

# State of Delaware Domestic Violence Policy February 16, 2010 Amended February, 2016

# **Statement of Policy**

The State of Delaware ("the State") is committed to promoting the health and safety of its employees. Pursuant to House Bill No 4 of the 148th General Assembly, the State does not tolerate Domestic Violence, (Title 10 Section 1041); Sexual offenses, (Title 11 Section 761); and/or stalking, (Title 11 Section 1312). The State of Delaware offers support and referrals to assist employee victims who disclose concerns or requests for help. State employees are highly encouraged to report threats or acts of domestic violence, sexual offenses, and/or stalking to local law enforcement authorities.

Nothing in this policy is intended to reduce or modify existing directives and policies regarding prevention of violence in the workplace.

### **Definitions**

Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. Domestic violence includes, but is not limited to, actual or potential physical injury or harm, sexual abuse or threats of physical injury or harm, or sexual abuse against a person with a past or present intimate relationship such as marriage, dating, family, friends or cohabitation.

Domestic Violence, as defined in Section 1041 of Title 10, includes verification by an official document, such as a court order or by a reliable third-party professional, including an enforcement agency or officer, a domestic violence or domestic abuse service provider, or health care provider.

Sexual Offense, as defined in Section 761 of Title 11, includes verification by an official document, such as a court order, or by a reliable third-party professional, including a law-enforcement agency or officer, a domestic violence or domestic abuse service provider, or health care provider.

Stalking, as in Section 1312 of Title 11, includes verification by and official document, such as a court order, or by a reliable third party professional, including a law-enforcement agency or officer, a sexual assault service provider, or health care provider. It is the sexual assault or stalking victim's responsibility to provide the reliable statement from the reliable third party.

### Persons Covered by this Policy

Persons covered by this policy include State employees, casual/seasonals, interns, contractors, volunteers, and elected or temporary employees in any workplace locations.

OMB/HRM 02.2016

## **Policy Purpose**

The purpose of this policy is to:

- Promote the health and safety of State employees;
- Create a supportive workplace for employees who are victims of domestic violence, sexual offense, and/or stalking in which employees can discuss and seek assistance regarding domestic violence;
- Provide responsive guidelines and procedures to assist employees who are affected by domestic violence, sexual offense, and/or stalking; and
- Provide support and assistance to employees who are victims of domestic violence sexual offense, and/or stalking.

## **Policy Procedures**

Each agency shall designate an individual who may assist with domestic violence, sexual offense and/or stalking issues within that agency. Employees who are victims may choose to notify the designated individual or a supervisor, who would then consult with human resource staff. When appropriate, an employee who is a victim of domestic violence, a sexual offense, and/or stalking may be referred to the State's Employee Assistance Program (EAP), and provided with information on resources, which may also be found at <a href="https://www.dvcc.delaware.gov">www.dvcc.delaware.gov</a>. Other assistance will be provided based on individual needs and availability consistent with existing regulations, statutory requirements, contractual obligations and collective bargaining agreements. Assistance may also be provided with work-related needs such as requests for work schedule adjustments or leave, as needed, to obtain assistance. (Please refer to leave section of this policy for types of leave when this option is being considered.)

In addition, the designated individual and/or human resource staff will work with employees/victims and coordinate with the Victims' Compensation Board and/or Department of Justice Domestic Violence and Child Abuse Unit, when appropriate, to develop and implement individualized safety plans. These plans may include, but are not limited to, advising co-workers of the situation (subject to the employee's agreement); setting up procedures for alerting security and/or the police; temporary relocation to a new work site; assignment of parking space; escort for entry to and exit from the building; screening of telephone calls; and providing a photograph of the perpetrator and/or a copy of any existing court orders to security, the agency designee, and/or human resource personnel.

The posting of information about domestic violence in work areas is encouraged. Also, information may be made available where employees can obtain it without having to request it or be seen removing it. Some suggestions are: restrooms, lunchrooms, or where other employee resource information is located.

The employee/victim will be encouraged to retain any evidence of domestic violence, sexual offense, and/or stalking activity, such as threatening e-mail, text, or voice-mail messages.

In cases where the perpetrator and the employee/victim are employed at the same work site, the agency should give due consideration to an employee/victim's request for a modification of duties, reassignment to another position or work shift, or relocation to separate work sites. Such decisions may impact the employee's rights under collective bargaining agreements. In such cases, the agency human resource staff will contact the OMB/HRM Labor Relations and Employment Practices section for guidance.

## Confidentiality

The State recognizes and respects an employee's right to privacy. Unless the substance of the employee/victim's disclosure demands otherwise, strict confidentiality will be maintained by informing others only to the extent necessary to protect the safety of the individual or other individuals in the workplace. Except in times of extreme emergency where the timeframe does not permit disclosure, the employee/victim will be given notice of necessary disclosures.

The limitations of confidentiality will be discussed with the employee who is a victim of domestic violence, sexual offense, and/or stalking. Those situations that are deemed to potentially put the employee/victim and other employees at risk may require disclosure of a limited basis for those employees deemed to be at risk. Disclosure may be required in instances in which domestic violence has occurred at an employee/victim's worksite.

#### Non-discrimination

The State is committed to working with employees to prevent abuse, harassment, and discrimination that may result from domestic violence, sexual assault, and/or stalking. State agencies are prohibited from discriminating against victims of domestic violence, sexual assault and/or stalking based on knowledge of the employee/victim's current or past incidents.

It shall be unlawful employment practice for an employer to:

- Fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because the individual was the victim of domestic violence, a sexual offense, and or stalking; or
- 2. Fail or refuse to make reasonable accommodations to the limitations known to the employer and related to domestic violence, a sexual offense, or stalking, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such employer. For purposes of this subsection, "reasonable accommodations" means making reasonable change in the work place, including, but not limited, to reasonable changes in schedules or duties of the job in question that would accommodate the person who was the victim of domestic violence, a sexual offense, or stalking enabling such person to satisfactorily perform the essential duties of the job in question. Reasonable accommodations include the individual to use accrued leave to address the domestic abuse, sexual offense, and/or stalking.

### Leave

Every reasonable effort will be made to assist employees who are victims of domestic violence, sexual assault, and/or stalking with usage of available categories of leave where appropriate. Appropriate instances may include, but are not limited to, court appearances including appearances for filings and appointments with domestic violence, sexual assault and/or stalking advocates/social workers. If time off from work is necessary, leave shall be taken in compliance with Delaware Code, Merit Rules, statewide policy, and collective bargaining agreements. Agencies may ask employees to present acceptable documentation before leave is granted.

Leave may include, as applicable, available compensatory time, sick or annual leave, or other appropriate paid leaves and/or unpaid leave.

When on approved absence, the employee/victim shall attempt to maintain contact about return to work plans. While absent, the employee/victim must maintain contact with the appropriate supervisor and/or human resource staff. The employee/victim will be asked to identify an emergency contact person in the event the employer is unable to contact the employee/victim, and the contact person will be documented in PHRST.

### **Disclosures**

Employee/victims seeking to utilize the protections and benefits offered by the Statewide Domestic Violence, Sexual Assault and/or Stalking Policy may make disclosures to agency supervisors, the designated domestic violence contact, management, and/or human resource staff.

Any individual who applies for and obtains a protective or restraining order is encouraged to provide a copy of the order to the agency staff listed above.

When a disclosure is made, the agency designee and/or the human resource staff will meet with the victim to determine the appropriate action that should be taken to assist and support the employee/victim. When appropriate, the State's EAP may be consulted for assistance with this process.

When an incident involves employees from more than one State agency, the agency human resource staff will ensure that appropriate responses to the situation are coordinated.

## **Discipline**

An employee who is found using any State resources, including work time and/or equipment, to commit an act of domestic violence, sexual assault, and/or stalking may be subject to discipline, up to and including dismissal, based on the standards set forth in the Merit Rules, collective bargaining agreements, or other applicable laws or policies.

# Employees Concerned about Domestic Violence, Sexual Assault, and/or Stalking

If an employee becomes aware that a co-worker is a victim of domestic violence, sexual assault, and/or stalking, the employee is encouraged to communicate that information to the agency designee, management and/or human resources office.

In addition, the human resource staff, agency designee or management may discuss the matter with other appropriate authorities if there is an immediate safety risk to anyone in the workplace, or if the perceived problem has an effect on the workplace, including but not limited to safety, job performance, and morale. The human resource staff, agency designee or management will maintain the confidentiality of the disclosing employee to the extent permitted by law and this policy.

If an employee experiences or witnesses domestic violence, sexual assault, and/or stalking or threats of such behavior in the workplace, the employee must report the incident to a supervisor, management, and/or human resource staff immediately.

#### Resources

The OMB/HRM will maintain current referral resources supplied by the Domestic Violence Coordinating Council. This information shall be provided to other Executive branch agencies and will be accessible on the OMB/HRM website.

Resources for abusers' intervention programs will also be maintained. <u>Resources:</u> 24 Hour Hotline Numbers:

New Castle County

Domestic Violence 302-762-6110 Rape Crisis 302-731-9100

Northern Kent County

Domestic Violence 302-678-3886

Kent & Sussex Counties

OMB/HRM 02.2016

 Domestic Violence
 302-422-8058

 Rape Crisis
 800-262-9800

 Bi-lingual Hotline
 302-745-9874

If you feel that you are in danger, call 9-1-1.

Delaware has a Victim's Bill of Rights. For more information on this, please see the website below:

Victims' Compensation Assistance Program of the State of Delaware (Formerly the Violent Crimes Compensation Board)

http://attorneygeneral.delaware.gov/VCAP/

When an individual becomes separated from work due to circumstances related to domestic violence, sexual assault, and/or stalking the individual should be informed that unemployment benefits may be available pursuant to Delaware law found at, Title 19, Chapter 33, Section 3314.

http://delcode.delaware.gov/title19/c033/sc02/index.shtml

Further, information on stalking, which is a course of conduct directed at a specific person that would cause a reasonable person to feel fear, can be found at the following links:

http://delcode.delaware.gov/title11/c005/sc07/index.shtml#1312A

http://stalkingawarenessmonth.org/sites/default/files/2010/Stalking%20Fact%20Sheet%202009\_ENG\_color.PDF

## **Policy Dissemination**

This policy will be distributed to employees covered by this policy, will be posted on the OMB/HRM website and will be provided to all newly hired or promoted managers and supervisors. Employees will receive training on domestic violence, sexual assault and/or stalking as developed through this policy.