

# Model Workplace Policy

## Domestic Violence, Sexual Violence, and Stalking

### I. Purpose

[Employer] institutes this policy as part of its commitment to a safer and more supportive organizational climate and to the prevention and reduction of the incidence and effects of domestic violence, sexual violence, and stalking [hereinafter “violence”] at the workplace. [Employer] recognizes that domestic violence, sexual violence, and stalking present unique issues for its workforce.

Domestic violence, sexual violence, and stalking are workplace issues even if incidents occur elsewhere. Domestic violence, sexual violence, and stalking cross economic, educational, cultural, age, gender, racial, and religious lines and occur in a wide variety of contexts. Therefore, the organization will take every appropriate measure to prevent and/or address such violence in the context of:

- Subordinate/superior relationships;
- Heterosexual and same-sex intimate partner relationships, including marital, cohabiting, or dating;
- Heterosexual or same sex non-intimate partner relationships, such as between coworkers;
- Parent/child relationships; and
- Violent acts of others that could potentially occur within the workplace.

The purposes and goals of this policy are to:

1. Support a comprehensive workplace education and training program to prevent violence and promote healthy relationships for employees and their families;
2. Create a supportive and healthful work environment that helps employees to avoid the use of violence in any context;
3. 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;

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4. Provide assistance to employees who are perpetrators of violence and take disciplinary action to hold them accountable for violent behavior; and
5. Provide immediate assistance and support to survivors of violence, such as information and referrals to community resources, to facilitate safety and support for survivors and fellow employees.

## II. Definitions

### 1. Survivor or victim

An individual who is currently subject to, or has in the past been subjected to, domestic violence, sexual violence, stalking or other forms of violence.

### 2. Perpetrator

An individual who commits or threatens to commit an act of domestic violence, sexual violence, or stalking, including unwarranted violence against animals.

### 3. Domestic Violence

Domestic violence is 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. Domestic violence includes, but is not limited to: physical violence, injury, or intimidation; sexual violence or abuse; emotional and/or psychological intimidation; verbal abuse; threats; harassment; stalking; or economic abuse and control.

### 4. Sexual Violence

Sexual violence is 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. Survivors 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 survivor. Consent is not given when a perpetrator

uses force, harassment, threat of force, threat of adverse personnel action, coercion, or when the survivor is asleep, incapacitated, or unconscious.

## **5. Stalking**

Stalking refers to harassing, intimidating or threatening conduct that causes the survivor 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; engaging in unwanted, harassing, or threatening phone calling, emailing, texting, etc.; waiting at places in order to make unwanted contact with the survivor or to monitor the survivor; leaving unwanted items, presents, or flowers for the survivor; and posting information or spreading rumors about the survivor on the internet, in a public place, or by word of mouth. Stalking may occur through use of technology including, but not limited to: email; voicemail; text messaging; and use of GPS and social networking sites.

## **6. Protection or Restraining Order**

Protection orders, sometimes called restraining orders or stay away orders, allow a survivor to petition the court for protection from a perpetrator, as well as establish custody and visitation guidelines and provide for other forms of support, like rent or mortgage payments, which last for the duration of the order. Protection orders may also be issued 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. In addition, some states have enacted laws that allow employers to apply for protection orders to prevent violence, harassment, or stalking of their employees.

## **7. 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, the families of employees, and/or their property, that imperil the safety or well-being of any person associated with an employee of [Employer], regardless of whether the act occurred in or outside the organization's physical 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.

## **8. Non-Workplace Incidents**

Non-workplace incidents of domestic violence, sexual violence, dating violence, and stalking include acts, attempted acts, or threatened acts by or against any person or animal that occur anywhere outside a company's physical workplace, and/or while an employee is not engaged with or traveling for the employer.

## **9. Workplace Safety Plan**

A strategy developed in collaboration with a survivor and victim service provider to implement workplace safety options, including but not limited to: handling of court protection orders; procedures for alerting security personnel of threats or incidents; temporary or permanent adjustments to work schedules, locations, contact information, 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 allowed 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 provide advance notice to the employee who disclosed information, to the extent possible, 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 Survivors

#### i. Non-Discrimination and Non-Retaliation

[Employer] will not discharge or in any manner discriminate or retaliate against an employee because of the employee's status as a survivor of domestic violence, sexual violence, or stalking, if the survivor provides notice to the organization of the status, or the organization has actual knowledge of the status.

[Employer] will not retaliate against a survivor of domestic violence, sexual assault, or stalking for requesting leave or a reasonable accommodation (see Section 5(A)(ii)), regardless of whether the request was granted.

#### ii. Leave and Other Reasonable Accommodations and Assistance

[Employer] recognizes that survivors of domestic violence, sexual assault, stalking and dating violence may need time off to obtain or attempt to obtain a protection or restraining order or any other legal assistance to help ensure his or her health, safety, or welfare or that of his or her child. [Employer] will work in collaboration with the employee to provide reasonable and flexible leave options when an employee or his or her child is a survivor of domestic violence, sexual assault, and/or stalking. [Employer] will work with employee to provide paid leave first before requiring an employee to utilize unpaid leave.

An employee must provide reasonable advance notice to the employer of the need to take time off unless advance notice is not feasible. [Employer] may require the employee to provide documentation or other certification verifying that the employee was a survivor of violence. To request Leave, employee should contact [person].

[Employer] will maintain the confidentiality of a person who requests leave under this policy, to the extent allowed by law.

[Employer] will also provide reasonable accommodations for a survivor of domestic violence, sexual violence, or stalking who requests an accommodation for the safety of the survivor or to maintain his or her work performance while at work. Reasonable accommodations may include the

implementation of safety measures, include a transfer, reassignment, modified schedule, changed work telephone, changed work station, installed lock, assistance in documenting the violence that occurs in the workplace, an implemented safety procedure, another adjustment to a job structure, workplace facility, or work requirement in response to the violence, or referral to a survivor assistance organization. [Employer] will assist an employee to enforce his or her protection order, if applicable.

### **iii. Access to Unemployment Insurance Benefits**

[Employer] recognizes that in certain situations it is no longer feasible for an employee who is a survivor 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 [person] to provide accurate information regarding unemployment benefits for survivors of violence.

### **iv. Work Performance**

[Employer] recognizes that employees who are survivors 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 assault, and 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 Section 5(A)(ii), provide referrals to support or advocacy agencies, advise employee of his or her rights regarding unemployment insurance as specified in Section 5(A)(iii), and maintain a separate and confidential record of employee's status as a survivor of domestic violence, sexual assault, and stalking to ensure to survivor that his or her rights and privileges of employment are not impacted or compromised as a result of the violence.

### **v. Protection and Restraining Orders**

[Employer] recognizes that a survivor of violence may seek an order of protection, or may receive a protection or 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. Reporting by Employees with Information About Violence**

Employees who have information about or witness an act of violence perpetrated by an employee, or who have information about or witness violence against an employee, are required to report all information to the designated person in [Employer] organization.

[Employer] will not retaliate against, terminate, or discipline any employee for reporting information about alleged incidents of violence, as defined in this policy that may have been committed by any other employee, including a member of management. 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 [person]. See Section 7 regarding reporting of violations of this policy.

## **C. Responses to Workers Who Commit Violence**

If [Employer] receives information that alleges or suggests that an employee has committed an incident of workplace-related or non-workplace violence, as defined in this Policy, or if any manager receives information that any employee has engaged in any incident of workplace-related or non-workplace violence, then the matter shall be referred to the designated executive for the purpose of investigating the information or allegation. [Employer] shall conduct an immediate investigation of the information or allegation, which investigation shall be completed within 45 days of receipt of the information or allegation concerning the alleged incident of violence.

Every employee shall have a duty to cooperate with the investigation, and failure to do so will result in disciplinary action being taken against the uncooperative employee up to and including termination. Additionally, every employee has the duty to be truthful and must disclose all information known to the employee when requested to do so by an appropriate person in the organization or the person

designated by the organization to investigate an alleged incident of violence. Any employee who fails to be completely truthful or who withholds information shall be subject to disciplinary action up to and including termination.

At the conclusion of the investigation conducted by [Employer], the investigator shall report her or his findings to the designated official. If the investigator concludes, by a preponderance of the evidence, that the employee has engaged in a workplace-related incident or non-workplace incident, as defined in this Policy, then that employee shall be subject to disciplinary action up to and including termination. The employee might also be required to participate in counseling or other remedial measures. 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, or stalking must notify the [Employer] Human Resources Department 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.

## **VI. Reporting by Employees Who are Survivors**

Employees who are survivors of domestic violence, sexual assault, and stalking, and employees who are concerned about coworkers who might be survivors are encouraged to provide a report to [Employer]. [Employer] has designated [person] 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.

## **VII. Reporting Violation of Policy**

A person who wishes to report a violation of this policy should also contact [person]. [Employer] will not subject employees who report violence or report a violation of this policy to work-related or personal retaliation, as described in Section 5(B). Any allegations of violations of this policy will be immediately investigated in accordance with the timeline and procedure outlined in Section 5(C).

### Attachments to Consider

- List of local resources, such as domestic and sexual violence service providers.
- List of all other referenced or related workplace policies.

### Other Considerations

#### **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 violence, and you may need to adapt your policy accordingly.

#### **Is your organization covered by the Family Medical Leave Act (FMLA)?**

If so, how will your existing policy about requesting and taking FMLA leave affect violence-related leave in this policy?

Many states have laws that excuse an employee's absence from work if the employee (or their family member) is a survivor of a crime and needs to miss work to meet with prosecutor or law enforcement, to testify, or to respond to a subpoena, etc. These laws vary considerably from state to state.

How will these laws affect any provisions for violence-related leave in your policy?

#### **Does your organization have a sexual harassment policy?**

If so, how will your existing sexual harassment policy and procedure for investigating complaints take into account 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?

#### **What if an employee who is a survivor has a disability?**

Consider how you will incorporate the requirements of federal and state disability law.

## **WORKPLACES RESPOND**

**TO DOMESTIC & SEXUAL VIOLENCE**

**A NATIONAL RESOURCE CENTER**

**Who are the relevant people in your organization who should be involved with finalizing and implementing this policy?**

- Human Resources
- Legal
- Employee Assistance Program
- Security
- Union
- Law enforcement

**Who are the local sexual assault, stalking and domestic violence service providers and shelters in your area?**

Contact your state, county, city, or tribe's domestic violence and sexual violence service providers.