet protected the perpetrators."

When workplace bullying is normalized, colleges and universities may not see the need to create policies to prohibit such behavior. Instead, the campus community may take the stance that, "Nothing can be done...".

Other comments which support the normalization of workplace bullying describe faculty who believe academic freedom grants them the right to act out. "Colleagues can disagree passionately that shouting and pounding of fists do not constitute anything more than energetic disagreement." To the contrary, the *American Association of University Professors Redbook* states, "Tenure is a means to certain ends; specifically: (1) freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public might judge their profession and their institution by their utterances. Hence, they should always be accurate, should exercise appropriate restraint, **should show respect for the opinions of others**" (AAUP, 1940, p. 14). In short, AAUP's statement on academic freedom directly counters the notion that academic freedom gives faculty the latitude to bullying others.

2. Cyberbullying emerges from social media, phones, websites, chat rooms, and other electronic media. When bullies use technology to hurt targets, cyberbullying reaches into people's private spaces, personal time, and vacations, where people read such messages. While having the ability to reach people in their private



spaces, the ubiquity of social media makes such abuse a normalized part of contemporary life. Also known as cyberharassment, cyberbullying has no boundaries and remains a permanent fixture on the internet. One participant stated, "The audience is infinite... the reach has no boundaries." Additionally, cyberbullying is so hurtful because the very public nature of this style of abuse means the target lives and relives the assault in front of this endless audience. Our society has often adopted a voyeuristic posture to consume the pain of others through natural disasters, tragic accidents, and true crime. Unfortunately, observing calamity and abuse is normal. Therefore, with social media and technology woven into many lives, cyberbullies have a very accessible mode by which to harm targets psychologically.

“ ...if I speak the truth about bullying it might affect my promotion.”

3. Grievance Risk Participants noted a grievance risk when people report workplace bullying. Under Title VII regulations, those who report discriminatory behavior should not face retaliation. However, the EEOC numbers show that while harassment and discrimination are federally prohibited, managers react to such complaints with a need for revenge. Such revenge is retaliatory, making retaliation one of the largest charge areas for the EEOC in the past 15 years. If employers retaliate after a good faith complaint of discrimination (an illegal activity), the employee has an actionable charge because of that retaliation in the Title VII context. In contrast, with employees who report bullying, which is not to a federally prohibited activity, the



threat of retaliation is even more extreme. Unless the college, university, state organization or even territory (such as Puerto Rico) prohibits workplace bullying, an aggressor can further escalate the coercive behavior against a target without fear of consequences. Participants noted a "bullying tax," where a target is punished for reporting bad behavior or will have no hope of resolving the matter if they don't report the problem. One participant stated, 'the person who wants to speak the truth is really disturbed because not speaking the truth means [the bully] continues to hurt a lot of

people." Another participant said, "how can we advocate for cultural challenges when we have no power and are seen as a problem for speaking up?" The trend is evident at several colleges and universities, with a focus group participant stating, "the guidelines [suggest] that targets are supported, but the inaction [to reports] is terrible. It's horrible. [The school] identifies targets, then forces them to leave, forces them to resign; they protect the perpetrators."

4. Abuse/ Health and wellness

Many respondents highlighted the need for targets to heal from the abuse. The rationale was twofold. First, we want members of our academic community to feel whole and supported in the wake of workplace bullying. Further, when former targets of workplace bullying do not heal, as they ascend in their careers, they can replicate the same aggressive bullying tactics that were perpetrated against them. Our bodies react poorly to sustained stress, resulting in migraines, insomnia, and depression. If one accepts



that workplace stress causes these health problems, one can then recognize workplace bullying as an occupational health hazard. Even subtle yet negative behaviors like gossiping or social exclusion can leave the human body on heightened alert. When humans perceive a threat, the brain's amygdala is activated. This mechanism is always scanning the environment for threats. Imagine the position of a graduate student or assistant professor; these colleagues don't have tenure protection and may be on heightened alert to protect themselves and their burgeoning careers. Research has shown that attacks activate the fear circuit, shutting down the cortex or the thinking part of the brain (Pessoa, 2023). The block decreases productivity, creating a spiral complicating the relationship between the graduate student and the professor (Raycha & Almoula, 2023). The persistently negative environment can lead to burnout, apathy, and withdrawal (Yildiz, 2023).

The literature confirms that workplace bullying stress results in a variety of health issues (Lagrosen & Lagrosen, 2020). Other researchers confirm the relationship between, cardiovascular diseases, PTSD, anxiety, burnout, and suicidal ideation. and workplace bullying. (Conway, et al 2021; Høgh, et al. 2021; Spence Laschinger & Nosko, 2015).

5. Legal Issues

Only one in four of bullying issues will be prohibited within the bounds of another legal definition after a complainant files a Title VII complaint. The United States is unlike other countries (Canada, Belgium, South Africa, France, Turkey, Norway, Finland, and Sweden) that legislatively prohibit workplace bullying. Perhaps these countries



prohibit workplace bullying because they accept the deleterious impact on employees and the negative impact on the workplace. Workman's compensation laws and unemployment laws only offer minimal support for people who leave the workplace to avoid trauma. The Equal Employment Opportunity (EEO) laws offer some semblance of support if the target can tie workplace bullying to illegal harassment or retaliation based on the target's protected class status (race, gender, age, color, national origin, etc.).

Too often, reporting bullying makes the situation worse because, unlike in Title VII legislation, those reporting bullying are not protected from retaliation. Current state policies in California, Tennessee, Utah, Maryland, and Minnesota offer cursory support by stating that employers who offer training are exempt from possible culpability. These laws encourage organizations to adopt policies prohibiting bullying, which, in turn, creates immunity for those organizations. In contrast, under Title VII, employers are responsible for their manager's and employees' discriminatory behavior on the job. Reportedly, only one in ten people go to Human Resources with a Title VII complaint. Of that number, only one of ten also go to the EEOC. After 180 days after the charge being filed, a complainant can request that the EEOC issues a right-to-sue letter, few people exercise that option that allows them to proceed to file a lawsuit. Targets of workplace bullying have comparatively even fewer avenues to legal protection until they live in Puerto Rico, which by far offers the most protection in the workplace from bullying. The Puerto Rico law makes workplace bullying actionable alone, offers

“Think of workplace bullying as water on stone, it just wears people away.”

protection from retaliation for those who report workplace bullying, and requires an independent investigation.

Internationally, the EU Charter of Human Rights, the Canadian Charter on Human Rights, the Vienna Doctrine, and the Universal Declaration of Human Rights protect human dignity. Though Eleanor Roosevelt was the primary author of the 1948 Universal Declaration of Human Rights (United Nations, 1949) American laws have adopted a few of those philosophies to guard the respect and dignity of our citizens.

Grassroots movements in many states are working to pass the Dignity at Work Act. Such a policy would be like the law passed in Puerto Rico. Employees would have protection like that found in Title VII protections, which would prohibit status-free abuse and hold employers accountable for sustaining a hostile workplace.

“To really have any type of protections for employees, we need to first and foremost have strong laws with strong enforcement.”

Other critical elements

Throughout the 2023 two-day focus group sessions, other compelling elements were discussed. As noted in the definitions, mobbing behaviors are a product of multiple bullies' ganging up' on a target. Working together in a gang to harass a colleague generates extreme workplace stress for that target. Also, the strength provided by a group also can allow those in positions of lesser authority to harass those in power or “bully up.”

Many participants also called for early interventions. When the initial complaint of bad behavior occurs, leaders need to intervene to correct the behavior. If no correction occurs, the bully and the bystanders learn that the bullying behaviors are acceptable. When considering Bandara et al.'s (1961) social emotional learning studies, leaders should know that their intervention, or inaction, is setting the expectations for employees in the environment.

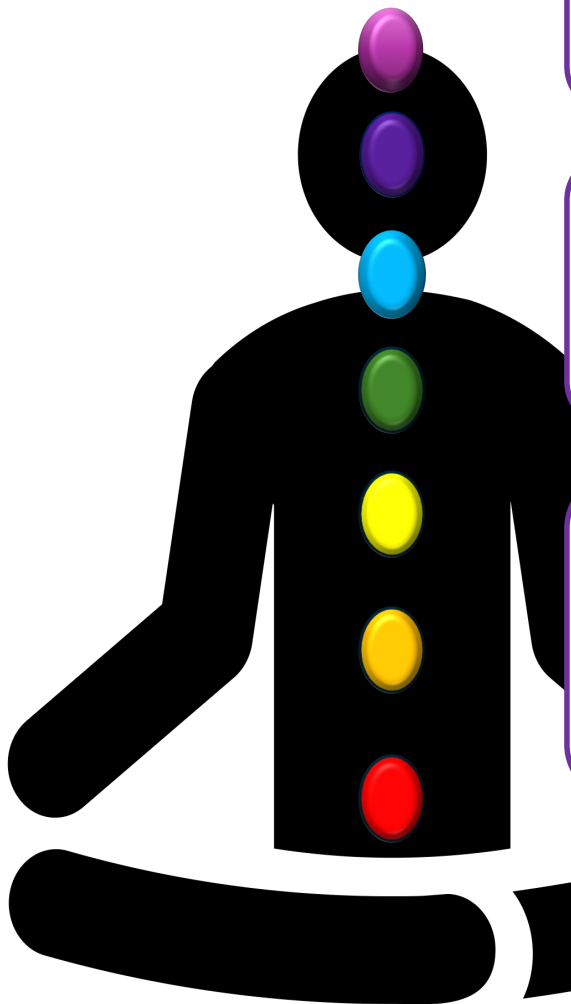
Because higher education often normalizes bad behavior, those with the power to intervene often do not. If their organization doesn't have a policy against workplace bullying, often the supervisors and managers are not trained or won't engage in corrective action to curtail bullying. Without organizational policy and clear guidelines, managers and supervisors do not have the support to intervene in workplace bullying problems.

SECTION IV.

Solutions

Health Solutions for those targeted by workplace bullying experience stress-related health problems, especially if the bullying persists for years. Researchers have confirmed anxiety, high blood pressure, insomnia, weight swings, and Post Traumatic Stress (Hollis, 2019; Lagrosen & Lagrosen, 2020; Spence Laschinger & Nosko, 2015). Organizations are often slow to resolve bullying solutions if they even attempt intervention or acknowledge the problem (Tight, 2023). However, a person has options to cope with the stress. Four are as follows:

Figure 8



Tapping. Emotional Feeling technique (EFT), a practice that emerges from Energy Psychology and Chinese medicine. When feeling stressed, a person can tap with two fingers, their collar bone, nose, hand, etc. The pressure from the tapping and the rhythm itself can help recenter (Blacher, 2023).

Box Breathing is a self-administered intervention that someone can conduct alone in their office or other private space. One can close their eyes and take a deep breath for four seconds, hold your breath for four seconds, and release for four seconds. Balban, et al 2023, confirm that box breathing can enhance mood. It reduces heart rate and blood pressure.

Eye Movement Desensitization and Reprocessing (EMDR) "EMDR therapy was introduced in 1989 with the publication of randomized controlled trials (RCT) evaluating its effects on trauma victims. Eye movement desensitization and reprocessing (EMDR) is an empirically validated psychotherapy approach that medical personnel can employ to treat the sequelae of psychological trauma and other negative life experiences" (Shapiro, 2014, p. 71).

Spiritual Connection: Spiritual practices, regardless of faith, can help one reduce suffering and stress. Helping one to transcend pain, illness or other stressors, spiritually, is a perceived connection with a higher being generating peace and faith, especially when one is coping with stressful situations. (Greeson, et al 2011).

Other Viable Strategies

Comic Relief Can help people alleviate some stress In addition to helping employees have better work experiences. When one recognizes the humor in a situation, that person is distracted from worrisome situations. Appreciating and producing humor also can help stressed colleagues cope with the problem (Thorson & Powell, 1991).

Legislation, Law & Policy. Workplace bullying costs American higher education up to \$9400 per person annually (Hollis, 2015). Disrupting employees' mental well-being not only damages employees' cognitive and emotional health, but workplace bullying also hurts an organization's productivity. The focus group noted that policies and laws would significantly minimize workplace



bullying. While some states have meager policies, the Dignity at Work Act has been proposed in many states. One can recall how Civil Rights legislation in the 1960s was passed in the wake of grassroots community pressure. Similarly, people attending state house deliberations when bills are discussed can testify or submit written statements for state lawmakers to consider. Although states have not provided appropriate protections, colleges and

universities can create policies to protect students, staff, and faculty from workplace bullying. When developing such policies, include people from all levels of the organization. Workplace bullying among the facilities staff can be different than how faculty experience the problem.

Collective Action. American labor history chronicles the need for collective action to exact justice for employees. Through collective action, laborers protested unfair work conditions, which led to the 1938 Fair Labor Standards Act, which solidified the eight-hour workday, overtime, lunch hours, and breaks (Costa, 2000). Protection against discrimination emerged from millions of Americans lobbying the government to revoke Jim Crow laws, resulting in the 1964 Civil Rights Act (Morris, 1999). Collective action was at the root of American courts recognizing sexual harassment as a discriminatory practice almost 20 years after the passage of Title VII

legislation (Hollis, 2015a). The unfair practice of workplace bullying can also be minimized or eliminated by a collective of people resisting this emotional and psychological abuse at work.

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Appendix

Alamo Colleges Policy

H.1.2.3 (Procedure) Bully Free Workplace and Campuses

Responsible Department: Alamo Colleges District

Title IX/VII/IV/ADA/504 Coordinator

Board Adoption: 4-26-16

Last Board Action: 7-27-21, 3-22-22

Purpose

This procedure applies to all students and all employees, including supervisors, managers, administrators, faculty as well as contractors and employees of contractors. It defines bullying and provides examples of behavior that would be a violation of the “Respect for All” values stated in Alamo Colleges District Policy A.1.3 (College District Vision, Mission, Values and Goals) and the Alamo Colleges District Civil Rights Policy H.1.2 Civil Rights Discrimination, Harassment and Retaliation. Procedures H.1.2.1, Civil Rights Complaints and Resolution Procedure, and H.1.2.2, Civil Rights Complaints Appeal Procedure, define the processes for reporting, investigating, and administering discipline or sanctions for instances of bullying.

Objective

Alamo Colleges District strives to create a workplace that is optimal for learning and work. The purpose of this procedure is to communicate to all students and all employees, including supervisors, managers, administrators, faculty, contractors, and employees of contractors, that the Alamo Colleges District will not in any instance tolerate bullying behavior or lack respect or disrespect. Any employee found in violation of this policy will be disciplined, up to and including termination, expulsion or, in the case of contracts, cancellation of contract. Any student who is found in violation will be processed through the student code of conduct and may be subject to sanctions up to and including suspension, academic expulsion, and expulsion from presence at any of the Alamo Colleges.

Definition

Alamo Colleges District defines bullying as repeated and/or severe aggressive behavior, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work or on campus and/or in the course of employment, education or student activities which is likely to intimidate or, hurt, control, or diminish another person whether or not on the basis of protected criteria. Behavior demonstrating or communicating a lack of respect or disrespect may or may not be bullying, but nonetheless such behavior violates Alamo College's Code of Ethics, which clearly states that all employees will be treated with dignity and respect, and Policy A.1.3, stating the College District's shared value of "Respect for All." Bullying is a violation of the Texas Education Code and Alamo Colleges Policy whether or not the victim is a member of a protected class. This procedure and policy extend to cyberbullying which is bullying that takes place using electronic technology. This policy and procedure extend to conduct and behavior that is not otherwise protected by law.

Examples

The effect of the behavior of bullying on the individual is important. Alamo Colleges District considers the following types of behavior examples of bullying:

- Verbal bullying: Slandering, ridiculing, or maligning a person or his or her family; persistent name calling that is hurtful, threatening, insulting, or humiliating; using a person as butt of jokes; abusive and offensive remarks.
- Physical bullying: Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property
- Gesture bullying: Nonverbal threatening gestures; glances that can convey threatening messages.
- Exclusion: Socially or physically excluding or disregarding a person in work or school related activities.

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace:

- Persistent singling out of one person.
- Shouting or raising voice at an individual in public or in private.
- Using verbal or obscene gestures.

- Not allowing the person to speak or express himself or herself (i.e., ignoring or interrupting).
- Personal insults and use of offensive nicknames.
- Public humiliation in any form.
- Constant criticism on matters unrelated or minimally related to the person's job or school performance or description.
- Ignoring or interrupting an individual at meetings, in class or at school or work activities.
- Public reprimands.
- Repeatedly accusing someone of errors that cannot be documented.
- Deliberately interfering with mail and other communications.
- Spreading rumors and gossip regarding individuals.
- Encouraging others to disregard a supervisor's instructions.
- Manipulating the ability of someone to do his or her work (e.g., overloading, underloading, withholding information, assigning meaningless tasks, setting deadlines that cannot be met, giving deliberately ambiguous instructions).
- Inflicting menial tasks not in keeping with the normal responsibilities of the job.
- Taking credit for another person's ideas.
- Refusing reasonable requests for leave in the absence of work-related reasons not to grant leave.
- Deliberately excluding an individual or isolating him or her from work-related activities, such as meetings.
- Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property (defacing or marking up property).
- Retaliating against or threatening to retaliate against an individual who has reported bullying or attempted to intervene to stop bullying.

University of South Carolina Policy

ADMINISTRATIVE DIVISION ACAF Academic Affairs	POLICY NUMBER ACAF 1.80
POLICY TITLE Faculty Workplace Incivility	
SCOPE OF POLICY USC Columbia	DATE OF REVISION June 24, 2022
RESPONSIBLE OFFICER Executive Vice President for Academic Affairs and Provost	ADMINISTRATIVE OFFICE Office of the Provost

PURPOSE

The University of South Carolina aspires to be a community in which individual members treat each other with civility and respect through adherence to the standards of conduct and values expressed in the Carolinian Creed. This policy establishes a process for reporting, investigating and resolving complaints against faculty members related to workplace incivility.

DEFINITIONS AND ACRONYMS

Complainant: Employee reporting an allegation of faculty workplace incivility

Faculty: All employees who hold a tenure-track or professional-track title as defined by policy [ACAF 1.06 Academic Titles for Faculty and Unclassified Academic Staff Positions](#).

Faculty Civility Advocate: Faculty member appointed by the provost to adjudicate complaints of workplace incivility as dictated in this policy in an independent and just manner.

Faculty Ombuds: The Faculty Ombuds is available to all tenured, tenure track and professional-track faculty members. The Faculty Ombuds is available to listen to visitor concerns, clarify issues, develop options and provide information. The ombuds advocates for fair and equitably administered processes and does not advocate on behalf of any individual within the university. The Faculty Ombuds is not an office of notice or mandated reporter. Communications to the

ombuds are not notice to the university. The ombuds may refer individuals to the appropriate place where formal notice can be made.

Respondent: Faculty member who is alleged to have committed workplace incivility

Workplace incivility: Workplace incivility is behavior or a pattern of behaviors that would cause a reasonable person to experience substantial emotional distress and/or interferes with their ability to work.

POLICY

The University of South Carolina is dedicated to the mission of teaching, research, creative activity, and service. To this end, the university is committed to the establishment of a working environment that fosters academic freedom for all faculty and, consistent with these commitments, aspires to cultivate a community in which individual members treat each other with civility and respect. The university believes that these goals can only be achieved through adherence to the standards of conduct and values expressed in the Carolinian Creed. We conceive civility is not as a constraint on academic freedom but as the foundation of foundation of a healthy learning environment that fosters productive disagreement, collaboration, creativity, and well-being for all members of our community.

Accordingly, the faculty considers workplace incivility unacceptable. It undermines our values, harms colleagues, and impedes the mission and commitments of the University. Workplace incivility is behavior or a pattern of behaviors that would cause a reasonable person to experience substantial emotional distress and/or interferes with their ability to work. Incivility, as distinct from challenging and rigorous intellectual exchange, serves no legitimate purpose. It is behavior outside the bonds of respectful, equitable, and dignified communication. Workplace incivility may be a cumulative effect or a severe single incident. Workplace incivility may affect faculty beyond the intended target, and such parties may bring complaints under policy.

Workplace incivility can take a variety of forms and may include bullying or other behaviors that are physical, verbal, or nonverbal, and may take place via a variety of means including face-to-face, written communications, or electronic media. Examples of workplace incivility include, but are not limited to: abusive language, aggressive shouting, defamatory language, unwelcome physical contact, threats and intimidation, public ridicule (e.g., ad hominem attacks),

conspicuous exclusion, and scapegoating. Behaviors that might constitute harassment, discrimination or sexual assault should be reported to the Office of Civil Rights and Title IX.

For purposes of this policy, any reference to allegation of incivility refers to the behavior of a faculty member. Any university employee can allege faculty incivility through the procedures described in this policy. Depending on the nature and severity of the complaint, allegations may be addressed at the unit level or escalated to the Faculty Civility Advocate or the Office of Civil Rights and Title IX.

A. In cases of workplace incivility, the university will take reasonable actions pursuant to this policy. It is appropriate, however, for the university to respond differently to different types of incivility. The procedures outlined herein are intended to provide a fair and orderly means of handling allegations of workplace incivility and to be a bridge to existing university procedures and policies and the provisions of the Faculty Manual.

B. Since a charge of incivility, regardless of whether it is justified or not, may seriously damage an individual's career, any such issues must be handled in a confidential manner to the extent allowed by applicable law. Premature disclosure of information concerning an allegation may itself constitute incivility. Only necessary participants should be involved at each stage of the procedure. Any inquiry or investigation must also be handled promptly and expeditiously and with full attention to the rights of all individuals involved. It is understood that anyone conducting an inquiry or investigation, e.g., the Faculty Civility Advocate or members of the Faculty Appellate Panel, must possess the special knowledge necessary to judge the situation, but must also have no immediate personal interest in the case.

PROCEDURES

A. The provost in consultation with the chair of the Faculty Senate and the chair of the Faculty Appellate Panel or their designees will appoint a tenured faculty member at the rank of professor or a tenured librarian to serve in a part-time capacity as the Faculty Civility Advocate (FCA). If the FCA has a conflict of interest in any case brought before them, an alternate will be appointed by the provost in consultation with the chair of the Faculty Senate. The FCA will file an annual report with the chair of the Faculty Senate and with the provost.

B. Complaints of workplace incivility can be addressed through informal or formal processes. Procedures for handling each type of complaint are described below. Faculty are strongly encouraged to seek informal resolution of their concerns within their academic unit or through the university faculty ombuds before filing a formal complaint.

C. Unit heads and deans must refer all complaints of incivility by a faculty member that cannot be resolved through informal resolution within the academic unit or through consultation with the faculty ombuds to the FCA for formal resolution.

D. Informal Resolution

1. Any employee who feels they are a victim of workplace incivility is encouraged to speak with their supervisor or academic unit head. If the allegation is against the employee's supervisor or unit head, the employee should report to that person's supervisor. If the complainant and respondent are from different units, either the complainant or the complainant's supervisor should contact the respondent's supervisor. As needed, the parties involved can pursue mediation or consultation with the faculty ombuds if appropriate. The respondent's supervisor can impose a sanction of counseling, oral warning or written reprimand, following the procedures of policy [ACAF 1.82 Faculty Progressive Discipline](#). Informal procedures are aimed at stopping the incivility as rapidly as possible.

2. If applicable, the initial complaint can be elevated to the academic dean. The dean can impose a sanction of counseling, oral warning, written reprimand, probation, administrative reassignment or demotion, following the procedures of policy [ACAF 1.82 Faculty Progressive Discipline](#). Sanctions beyond written reprimand can be appealed through the faculty grievance process.

3. An employee who believes that they are a victim of workplace incivility and that informal resolution has not been successful can file a formal complaint as described below.

E. Formal Resolution

1. Any employee who wishes to file a formal complaint of incivility is encouraged to speak with the FCA. The FCA can help the employee understand what constitutes incivility and direct them in the filing of a formal complaint. Formal complaint procedures are initiated with a written request for investigation of workplace incivility which is filed with the FCA. This request may be made by the complainant, the institution or any of the parties involved.

a. If the FCA has a conflict of interest based on prior relationship with either the complainant or the respondent, the FCA will appoint a member of the Faculty Appellate Panel as acting FCA for the specific investigation.

b. The FCA will investigate the allegations in a level of detail sufficient to determine whether there are grounds for a charge of workplace incivility. The FCA will investigate the allegations in a level of detail sufficient to determine whether the preponderance of evidence support a finding of workplace incivility. Following this investigation, the FCA will prepare a file indicating what evidence was reviewed, summaries of relevant interviews and the conclusions of the inquiry. A copy of the report must be made available to the complainant(s) and the respondent(s) for comment. Any comments by the complainant(s) and the respondent(s) should be made part of the file. The FCA should review the complaint and conduct the investigation within 45 business days. The Office of the Provost will receive and maintain the file for a minimum of five years.

c. In conducting an investigation, the Ad FCA will follow procedures appropriate to the circumstances needed for both a complete investigation and fairness to all individuals involved. The FCA should seek all relevant materials and documents, including, but not be limited to, statements from the complainants(s) and the respondent(s), relevant correspondence, electronic communications, witness testimony and memoranda of telephone calls. Whenever possible, interviews should be conducted of all individuals involved either in making the allegation or against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegations. The FCA should strive to interview the complainant(s) first. Thereafter, the respondent(s) should

be the next person(s) interviewed. Witnesses identified by the complainant and the respondent should be interviewed next. All attempts to interview any of the parties, including all witnesses should be carefully documented. Complete summaries of these interviews should be prepared and provided to the interviewed party for comment or revision and included as part of the investigatory file. Throughout the investigation, the complainant(s) and the respondent(s) should be advised of the progress of the investigation and be afforded the opportunity to respond and provide additional information.

d. Upon conclusion of the investigation the FCA will submit to the provost a formal written report of the findings. This report must contain all the following elements:

(1) Listing of the complainant's allegations; (2) The complainant's requested relief; (3) Detailed indication of all documentation reviewed by the FCA which must be attached as numbered exhibits to the report; (4) Analysis of each allegation containing the statements made by the complainant, the respondent(s) and the witnesses; (5) Conclusion of the matter (the complainant's allegation(s) of workplace incivility are substantiated, are not substantiated, or there is insufficient evidence to make a determination); and (6) Recommended remedy A copy of the report, should be made available to the complainant(s) and the respondent(s) for comment and any comments by the complainant(s) and the respondent(s) made part of the file.

e. If the FCA concludes that there are no grounds for a charge of workplace incivility then no further inquiry is necessary. The case will be considered closed. Diligent efforts, as deemed appropriate by the FCA, should be taken at this time to restore the reputation of the respondent(s), and to protect the position and reputation of the person who, in good faith, made the allegation of bullying.

f. If the FCA finds that workplace incivility has occurred, the FCA can consult separately with the complainant(s) and the respondent(s) as well as with the unit head or dean to discuss options for resolution. These options include but are not limited to separation of the parties involved, appropriate counseling for either or both parties, or disciplinary action as defined in policy [ACAF 1.82 Faculty Progressive Discipline](#). Recommendation for resolution or disciplinary action should be in the context of the severity of the incivility and any prior

history of incivility by the respondent.

g. Recommendations for disciplinary actions beyond a written reprimand proceed from the faculty member's supervisor to their dean, to the provost and at each stage must be communicated to the complainant(s) and respondent(s) in writing.

2. After a determination by the Office of the Provost or upon a decision that the alleged behavior does not violate this incivility policy, complainant(s) or respondent(s) dissatisfied with the proposed resolution may appeal to the Faculty Appellate Panel, following the grievance procedures in the Faculty Manual. The appeal must be based on denial of procedural due process or denial of academic freedom. The petition shall state the factual basis for the allegations and the relief requested. Either complainant or the respondent can file an appeal within 10 business days of receiving the report from the FCA. If the respondent has been determined responsible for incivility, appeal to the Faculty Appellate Panel is effectively appealing both the adjudication and the sanction.

a. Within 10 business days of the appeal all parties named in the complaint are notified in writing that the appeal has been filed and that the complaint and finding will be reviewed.

b. The Faculty Appellate Panel may choose to assign its power to an ad hoc review committee. Any member of the panel who has a conflict of interest must recuse themselves from the review. The panel will have access to all documentation and material collected during the investigation conducted by the FCA.

c. The FCA will serve as a non-voting observer in all meetings and facilitate the needs of the committee. The provost will also appoint an individual to serve as non-voting administrative support in all meetings. This representative will be responsible for recording the proceedings of all meetings.

d. The panel will review the complaint and conduct the additional interviews or collection of documentation deemed necessary to the review within 30 business days unless unusual circumstances require more time. Extensions should not be for more than 15 additional

business days. Any further extensions require the approval of the provost. All parties involved shall be notified of the extensions.

e. The panel will be supported by the Office of the Provost. This support will include assisting the committee in their needs throughout any additional investigative procedures and assuring that the investigation is conducted in accordance with the processes and procedures set forth in this document.

f. If applicable, the ad hoc committee will report its findings and recommendation to the full panel for a decision.

g. The panel will submit its decision on the appeal to all parties involved, including the Office of the Provost and the Office of the President. If a finding of incivility is upheld, the panel can recommend the same resolution or disciplinary action as the FCA or one that is less or more severe. The direct supervisor of the respondent is responsible for implementing the resolution or disciplinary action. Documentation must be maintained in the respondent's unit personnel file and added to the case file.

The entire case file must be maintained in the Office of the Provost for a minimum of five years.

h. The president will be the final authority to whom a grievance or appeal may be submitted.

F. Confidentiality

1. Persons gathering general information, seeking guidance or filing a complaint may be concerned about the confidentiality of the information that they are sharing. While the university wants to create an environment in which individuals feel free to discuss concerns and make complaints, the university may find it necessary to take action despite a request for confidentiality when its officials are informed that extreme incivility may be occurring.

2. Identifying information about the parties involved (e.g. names, department or unit), may be necessary in order for action to be taken on the complaint.

3. The confidentiality of the information received will be protected to the extent allowed by applicable law. The expressed wishes of the complainant regarding confidentiality will be considered in the context of the university's legal obligation to act upon the charge and the right of the alleged offender to be informed. To the extent possible, the proceedings will be conducted in a manner that protects the confidentiality of all parties involved.

G. Non-Retaliation

1. Protection from Retaliation: Department chairs and supervisors will take reasonable action to assure that the complainant, the alleged offender and those testifying on behalf of either party or supporting either party in other ways are protected from retaliation. Persons who retaliate will be subject to disciplinary action in a manner consistent with the Faculty Manual and university policies. This action can be taken at any time during or following an investigation of an incivility complaint.

2. Protection of the complainant and respondent: When a complaint of incivility is filed, the alleged offender will be informed of the allegations, the identity of the complainant and the facts surrounding the allegations. In the event the allegations are not substantiated, reasonable efforts should be taken to restore the reputation of the alleged offender if damaged by the proceedings, and to protect the position and reputation of the person who, in good faith, made the allegation of workplace incivility.

RELATED POLICIES

[ACAF 1.82 Faculty Progressive Discipline](#)

[CR 1.00 Policy Against Discrimination, Harassment & Sexual Misconduct](#) [CR 2.00 Equal](#)

[Opportunity and Affirmative Action](#)

[Faculty Manual](#)

HISTORY OF REVISIONS

DATE OF REVISION	REASON FOR REVISION
February 28, 2014	New policy
May 2, 2019	Policy revised to clarify eligibility for Faculty Civility Advocate and Committee on Professional Conduct membership.
June 24, 2022	Policy broadened to encompass workplace incivility and to address allegations against faculty presented by staff or other faculty
August 3, 2023	Non-Substantive revision to reflect current policy titles and URLs.

House 306 Puerto Rico- Policy
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Leyes2020/lexl2020090.htm](https://www.lexjuris.com/lexlex/Leyes2020/lexl2020090.htm)



GOVERNMENT OF PUERTO RICO
18th. Assembly 1st. Session
Ordinary Legislative
HOUSE OF REPRESENTATIVES
P. de la C. 306

JANUARY 2, 2017

Presented by representative Meléndez Ortiz
Referred to the Labor Affairs Commission

LAW

To create the "Law to prohibit and prevent Workplace Harassment in Puerto Rico"; establish a strong and vigorous public policy against harassment in the local work environment; define its scope of application, procedures, prohibitions and sanctions; empower the Department of Labor and Human Resources and the Office of Training and Advice on Labor Matters and Human Resources Administration of the Commonwealth of Puerto Rico, to adopt and promulgate the necessary regulations to administer and enforce the provisions of this Act ; and for other related purposes.

STATEMENT OF MOTIVES

In our legal system, workers have a whole series of protections of a constitutional and statutory nature that place Puerto Rico as a first-order jurisdiction with respect to the workplace. In fact, the Constitution of Puerto Rico itself establishes in its Article II, Section 16, that everyone has

the right to freely choose their occupation, to renounce it, to receive equal pay for equal work, to receive a reasonable minimum wage, to receive protection against risks to their health or personal integrity, among other protections. Likewise, our legal system does not favor discrimination in the workplace.

In this regard, the Anti-Discrimination Unit of the Department of Labor and Human Resources receives the corresponding complaints related to discrimination in employment based on age, race, color, sex, origin or social condition, national origin, political or religious ideas, marriage and disabilities. under the following legal provisions: Act No. 3 of March 12, 1942, as amended; Act No. 100 of June 30, 1959, as amended; Act No. 69 of July 6, 1985; Act No. 44 of July 2, 1985, as amended; Act No. 17 of April 22, 1988, as amended; and Law 427-2000, as amended; and Law 271-2006, as amended. Likewise, the Anti-Discrimination Unit, as a delegate agency of the Equal Employment Opportunity Commission, receives complaints filed under Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the American with Disabilities Act. "(ADA) of 1990 and the Federal Age Discrimination in Employment Act of 1967 (ADEA). Such provisions prohibit discrimination in employment in all phases of employment - recruitment, promotions, wages, salaries, compensation, categories, layoffs, re-employment, retaliation, terms and conditions of employment and conditions of employment and other fringe benefits - but they do not contemplate expressly one of the worst situations that an employee can face in the professional field: workplace harassment or "mobbing" as it is known in the English language. In particular, when workplace harassment is not linked to discriminatory or retaliatory acts for one of the causes of action indicated.

With the approval of this legislation, this Administration reaffirms that the dignity of the human being is inviolable.

Workplace harassment consists of that verbal, written or physical abusive behavior repeatedly by the employer, his supervisors or employees, alien to the legitimate interests of the employer's company, not desired by the person, which violates their protected constitutional rights . As experts on the subject have established, workplace harassment involves hostile and unethical communication that is systematically administered by one or a few individuals, mainly against a single individual who, as a result, is thrown into a situation of loneliness. and prolonged helplessness, based on frequent and persistent harassment actions and over a long period of

time. As a consequence of the high frequency and long duration of these hostile behaviors, such mistreatment translates into enormous psychological, psychosomatic and social torture for the affected person. In this regard, it is important to note that this behavior does not necessarily respond to hierarchical patterns, since it appears among people of equal rank and even in subjects of lower professional status. The Puerto Rico Psychology Association stated that this behavior has dire psychological consequences in the victims, such as: post-traumatic stress, susceptibility to stress, depression, panic attacks, hypervigilance, "breakdown" or nervous breakdown, suicide, syndrome of chronic fatigue, changes in the victim's personality, deterioration in relationships. It is also necessary to consider the damages that are reflected at the family, social, professional and economic of the victim.

This legislative measure is the result of the recognition of the serious problem that many labor psychologists and researchers on the subject have identified as the epidemic of the XXI century in the labor context. According to the research carried out by the late professor Heinz Leymann, considered the first researcher and pioneer in the dissemination of workplace harassment or "mobbing" in Europe, by the eighties, 3.5% of workers experienced it. According to Iñaki Piñuel y Zabela, an expert in human resources and one of the first specialists in the investigation and dissemination of harassment in the workplace, this figure has been increasing considerably in recent decades. In fact, workplace harassment is a problem that has serious consequences on the physical and / or emotional health of workers, as well as on their productivity. According to a survey carried out in the European Union, about 8% of the workers surveyed, representing a total of 12 million, identified themselves as victims of workplace harassment in their places of employment. At the United States level, the situation is similar. For that reason, several states, including Massachusetts and Oregon, have presented similar measures aimed at legislating against harassment in the workplace. See, H. Bill 2310 (Massachusetts); H. Bill 2410 and H. Bill 2639 (Oregon, 2005). At the international level, there is legislation against workplace harassment in countries such as Sweden, the Netherlands, France, Belgium, Denmark, Finland, Colombia and Cuba.

Although it is true that in Puerto Rico the absence of specific legislation that regulates the nefarious practice of harassment in the workplace does not prevent employers from incurring civil liability for tortious conduct under Article 1802 of the Civil Code of Puerto Rico, we understand that it is necessary and pertinent to have legislation that addresses the particularities

and complexities of this modality. In this sense, it is important to distinguish the figure of constructive dismissal contemplated in Act No. 80 of May 30, 1976, with what is related to workplace harassment established herein. Certainly, workplace harassment could be considered as an element that helps to configure constructive dismissal, but this measure does not contemplate the resignation of the employee as a sole element to be considered when evaluating a possible cause of action based on workplace harassment. here defined. In that sense, while constructive dismissal requires an affirmative action of resignation by the employee, a potential cause of action for workplace harassment does not require it. Finally, it is important to clarify that not all conduct that meets certain characteristics defined in this law meets the category of workplace harassment, but is malicious, unwanted conduct that creates a hostile, intimidating, humiliating or offensive atmosphere. for the employee that prevents their healthy stay at work; and that it is originated by a reason other than the legitimate interest of safeguarding the effective performance of the job or that contains clearly defamatory or harmful expressions that threaten the dignity of the person.

Workplace harassment can have the effect of implicitly or explicitly subverting the terms or conditions of a person's employment; unreasonably interfere with the performance of their work, their physical or emotional health, their stability or security in employment, their professional and / or salary progress, and the peace or quiet of the employee and their family environment.

Harassment in the workplace goes against the most basic principles of equality and dignity recognized in the first section of the Bill of Rights of our Constitution, and the right that every worker has against risks to their health and safety at work according to provided in section 16. Therefore, this Legislature deems it necessary and imperative to promulgate the "Law to prohibit and prevent Workplace Harassment in Puerto Rico," thus establishing a vigorous public policy against all types of workplace harassment that affects worker performance. , alter the industrial peace and violate the dignity of workers, no matter what their category or classification in employment. Under this Act, workers in Puerto Rico are provided with a cause of action to prevent workplace harassment and be compensated for the damages they suffer as a result.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.-Title

This Law will be known as the “Law to prohibit and prevent Workplace Harassment in Puerto Rico”.

Section 2.-Public Policy

This Legislature declares and reaffirms that the values of equality, dignity and personal integrity expressed in the Constitution of the Commonwealth of Puerto Rico are fundamental rights of the highest hierarchy in our jurisdiction. It is our duty to ensure strict compliance with the constitutional guarantee to protect the inviolability of the dignity of every human being, particularly around employment.

This Law establishes a vigorous public policy against all types of workplace harassment that affects worker performance, alters industrial peace and violates the dignity of workers, no matter what their category or job classification is.

Section 3.- Scope of Application

This Law shall apply to employees, regardless of the nature of their employment, their category, hierarchy or classification, or the duration of the employment contract, who are the object of conduct known as workplace harassment. It will reach all employers equally, whether they are public or private employers, public corporations or any other denomination of employers that exists in the present or is believed in the future.

Section 4.- Definitions

For the purposes of this Law, the terms used will have the meaning conferred on them in this Article:

- (1) “Employee” - It is defined as any person who works for an employer and who receives compensation for it. For the purposes of the protection conferred by this Law, the term used will be interpreted in the broadest possible way.

- (2) “Employer” - It is defined as any natural or legal person, the Government of Puerto Rico, including the Executive, Legislative and Judicial Branch, as well as its instrumentalities or public

corporations, the municipal governments and any of its instrumentalities or municipal corporations, that for profit or not, employs people through any kind of compensation. also includes all organizations or companies in the private sector that operate for profit or without it, labor organizations, groups or associations, in which employees participate, as well as employment agencies.

(2) "Labor Harassment" - It is defined as malicious, unwanted, repetitive and abusive conduct, whether verbal, written or physical on the part of the employer, his supervisors or employees, outside the legitimate interests of the company that generates a hostile, intimidating, humiliating and offensive atmosphere, prevents the healthy stay of the employee at work, which can result in belittling, belittling or destroying him professionally, and which violates his protected constitutional rights, including his dignity.

Section 5.- Responsibility of the employer

Any employer who incurs, encourages or allows workplace harassment will be civilly liable to the affected persons. It will be the responsibility of every employer to take the necessary measures to eliminate or minimize the occurrence of workplace harassment in the workplace. Therefore, he will adopt and implement the necessary internal policies in order to prevent, discourage and avoid workplace harassment in their work centers, as well as investigate all allegations on the matter and impose the corresponding sanctions in those cases where they proceed. .

In the case of employers who have signed collective agreements with their employees under Act No. 130 of May 8, 1945, as amended, known as the "Puerto Rico Labor Relations Act; of Act No. 45 of February 25, 1998, as amended, known as the "Labor Relations Act for the Public Service"; and of the Federal Labor Relations Law, which contain clauses that prohibit workplace harassment in their workplaces, it will be understood that they have complied with the obligation imposed in this article, as long as said clause is analogous or more strict, to the that through this law is required.

Every employer will always be responsible for the actions of the supervisory personnel under their charge that constitute workplace harassment. He will also be responsible for the acts of workplace harassment of his other employees, unless he demonstrates that he took immediate and appropriate action to correct the situation at the time he learned of the harassment.

In that case, the employer will enjoy immunity against claims on the provisions of this Law, without such immunity being able to cover the person who has committed the workplace harassment in his or her personal capacity.

When the situation of workplace harassment arises between employees of different employers, such as employees of temporary employment agencies, security companies, maintenance companies or other contractors, who interact in a common workplace, all the employers involved will have the right to Obligation to investigate the allegation of workplace harassment, regardless of whether or not they are the direct employer of the complaining employee.

An employer will be responsible for acts of workplace harassment towards its employees in the workplace, by persons not employed by it, if the employer, his agents or his supervisors knew or should be in fear of such conduct and did not take immediate and appropriate action to correct the situation.

Article 6.- Denial of Employer Immunity

Any employer who incurs in workplace harassment, as defined in this law, may not invoke against the victim of harassment, the employer immunity conferred by the Law on the Compensation System for Work Accidents of April 18, 1935, as amended by being workplace harassment a negligent action committed with the intention of injuring. However, the employee may receive the services offered through the Work Accident Compensation System (the Fund), and once it is determined that the health condition is due to a pattern of workplace harassment, the Insurance Fund Corporation The State may recover from the employer the expenses incurred in treating the affected employee. "

Section 7.- Scope of Protection

Any person who reports acts of workplace harassment will be protected by this Act, in accordance with the provisions of Act No. 115 of December 10, 1991, known as the "Act of Retaliation against Employees for Offering Testimonies and Cause of Action", while do not prove that your claim is false. Every employer will be responsible when they perform any act that affects the employment opportunities and conditions of any worker who has opposed practices that constitute workplace harassment, who has denounced, testified, collaborated or in any way

participated in an investigation or procedure related to it. workplace harassment, or when you fail to take the necessary measures to provide adequate protection.

Provided that:

a) No employer may fire, threaten, or discriminate against an employee in relation to the terms, conditions, compensation, location, benefits or privileges of employment because the employee offers or attempts to offer, verbally or in writing, any testimony, expression or information before a union, a human resources office or employer's office, a legislative, administrative or judicial forum in Puerto Rico, when said expressions are not defamatory or constitute disclosure of privileged information established by law.

(b) The employee must prove the violation by direct or circumstantial evidence. The employee may also establish a prima facie case of violation of the law proving that he reported an act of workplace harassment and that he was subsequently fired, threatened or discriminated against from his employment. Once the foregoing has been established, the employer must allege and substantiate a legitimate and non-discriminatory reason for the dismissal. If the employer alleges and substantiates said reason, the employee must demonstrate that the reason alleged by the employer was a mere pretext for dismissal.

Section 8.- Determination of Workplace Harassment

The determination of whether or not a conduct constitutes workplace harassment at work will depend on the totality of the circumstances and the proven facts in each particular case.

Conduct constitutive of workplace harassment will be considered acts such as those detailed below:

- (1) Injurious, defamatory or harmful expressions about the person, with the use of profanity.
- (2) Hostile and humiliating remarks of professional disqualification expressed in the presence of co-workers.
- (3) Unjustified threats of dismissal expressed in the presence of co-workers.
- (4) Multiple disciplinary complaints from any of the active subjects of harassment, the recklessness of which is demonstrated by the result of the respective disciplinary processes.
- (5) The humiliating disqualification of proposals or opinions of work.
- (6) The comments or ridicules directed at the employee about the physical appearance or the way of dressing, made in public.

- (7) The public allusion to facts pertaining to the personal and family privacy of the affected employee.
- (8) The imposition of duties patently alien to labor obligations, openly disproportionate demands on the performance of the work entrusted and the abrupt change of the place of work or of the contracted work without any objective basis regarding the business or service to which it is dedicated by the employer.
- (9) The refusal of the employer or other employees to provide materials and information of a pertinent and indispensable nature for the performance of tasks.

Does not constitute workplace harassment:

- (1) Acts intended to exercise the disciplinary power that legally corresponds to supervisors over their subordinates.
- (2) The formulation of requirements for the protection of confidentiality in the services to which the employer is engaged or the employee's loyalty to his employer.
- (3) The formulation or promulgation of regulations or memoranda to direct the operation, maximize the efficiency and the labor evaluation of the employees based on the general objectives of the employer.
- (4) The request to fulfill additional duties of collaboration when necessary for the continuity of the service or to solve difficult situations in the operation and services offered by the employer.
- (5) Administrative actions aimed at the termination of an employment contract, with just cause or for a fixed period of time, provided for in the legal system of Puerto Rico.
- (6) The affirmative actions of the employer to enforce the stipulations contained in the regulations for the administration of human resources or clauses of the employment contracts.
- (7) The affirmative actions of the employer to comply with the obligations, duties and prohibitions that govern by law.

Article 9.-Dissemination and Advice

In consideration of the provisions of this Law, every employer, public or private, will have the obligation to expose the content of the scope of this Law in a visible place for all its employees and guide them on the measures, policies and processes adopted for the place of work. All

employers will provide their employees with a written copy of said policies and procedures available to report a case of workplace harassment.

Provided, That the Secretary of the Department of Labor and Human Resources is hereby empowered to allow private sector employers, through regulations, to use existing protocols for handling complaints in the workplace to address matters related to the provisions of this Law. The same power is conferred on the Director of the Office of Training and Labor Advice and Human Resources Administration as far as public sector employers are concerned. The employer will have a period of one (1) year for the adoption and implementation of the protocols and their due dissemination in the work centers.

Section 10.-Procedure

Any person who claims to be a victim of workplace harassment must report it following the procedure and protocol adopted by their employer, which, as already established, must be protected by the parameters established by the Department of Labor and Human Resources and by the Office of Training and of Labor Advice and Human Resources, as applicable.

If the steps taken in accordance with the procedure and protocol adopted by the employer are unsuccessful, the affected employee will go to the Bureau of Alternative Methods for the Resolution of Conflicts of the Judicial Branch. If, having been oriented, the parties do not accept the mediation or the mediator does not recommend it, then it is possible to go to the competent court, presenting supporting evidence that said alternative mechanism has been exhausted and filing the civil action provided by this Law.

As for small and medium-sized merchants with fifteen (15) employees or less, the mediation mechanism will be available as a first option in those cases in which the establishment of the protocol and the procedures established in this law may be onerous or inoperative given its nature. administrative and operational.

Article 11.-Civil Liability

Any person responsible for workplace harassment in the workplace as defined in this Act, shall incur civil liability for an amount equal to twice the amount of the damages that the act has caused the employee apart from any other liability that could be criminally imputed.

In the judgment issued in civil actions filed under the provisions of this Act against the Government of Puerto Rico, including the Executive, Legislative and Judicial Branch, as well as its instrumentalities or public corporations, the court may order the employer to employ, promote, reinstate or reinstate the worker with retroactive pay and to cease and desist from the act in question. In such cases, the employer must certify that the work area in which he will perform is one free from workplace harassment. In cases where reinstatement in employment is not possible, the court will determine compensation for damages caused as supported by the evidence presented.

Article 12.- Prescription

Any person who has a cause of action under the provisions of this Law, will have a term of one (1) year to present his cause of action. Provided, That said term shall begin to run one year after the employee felt subjected to the alleged workplace harassment.

Section 13.- Summary Procedure

In all legal proceedings filed for violation of the provisions of this law, the injured person may choose to process his cause of action through the summary procedure established by Law No. 2 of October 17, 1961, or through the ordinary procedure which establishes the Rules of Civil Procedure for the General Court of Justice.

Article 14.-Regulations

The Secretary of Labor and Human Resources, as well as the Director of the Office of Training and Labor Advice and Human Resources Administration, are empowered to adopt and promulgate the regulations and regulations necessary to administer and implement the provisions of this Law, subject to the provisions of Act No. 170 of August 12, 1988, as amended, known as the "Uniform Administrative Procedure Act of Puerto Rico." However, one hundred and eighty (180) calendar days are granted to these officials to put into effect the regulations derived from this Law.

Section 15.-Severability Clause

If any clause, paragraph, subparagraph, article, provision, section or part of this Law were annulled or declared unconstitutional, the sentence for that purpose issued will not affect, harm, or invalidate the rest of this Law. The effect of said sentence will be limited to the clause,

paragraph, subparagraph, article, provision, section or part thereof that has thus been annulled or declared unconstitutional.

Article 16.- Validity

This Law will take effect immediately after its approval.



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A special thank you for the organizations that supported the two-day symposium.



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