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ACLU OF RI POSITION: OPPOSE

TESTIMONY ON 26-S 2502 RELATING TO WORKPLACE PSYCHOLOGICAL SAFETY ACT March 4, 2026

The ACLU of Rhode Island appreciates this bill's intent to bring some well-deserved civility to the workplace, and the effort that has been made in this latest version of the bill to narrow its scope. However, we continue to have significant concerns about its breadth and its legality. Unfortunately, we believe that lawmakers can only go so far in trying to regulate civility.

It is difficult to legislate a workplace civility code because First Amendment and due process concerns arise when attempting to address by statute the types of routine personal interaction that this bill seeks to regulate. The terminology used in this bill as to what constitutes "workplace bullying" establishes a cause of action for such vague employee or supervisor activity as "consistent micromanagement," "persistent hypercriticism," or "excessive monitoring." Any of these activities may be a sign of a poor manager, but it is another matter entirely to turn such conduct into a legally cognizable harm. While "workplace bullying" is to be examined under the "totality of the circumstances," it leaves employees and employers at risk of defending themselves in litigation for routine, if potentially uncouth, interpersonal or managerial interactions.

In light of the serious legal consequences that flow from engaging in this activity, we do not believe it can withstand constitutional scrutiny. That is especially the case since the "conduct" being regulated could sometimes encompass purely verbal speech, a core element of First Amendment protection. Indeed, the bill is so broadly and vaguely worded, an employee could allege "workplace bullying" if other employees vigorously and repeatedly encouraged the person to support unionization of their workforce, and he found the pressure placed on him to support it to rise to the level of "verbal abuse."

While we might all yearn for a working environment that is never difficult or uncomfortable, imposing steep civil penalties against an employer for failing to maintain such an environment is deeply problematic. Ultimately, we believe that the breadth and vagueness of this bill's standards run afoul of free speech and due process constitutional obligations.

For these reasons, the ACLU is constrained to oppose this legislation and urges its rejection by the committee. Thank you for considering our views.