

Model Policy on Employer Responses to Domestic Violence, Sexual Violence, Dating Violence and Stalking

Your employee may, at some time, obtain a protection order to protect himself or herself from violence or one of your employees may be subject to a protection order for perpetrating violence. What does this mean to you as an employer?

I. Statement of Purpose

[Employer] institutes this policy as part of its commitment to a healthy, safe organizational climate and to the prevention and reduction of the incidence and effects of domestic violence, sexual violence, dating violence, and stalking [hereinafter “violence”]. [Employer] recognizes that domestic violence, sexual violence, dating violence, and stalking are workplace issues and impact the workplace even if the incidents occur elsewhere. Incidents of domestic violence, sexual violence, dating violence, and stalking cross economic, educational, cultural, age, gender, racial, and religious lines. They can occur in heterosexual and same sex intimate relationships, including marital, cohabiting, or dating, as well as in non-intimate heterosexual or same sex relationships, such as between coworkers or perpetrated by supervisors, and can occur between strangers.

The purposes of this policy are to:

- Enhance workplace awareness and capacity to create a supportive, safe work environment for victims of violence and fellow employees;
- Institutionalize responsive policies and procedures to assist employees who are impacted by violence, including the provision of training on this policy to employees and management;
- Provide immediate assistance to victims, especially information and referrals to community resources;
- Provide assistance and/or disciplinary action to employees who are perpetrators of violence.

II. Definitions

1. **Survivor or victim:** an individual who is currently subject to, or has in the past been subjected to, domestic or sexual violence, dating violence, or stalking.
2. **Perpetrator:** the individual who commits or threatens to commit an act of domestic violence, sexual violence, dating violence, and stalking.
3. **Domestic Violence:** a pattern of coercive behavior, including acts or threatened acts, that is used by a perpetrator to gain power and control over a current or former spouse, family member, intimate partner, or person with whom the perpetrator shares a child in common. It occurs in heterosexual and same sex relationships and impacts individuals from all economic, educational, cultural, age, gender, racial, and religious demographics. Domestic violence includes, but is not limited to, physical or sexual violence, emotional and/or psychological intimidation, verbal abuse, stalking, economic control, harassment, physical intimidation, or injury.

4. **Sexual violence:** a range of behaviors, including but not limited to, sexual harassment, a completed nonconsensual sex act (i.e., rape), an attempted nonconsensual sex act, abusive sexual contact (i.e., unwanted touching), and non-contact sexual abuse (e.g., threatened sexual violence, exhibitionism, verbal harassment). Some or all of these acts may also be addressed in [Employer]’s Sexual Harassment Policy. Sexual violence is any sexual act or behavior that is perpetrated against someone’s will when someone does not or cannot consent. Victims of sexual violence may know the perpetrator(s), such as a coworker or a supervisor, and/or may be involved in a dating or marital relationship with the perpetrator, or the perpetrator may be unknown to the victim. A person of any age or gender may be a victim of sexual violence. Consent is not given when a perpetrator uses force, harassment, threat of force, threat of adverse personnel action, coercion, or when the victim is asleep, incapacitated, or unconscious.
5. **Dating Violence:** an act of violence threatened or committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a “romantic or intimate” relationship is determined based upon the victim’s perspective and in consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
6. **Stalking:** refers to harassing, unwanted or threatening conduct that causes the victim to fear for his or her safety or the safety of a family member, or would cause a reasonable person in a similar situation to fear for his or her safety. Stalking conduct includes, but is not limited to: following or spying on a person, appearing at a person’s home or work, showing up at a place where the perpetrator has no reason to be, waiting at places in order to make unwanted contact with the victim or to monitor the victim, leaving unwanted items, presents, or flowers for the victim, and posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth. Stalking may occur through use of technology including, but not limited to e-mail, voice-mail, text messaging, and use of GPS and social networking sites.
7. **Protection or Restraining Order:** protection orders, sometimes called restraining orders or stay away orders, are a mechanism where a victim can petition the court for protection from a perpetrator, as well as establish custody and visitation guidelines and provide for other forms of economic security, like rent or mortgage payments, which last for the duration of the order. Protection orders may also issue in criminal cases as a condition of probation or condition of release particularly in a domestic violence, sexual violence, dating violence, or stalking related crime.
8. **Workplace-Related Incidents:** workplace-related incidents of domestic violence, sexual violence, dating violence, and stalking include acts, attempted acts, or threatened acts by or against employees, and/or against employees’ families or property, that occur in the workplace or that occur outside the workplace but have an impact on the workplace. An employee is considered to be in the workplace while in, or utilizing the resources of the employer, including but not limited to facilities, work sites, equipment, or vehicles, or while on work-related travel.
9. **Workplace Safety Plan:** a strategy developed in collaboration with a victim to implement workplace safety options, including but not limited to: handling of court protection orders, procedures for alerting security personnel, temporary or permanent adjustments to work schedules and locations, change in parking spots, and requests for escorts to and from workplace facilities.

III. Persons Covered by this Policy

Persons covered by this policy include full and part time employees, interns, contractors, volunteers, or temporary workers engaged by [Employer] or in any workplace location.

IV. Statement of Confidentiality

[Employer] recognizes and respects an employee's right to privacy and the need for confidentiality and autonomy. [Employer] shall maintain the confidentiality of an employee's disclosure regarding violence to the extent permitted by law and unless to do so would result in physical harm to any person and/or jeopardize safety within the workplace. When information must be disclosed to protect the safety of individuals within the workplace, [Employer] shall limit the breadth and content of such disclosure to information reasonably necessary to protect the safety of the disclosing employee and others and to comply with the law. [Employer] shall make every effort to provide advance notice to the employee who disclosed information if the disclosure must be shared with other parties in order to maintain safety in the workplace or elsewhere. [Employer] shall also provide the employee with the name and title of the person to whom [Employer] intends to share the employee's statements, and shall explain the necessity and purpose regarding said disclosure.

V. Employer Responses to Violence

A. Responses to Victims

1. Nondiscrimination and Non-Retaliation

[Employer] shall not discriminate in hiring, staffing, or other terms and conditions of employment against any employee for disclosing his or status as a victim of violence or for submitting a complaint or disclosing concerns about violence to [Employer]. [Employer] shall not retaliate or take adverse employment actions against any employee for submitting a complaint pursuant to this policy, for disclosing his or status as a victim, or for actions of violence perpetrated by another against an employee that occur in or have an impact on the workplace.

2. Leave and Other Workplace Assistance

[Employer] recognizes that victims of domestic violence, sexual violence, dating violence, and stalking may need time off to secure medical assistance, legal assistance, counseling, or to attend to other matters related to the violence, such as court proceedings, relocation, or safety planning for him or herself or for a family member. [Employer] will make every reasonable effort to assist an employee to maintain employment when the employee is experiencing or has experienced violence in the workplace, or has experienced violence outside the workplace, or is assisting a family member who has experienced domestic violence, sexual assault, dating violence or stalking. [Employer] will work in collaboration with the employee to provide reasonable and flexible leave options when an employee, or a child, spouse, or parent of an employee, is a victim of domestic violence, sexual violence, dating violence, and stalking. [Employer] will work with employee to provide paid leave first before requiring an employee to utilize unpaid leave. When the need for time off is foreseeable, an employee must provide reasonable advance notice to the employer unless advance

notice is not feasible. To request Leave, employee should contact _____. [Employer] will also work with employee to determine if other non-leave related assistance will facilitate employee's ability to remain safe and maintain his or her work performance, such as, but not limited to, modifying work schedules, changing employee's location within the workplace or location of a parking spot, changing phone numbers, arranging telecommuting options, etc. [Employer] will assist employee to enforce his or her protection order, if applicable.

3. **Access to Unemployment Insurance Benefits**

[Employer] recognizes that in certain situations it is no longer feasible for employee who is a victim of violence to continue working for [Employer]. In such circumstance, [Employer] shall provide to employee information regarding access to unemployment insurance benefits. [Employer] has designated _____ at _____ to provide accurate information regarding unemployment benefits for victims of violence.

4. **Work Performance**

[Employer] recognizes that employees who are victims of violence may experience temporary difficulty fulfilling job responsibilities. If [Employer] becomes aware that an employee's work performance or conduct has been impacted by domestic violence, sexual violence, dating violence, or stalking, [Employer] will offer support to the employee and work in collaboration with the employee to address the issues, in accordance with established policies within the workplace. [Employer] may develop a work plan with employee, provide leave and other accommodations as specified in (IV)(A)(ii), provide referrals to support or advocacy agencies, advise employee of his or her rights regarding unemployment insurance as specified in (IV)(A)(iii), and maintain a separate and confidential record of employee's status as a victim of domestic violence, sexual violence, dating violence, or stalking to ensure to victim that his or her rights and privileges of employment are not impacted or compromised as a result of the violence.

5. **Protection and Restraining Orders**

[Employer] recognizes that a victim of violence may seek an order of protection, or may receive a restraining order, as part of his or her efforts to become safe and as part of his or her workplace safety plan. [Employer] recognizes that the workplace may or may not be included on an order as a location from which a perpetrator must remain away. If an employee chooses to disclose the existence of a protection or restraining order to [Employer], [Employer] may, wherever possible, assist the employee to enforce his or her order, shall archive said order in a confidential and separate file from employee's personnel file, and, if applicable, may assist employee to gather documentation from the workplace, such as emails or voice messages, that could support the employee's efforts in the justice system or otherwise to obtain or maintain safety from a perpetrator.

B. **Responses to Employees Concerned About Violence**

Employees who suspect or witness acts of violence in the workplace, or who suspect or witness violence against an employee or perpetrated by an employee, are encouraged to report their concerns to the authorized person within [Employer]. [Employer] shall not retaliate against, terminate, or discipline any employee for reporting concerns about workplace related incidents of

violence pursuant to this policy, including an allegation that the act was perpetrated by a fellow employee or person in a management capacity. Prohibited acts of retaliation include, but are not limited to, demotion or withholding of earned pay, as well as acts of personal retaliation, such as those related to an employee's immigration status or sexual orientation, for example. Any employee who believes he or she has been subjected to adverse action as a result of making a report pursuant to this policy should contact _____ at _____ within [Employer]. Any allegations of violations of this policy will be promptly investigated.

C. Responses to Employees Who Commit Violence

If an employee discloses that he or she has committed a workplace-related incident of violence, as defined in (II)(H), or if a supervisor becomes aware that an employee may have committed such incident, the supervisor shall conduct or refer the employee to the designated individual as specified in Section VI below to conduct appropriate investigations, interventions, and referrals. [Employer] shall investigate immediately and take disciplinary action, up to and including termination, against any employee who threatens to commit or who commits workplace-related incidents of domestic violence, sexual assault, dating violence, or stalking. Employees are prohibited from utilizing any workplace resources, such as work time, phones, email, computers, fax machines or other means to threaten, harass, intimidate, embarrass or otherwise harm another person. An employee who is subject to a protection or restraining order, or a named defendant in a criminal action as a result of a threat or act of domestic violence, sexual violence, dating violence, or stalking must disclose the existence of such criminal or civil action if the conditions of such actions interfere with the employee's ability to perform his or her job, impact another employee at [Employer], or specifically relate or name [Employer]. Failure to disclose the existence of such criminal or civil actions in these circumstances will result in disciplinary action, up to and including termination from employment.

VI. Reporting and Referrals

Employees who are victims of domestic violence, sexual violence, dating violence, and stalking, and employees who are concerned about coworkers who are victims or who have witnessed acts or threatened acts of violence are encouraged to provide a report to [Employer]. [Employer] has designated _____ in the _____ office at _____ as the person to whom such reports should be made. [Employer]'s designated employee shall provide community referrals and resources to employees in order to assist employees with their concerns or experiences regarding violence.

An employee should also contact _____ at _____ if he or she wishes to report a violation of this policy. As stated in (V)(A)(i), [Employer] will not subject employees who report violence or report a violation of this policy to work related or personal retaliation.