



STATE OF NEW YORK UNIFIED COURT SYSTEM DOMESTIC VIOLENCE WORKPLACE 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, gay, lesbian, bisexual and transgender couples, and couples who are dating or have dated in the past.

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 an adult intimate partner, 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.

The Unified Court System (UCS or court system), to the fullest extent possible, consistent with existing rules, regulations, statutory requirements, contractual obligations and 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 an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

Intimate Partner: Includes 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, couples who live together or have lived together, or persons who are dating or who have dated in the past, including same sex couples.¹

Abuser: A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

Victim: The person against whom an abuser directs coercive and/or violent acts.

GUIDELINES

I. Employee Awareness

Employee awareness regarding the dynamics of domestic violence and the available sources of assistance is critically important. Information on the dynamics of domestic violence and the Domestic Violence Workplace Policy shall be integrated into existing materials and literature, policies, protocols, and procedures, as appropriate.² The Domestic Violence Workplace Policy will be placed on UCS intranet and internet sites and will be disseminated to all Judges and nonjudicial employees upon implementation and upon election, hiring or appointment.

- a. Information and available resources relating to domestic violence shall be posted where employees can obtain information and resources without having to request it or be seen removing it. Such sites may include, but are not limited to: UCS intranet and internet sites, employee bulletin boards and newsletters, rest rooms and lounge areas. Posted information should include available sources of assistance, such as: contact information for local domestic violence service providers, the number for the NYS Domestic Violence and Sexual Assault hotline, and/or information about court system personnel who are trained and available to serve as confidential sources of information, support and referral. A court system contact information poster will be made available to every court location.

¹This definition may extend to other circumstances such as abuse of a parent by an adult child; however, the primary focus of this policy is adult, intimate partner violence.

² Whenever possible, the Domestic Violence Workplace Policy should also be extended to consultants, contractors, and other non-state on-site providers.

- b. The Director of Court Operations is designated as the court system's OPDV Liaison (UCS/OPDV Liaison). The UCS/OPDV Liaison will ensure agency-wide implementation of the Domestic Violence Workplace Policy and serve as the primary contact with OPDV.
- c. The court system's Work/Life Assistance Program, Corporate Counseling Associates (CCA), a private, professional resource, which provides free and confidential assistance to all court system Judges and employees and their family members, is an important resource for victims of domestic violence and their co-workers. Whenever there is an employee issue involving domestic violence, there should be a referral to CCA. Work/Life Assistance Program counselors are available for short-term counseling and, if necessary, may provide a referral for continued or specialized care. More information can be found on the court system's intranet and internet sites, as well as CCA's website at <http://www.corporatecounseling.com/> (member log-in: UCS).³
- d. The Domestic Violence Workplace Policy shall be reviewed annually and, for informational purposes, the UCS/OPDV Liaison will forward policy or guideline revisions and updates to OPDV.

II. Workplace Safety Plans

Domestic violence workplace safety response plans are critical to the security of victimized employees and their co-workers. An emergency security response plan should include 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 a domestic violence perpetrator gains unauthorized access to the work site or engages in any acts that threaten the safety of employees or clients.

Victimized employees shall be consulted for the development and implementation of individualized workplace safety plans, which may include:

- a. advising co-workers and, upon request, the employee's bargaining representative, of the situation;
- b. setting up procedures for alerting UCS security and local law enforcement;
- c. temporarily relocating the victimized employee to a secure area;
- d. providing options for voluntary transfer or permanent relocation to a new work site;

³ Referrals may also be made to domestic violence programs that can be found on the New York State Office for the Prevention of Domestic Violence's (OPDV) website at http://www.opdv.state.ny.us/about_dv/fss/resource.html.

- e. changing a work schedule;
- f. reassigning a parking space;
- g. providing an escort for entry to and exit from the building;
- h. responding to telephone, fax, e-mail or mail harassment; and,
- i. keeping a photograph of the abuser and/or a copy of any existing orders of protection in a confidential on-site location and providing copies to security personnel.

All known court orders of protection, including those in which domestic violence perpetrators have been ordered to stay away from the work site, shall be complied with. The court system may facilitate the enforcement of any existing orders by assisting victimized employees or law enforcement officials in gathering and providing evidence related to whether the terms of an order have been violated. Additional concerns will need to be addressed if the victim and the offender are both employed by UCS.

Throughout the development and implementation of collective and individual domestic violence workplace safety response plans, the court system's confidentiality policy and limitations to this policy must be disclosed. Individualized domestic violence workplace safety plans should be reviewed periodically to ensure that they remain effective for addressing workplace safety concerns.

III. Responsive and Non-Discriminatory Personnel Policies

The court system ensures that personnel policies and procedures do not discriminate against, and are responsive to the needs of, victims of domestic violence. If there are any questions or concerns regarding the application of this policy, contact the Office of Court Administration's Division of Human Resources.

- 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 her/his rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law. The law requires employers, with prior day notification, to allow time off for victims or subpoenaed witnesses to exercise her/his rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law [Penal Law §215.14].
- b. New York State law prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims. The law also prohibits designation of domestic violence as a pre-existing 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.]

- c. When an employee needs to be absent from work as a result of being a victim of domestic violence, or to assist a family member who has been a victim of domestic violence, management will assist the employee in the best use of attendance and leave benefits, taking into consideration the employee's particular situation.
- d. Where UCS policies require an employee to submit documentation to justify absences, management is aware of and sensitive to the fact that victims of domestic violence may lack the required documentation or have difficulty obtaining the required documentation without compromising their safety. Therefore, the employee will be consulted with to identify available documentation that satisfactorily meets the documentation requirement without compromising safety-related concerns.⁴
- e. When there is a change in status connected to their victimization, employees who are victims of domestic violence shall be allowed to make reasonable changes to benefits at any time during the calendar year.
- f. Inquiries about a job applicant's current or past domestic violence victimization are prohibited. Employment decisions must not be based on any assumptions about or knowledge of prior domestic violence concerns.
- g. Where an employee's work performance difficulties are the result of being a victim of domestic violence, management should work with the employee to ensure that all of the proactive measures outlined in this policy are extended, and provide the employee with clear information about performance expectations and performance evaluation.
 - 1. If a disciplinary process is initiated, special care shall be taken to consider all aspects of the victimized employee's situation, and all available options shall be utilized in working to resolve the performance problems, including making a referral to the Work/Life Assistance Program.
 - 2. If reasonable measures have been taken to resolve domestic violence-related performance problems of a victimized employee and the performance problems continue and the employee separates from service, management will advise the employee of potential eligibility for unemployment insurance and promptly provide information needed in the claims process. New York State law provides that a victim of domestic

⁴ Because there may be confidentiality issues associated with the submission of documentation in these instances, the UCS/OPDV Liaison should be consulted.

violence who voluntarily separates from employment may, under certain circumstances, be eligible for unemployment insurance benefits [Labor Law §593].

- h. 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. Employees who are authorized to carry a firearm as part of their job responsibilities are required to notify their manager if they are arrested on a domestic violence-related offense and/or served with an order of protection. Failure to notify may result in disciplinary action.

IV. Accountability for Employees who are Offenders and Employees who Enable Offenders

Court system employees will be held accountable for engaging in any of the following behaviors: (1) misusing state resources, such as work time, workplace telephones, computers, e-mail, fax machines, mail, state vehicles or other means, 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. Corrective or disciplinary action will be taken against any employee who is found to have threatened, harassed, or abused an intimate partner at the workplace, from the workplace, while on state business or using state resources.

- a. Corrective action may be warranted in cases where it is found that an employee is responsible for a domestic violence-related offense or is the subject of any order of protection, including temporary, final or out-of-state, 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.
- b. If an employee intentionally misuses job-related authority and/or state resources to negatively impact a victim of domestic violence, assist an abuser in locating a victim or perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for such behavior,⁵ the employee shall be subject to corrective or disciplinary action.

V. Training

The court system is committed to providing Domestic Violence Workplace Policy training on a

⁵ Examples of actions that may “protect an abuser from appropriate consequences” 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.

regular basis for all court system personnel. Training shall include information on the ways in which domestic violence impacts the workplace, including the potential impact on worker productivity and the safety risks to on-site personnel and visitors.

- a. Training on the dynamics of domestic violence and its impact on the workplace shall be made available on an on-going basis for all managers, supervisors, human resources professionals, and uniformed personnel.
- b. Training for union representatives will also be made available and strongly encouraged.

VI. Management Responsibility

All managers and supervisors are responsible for setting a tone that communicates domestic violence-related behavior will not be tolerated; reviewing and following the procedures set forth in this policy; and actively providing information and support to employees who are victims of such abuse. Managers and supervisors should ensure that their employees are aware of the court system's Domestic Violence Workplace Policy.

VII. Confidentiality and Reporting

Information related to an employee who is a victim of domestic violence shall be kept confidential, to the extent permitted by law and UCS policy. Such information shall not be divulged without the written consent of the victimized employee, unless it is determined that maintaining confidentiality puts the victim or other employees at risk of physical harm or is deemed necessary to enforce an order of protection.

- a. Only the minimum amount of information necessary to protect the safety of the victim and/or other employees or to enforce an order of protection shall be disclosed.
- b. In such circumstances where a determination has been made that maintaining confidentiality puts the victim or other employees at risk of physical harm, only those individuals deemed necessary by UCS to protect the safety of the victim and/or other employees or to enforce an order of protection shall be given such information.
- c. Nothing herein shall prevent investigating an act(s) of domestic violence that happen with in the workplace.
- d. All incidents of domestic violence that happen in the workplace shall be documented and provided to the UCS/OPDV Liaison as soon as practicable by the District Executive, New York City Chief Clerk or Office of Court Administration manager. Such documents shall be kept confidential to the extent permitted by law and court system policy. Moreover, court personnel designated to provide

domestic violence information and support services shall document the number of employees who report domestic violence, the number of employees that request information/services, and the number of referrals made to domestic violence service providers. All information about employees who seek assistance shall be kept confidential to the extent permitted by law and court system policy, and documentation should not include any personal information. Said information shall be provided to the UCS/OPDV Liaison.