



State of Ohio Administrative Policy

Barbara Warner Workplace Domestic Violence

No:

Human Resources
HR-27

Effective:

July 23, 2014

Issued By:

Robert Blair, Director

1.0 Purpose

The purpose of this policy is to provide guidance for management and employees to raise awareness of domestic violence and reduce its impact on the workplace.

A glossary of terms found in this policy is located in Appendix A - Definitions. The first occurrence of a defined term is in ***bold italics***. To go directly to a term's definition, click on the bold and italicized term. To return to the body of the policy, click on the defined term.

2.0 Policy

The State of Ohio is committed to promoting the health and safety of its employees and to making a significant and continual difference in the fight to end ***domestic violence***. Nothing in this policy is intended to reduce or modify the effect of existing Department of Administrative Services' directives and policies on the prevention of violence in the workplace. Cabinet agencies, boards and commissions (collectively, State Agencies) should continue to consider such policies when acts of violence, including domestic violence, occur in the workplace.

Each State Agency will maintain, publish, and post in locations of high visibility, such as bulletin boards and break rooms, a list of resources for survivors and perpetrators of domestic violence. Resources should include, but not be limited to, the following:

Action Ohio Coalition for Battered Women	1-888-622-9315 http://www.actionohio.org/
Buckeye Region Anti-Violence Organization (Lesbian, Gay, Bisexual and Transgender)	1-866-862-7286 http://www.bravo-ohio.org/
Local Domestic Violence Resources	See the Ohio DV Program List at http://www.odvn.org/ for a list of resources in your area.
National Domestic Violence Hotline	1-800-799-SAFE

	http://www.ndvh.org/
National Teen Dating Abuse Hotline	1-866-331-9474 http://loveisrespect.org/
Ohio Domestic Violence Network	1-800-934-9840 http://www.odvn.org/
Ohio Employee Assistance Program	1-800-221-6327 http://www.ohio.gov/EAP
Ohio Office of Criminal Justice Services Family Violence Prevention Center	1-888-448-4842 http://www.fvpc.ohio.gov/

For incidents that occur outside of the workplace, state employees are highly encouraged to report incidents of threats or acts of domestic violence, of which they are aware, to local law enforcement authorities. Domestic violence incidents that occur while on State property, while conducting State business or during State-sponsored social events shall be reported pursuant to applicable procedures concerning the reporting of workplace incidents or to the agency human resources department in the absence of such procedures. Employees in immediate danger should call 911.

- 2.1 **Non-Discriminatory and Responsive Personnel Policies:** The State of Ohio is committed to working with employees to prevent abuse, harassment and discrimination that may result from domestic violence. State Agencies are prohibited from discriminating against *victims or survivors* of domestic violence based on any assumptions or knowledge of the victim's or survivor's current or past domestic violence incidents.

In cases where the *batterer, perpetrator, or abuser* and the victim or survivor are employed at the same work site, an appointing authority should give due consideration to a victim's or survivor's request for a modification of duties, a reassignment to another position or work shift, or a relocation to separate work sites. The victim or survivor should be consulted in making decisions about such modifications, reassignments and relocations, and should not be penalized involuntarily by this process. Such decisions may impact the rights of bargaining unit members, and in such cases, a union representative should be consulted.

All employees must adhere to state and agency time and attendance policies. If an employee needs to be absent from work due to current or past domestic violence incidents, the employee and supervisor should first explore whether paid leave options can be used to accommodate the absence. Depending on the employee's circumstances, and subject to applicable collective bargaining agreements, such options may include:

- 2.1.1 Available Leave Balances. Upon agency approval, state employees may utilize sick leave, personal leave, vacation leave, or compensatory time to cover absences from work due to current or past domestic violence incidents.
- 2.1.2 Civic Duty Leave. State employees are entitled to paid leave when subpoenaed to appear before any court, commission, board or other legally constituted body authorized to compel the attendance of a witness. This leave does not apply if

the employee is a party to the action, but would apply in criminal cases where the state is a party to the action on behalf of the victim or survivor. The alleged batterer would be considered a party to the action and would be ineligible for this leave.

- 2.1.3 Donated Leave. State employees are eligible to receive donated leave when the employee, or a member of the employee's immediate family, has a serious illness or injury, the employee has no accrued leave, the employee has not been approved to receive any other state-paid benefits, and the employee has applied for any paid leave, Workers' Compensation or other benefits program for which the employee is eligible.

More information on the state's Leave Donation Program can be found online at <http://das.ohio.gov/Divisions/HumanResources/HRDOCBPolicy/LeaveDonationProgram.aspx>.

- 2.1.4 Family Medical Leave. The Family and Medical Leave Act (FMLA) allows eligible state employees to take up to twelve work weeks of leave per 12-month period to care for themselves, or for a spouse, child, or parent with a serious health condition.

In accordance with the state's FMLA policy, employees must exhaust all accrued sick, vacation and personal leave balances, as appropriate, prior to going on unpaid leave. More information on the state's FMLA policy is available online at <http://das.ohio.gov/LinkClick.aspx?fileticket=%2bCFzrdPKucA%3d&tabid=342>.

- 2.1.5 Flexible Work Hours. Some agencies allow employees to utilize flexible work schedules. Employees should contact their Human Resources office to determine what is available to them. If no paid leave options are available, an appointing authority may grant a leave of absence to the employee without pay for personal reasons. The use of such leave will be governed by section 123:1-34-01 of the Administrative Code and any applicable collective bargaining agreements.

- 2.2 **Discipline for a Survivor or Victim:** State employees may not be penalized or disciplined solely for being a victim or survivor of domestic violence, although agencies retain the right to discipline employees for cause.

Victims and survivors of domestic violence may have performance-related issues that include, but are not limited to, chronic absenteeism, exhaustion from sleep deprivation, or an inability to concentrate as a result of the violence. Supervisors should be mindful that the effects of domestic violence are very serious and may take extended periods of time to fully address.

If an employee subject to discipline discloses that the job performance issues are caused by domestic violence, the following steps should be taken:

- The first time the employee discloses that the job performance issues are caused by domestic violence, the agency should ordinarily refer the employee to the **Ohio Employee Assistance Program** (EAP). The employee's supervisor may request that the employee enter into an EAP Participation Agreement with the agency. The EAP Participation Agreement serves as an agreement between the employee, the employee's supervisor and the employee's union representative (if applicable), and ordinarily holds the disciplinary action in abeyance for a minimum of 180 days while the employee obtains assistance. Exceptional circumstances may arise when a referral may be inappropriate or under which a shorter period of time may be appropriate.
- Upon successful completion of the program, the agency should modify or dismiss the disciplinary action.
- If the employee rejects the suggested referral, refuses to enter into or fails to complete an EAP Participation Agreement, and/or has not remedied any job performance issues, the agency may carry out the discipline originally contemplated. Such discipline will carry an effective date of the date of the employee's referral to EAP. An employee's failure to comply with the EAP Participation Agreement will also constitute a violation of any Last Chance Agreement in place for the employee. The employee, the employee's supervisor, and the employee's union representative (if applicable) shall meet before any disciplinary action is taken. The union representing the collective bargaining employee shall be notified within three (3) working days of any potential disciplinary action.
- Disclosure is very difficult for victims or survivors of domestic violence and requests for documentation may threaten an employee's ability to disclose. If a supervisor has reason to believe that the individual is not a victim of domestic violence, then the supervisor should consult with their Human Resources office, Legal Counsel, or EAP regarding further documentation that may be requested to substantiate the assertion.

2.3 **Discipline for a Batterer, Perpetrator, or Abuser:** The State of Ohio is committed to providing a workplace in which the perpetration of domestic violence is neither tolerated nor excused. Employees who are perpetrators of domestic violence are encouraged to access services through the Ohio Employee Assistance Program (EAP).

Both the decision to enter into an EAP Participation Agreement with the perpetrator and the decision to hold any disciplinary action in abeyance during the course of EAP services are made at the discretion of the appointing authority.

Any state employee who commits acts or threats of domestic violence while on State property or conducting State business or sponsored social event, or uses State resources

(e.g., State vehicle, work time, workplace telephones, cellular telephones, facsimile machines, mail, computers, land and electronic mail, telephone answering machines, other electronic or computer technology, or other means) to commit acts or threats of domestic violence may be in violation of the State policies on the use of State telephones, Internet, E-mail and other IT resources and any other applicable policies.

Employees found to have violated these policies may be subject to corrective or disciplinary action, up to and including termination, as well as criminal prosecution by the appropriate law enforcement agency.

Nothing in this policy should be read to contradict or challenge a judicial court order such as a **protection order** or the terms of an employee's probation. Agencies should work to accommodate such orders.

Pursuant to section 2919.25 of the Ohio Revised Code, individuals who commit acts of domestic violence may be charged with a misdemeanor or a felony. A conviction of these charges may subject the individual to additional discipline or removal under section 124.34 of the Ohio Revised Code and/or applicable collective bargaining agreements. Additionally, pursuant to 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.

Employees who are authorized to carry a firearm as part of their job responsibilities are required to notify their appointing authority if they are convicted of a domestic violence-related crime and/or served with an order of protection.

- 2.4 **Confidentiality:** State Agencies should take steps to respect the confidentiality and privacy of the reporting employee and the victim or survivor. State Agencies should only inform others to the extent necessary to protect safety, or when otherwise required by law and/or applicable collective bargaining agreements. Whenever practicable, advance notice will be given to the reporting employee and the victim or survivor if the agency needs to inform others about the domestic violence situation.
- 2.5 **Training:** The State of Ohio encourages all employees of state agencies, boards and commissions to receive training on this policy as well as the risk factors associated with domestic violence and the impact of domestic violence. Online training is available through the Enterprise Learning Management (ELM) system. Managers and supervisors of all state agencies shall be required to complete the online training course "What Every Manager Should Know—The Impact of Domestic Violence on the Workplace." An additional online training course, "What Every Employee Should Know—The Impact of Domestic Violence in the Workplace," is available through ELM for all other state employees and may be offered at the discretion of the Appointing Authority.

3.0 Authority

ORC 124.04, 124.34, 2919.25; OAC 123:1-34-01, 123:1-47-01(B)

This policy supersedes any previously issued directive or policy and will remain effective until canceled or superseded.

4.0 Revision History

Date	Description of Change
04/16/2008	Original policy.
07/23/2014	Revised to comply with new format.
07/23/2015	Scheduled policy review.

5.0 Inquiries

Direct inquiries about this policy to:

Office of HRD/OCB Policy
Human Resources Division
Ohio Department of Administrative Services
1602 West Broad Street
Columbus, Ohio 43223

614.752.5393 | DASHRD.HRPolicy@das.ohio.gov

State of Ohio Administrative Policies may be found online at
www.das.ohio.gov/forStateAgencies/Policies.aspx

Appendix A - Definitions

- a. Batterer, Perpetrator, or Abuser. The individual who commits an act of domestic violence.
- b. Domestic Violence. A pattern of coercive behavior used by one person to establish or maintain power and control over family or household members, which includes intimate partners, spouses, former spouses, persons living together as spouses, persons who have a child in common (regardless of whether they have been married or have lived together at any time), and adult persons related by blood or marriage. Domestic violence may include physical violence, sexual, emotional and psychological intimidation, verbal abuse, stalking, and economic control, and may occur among people of all backgrounds in these relationships.
- c. Ohio Employee Assistance Program. A program intended to help state employees deal with personal problems that might adversely impact their work performance, health, and well-being. Employee Assistance Programs generally include assessment, short-term counseling and referral services for employees and their family members.

- d. Protection Order. An order issued by a court designed to protect a person from harm or harassment. In a domestic dispute, protection orders are typically issued to prevent one party from approaching another, often within a specific distance.
- e. Victims or survivors. Individuals who are the subject of an act of domestic violence. Those who have escaped violent relationships often are referred to as survivors rather than victims.

Appendix B - Resources

Document Name
<i>Establishing State Government Workplace Domestic Violence Policy</i> , Executive Order 2011-04K; Office of the Governor, State of Ohio, 2011. http://das.ohio.gov/LinkClick.aspx?fileticket=K- AH16P1GU%3d&tabid=342 .
<i>Creating the Barbara Warner Workplace Domestic Violence Policy and Barbara Warner Committee on Workplace Domestic Violence</i> , Executive Order 2008-08S; Office of the Governor, State of Ohio, 2008. http://www.das.ohio.gov/LinkClick.aspx?fileticket=eDiFYI2QU6I=&tabid=342
<i>Additional resources are available on the HRD/OCB Policy website, including posters and brochures.</i> http://das.ohio.gov/Divisions/HumanResources/HRDOCBPolicy.aspx