

WORKPLACE DOMESTIC VIOLENCE

SOURCE: OHIO EPA ADMINISTRATION: EXECUTIVE ORDER 2008-085
(<http://governor.ohio.gov/Portals/0/Executive%20Orders/Executive%20Order%202008-08S.pdf>)

CONTACT: OFFICE OF EMPLOYEE SERVICES

Barbara Warner Workplace Domestic Violence Policy:

PURPOSE

Ohio EPA 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. The purpose of this policy is to set forth procedures and guidance for management and employees that address and reduce the occurrence of domestic violence and its impact on the workplace. Nothing in this policy is intended to reduce or modify the effect of existing policies on the prevention of violence in the workplace. The Ohio EPA will continue to consider such policies when acts of violence, including domestic violence, occur in the workplace.

DEFINITIONS

Batterer, Perpetrator, or Abuser: The individual who commits an act of domestic violence.

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 racial, economic, educational, religious backgrounds, in heterosexual and same sex relationships.

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.

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.

Survivor or Victim: The individual who is the subject of an act of domestic violence. Those who have escaped violent relationships often are referred to as survivors rather than victims

EMPLOYEE AWARENESS AND RESOURCES

Resources for survivors and perpetrators of domestic violence include, but are not 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 <i>Ohio DV Program List</i> 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://www.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, Agency 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 to the Office of Employee Services. Employees in immediate danger should call 911.

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 and the victim or survivor are employed at the same work site, the Director will 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 involuntarily penalized by this process.

All employees must adhere to 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 options can be arranged to accommodate the absence, Depending on the employee's circumstances, and subject to applicable collective bargaining agreements, such options may include:

- **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.
- **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 to be a party to the action and would be ineligible for this leave.
- **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.
- **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, compensatory and personal leave balances, as appropriate, prior to going on unpaid leave.
- **Flexible Work Hours.** The Ohio EPA allows employees to utilize flexible work schedules. Employees should contact the Office of Employee Services to determine what is available to them.

If no paid leave options are available, the Director 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.

DISCIPLINE

Survivor or Victim:

Ohio EPA employees may not be penalized or disciplined solely for being a victim or survivor of domestic violence, although the Agency retains 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-tantamount to chronic illnesses-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:

1. The first time the employee discloses that the job performance issues are caused by domestic violence, the agency will ordinarily refer the employee to the Ohio Employee Assistance Program (EAP). Ohio EPA 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 Ohio EPA 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.
2. Upon successful completion of the program, the agency will modify or dismiss the disciplinary action.
3. 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 has the right to 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 representative, 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 the Ohio EPA has reason to believe that the individual is not a victim of domestic violence, then the Agency representative should consult with EAP regarding further documentation that may be requested to substantiate the assertion.

Batterer, Perpetrator, or Abuser:

Ohio EPA 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, cell 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 is in violation of the Agency and State policies on the use of State telephones, Internet, E-mail and other IT resources. 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. The Ohio EPA will 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.

CONFIDENTIALITY

In all responses to domestic violence, Ohio EPA will respect the confidentiality and autonomy of the reporting employee and the victim or survivor, by informing others only to the extent necessary to protect safety or comply with the law and/or applicable collective bargaining agreements. Whenever practicable, advance notice will be given to the reporting employee if the agency needs to inform others about the domestic violence situation.

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