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Department of
Administrative Services

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Statewide Policy

State of Ohio Administrative Policy

Barbara Warner Workplace Domestic
Violence

No:

Human Resources
HR-27

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Issued By:

Matt Damschroder, 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 can be found in this policy and 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 toward ending ***domestic violence***. Nothing in this policy is intended to reduce or modify the effect of existing Department of Administrative Services' policies on the prevention of violence in the workplace. Agencies, boards and commissions (collectively, State Agencies) should continue to consider such policies when acts of violence, including domestic violence, occur in the workplace.

At a minimum, each State Agency will maintain, publish, and post a list of resources for survivors and perpetrators of domestic violence included in Attachment 1 in all employee break rooms or comparable visible locations and on the agency's usual and customary means of electronic publication (e.g. agency intranet, agency policy site, etc.). Agencies are encouraged to continue posting and maintaining cardholders/resource cards in all agency restrooms.¹

¹ Agencies should work through the Ohio EAP Coordinator to obtain additional resource cards as needed.

Each State Agency shall designate a point of contact within their human resources office who will be responsible for monitoring the availability of resources at the agency and who can provide consultation to employees in need of resources and information.

- 2.1 **Incidents of Domestic Violence:** Employees in immediate danger should call 911. To the extent allowed by law, State Agencies shall cooperate with any law enforcement investigation regarding domestic violence involving a state employee as either a victim, survivor, or perpetrator of domestic violence. Domestic violence incidents that occur while on State property, while conducting State business, or during State-sponsored social events shall be reported as soon as safely possible to appropriate law enforcement personnel and/or to agency human resources office personnel pursuant to applicable procedures concerning the reporting of workplace incidents. If law enforcement will be notified, every effort shall be made to consult with, or at least notify those that are directly impacted as victims of domestic violence before law enforcement is contacted.
- 2.2 **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 or are reasonably anticipated to have interaction as a result of their state employment, an appointing authority should give appropriate and reasonable 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, State Agencies should refer to the applicable collective bargaining agreement and work with the Office of Collective Bargaining (OCB) and/or an appropriate union representative as needed.

All employees must adhere to state and agency time and attendance policies, but state agencies are strongly encouraged to work within those policies in providing support to victims or survivors of domestic violence. If an employee needs to be absent from work due to current or past domestic violence incidents, the employee, the human resources office, and the employee's supervisor should first explore whether paid leave options can be used to accommodate the absence before considering unpaid options. Depending on the employee's circumstances, and subject to applicable collective bargaining agreements, such options may include:

- 2.2.1 Available Leave Balances. Upon agency approval, state employees may use sick leave, personal leave, vacation leave, or compensatory time to cover absences from work due to current or past domestic violence incidents.

- 2.2.2 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.
- 2.2.3 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, and, if eligible, the employee has applied for any paid leave, Workers' Compensation or other benefits program. Employees should work with their human resources office to discuss eligibility and use of donated leave.
- 2.2.4 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.
- 2.1.5 Flexible Work Hours. Some agencies allow employees to use flexible work schedules. Employees should contact their human resources office to determine what is available to them.
- 2.1.6 Unpaid Leave. If no paid leave options are available, an appointing authority may grant an unpaid leave of absence to the employee for personal reasons. The use of such leave will be governed by section 123:1-34-01 of the Administrative Code and/or any applicable collective bargaining agreements.
- 2.3 **Performance-Related Issues for 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 or 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. Human resources office personnel and supervisors should be mindful that the effects of domestic violence are very serious and may take extended periods of time to fully address. Where possible, agencies are encouraged to work with the victim or survivor of domestic violence to mitigate performance related issues while allowing time for the employee to achieve resolution for the domestic violence that they are experiencing before conducting a corrective counseling or imposing discipline.

If an agency is considering a corrective counseling or discipline and the employee discloses that the performance-related issues are caused by domestic violence, the agency should ordinarily refer the employee to the **Ohio Employee**

Assistance Program (Ohio EAP) and/or consult additional resources within the agency's human resources and labor relations offices and the Barbara Warner Workplace Domestic Violence Committee.

2.3.1 Ohio EAP. The Ohio Employee Assistance Program (Ohio EAP) can refer the employee to community resources—the role of which is to support the person experiencing domestic violence in securing a resolution that works for their unique situation. Depending upon the unique circumstances of the situation, a participation agreement may be used to allow an agency to hold any discipline in abeyance, while ensuring the employee is connected with the appropriate community resources. See Appendix B for Ohio EAP contact information and additional information about the services and resources provided by Ohio EAP.

2.4 **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 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, while conducting State business, or during State sponsored social events, or uses State resources (e.g., State vehicle, work time, workplace telephones, cellular telephones, facsimile machines, mail, computers, land or electronic mail, telephone answering machines, other electronic or computer technology, and/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, including working with agency legal counsel and agency security on enforcement of the protection order.

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 agency work rules and 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.

2.5 **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 practical, 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.

2.6 **Training:** The State of Ohio recognizes that it is important for all employees of state agencies to receive training on this policy as well as the risk factors associated with domestic violence and the impact of domestic violence on the workplace. Two versions of a web-based training course are available through the Department of Administrative Services, one specific to managers/supervisors and one for all other state employees.

- Managers and supervisors of all state agencies shall be required to complete the web-based training course. Any current manager or supervisor must complete the web-based training within one hundred and eighty (180) days of the effective date of this policy. Any manager or supervisor hired or promoted after the effective date of this policy is required to complete the web-based training course within ninety (90) days of hire or promotion.
- Appointing authorities are encouraged to require all other state employees to complete the employee web-based training course.

3.0 Authority

ORC 124.04, 124.34, 2919.25; OAC 123:1-34-01, 123:1-47-01(B), Executive Order 2019-09D

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.
10/21/2019	Revised to comply with Executive Order 2019-09D.

5.0 Inquiries

Direct inquiries about this policy to:

Labor Relations and Human Resources Policy Section
Office of Collective Bargaining

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

6.0 Attachments

Attachment 1—Resources poster for required posting (see Section 2.0)

Appendix A - Definitions

- a. Batterer, Perpetrator, or Abuser. The individual who commits an act of domestic violence.
- b. Domestic Violence. A pattern of violent and coercive behaviors used by one intimate partner against another to control and maintain power over that person. Intimate partners include family or household members, romantic partners that are not legal family or household members, 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. For purposes of this policy, where reference is made to domestic violence, dating violence should be given the same consideration. Dating violence is defined as the physical, sexual, psychological, or emotional aggression within a dating relationship, including stalking. It can occur in person or electronically and might occur between a current or former dating partner.
- 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>Workplace Domestic Violence Policy in State Government</i> , Executive Order 2019-09D; Office of the Governor, State of Ohio, 2019 https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders
<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>Ohio Employee Assistance Program</i> https://das.ohio.gov/Divisions/Human-Resources/Benefits-Administration/EAP 1-800-221-6327
<i>Additional resources are available on the Labor Relations and Human Resources Policy Section Policy website, including information on the State's leave donation program, the statewide FMLA policy and additional resources for survivors and perpetrators of domestic violence, including posters and brochures.</i> http://das.ohio.gov/Divisions/HumanResources/HRDOCBPolicy.aspx

Attachment 1

Domestic Violence Can Impact Anyone



At work

At home

Anywhere

RESOURCES

EMERGENCY
911

**National Domestic Violence
Hotline**
800-799-SAFE(7233)
thehotline.org

**Ohio Domestic Violence
Network**
800-934-9840
Go to odvn.org for a county listing
of 24-hour emergency crisis
numbers and shelter providers.

**National Teen Dating Abuse
Hotline**
866-331-9474
loveisrespect.org

**The Center for Family Safety
and Healing**
614-722-8200
familysafetyandhealing.org

**Ohio Employee Assistance
Program**
800-221-6327
ohio.gov/eap

Optum Behavioral Solutions
800-852-1091 24-hour

**Buckeye Region Anti-Violence
Organization (LGBTQI)**
866-862-7286
bravo-ohio.org

OhioHopes (Elderly)
800-411-2267
For automated referrals to a range
of elder abuse resources or
ohiohopes.org

**Automated Child Abuse
Reporting Directory**
855-642-4453
Or, go to [oncac.org/resources/
resource-map-of-ohio/](http://oncac.org/resources/resource-map-of-ohio/) for a listing
of children's services by county.

**Ohio Sexual Violence 24-Hour
Helpline**
844-OHIO-HELP
(844-644-6435)