

**STATE OF NEW YORK
UNIFIED COURT SYSTEM
DOMESTIC VIOLENCE POLICY**

POLICY STATEMENT

Domestic violence permeates the lives and compromises the safety of thousands of New York State employees each day, with tragic, destructive, and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, and couples who live together or have lived together.

Domestic violence is defined as a pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against a family or household member, with the goal of establishing and maintaining power and control over the victim. It is not a private matter. In addition to exacting a tremendous toll on the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover.

Therefore, the Unified Court System, to the fullest extent possible without violating any existing rules, regulations, statutory requirements, contractual obligations or collective bargaining agreements, designates and directs appropriate management, supervisory, and/or human resources staff to implement the following guidelines.

DEFINITIONS

For purposes of this policy, the following terms will be defined as follows:

DOMESTIC VIOLENCE: A pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against a family or household member, with the goal of establishing or maintaining power and control over the victim.

FAMILY OR HOUSEHOLD MEMBER: Includes persons related by consanguinity or affinity; persons legally married to one another; persons formerly married to one another; persons who have a child in common, regardless of whether such persons are married or have lived together at any time, and unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household.

ABUSER: A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against a family or household member, with the goal of establishing or maintaining power and control over the victim.

VICTIM: The person against whom an abuser directs coercive and violent acts.

DOMESTIC VIOLENCE SERVICE PROVIDER: Agency or staff member of an agency that primarily or exclusively provides comprehensive services to victims of domestic violence, including residential programs licensed by the NYS Office of Children and Family Services.

GUIDELINES

I. Employee Awareness

Increase awareness of domestic violence and inform employees of available sources of assistance.

- A. Post information on domestic violence and available resources in the work site in places where employees can obtain it without having to request it or be seen removing it, such as employee rest rooms or lounge areas. Such information shall include available sources of assistance such as Employee Assistance Programs, local domestic violence service providers, and/or human resources personnel who are trained and available to serve as confidential sources of information, support, and referral. Information shall be made available on employee bulletin boards and included in employee newsletters, as appropriate.
- B. Include information on domestic violence awareness and services in new employees' benefits packages and as part of new employee orientation.
- C. Conduct domestic violence awareness activities such as "brown bag" lunch programs and other health and wellness programs.
- D. Inform employees that New York State law prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims. The law prohibits designation of domestic violence as a preexisting condition. An insurance company cannot deny or cancel an insurance policy or require a higher premium or payment because the insured is or has been a domestic violence victim. [Insurance Law §2612]

- E. Integrate information on domestic violence into existing materials and literature, policies, protocols, and procedures, as appropriate.

II. Non-discriminatory and Responsive Personnel Policies for Victimized Employees

Ensure that personnel policies and procedures do not discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

- A. New York State law makes it a crime for employers to penalize an employee who, as a victim or witness of a criminal offense, is appearing as a witness, consulting with a district attorney, or exercising his or her rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law. This law requires employers, with prior day notification, to allow time off for victims or witnesses to pursue legal action related to domestic violence. [Penal Law §215.14]
- B. When an employee needs to be absent from work as a result of being a victim of domestic violence, the Unified Court System will assist the employee in determining the best use of his or her attendance and leave benefits, taking into consideration the employee's particular situation.
- C. When Unified Court System policies require an employee to submit documentation to justify absences, the Unified Court System should be aware that victims of domestic violence may initially lack documentation or may have difficulty obtaining documentation without compromising their safety. Therefore, consult with the employee to identify what documentation he or she might have, or be able to obtain, that will not compromise his or her safety-related needs and will satisfactorily meet the documentation requirement of the employer.
- D. Employees who are victims of domestic violence and who separate from a spouse (or terminate a relationship with a domestic partner, if covered), shall be allowed to make reasonable changes in benefits at any time during the calendar year where possible, in accordance with statute, regulation, contract and policy.
- E. Prohibit inquires about a job applicant's current or past exposure to domestic violence, and prohibit staffing decisions to be based on any assumptions about or knowledge of such exposure.
- F. In cases in which it is identified that an employee's work performance difficulties are a result of being a victim of domestic violence, said employee

shall be afforded all of the proactive measures outlined in this policy, and shall be provided clear information about performance expectations, priorities, and performance evaluation. If a disciplinary process is initiated, take special care to consider all aspects of the victimized employee's situation, and exhaust all available options in trying to resolve the performance problems, including making a referral to the Employee Assistance Program, consistent with statute, regulations, existing collective bargaining unit agreements and Unified Court System policy.

- G. If reasonable measures have been taken to resolve domestic violence-related performance problems of victimized employees, but the performance problems persist and the employee is terminated or voluntarily separates from employment, inform the employee of his or her potential eligibility for unemployment insurance and respond quickly to any requests for information that may be needed in the claims process. New York State law provides that a victim of domestic violence who voluntarily separates from employment may, under certain circumstances, be eligible for unemployment insurance benefits. [Labor Law §593]

III. Workplace Safety Plans

Have in place workplace safety response plans and provide reasonable means to assist victimized employees in developing and implementing individualized workplace safety plans, consistent with existing collective bargaining agreements, statutes and regulations.

- A. Facilitate in the enforcement of all known court orders, particularly orders in which abusers have been ordered to stay away from the work site. Assist the victim in enforcement of an existing order, including gathering and providing evidence relating to whether a violation of an order has occurred.
- B. Have an emergency security response plan in place, including procedures for contacting the appropriate law enforcement agency, and provide employees with clear instructions about what to do and who to contact if they observe anyone engaging in threatening behavior. Such a plan will allow appropriate actions to be taken if an abuser gains unauthorized access to the work site, or if an abuser engages in any acts that threaten the safety of employees or clients.
- C. Managers, supervisors, human resources personnel, and security staff shall inform victims of any confidentiality limitations that may exist (such as the appropriate sharing of information through the supervisory chain of command). Information related to an employee being a victim of domestic

violence shall not be divulged without the express written consent of the victimized employee, unless it is determined that maintaining said confidentiality puts the victim or other employees at risk of physical harm. In these cases, where possible, give prior notification to the victimized employee of the intent to provide information to other parties.

- D. Consult with victimized employees to develop and implement individualized workplace safety plans, which may include, when appropriate, advising co-workers and the employee's bargaining representative of the situation; setting up procedures for alerting security and/or the police; temporary relocation of the victim to a secure area; options for voluntary transfer or permanent relocation to a new work site; reassignment of parking space; escort for entry to and exit from the building; dealing with telephone, facsimile, e-mail or mail harassment; and keeping a photograph of the abuser and/or a copy of any existing court orders in a confidential on-site location and providing copies to security personnel.

IV. Accountability for Employees who are Offenders

Hold accountable employees who engage in the following behavior: (1) misusing state resources to commit an act of domestic violence; (2) committing an act of domestic violence from or at the workplace or from any other location while on official state business; or (3) misusing their job-related authority and/or state resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence.

- A. Take corrective or disciplinary action in accordance with existing collective bargaining unit agreements, statutes and regulations against any employee who is found to have threatened, harassed, or abused a family or household member at the workplace, from the workplace, or on state business using any workplace resources such as work time, workplace phones, facsimile machines, mail, e-mail, or other means.
- B. In cases in which an agency has verification that an employee is responsible for a domestic violence-related offense, or is enjoined by a final order of protection as a result of domestic violence, and said employee has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from

appropriate consequences for their behavior¹, determine if corrective action is warranted, in accordance with statutes, regulations and existing collective bargaining unit agreements.

- C. In cases in which an employee intentionally misuses his or her job-related authority and/or intentionally misuses state resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for his or her behavior, said employee shall be subject to corrective or disciplinary action, in accordance with statutes, regulations and existing collective bargaining unit agreements.

V. Firearms

Pursuant to New York State and federal law, a person convicted of a domestic violence-related crime or subject to an order of protection, under certain circumstances, forfeits the right to legally possess a firearm or long gun. Additionally, federal law contains prohibitions relating to shipping, transportation, or receiving firearms or ammunition.

- A. In addition to complying with the law, employees who are authorized to carry a firearm as part of their job responsibilities are required to notify their manager or supervisor if they are arrested on a domestic violence-related offense and/or served with an order of protection. Under certain circumstances, such employees are responsible for surrendering their firearms to the Unified Court System or to the appropriate police agency.
- B. Should an employee fail to comply with the requirements set forth in V. A., said employee shall be subject to corrective or disciplinary action, in accordance with existing collective bargaining unit agreements, statute or regulations. In addition, the appropriate law enforcement agency shall be notified for possible criminal action.

VI. Training

Make training on domestic violence and its impact on the workplace available on a regular basis for all managers, supervisors, employee assistance professionals, human resources personnel, and security staff. Training shall be strongly encouraged and made available to union and labor representatives.

¹Examples of "actions that may protect abusers from appropriate consequences for their behavior" include, but are not limited to, withholding from or providing false information to supervisors or other authorities; destroying or tampering with evidence or documentation of an abuser's act(s) of domestic violence; assisting an abuser in filing false claims against the victim; and failing to report violations of employer policy or of the law.

- A. Training curricula shall be developed and provided by the Office for the Prevention of Domestic Violence. When possible, training can be integrated into existing union and management training programs, agency training programs, EAP training, etc.
- B. Training shall prepare staff to identify possible cues and indicators of victimization, make appropriate referrals, work with professionals to assist identified victims in safety planning, and develop individualized responses in recognition of the physical, social, and cultural realities that may affect an individual victim's situation. Training shall also include information on the ways in which domestic violence impacts on the workplace, including the potential impact on worker productivity, and the safety risks to on-site personnel and visitors.

VII. Management/Supervisory Responsibility

- A. All managers and supervisors shall set a tone communicating that domestic violence is behavior that will not be tolerated and that the Unified Court System will actively provide information and support to employees who are victims of such abuse.
- B. All managers and supervisors shall follow the policy and procedures set forth in this policy.
- C. All managers and supervisors shall disseminate copies of the Unified Court System's *Domestic Violence in the Workplace Policy* to all employees upon implementation and to all new employees.