

Workplace Psychological Safety Act

Purpose: To ensure the psychological safety of employees and/or the work environment without regard to protected class status by holding employers accountable for psychological abuse conduct.

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

- A. "Employee", any person who renders services to an employer, contractor, or any other entity and receives compensation for those services, including full- and part-time paid employees, temporary employees, contracted employees, and independent contractors.
- B. "Employer", a person or entity of any size who obtains services from a full- or part-time paid employee, temporary employee, contracted employee, or independent contractor and hires at least one employee for any compensation.
- C. "Representative employee", an employee in a leadership, management, or legal position whose responsibility is to advise on, oversee, and/or enforce organizational policies.
- D. "Constructive discharge," a resignation resulting from working conditions that a reasonable person would consider so abusive, hostile, degrading, retaliatory, or psychologically unsafe that resignation becomes a foreseeable consequence.

Section 2. Workplace Psychological Abuse Regulation.

- A. Workplace psychological abuse shall be unlawful. Workplace psychological abuse is unwelcome conduct that humiliates, intimidates, degrades, coerces, sabotages, or materially interferes with an employee's work conditions or psychological safety that is a pattern of conduct or a single incident severe enough to create a work environment that a reasonable person in the employee's position would consider hostile, intimidating, abusive, degrading, or psychologically unsafe. Conduct may include false accusations, sabotage of work performance, consistent ignoring or ostracism, removal of major responsibilities, consistent unreasonable workloads, excessive monitoring, persistent hypercriticism, impossible deadlines, pressure to engage in unethical behavior or give up rights or benefits, retaliation for speaking up, repeated verbal abuse, or micromanagement when conducted in an abusive, retaliatory, humiliating, coercive, or unreasonable manner. Isolated, minor incidents and expressions of disagreement and constructive feedback are not psychological abuse unless they meet the threshold of abuse. Workplace psychological abuse may be perpetrated by one or more persons. Workplace psychological abuse may result from individual conduct, coordinated conduct, organizational practices, or institutional failures to prevent or respond to abusive conduct. Workplace psychological abuse is found by a review of the totality of the circumstances, including but not limited to the nature, frequency, and duration of the conduct.
- B. Employers and representative employees shall take all reasonable preventative and corrective measures to identify, prevent, and address psychosocial hazards and workplace psychological abuse:
 - a. Acknowledging and responding to complaints of psychological abuse within a reasonable time frame appropriate to the level of urgency;
 - b. Providing and executing a transparent, timely complaint process that includes a prompt, impartial, trauma-informed, and adequately documented investigation and the issuance of timely and accurate reports of findings;
 - c. Providing and executing a transparent disciplinary process according to the severity of the offense within a reasonable time frame, if applicable, including but not limited to: coaching, counseling, a warning, or other disciplinary action, including removal of supervisory duties and/or termination;

- d. Maintaining accurate records of complaints, findings, and discipline;
- e. Adopting, distributing, posting, and otherwise providing a written preventative policy prohibiting all forms of psychological abuse and retaliation, to include an identification and description of all reporting methods, consistent with this section and all other laws within 90 days. Such policies shall be distributed to employees on a regular basis. The policy shall be provided to employees upon hire and redistributed at least annually thereafter.
- f. Training all employees on such preventative and reporting policies.

An employer's good-faith efforts to prevent and address workplace psychological abuse, including but not limited to the implementation of compliant policies, training, reporting procedures, and timely corrective action, may be considered by the court in determining punitive damages. The existence of a policy, training program, reporting procedure, or investigation alone shall not constitute a defense to liability where workplace psychological abuse or retaliation occurred and the employer knew or reasonably should have known of the conduct and failed to take reasonable corrective action.

- C. It shall be unlawful for an employer or representative employee to:
 - a. Require or coerce participation in mediation and/or arbitration of a psychological abuse complaint prior to the employee's retaining of counsel (voluntary mediation may be requested by the employee only),
 - b. Require, request, or enforce a nondisclosure or nondisparagement agreement that prevents discussion of unlawful workplace psychological abuse or retaliation, and/or
 - c. Engage in an adverse employment action. An adverse employment action occurs when an employee opposes an unlawful employment practice and/or exercises a right under this section and is then the target of forced resignation, termination, demotion, unfavorable reassignment, failure to promote, disciplinary action, reduction in compensation, constructive discharge, social exclusion, reputational harm, retaliatory investigation(s), schedule manipulation, work sabotage, reduction of responsibilities, coercive transfers, threats, intimidation, interference with future employment opportunities, or a similar action.

A violation or violations of any part of this section can be enforced by a private right of action against an individual employee and/or employer in violation of this Act.

The rights provided by this Act arise from unlawful workplace conduct and retaliation and are independent of any workers' compensation claim for physical or psychological injury.

Section 3. Damages. Complainants who prove a violation of Section 2 or any of its subparts shall be entitled to all legal and equitable relief necessary to make the complainant whole and to deter future violations of this Act. Available remedies may include, but are not limited to:

- A. Compensatory damages, including:
 - a. Economic damages, including back pay, front pay, lost benefits, medical expenses, and other financial losses; and
 - b. Non-economic damages, including emotional distress, pain and suffering, reputational harm, humiliation, and loss of professional standing;
- B. Punitive damages where the conduct is malicious, reckless, retaliatory, willful, egregious, or demonstrates deliberate indifference to employee psychological safety;
- C. Injunctive and equitable relief, including but not limited to:
 - a. Reinstatement;
 - b. Removal of the complainant from the abusive work environment;
 - c. Removal of supervisory duties;

- d. Termination of the offending employee where appropriate;
- e. Required policy changes, training, monitoring, reporting, or other corrective measures;
- D. Restorative relief, including correction of personnel records, performance evaluations, disciplinary records, false statements, and reputational harm;
- E. Reasonable attorneys' fees and costs for a prevailing complainant. A prevailing employer shall not be awarded attorneys' fees or costs unless the court finds the action was knowingly frivolous or brought in bad faith.

Section 4. Employee Rights.

- A. Any person who has a cause of action under the provisions of this Act shall have a period of three (3) years after the last violation of Section 2 of this Act to file said cause of action.
- B. A pseudonym can be used in any and all instances at the plaintiff's request.
- C. Rights under this Act may not be waived by contract, policy, handbook acknowledgment, arbitration agreement, or condition of employment.
- D. In any action brought under this Act, the court may consider the totality of the circumstances and all relevant evidence demonstrating a pattern, practice, or effect of workplace psychological abuse, retaliation, or institutional failure to respond appropriately. Relevant evidence may include but is not limited to:
 - a. Written or electronic communications;
 - b. Witness testimony;
 - c. Personnel records and performance evaluations;
 - d. Documentation maintained by the employee, including contemporaneous notes, journals, or timelines;
 - e. Prior complaints, reports, investigations, or disciplinary actions involving substantially similar conduct;
 - f. Evidence of retaliation, reputational harm, social exclusion, work interference, or coordinated conduct;
 - g. Evidence demonstrating that the employer knew or reasonably should have known of the conduct.
- E. Nothing in this section shall prohibit the admission of any other evidence otherwise permitted by law.