

Employer Policy to Prevent & Respond to Gender-Based Violence and Harassment in the World of Work

The purpose of a workplace policy on Gender-Based Violence and Harassment (GBVH) is to define the roles and responsibilities of the employer to address and respond to the impacts of GBVH in the world of work. This policy is intended to be used as a part of a comprehensive program to create a safe, respectful and productive workplace to prevent and address GBVH in the world of work. Other parts of such a program should include: ongoing in-person interactive workshops on the dynamics and impacts of GBVH designed by and with workers within the organization, ongoing culture and climate surveys to evaluate the effectiveness of the program and inform interventions, and a transparent, trauma-informed complaint process.

Elements of a workplace GBVH policy should include:

- I. **Purpose:** this should demonstrate the employer's commitment to address gender-based violence and harassment in the world or work.
- II. **Definitions:** the policy should define, in the broadest and most inclusive terms, gender-based violence and harassment including domestic violence, dating violence, sexual assault/violence, sexual harassment, and stalking
- III. **Applicability:** the policy should cover all full and part-time employees (including managers, supervisors, executives, and senior level staff members), paid and unpaid interns, contractors, volunteers, board members, consultants, contractors and temporary workers in any workplace location, customers, clients, and anyone with access to the workplace for work-related reasons throughout the world of work.
- IV. **Confidentiality:** the policy should provide information on confidentiality and disclosure of confidential information. Also names any mandatory reporters, if applicable.

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- V. **Disclosing and Reporting Gender-Based Violence and Harassment:** the policy should describe:
- the processes for disclosing gender-based violence and harassment for the purpose of sharing or obtaining a protective order, seeking workplace accommodations, or safety planning.
 - the processes for reporting a workplace incident involving gender-based violence and harassment for the purpose of filing a complaint to begin an investigation.
 - the investigation process, consequences, and accountability measures that are in place when an individual covered by the policy is under investigation.
- VI. **Response to Gender-Based Violence and Harassment:** The policy should outline available workplace accommodations and supports for survivors of gender-based violence and harassment including safety planning support, EAP, emergency services, local community-based victim service agencies, and hotlines.
- VII. **Non-Discrimination and Non-Retaliation:** The policy should detail prohibitions against discrimination, harassment or any other forms of retaliation against those who disclose or report gender-based violence and harassment and/or participate in an investigation of a complaint.
- VIII. **Violations of the Policy:** The policy should describe what a violation of the policy is and the consequences of violating the policy.
- IX. **Appendices** with information for local supports and resources for individuals experiencing gender-based violence and harassment and for staff responsible for implementing the policy.

The resource offers a framework for developing a workplace policy to prevent and respond to GBVH and should be adapted to reflect the laws in your jurisdiction, characteristics of workplace covered, as these vary across state, industry, and sector. Each section will include outline the goal and objective of each element, key information to inform its development, and offer suggested language.

For support, including free policy audit, consultation, or review request technical assistance from the Workplaces Respond team at:

[https://futureswithoutviolence.formtitan.com/WorkplacesTAForm#/.](https://futureswithoutviolence.formtitan.com/WorkplacesTAForm#/)

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I. Purpose

The goal of the purpose section is to state the employer's goal of the policy. This also provides the employer the opportunity to strongly signal its commitment to supporting the safety and wellbeing of survivors of gender-based violence and harassment that the employer will hold those who violate the policy accountable.

Preventing and addressing gender-based violence and harassment in the world of work is a health and safety issue, a gender inequality issue, and a human rights issue. An employer has a duty to maintain a safe and respectful workplace where everyone is welcome and able to thrive. This is not possible when gender-based violence and its impacts go unaddressed.

Example Language:

I. Purpose

[Employer] recognizes that gender-based violence and harassment present unique threats to its workforce and operations. As such, [Employer] institutes this policy as part of its broader commitment to creating a safer and more supportive organizational culture by promoting the prevention and reduction of incidences and impacts of domestic violence, sexual violence and harassment, and stalking in the world of work (hereinafter gender-based violence and harassment, or GBVH).

Gender-based violence and harassment impact the world of work even when incidents occur elsewhere. Unfortunately, anyone may be a target of these abuses and it occurs in all aspects of our lives, not just in the world of work. [Employer] is committed to taking every appropriate measure to prevent and/or mitigate the impacts of gender-based violence and harassment among covered persons and in the world of work.

II. Definitions

The goal of the definitions section is to clearly describe the terms used in the policy and provide clarity on what gender-based violence and harassment is, who is covered under the policy, and the scope of the policy.

Unfortunately, many individuals who experience gender-based violence and harassment do not recognize it as violence or abuse. To help individuals better identify the varying ways in which gender-based violence and harassment occurs, definitions should be broad yet descriptive. Examples should be used to describe the range of conduct that are acts of gender-based violence and harassment.

Example Definitions (based on language from the Violence Against Women Act, the International Labor Organization, Title VII of the Civil Rights Act, and Trafficking Victims Protection Act):

II. Definitions

Gender-Based Violence and Harassment

Gender-Based Violence and Harassment (GBVH) is a range of unacceptable behaviors and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm directed at persons because of their sex or gender identity, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.¹

Anyone may be a target of gender-based violence and harassment and it may impact anyone in the workplace. It includes domestic violence, dating violence, sexual assault, sexual harassment, and stalking²:

a) Domestic Violence and Dating Violence

Domestic violence is a pattern of abusive behavior in a relationship that is used by one partner to maintain power and control over another current or former intimate partner. This includes people with any current or former romantic involvement, for example dating, previously dating, on again/off again, married, divorced, living together or apart. Intimate partner violence can occur between people of any gender identity or sexual orientation. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behavior that intimidates, manipulates, humiliates, isolates, frightens, terrorizes, coerces, threatens, hurts, injures, or wounds someone.

Similar to Domestic Violence, Dating Violence is violence and abuse committed by a person to exert power and control over a current or former dating partner. Dating violence often involves a pattern of escalating violence and abuse over a period of time. Dating violence covers a variety of actions, and can include physical abuse, physiological and emotional abuse, and sexual abuse. It can also include “digital abuse”, the use of technology, such as smartphones, the internet, or social media, to intimate, harass, threaten, or isolate a

¹ ILO Violence and Harassment Convention No.190, Article 1.1 (2019)
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

² 34 U.S. Code Subchapter III - VIOLENCE AGAINST WOMEN

victim.

b) **Sexual Assault:**

Sexual Assault is any type of sexual contact or behavior that occurs without consent of the recipient. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, molestation, incest, fondling, and attempted rape. It includes sexual acts against people who are unable to consent either due to age or lack of capacity.

c) **Sexual Harassment:**

Sexual harassment in the workplace is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Sexual harassment refers to both unwelcome sexual advances, or other visual, verbal, or physical conduct of a sexual nature and actions that create an intimidating, hostile, or offensive work environment based on an employee's sex. The offensive conduct need not be motivated by sexual desire, but may be based upon an employee's actual or perceived sex or gender-identity, actual or perceived sexual orientation, and/or pregnancy, childbirth, or related medical conditions. This definition includes many forms of offensive behavior and includes gender-based harassment of a person of the same sex as the harasser, and actions that subject co-workers to a hostile work environment.³

d) **Stalking:**

Stalking is a pattern of repeated, fixated, obsessive, and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking is dangerous and can often cause severe and long-lasting emotional and psychological harm to victims. Stalking often escalates over time and can lead to domestic violence, sexual assault, and even homicide. Stalking can include frightening communications, direct or indirect threats, and harassing a victim through the internet.

Other key definitions help to define the scope of coverage both in terms of people and locations.

³ See California's Civil Rights Department from their definition of sexual harassment: https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2020/03/Sexual-Harassment-Fact-Sheet_ENG.pdf

Individuals who are currently subjected to, or in the past have been subjected to gender-based violence and/or harassment are often referred to as victims in a criminal justice context but as survivors by the broader advocacy community. Survivor is often the preferred terminology because it signifies strength and resilience while victim can bring a sense of powerlessness and shame. Individuals who experience gender-based violence and harassment may or may not identify themselves as either survivor or victim. While the policy will define one term, it is important for those who are acting within the policy to mirror the language a survivor may choose when they seek support or report an incident.

Example definition:

Survivor

An individual who is currently subject to, or has in the past been subjected to, gender-based violence and/or harassment.

Individuals who commit acts or threats of gender-based violence and harassment are often referred to as perpetrators, particularly in legal proceedings. Historically these individuals have been referred to as abusive partners or batterers. Recognizing that individuals who commit or threaten to commit an act of gender-based violence and/or harassment may also have a complex history of experiencing violence and/or harassment, the advocacy community has shifted this language to a “person who causes harm” to define that person in relationship to the act and to recognize that they may have also experienced harm in other contexts.

Example definition:

Person who causes harm

An individual who commits or threatens to commit an act of gender-based violence and/or harassment. Such persons are sometimes referred to as perpetrators, abusive partners, abusers, or batterers.

In 2019, the International Labor Organization established the “world of work” to include gender-based violence and harassment experienced “in the course of, linked with, or arising out of work:

- a. in the workplace, including public and private spaces where they are a place of work;
- b. in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities;
- c. during work-related trips, travel, training, events or social activities;

- d. through work-related communications, including those enabled by information and communication technologies;
- e. in employer-provided accommodation; and
- f. when commuting to and from work.”⁴

This inclusive definition allows the policy to be applied across all settings in which a person is engaging in work.

Example definition:

World of Work

The world of work consists of any location in which full and part-time employees (including managers, supervisors, executives, and senior level staff members), paid and unpaid interns, contractors, volunteers, board members, consultants, contractors and temporary workers engaged by [Employer] in any workplace location, customers, clients, anyone with access to the workplace for work-related reasons. This includes:

- a. in the workplace, including public and private spaces where they are a place of work;*
- b. in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities;*
- c. during work-related trips, travel, training, events or social activities;*
- d. through work-related communications, including those enabled by information and communication technologies in employer-provided accommodation; and,*
- f. when commuting to and from work.*

Outside of the World of Work, refers to any place in which a person covered by this policy is not engaging in work-related activities, such as at home or in the community off hours.

Other key terms to include are protection orders and workplace safety plan.

A Protection Order (alternatively called a stay away order or restraining order depending on one’s state of residence) can be obtained in a civil proceeding by a survivor or be issued by a prosecutor or judge in a criminal proceeding and may require the person causing harm to, among other things, stay away from the survivor at home, at work, and in the community and prohibit them from threatening, physically abusing or otherwise harming the petitioner. In addition, some states have enacted laws that allow an employer to apply for protection orders to prevent violence, harassment, or stalking against their employees by

⁴ ILO Violence and Harassment Convention No.190, Article 1.1 (2019)
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

people who are not employed by the employer. An employer should only consider obtaining a workplace protection order after they have consulted their employee who is experiencing the violence and/or because they will be able to inform the employer if obtaining such an order will make them safer or if it will increase their risk of safety concerns.

It is important to note that a protection order does not guarantee safety and is not available to all survivors of gender-based violence and harassment.

In some cases, seeking a civil protection order may not be the best way for a survivor to remain safe. To learn more about protection orders and implications on the workplace, please visit: www.workplacesrespond.org/resource-library/protection-orders/.

In addition to or instead of a civil protective order, survivors may work with a victim advocate (someone who works at a domestic violence or sexual assault program, shelter, or other victim service agency) to develop a safety plan. A safety plan is a survivor-led tool that outlines set of actions that can help lower their risk of experiencing violence. Safety plans are specific to an individual and consider their safety needs at home, in the community, and in the workplace. Safety plans, best developed with a trained victim advocate, cover safety in the home including options for alternative housing arrangements and items to have readily available in case of a need to quickly vacate the home; how to safely commute to school and/or work; who can serve as an emergency contact; protecting access to email, phone, and online accounts; keeping children safe; and strategies to promote emotional health.

While comprehensive safety plans include some basic safety measures for the work, employers have the unique ability to address one's safety needs when at work. To help promote a survivor's safety at work, a representative from human resources, or similar role, should work with them to better understand what they need to be safe and how the employer can support their safety. There are generally two types of safety plans in the context of the workplace – one specific to the person experiencing violence (personal safety plan) and one focused on the overall workplace (workplace safety plan) both designed to reduce the chance that the person causing harm will be able to harass or abuse them at work.

It is imperative to consult with the survivor and develop a joint safety plan that comports with their unique needs. To learn more about safety planning, visit: www.workplacesrespond.org/wp-content/uploads/2017/01/Employer-Guide-to-Safety-Planning.pdf.

Example definitions:

Civil Protection or Restraining Order

Protection orders, sometimes called restraining orders, no-contact orders or stay away orders, are legal tools that some survivors of gender-based violence and harassment may petition the court to issue against a perpetrator of domestic violence to help keep them safe from the person causing harm (typically survivors of domestic or dating violence and in some states, sexual violence and stalking).

Workplace Safety Plan

A workplace safety plan is a strategy developed collaboratively by survivor and service provider(s) and/or employer to implement workplace safety measures that center survivor autonomy, including but not limited to: handling orders of protection; creating procedures for alerting security personnel of threats or incidents; making temporary or permanent adjustments to work schedules, locations, contact information; and requesting escorts to and from workplace facilities.

III. Applicability

This section of the policy should also clearly define for whom, when, and where the policy on gender-based violence and harassment is applicable.

An effective policy must go beyond covering full and part-time employees, and include contractors, consultants, interns, and all third-party individuals and third-parties (such as customers and clients) who access the workplace. This list of covered individuals will look different for every employer based on the type of work they do. An employer should also address gender-based violence and harassment not only occurring *within* the world of work but also the *workplace impacts of gender-based violence and harassment* on those who operate within the world of work. This allows the employer to respond to the many ways in which gender-based violence and harassment may impact all those who are connected to the employer.

It is important to note that while employers should recognize and be responsive to the impacts of gender-based violence and harassment occurring outside of the world of work (such as at home or in the community), employers should only address **incidents** and **workplace impacts** of gender-based violence and harassment that occur within the world of work. Other than providing resources to survivors who disclose violence occurring outside of the world of work, employers should not engage law enforcement, seek protective orders on someone's behalf, or intervene in any other way.

Example language:

III. Applicability

Persons covered by this policy include all full and part-time employees (including managers, supervisors, executives, and senior level staff members), paid and unpaid interns, contractors, volunteers, board members, consultants, contractors and temporary workers engaged by [Employer] in any workplace location, customers, clients, anyone with access to the workplace for work-related reasons.

[Employer] is committed to preventing and responding to gender-based violence and harassment occurring within the world of work or gender-based violence and harassment occurring outside of the world of work that affects persons covered by this policy while performing work-related duties. Accordingly, this policy applies when:

- i. An incident of gender-based violence and harassment occurs within the world of work (see definition); or*
- ii. Gender-based violence and harassment, regardless of where it occurs, impacts a person's ability to work who is covered by this policy while performing their job duties within the world of work. Impacts may include but are not limited to being harassed via phone or email, unexpected visits from the person causing harm, being followed while commuting, or having employer-issued resources (such as a laptop, uniform, or credit card) are damaged or abused.*

IV. Confidentiality

This section should address how an employer will handle sensitive information received about an incident of gender-based violence and harassment within the world of work or its impacts on persons covered by the policy. This includes setting clear expectations around privacy and confidentiality and their limitations.

Privacy is critical in ensuring that individuals experiencing gender-based violence and harassment can obtain assistance, protect their safety, and reduce risk of retaliation. Survivors are much more likely to report incidents and seek assistance if they know that their privacy will be respected.

There are many reasons why a survivor might choose not to report or seek help, including:

- The different and complex ways trauma impacts individuals;

- Fear of attacks on their credibility and other professional consequences including losing their job; and
- Concern that their co-workers, clients and other business-related contacts will find out and judge them differently.

Well-meaning or even inadvertent disclosures of a survivor’s experiences may be emotionally devastating, and for some may prove dangerous or fatal.

A clear and comprehensive confidentiality policy can create a culture in which persons covered by the policy feel safe disclosing information in order to seek assistance without fear of reprisal.

Confidentiality can look like not requiring detailed information to prove that they are survivors, limiting the number of individuals who need to be involved in providing support or investigating an incident in the workplace, and keeping information around gender-based violence and harassment separate from one’s personnel file.

For more information on confidentiality visit: www.workplacesrespond.org/wp-content/uploads/2017/01/Confidentiality-is-Critical_Revised-July-2020.pdf

Example language:

IV. Confidentiality

[Employer] recognizes and respects the importance of privacy and autonomy of all persons covered by this policy. To the extent allowed by law, [Employer] shall maintain the confidentiality of information pertaining to gender-based violence and harassment disclosed by – or harm caused by – persons covered by this policy, unless to do so would result in life threatening harm to any person, jeopardize safety within the workplace, or inhibit investigatory processes.

I. Circumstances that may require disclosure of confidential information: When information must be disclosed to protect workplace or individual safety, facilitate investigatory processes, or comply with the law, [Employer] shall limit the breadth and content of such disclosure to information reasonably necessary to protect the safety of persons covered by this policy, facilitate investigatory processes, and to comply with the law.

II. When disclosure of confidential information is required: If a disclosure is required to protect workplace or individual safety, facilitate investigatory processes, or comply with the law, [Employer] shall provide advance notice to the affected person(s), to the extent possible. [Employer] shall also provide the affected person(s) with the name and title of other individuals, such as security guards or

benefits administrators, to whom it intends to share information and shall explain the necessity and purpose regarding the disclosure, to the extent possible. Individuals who receive confidential information will be notified that this information is privileged and not to be discussed with others and that doing so could jeopardize the safety of persons involved.

If confidentiality is violated, [Employer], will seek to limit the spread of information and discipline those accountable as appropriate.

V. Disclosing or Reporting Gender-Based Violence and Harassment

The disclosure and reporting protocols section should provide clear guidance to both survivors who are seeking support and individuals who are reporting an incident of gender-based violence and harassment within the world of work. When developing this section, consider the following: (1) when are persons covered by this policy are required to report; (2) survivor safety and autonomy; (3) reporting alternatives; and, (4) external resources.

Individuals who have a duty to report or are mandatory reporters must be notified about their role and the responsibilities they have when a disclosure is made or if they learn about an incident of gender-based violence and harassment in the world of work. Persons covered by this policy should be informed of which individuals (whether specific people or job types) are mandatory reporters to ensure that survivors are aware of those responsibilities and understand that a disclosure may require a report. For example, in many cases a supervisor is a mandatory reporter but those who report to them are unaware of the responsibilities. In the case of minors, check with your state laws around mandatory reporting laws as role and responsibilities vary widely from state to state.

It is important to promote survivor autonomy, to the extent allowable by law. Not only can disclosing gender-based violence expose survivors to potential harm both within and outside of the world of work, when survivors are not given choice, it replicates the violence and abuse they are experiencing or have experienced. For example, if a person covered under this policy is experiencing sexual harassment in the workplace and a witness reports the incident, that survivor may be at risk of retaliation and escalating violence not only from the person who caused harm but others while the incident is being investigated. In another example, a survivor of domestic violence whose partner is harassing them at while at work may not want a coworker to report gender-based violence and harassment because they are worried that others may judge them or that it could

escalate violence at home. Survivors should not be required to disclose gender-based violence and harassment unless to ensure the safety of persons covered by this policy, facilitate investigatory processes, and to comply with the law. To learn more about how to support survivors during disclosures or trying to provide support when gender-based violence and harassment is suspected, visit: www.workplacesrespond.org/resource-library/starting-the-conversation/.

Retaliation is a very real concern and can be difficult to prevent. In addition to having strong confidentiality protocols in place, ensure that there are multiple individuals to whom a person can report so they are not required to report to someone who has unchecked authority to take adverse employment actions. Employers should strongly consider hiring a third party to run an anonymous tip or report hotline.

Finally, it is helpful to offer guidance to those who are concerned about the wellbeing of someone covered by the policy. Rather than reporting, direct these individuals to connect with local service providers who can offer expert guidance based on that individual situation. Consider adding contact information for local agencies in addition to national hotlines. To find local service providers and hotline information, visit www.justice.gov/ovw/local-resources.

Example language:

V. Disclosing or Reporting Gender-Based Violence and Harassment

Survivors

Persons covered by this policy are encouraged to report their experiences with gender-based violence and harassment and to request workplace accommodations such as leave or safety plan or because they have a protection order and need to notify safety personnel. If occurring within the world of work, a person covered by this policy should submit a formal complaint and participant in an investigation.

a. Disclosing Gender-Based Violence and Harassment Experienced Within of the World of Work

Any person covered by this policy who is experiencing or has experienced incidents of gender-based violence and harassment within of the world of work should report to [Employer designate], who will describe the investigation process and connect the survivor to relevant policies, accommodations, and external resources. If the incident involves [Employer designate] or should the survivor feel unsafe reporting to that individual, they should contact [Employer designate alternative].

b. Disclosing Gender-Based Violence and Harassment Experienced Outside of the World of Work

Any person covered by this policy who is experiencing or has experienced incidents of gender-based violence and harassment outside of the world of work is encouraged to inform [Employer designate], who shall share relevant policies and accommodations as well as offer community and service provider referrals and resources, if desired by the impacted person.

Concerned Individuals

An individual who reasonably believes that someone covered by this policy is experiencing or has experienced gender-based violence and harassment within or outside of the world of work are encouraged to consult with [e.g. Employee Assistance Programs (if available); Domestic Violence / Sexual Assault Hotlines] to confidentially seek guidance and learn more about community and service provider referrals and resources to offer to the survivor.

If you are a mandatory reporter and this is related to an incident of gender-based violence and harassment occurring within the world of work, report to [Employer designate].

Witnesses of Incidents of Gender-Based Violence and Harassment in the World of Work

Individuals covered by this policy who witness or are informed about any incident are strongly encouraged to report to [Employer designate]. In order to balance survivor safety, autonomy, and privacy, consult with the survivor to provide support and to determine what course of action best support their safety and privacy.

VI. Employer Response to Gender-Based Violence and Harassment

This section of the policy provides key information on available supports and resources for survivors and how those who cause harm will be held accountable for their actions. First, the employer should provide detail actions they will take in the event of (1) a disclosure of gender-based violence and harassment or act of gender-based violence and harassment that occurs within the world of work or (2) a report of gender-based violence and harassment occurring outside of the world of work that is impacting a person covered by this policy in the workplace. Second, the employer should describe its response to individuals covered by this policy who cause harm to others within the world of work.

Employers may be **legally required** under state or local law to provide survivors of domestic violence, sexual assault, and/or stalking with paid leave from work to address the impact of the victimization on their lives and/or reasonable accommodations at work to increase their safety while working. Employers may also be prohibited from discriminating against, harassing or retaliating against an employee because of their status as a victim of gender-based violence and/or harassment under state or local law. To learn about state employment law protections specifically for victims of domestic violence, sexual assault and/or stalking in your state, visit: www.workplacesrespond.org/resource-library/state-guide/. In addition, the Americans With Disabilities Act and Title VII of the Civil Rights Act can be applied to survivors of gender-based violence and harassment in some cases. This Q&A released by the Equal Employment Opportunity Commission details how these protections apply to survivors of gender-based violence and harassment: www.eeoc.gov/laws/guidance/questions-and-answers-application-title-vii-and-ada-applicants-or-employees-who.

Similarly, in the case of minors, an employer may be legally obligated to report gender-based violence and harassment experienced by minors or if someone covered in the policy perpetrates gender-based violence and harassment against a minor. For more information visit: www.childwelfare.gov/resources/mandatory-reporting-child-abuse-and-neglect/.

Survivors may have a number of needs when experiencing gender-based violence and harassment whether occurring within or outside of the world of work. These may include may need time off to attend to their health, safety, housing, financial, legal, and other needs or need reasonable accommodations to ensure their safety while at work such as transfer/reassignment, modified schedule, changed workstation, phone number, or email address, assistance with documenting gender-based violence and harassment occurring within the world of work, or other measures to ensure their safety while working. Employers can go well beyond these basic protections. For example, an employer could establish or use an existing Employee Relief/Employee Assistance Fund to provide emergency financial assistance to survivors seeking safety. Because survivors know best what they need to maintain their safety and ability to work, it is important to collaborate with survivors to determine what actions, if any, an employer should take.

With the goal of survivor autonomy and privacy in mind, employers should create as few barriers as necessary to accessing available leave and workplace accommodations. For example, requiring a police report may not be possible due to risks of escalating abuse. Similarly, some may not have the ability to safely secure a doctor's note or certification from a victim service provider. Self-certification allows survivors to submit a declaration, under penalty of perjury, that they are survivors of gender-based violence and harassment without the

undue burden of providing evidence.

In response to those who engage in acts of gender-based violence and harassment within the world of work, it is critical to seek accountability while also balancing privacy. Incidents of gender-based violence and harassment within the world of work should be met with a consistent and transparent response in both how the employer supports impacted persons and those who caused harm. Ideally, investigations should be undertaken by an independent, third party to reduce risk of bias. Care must be taken to balance an investigation into the matter and the immediate safety needs of those covered by the policy. While details cannot be shared, it is important for the employer to acknowledge the incident and to describe the actions that will be taken to help ease concerns. Morale can be significantly harmed if those covered by the policy believe the employer is taking no corrective action. Similarly, those who may cause harm will believe that they will not be held accountable and may be emboldened and escalate their behavior.

While some employers have a one-size-fits-all zero-tolerance policy for any behaviors that violate their policy, this approach has many harmful and unintended consequences. Zero-tolerance policies can deter reporting (most survivors just want the behavior to stop, not for someone to be fired). They can also be seen as unfair when applied to vastly different actions – such as verbal harassment versus rape. Finally, those who cause harm may even escalate abuse in retaliation to termination. The United States Office of Personnel Management offers guidance under the *Douglas Factors* to help determine appropriate responses for misconduct. Please see: www.opm.gov/policy-data-oversight/employee-relations/reference-materials/douglas-factors.pdf.

Example language:

VI. Employer Response to Gender-Based Violence and Harassment

Responses to Survivors

[Employer] recognizes that a survivor of gender-based violence and/or harassment, including those who use violence to defend themselves, may require specific accommodations or supports to continue performing their job safely for themselves and their co-workers. Examples of accommodations and supports for survivors, based on needs identified by the survivor and employer capacity to meet these needs, may include, but are not limited to:

a. Access to Job-Protected, Paid Leave

Employee survivors who request paid leave or other reasonable accommodations must provide reasonable advance notice, as feasible

or as soon as possible, to [Designate].

i. [Employer] will accept documentation including: documentation from an employee, agent, or volunteer of a victim services organization; an attorney; a member of the clergy; or a medical or other professional service provider, from whom the employee (or the employee's family or household member) has sought assistance in addressing domestic violence, sex offenses or stalking and the effects of the violence or stalking; a police or court record; or other corroborating evidence. When unsafe or unpractical, [Employer] will accept self-attestation from the survivor.

b. Workplace Accommodations

*To support survivor safety and their ability to continue to perform their duties, [Employer] will collaborate with the survivor to determine appropriate workplace accommodations. These may include but are not limited to: flexible scheduling and leave so that the employee survivor can access health care, counseling, legal support, relocating their home, identifying child care, and attend to other needs related to the victimization; adjustments to job site infrastructure, including relocating to another workstation, changing and hiding online contact information, and enhancing security protocols; co-developing a workplace safety plan in collaboration with local resource providers; and/or support in reporting to law enforcement. For required documentation, see **Access to Job Protected Paid Leave***

c. Civil Orders of Protection

[Employer] recognizes that persons covered by this policy may seek and obtain civil orders of protection or may have a criminal court issue a criminal protection order, and that orders may or may not identify the workplace as a location from which a person causing harm must stay away. [Employer] strongly encourages any employee to share information about a civil or criminal protection order to HR.

i. Employee survivors who would like to disclose an order of protection should contact [Designate].

ii. If an employee survivor chooses to disclose an order of protection, [Employer] shall assist the employee survivor to enforce the order to the greatest reasonable extent possible, retain the order (if provided a copy) in a confidential and separate file from employee's personnel file, and assist the employee with reasonable requests to gather workplace-related

documentation that may support the employee's safety efforts.

d. Access to Information on Unemployment Benefits

[Employer] recognizes that in certain situations it is no longer feasible for an employee survivor to continue working for [Employer]. In such circumstances, [Employer] shall provide information regarding access to unemployment insurance benefits. [Employer] has designated [person] to provide accurate information regarding unemployment benefits for survivors.

Responses to Persons Who Commit Gender-Based Violence and Harassment

[Employer] recognizes that it may become informed of persons covered by this policy who may be causing or have committed gender-based violence and/or harassment, including individuals who may wish to voluntarily disclose in order to access resources, accommodations, and/or supports. Furthermore, some individuals who disclose that they have caused harm may, in fact, be survivors who used violence to defend themselves. Therefore, it is important that those who disclose causing harm are referred for further assessment and services.

a. Disclosing Acts of Gender-Based Violence and Harassment

Any person covered by this policy who has caused harm, including a survivor who used violence defensively, may inform [their manager, supervisor, or any other Employer designate], who shall offer community and service provider referrals and resources. When reports are received, they will be escalated to [Employer designate] within 24 hours.

b. Investigating Reports of Gender-Based Violence and Harassment

If [Employer] receives information that alleges or suggests that a person covered by this policy has committed an incident of gender-based violence and harassment within the world of work, as defined in this policy, local, state or federal law, or if any manager or supervisor receives information that any person covered by this policy has engaged in any incident of workplace-related or non-workplace gender-based violence and harassment, then the matter shall be referred to the [Employer designate] for investigation.

[Employer] is committed to reviewing all reports of gender-based violence and harassment and conducting a prompt, transparent,

fair and thorough investigation tailored to the circumstances of the incident. This may include initial inquiries and fact-gathering to determine whether an internal investigation is appropriate or if a third-party should be engaged. An investigation does not indicate that the report has been deemed credible or not. [Employer] will comply with the law in conducting investigations and expect that persons covered under this policy will cooperate with an investigation, except when voluntary compliance is being requested. All matters related to the investigation will remain confidential unless immediate safety is in jeopardy. There will be no discrimination or retaliation against anyone who cooperates with an investigation.

[Employer] will notify the individual(s) who make the report and individual at the center of the complaint about who will be made aware of the report, who will be conducting the investigation, and when the investigation will be completed. To promote survivor safety during an investigation, [Employer] will collaborate with the survivor to determine appropriate accommodations including paid leave. If necessary to promote the safety of others covered by this policy, [Employer] may also place the individual under investigation on administrative leave for the duration of the process.

If the investigation concludes that a person covered by this policy has committed an incident of gender-based violence and harassment within the world of work, as defined in this policy, then that individual shall be subject to disciplinary action up to and including termination. The individual might also be required to participate in counseling or other restorative or remedial measures.

d. Protection Orders and Civil/Criminal Charges

All persons covered by this policy who are subject to a protection order, or a named defendant in a criminal action as a result of a threat or act of gender-based violence and harassment must notify [Designate] immediately regarding the existence of such criminal or civil action. 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.

VII. Non-Discrimination and Non-Retaliation

It is important for any policy to assure persons covered are protected from discrimination and retaliation when applying this policy. Fear of adverse employment outcomes or being ostracized by others covered by this policy or within their field in which they work is one of the many reasons people chose not to report.

Acts of discrimination or retaliation are not always obvious. Providing examples can help those covered by the policy recognize when they may be experiencing such acts following a report. Policy language should be consistent with the employer's anti-discrimination policy.

As described earlier, some state laws, the Americans With Disabilities Act, and Title VII of the Civil Rights Act may prohibit discrimination, harassment and retaliation against survivors of gender-based violence and harassment and may require the provision of reasonable accommodations. Employers should check local statutes to ensure they complying with the law.

Example language:

VII. Non-Discrimination and Non-Retaliation

i. *[Employer] will not discharge or in any manner discriminate, harass or retaliate against an employee because of the employee's status as a survivor of gender-based violence and/or harassment in any terms and conditions of employment. Examples of prohibited acts of retaliation include, but are not limited to:*

- *Adverse employment action affecting one's salary or compensation;*
- *Demotion, suspension, or termination of employment;*
- *Taking away opportunities for advancement;*
- *Excluding the individual from important meetings;*
- *Threatening an individual who has made a report;*
- *Directing an individual who has made a report not to report to outside regulators;*
- *Deliberately rude or hostile behaviors or speech; and*
- *Creating or allowing the creation of a work atmosphere that is hostile toward an individual who has reported a concern.*

See [Employer]'s anti-discrimination policy for more information.

- ii. *[Employer] will not discharge or in any manner discriminate, harass or retaliate against persons covered by this policy in any terms and conditions of employment because they requested leave from work or a workplace accommodation to address the impacts of gender-based violence and harassment.*
- iii. *[Employer] will not discharge or in any manner discriminate, harass, or retaliate against any person covered by this policy for reporting information to [Employer designate or mandatory reporters] about alleged incidents of gender-based violence and harassment, as defined in this policy, that may have been committed by anyone in the world of work.*
- iv. *Any person who believes they have been subjected to adverse action as a result of making a report pursuant to this policy should contact [Employer Designate]. See VII. Violations of this Policy for details on [Employer]'s response.*

VIII. Violations of this Policy

As with the section on non-discrimination and non-retaliation, it is critical that the policy be enforceable to be effective. How an employer responds to violations of the policy will determine whether persons covered by this policy trust in the process and use the protections and supports afforded by this policy.

Investigations should be conducted with the same level of significance as reports of alleged incidents of gender-based violence and harassment against persons covered by the policy.

Example language:

VIII. Violations of this Policy

- i. *Any persons who believe this policy has been violated are encouraged to contact [Employer Designate].*
- ii. *[Employer] will not discharge or in any manner discriminate or retaliate against any person covered by this policy because they reported an alleged violation of this policy.*
- iii. *Any person covered by this policy who is found through an investigation to have unlawfully discriminated or retaliated against another covered person may be subject to corrective action, up to and including termination.*

IX. Other Considerations

In the development of this policy, there are a number of other factors an employer should consider.

- *Does your organization conduct business or have employees in more than one state?*

Different states and localities have different laws and workplace protections for survivors of gender-based violence and harassment, and you may need to adapt your policy accordingly.

- *Is your organization based in a state that has Paid Sick and Safe Leave or Anti-Discrimination laws that include protections for survivors of gender-based violence and harassment? In addition is your organization covered by the Family Medical Leave Act (FMLA), Americans with Disability Act, or Title VII of the Civil Rights Act?*

Again, different states and localities have different laws and workplace protections for survivors of gender-based violence and harassment, and you may need to adapt your policy accordingly.

- *Does your organization have a sexual harassment, anti-discrimination, and anti-harassment and bullying policy?*

If so, how will your existing sexual harassment policy and procedure for investigating complaints consider sexual harassment, sexual violence or sexual assault that may occur and implicate this policy?

- *Is your workplace unionized?*

If so, have you spoken to the union officers or steward about this policy? How will this policy work with provisions of the collective bargaining agreement?

- *How does this policy fit into broader efforts to prevent and respond to gender-based violence and harassment in the world of work?*

Truly addressing gender-based violence and harassment in the world of work requires not only a policy to serve as a strong foundation but a requires culture change to address individual mindsets and power structures. To learn more about developing a comprehensive program to address gender-based violence and harassment visit

www.workplacesrespond.org/resource-library/systems-culture-change/

or contact the National Resource Team at

<https://futureswithoutviolence.formtitan.com/WorkplacesTAForm#/>

- *How will the employer assess the efficacy of this policy?*

It is highly recommended that employers regularly audit their gender-

based violence and harassment policy and related protocols to determine if they are having the intended impact on supporting survivors and holding those who cause harm accountable.

- *How will the employer educate persons covered in the policy about these protections and responsibilities?*

While gender-based violence and harassment is common, it is rarely discussed resulting in shame, myths, and an overall lack of awareness of the complexities of these experiences. To ensure the effectiveness of your policy, all those covered must be made aware of the expectations this sets for the workplace. The policy should not only be reviewed as part of onboarding or as a provision for contractors and other similar roles, the employer should routinely remind those covered of these expectations, how the employer has committed to support survivors and hold those who cause harm accountable, and inform those who have a duty to report or witness an incident, what they are expected to do.

- *How will the employer communicate with those covered about incidents of gender-based violence and harassment impacting the world of work with transparency while also upholding commitments to privacy?*

Rarely are incidents of gender-based violence and harassment occurring within the world of work unknown to others. When incidents occur, those associated with the employer are looking for acknowledgement and assurances that the situation will be addressed fairly and swiftly. Developing a communications strategy and rapid response plan will help to prevent errors that can lead to distrust.

X. Attachments to Consider

Gender-based violence and harassment is a complex situation that will look different for every individual. It is important to provide a wide range of resources for survivors and individuals who may wish to support a survivor. In addition to your workplace policy, consider the following attachments to facilitate ease of access:

- Contact information for the national hotlines, a list of local victim service agencies that support survivors of domestic violence, sexual violence, sexual harassment, and stalking;), relevant legal information, and the Equal Employment Opportunity Commission.
 - The National Domestic Violence Hotline: 800-799-7233 | SMS: Text START to 88788
 - The National Sexual Assault Hotline: 800-656-4673 | Chat Line -

online.rainn.org

- National Helpline for Male Survivors: 800-656-4673 | <https://supportgroup.1in6.org/>
 - VictimConnect: 855-484-2846 | <https://chat.victimsofcrime.org/victim-connect/terms-of-service.jsp>
 - For local provider information visit: www.justice.gov/ovw/local-resources.
 - Women's Law: www.womenslaw.org⁵
 - Equal Employment Opportunity Commission Public Portal: <https://publicportal.eeoc.gov/Portal/Login.aspx>
- A list of all other referenced or related workplace policies, such as Anti-Discrimination, Anti-Bullying, and Leave Policies.

⁵ Women's Law is a website that offers state level plain language legal information. Women's Law serves and support all survivors regardless of their sex or gender.

XI. Workplace Gender-Based Violence and Harassment Policy Audit Checklist

A workplace gender-based violence and harassment policy is an important tool to help prevent and respond to the impacts of gender-based violence and harassment (GBVH) in the workplace. The strength of such a policy depends on its ability to address the broad effects GBVH has on employees and the ways in which GBVH intersects with work. This checklist highlights essential elements of a strong and responsive policy.

Does your current workplace policy:

- Define and cover all forms of gender-based violence and harassment including domestic violence, dating violence, sexual assault/violence, sexual harassment, and stalking.
- Define and cover all employee relationships, contractors, vendors, and locations in which individuals work
- Define and cover (1) subordinate/superior relationships; (2) intimate partner relationships, (3) and non-intimate partner relationships
- Outline the terms of confidentiality, when a disclosure of confidential information is necessary, and how those involved will be notified.
- Detail protocols for those who wish to disclose domestic violence, dating violence, sexual assault, and stalking.
- Describe the protocols for requesting workplace accommodations for survivors/victims.
- Describe the steps an employer may take to support an individuals' safety.
- Affirm non-discrimination and non-retaliation against individuals exercising their rights through the gender-based violence and harassment policy
- Detail protocols for employees who have witnessed or are concerned about another employee who be experiencing domestic violence, dating violence, sexual assault, and stalking
- Detail the employers' response to individuals using harm including investigations, consequences, and accountability measures

XII. Example Gender-Based Violence and Harassment Policy

I. Purpose

[Employer] recognizes that gender-based violence and harassment present unique threats to its workforce and operations. As such, [Employer] institutes this policy as part of its broader commitment to creating a safer and more supportive organizational culture by promoting the prevention and reduction of incidences and impacts of domestic violence, sexual violence and harassment, and stalking in the world of work (hereinafter gender-based violence and harassment, or GBVH).

Gender-based violence and harassment impact the world of work even when incidents occur elsewhere. Unfortunately, anyone may be a target of these abuses and it occurs in all aspects of our lives, not just in the world of work. [Employer] is committed to taking every appropriate measure to prevent and/or mitigate the impacts of gender-based violence and harassment among covered persons and in the world of work.

II. Definitions

- a) **Gender-Based Violence and Harassment:** Gender-Based Violence and Harassment (GBVH) is a range of unacceptable behaviors and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm directed at persons because of their sex or gender identity, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.

Anyone may be a target of gender-based violence and harassment and it may impact anyone in the workplace. It includes domestic violence, dating violence, sexual assault, sexual harassment, and stalking:

- b) **Domestic Violence and Dating Violence:** Domestic violence is a pattern of abusive behavior in a relationship that is used by one partner to maintain power and control over another current or former intimate partner. This includes people with any current or former romantic involvement, for example dating, previously dating, on again/off again, married, divorced, living together or apart. Intimate partner violence can occur between people of any gender identity or sexual orientation. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behavior that intimidates,

manipulates, humiliates, isolates, frightens, terrorizes, coerces, threatens, hurts, injures, or wounds someone.

Similar to Domestic Violence, Dating Violence is violence and abuse committed by a person to exert power and control over a current or former dating partner. Dating violence often involves a pattern of escalating violence and abuse over a period of time. Dating violence covers a variety of actions, and can include physical abuse, physiological and emotional abuse, and sexual abuse. It can also include “digital abuse”, the use of technology, such as smartphones, the internet, or social media, to intimate, harass, threaten, or isolate a victim.

- c) **Sexual Assault:** Sexual Assault is any type of sexual contact or behavior that occurs without consent of the recipient. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, molestation, incest, fondling, and attempted rape. It includes sexual acts against people who are unable to consent either due to age or lack of capacity.
- d) **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- e) **Stalking:** Stalking is a pattern of repeated, fixated, obsessive, and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking is dangerous and can often cause severe and long-lasting emotional and psychological harm to victims. Stalking often escalates over time and can lead to domestic violence, sexual assault, and even homicide. Stalking can include frightening communications, direct or indirect threats, and harassing a victim through the internet
- f) **Survivor:** An individual who is currently subject to, or has in the past been subjected to, gender-based violence and/or harassment.
- g) **Person who causes harm:** An individual who commits or threatens to commit

an act of gender-based violence and/or harassment. Such persons are sometimes referred to as perpetrators, abusive partners, abusers, or batterers.

- h) **World of Work:** The world of work consists of any location in which full and part-time employees (including managers, supervisors, executives, and senior level staff members), paid and unpaid interns, contractors, volunteers, board members, consultants, contractors and temporary workers engaged by [Employer] in any workplace location, customers, clients, anyone with access to the workplace for work-related reasons. This includes:
- i. in the workplace, including public and private spaces where they are a place of work;
 - ii. in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities;
 - iii. during work-related trips, travel, training, events or social activities;
 - iv. through work-related communications, including those enabled by information and communication technologies in employer-provided accommodation; and,
 - v. when commuting to and from work.
 - vi. **Outside of the World of Work,** refers to any place in which a person covered by this policy is not engaging in work-related activities, such at home or in the community off hours.
- i) **Civil Protection or Restraining Order:** Protection orders, sometimes called restraining orders, no-contact orders or stay away orders, are legal tools that some survivors of gender-based violence and harassment may petition the court to issue against a perpetrator of domestic violence to help keep them safe from the person causing harm (typically survivors of domestic or dating violence and in some states, sexual violence and stalking).
- j) **Workplace Safety Plan:** A workplace safety plan is a strategy developed collaboratively by survivor and service provider(s) and/or employer to implement workplace safety measures that center survivor autonomy, including but not limited to: handling orders of protection; creating procedures for alerting security personnel of threats or incidents; making temporary or permanent adjustments to work schedules, locations, contact information; and requesting escorts to and from workplace facilities.

III. Applicability

Persons covered by this policy include all full and part-time employees (including managers, supervisors, executives, and senior level staff members), paid and unpaid interns, contractors, volunteers, board members, consultants, contractors

and temporary workers engaged by [Employer] in any workplace location, customers, clients, anyone with access to the workplace for work-related reasons.

[Employer] is committed to preventing and responding to gender-based violence and harassment occurring within the world of work or gender-based violence and harassment occurring outside of the world of work that affects persons covered by this policy while performing work-related duties. Accordingly, this policy applies when:

- i. An incident of gender-based violence and harassment occurs within the world of work (see definition); or
- ii. Gender-based violence and harassment, regardless of where it occurs, impacts a person's ability to work who is covered by this policy while performing their job duties within the world of work. Impacts may include but are not limited to being harassed via phone or email, unexpected visits from the person causing harm, being followed while commuting, or having employer-issued resources (such as a laptop, uniform, or credit card) are damaged or abused.

IV. Confidentiality

[Employer] recognizes and respects the importance of privacy and autonomy of all persons covered by this policy. To the extent allowed by law, [Employer] shall maintain the confidentiality of information pertaining to gender-based violence and harassment disclosed by – or harm caused by – persons covered by this policy, unless to do so would result in life threatening harm to any person, jeopardize safety within the workplace, or inhibit investigatory processes.

- i. Circumstances that may require disclosure of confidential information: When information must be disclosed to protect workplace or individual safety, facilitate investigatory processes, or comply with the law, [Employer] shall limit the breadth and content of such disclosure to information reasonably necessary to protect the safety of persons covered by this policy, facilitate investigatory processes, and to comply with the law.
- ii. When disclosure of confidential information is required: If a disclosure is required to protect workplace or individual safety, facilitate investigatory processes, or comply with the law, [Employer] shall provide advance notice to the affected person(s), to the extent possible. [Employer] shall also provide the affected person(s) with the name and title of other individuals, such as security guards or benefits administrators, to whom it intends to

share information and shall explain the necessity and purpose regarding the disclosure, to the extent possible. Individuals who receive confidential information will be notified that this information is privileged and not to be discussed with others and that doing so could jeopardize the safety of persons involved.

- iii. If confidentiality is violated, [Employer], will seek to limit the spread of information and discipline those accountable as appropriate.

V. Disclosing or Reporting Gender-Based Violence and Harassment Survivors

Persons covered by this policy are encouraged to report their experiences with gender-based violence and harassment and to request workplace accommodations such as leave or safety plan or because they have a protection order and need to notify safety personnel. If occurring within the world of work, a person covered by this policy should submit a formal complaint and participant in an investigation.

- i. **Disclosing Gender-Based Violence and Harassment Experienced Within of the World of Work**

Any person covered by this policy who is experiencing or has experienced incidents of gender-based violence and harassment within of the world of work should report to [Employer designate], who will describe the investigation process and connect the survivor to relevant policies, accommodations, and external resources. If the incident involves [Employer designate] or should the survivor feel unsafe reporting to that individual, they should contact [Employer designate alternative].

- ii. **Disclosing Gender-Based Violence and Harassment Experienced Outside of the World of Work**

Any person covered by this policy who is experiencing or has experienced incidents of gender-based violence and harassment outside of the world of work is encouraged to inform [Employer designate], who shall share relevant policies and accommodations as well as offer community and service provider referrals and resources, if desired by the impacted person.

- iii. **Concerned Individuals**

An individual who reasonably believes that someone covered by this policy is experiencing or has experienced gender-based violence and harassment within or outside of the world of work are encouraged to consult with [e.g. Employee Assistance Programs (if available); Domestic Violence / Sexual Assault Hotlines] to confidentially seek guidance and learn more about

community and service provider referrals and resources to offer to the survivor.

If you are a mandatory reporter and this is related to an incident of gender-based violence and harassment occurring within the world of work, report to [Employer designate].

iv. Witnesses of Incidents of Gender-Based Violence and Harassment in the World of Work

Individuals covered by this policy who witness or are informed about any incident are strongly encouraged to report to [Employer designate]. In order to balance survivor safety, autonomy, and privacy, consult with the survivor to provide support and to determine what course of action best support their safety and privacy.

VI. Employer Response to Gender-Based Violence and Harassment Responses to Survivors

Responses to Survivors

[Employer] recognizes that a survivor of gender-based violence and/or harassment, including those who use violence to defend themselves, may require specific accommodations or supports to continue performing their job safely for themselves and their co-workers. Examples of accommodations and supports for survivors, based on needs identified by the survivor and employer capacity to meet these needs, may include, but are not limited to:

i. Access to Job-Protected, Paid Leave

Employee survivors who request paid leave or other reasonable accommodations must provide reasonable advance notice, as feasible or as soon as possible, to [Designate].

- a. [Employer] will accept documentation including: documentation from an employee, agent, or volunteer of a victim services organization; an attorney; a member of the clergy; or a medical or other professional service provider, from whom the employee (or the employee's family or household member) has sought assistance in addressing domestic violence, sex offenses or stalking and the effects of the violence or stalking; a police or court record; or other corroborating evidence. When unsafe or unpractical, [Employer] will accept self-attestation from the survivor.

ii. Workplace Accommodations

To support survivor safety and their ability to continue to perform their duties, [Employer] will collaborate with the survivor to determine appropriate

workplace accommodations. These may include but are not limited to: flexible scheduling and leave so that the employee survivor can access health care, counseling, legal support, relocating their home, identifying child care, and attend to other needs related to the victimization; adjustments to job site infrastructure, including relocating to another workstation, changing and hiding online contact information, and enhancing security protocols; co-developing a workplace safety plan in collaboration with local resource providers; and/or support in reporting to law enforcement. For required documentation, see Access to Job Protected Paid Leave

iii. Civil Orders of Protection

[Employer] recognizes that persons covered by this policy may seek and obtain civil orders of protection or may have a criminal court issue a criminal protection order, and that orders may or may not identify the workplace as a location from which a person causing harm must stay away. [Employer] strongly encourages any employee to share information about a civil or criminal protection order to HR.

- a. Employee survivors who would like to disclose an order of protection should contact [Designate].
- b. If an employee survivor chooses to disclose an order of protection, [Employer] shall assist the employee survivor to enforce the order to the greatest reasonable extent possible, retain the order (if provided a copy) in a confidential and separate file from employee's personnel file, and assist the employee with reasonable requests to gather workplace-related documentation that may support the employee's safety efforts.

iv. Access to Information on Unemployment Benefits

[Employer] recognizes that in certain situations it is no longer feasible for an employee survivor to continue working for [Employer]. In such circumstances, [Employer] shall provide information regarding access to unemployment insurance benefits. [Employer] has designated [person] to provide accurate information regarding unemployment benefits for survivors.

Responses to Persons Who Commit Gender-Based Violence and Harassment

[Employer] recognizes that it may become informed of persons covered by this policy who may be causing or have committed gender-based violence and/or harassment, including individuals who may wish to voluntarily disclose in order to access resources, accommodations, and/or supports. Furthermore, some individuals who disclose that they have caused harm may, in fact, be survivors who used violence to defend themselves. Therefore, it is important that those

who disclose causing harm are referred for further assessment and services.

i. Disclosing Acts of Gender-Based Violence and Harassment

Any person covered by this policy who has caused harm, including a survivor who used violence defensively, may inform [their manager, supervisor, or any other Employer designate], who shall offer community and service provider referrals and resources. When reports are received, they will be escalated to [Employer designate] within 24 hours.

ii. Investigating Reports of Gender-Based Violence and Harassment

If [Employer] receives information that alleges or suggests that a person covered by this policy has committed an incident of gender-based violence and harassment within the world of work, as defined in this policy, local, state or federal law, or if any manager or supervisor receives information that any person covered by this policy has engaged in any incident of workplace-related or non-workplace gender-based violence and harassment, then the matter shall be referred to the [Employer designate] for investigation.

[Employer] is committed to reviewing all reports of gender-based violence and harassment and conducting a prompt, transparent, fair and thorough investigation tailored to the circumstances of the incident. This may include initial inquiries and fact-gathering to determine whether an internal investigation is appropriate or if a third-party should be engaged. An investigation does not indicate that the report has been deemed credible or not. [Employer] will comply with the law in conducting investigations and expect that persons covered under this policy will cooperate with an investigation, except when voluntary compliance is being requested. All matters related to the investigation will remain confidential unless immediate safety is in jeopardy. There will be no discrimination or retaliation against anyone who cooperates with an investigation.

[Employer] will notify the individual(s) who make the report and individual at the center of the complaint about who will be made aware of the report, who will be conducting the investigation, and when the investigation will be completed. To promote survivor safety during an investigation, [Employer] will collaborate with the survivor to determine appropriate accommodations including paid leave. If necessary to promote the safety of others covered by this policy, [Employer] may also place the individual under investigation on administrative leave for the duration of the process.

If the investigation concludes that a person covered by this policy has committed an incident of gender-based violence and harassment within the

world of work, as defined in this policy, then that individual shall be subject to disciplinary action up to and including termination. The individual might also be required to participate in counseling or other restorative or remedial measures.

iii. Protection Orders and Civil/Criminal Charges

All persons covered by this policy who are subject to a protection order, or a named defendant in a criminal action as a result of a threat or act of gender-based violence and harassment must notify [Designate] immediately regarding the existence of such criminal or civil action. 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.

VII. Non-Discrimination and Non-Retaliation

[Employer] will not discharge or in any manner discriminate, harass or retaliate against an employee because of the employee's status as a survivor of gender-based violence and/or harassment in any terms and conditions of employment.

Examples of prohibited acts of retaliation include, but are not limited to:

- i. Adverse employment action affecting one's salary or compensation;
- ii. Demotion, suspension, or termination of employment;
- iii. Taking away opportunities for advancement;
- iv. Excluding the individual from important meetings;
- v. Threatening an individual who has made a report;
- vi. Directing an individual who has made a report not to report to outside regulators;
- vii. Deliberately rude or hostile behaviors or speech; and
- viii. Creating or allowing the creation of a work atmosphere that is hostile toward an individual who has reported a concern.

See [Employer]'s anti-discrimination policy for more information.

- i. [Employer] will not discharge or in any manner discriminate, harass or retaliate against persons covered by this policy in any terms and conditions of employment because they requested leave from work or a workplace accommodation to address the impacts of gender-based violence and harassment.
- ii. [Employer] will not discharge or in any manner discriminate, harass, or retaliate against any person covered by this policy for reporting information to [Employer designate or mandatory reporters] about alleged incidents of gender-based violence and harassment, as defined in this policy, that may have been committed by anyone in the world of work.

- iii. Any person who believes they have been subjected to adverse action as a result of making a report pursuant to this policy should contact [Employer Designate]. See VII. Violations of this Policy for details on [Employer]’s response.

VIII. Violations of this Policy

- i. Any persons who believe this policy has been violated are encouraged to contact [Employer Designate].
- ii. [Employer] will not discharge or in any manner discriminate or retaliate against any person covered by this policy because they reported an alleged violation of this policy.
- iii. Any person covered by this policy who is found through an investigation to have unlawfully discriminated or retaliated against another covered person may be subject to corrective action, up to and including termination.