

FAQ's

Domestic Violence, Sexual Assault and Stalking

Dec'08

1) What does the new law and policies cover?

- An Individual who has been a victim of abuse, as defined by protection order statute (ORS 107.705)
- An Individual against whom a sexual offense has been committed. Sexual offenses defined in criminal code as defined in ORS 163.305 to 163.525.
- An Individual against whom stalking has been committed as described in ORS 163.732 (Criminal Stalking Definition)

2) Who is covered under these new laws and policies?

- Any other person who has suffered:
 - Financial, social, psychological, physical harm;As a result of domestic violence, sexual assault or stalking against the victim, including "immediate family"
- Parent/Guardian of minor child or dependent.
- "Immediate family member" includes:
 - Spouse/domestic partner, father/mother, child/stepchild, grandfather/grandmother or any other person w/same primary residence as a victim at time of domestic violence, sexual assault or stalking.

3) What if the employee doesn't want any assistance?

- Provide the employee with the relevant information and options available and document.
- It is the employee's choice to accept or refuse assistance. Still notify your supervisor/HR Manager.
- However, domestic violence that disrupts the workplace must be addressed. Example: An agitated spouse enters a building and starts making violent threats.

4) How am I as the supervisor supposed to help the employee?

- Create a safe workplace for employees at risk and their coworkers and
- Provide the tools to recognize the signs of abuse and to assist employees in getting the help they need.

5) When is mandatory reporting of illegal acts or allegedly illegal acts of violence required?

- When the incident occurs at the worksite
- When it involves children, disabled, and dependent elderly. (Those not able to report for themselves)
- Incidents must be reported within 24 hours of receipt.

6) Both the alleged victim and alleged abuser are DOC employees. The alleged victim reports physical abuse to the manager, but says do nothing. What does the manager do?

- DOC's Code of Conduct: "Every employee is obligated and shall promptly report to the proper line of authority any illegal acts, . . .".
- Let the alleged victim know you must report this to your supervisor/HR manager.

7) What type of leave is the employee allowed to use?

- Leave is normally unpaid, however the employee may use any accrued paid leave.
- The employer can decide the order in which leave is used when more than one type of leave is available.
- Employee may take intermittent leave in multiple blocks or leave requiring an altered or reduced work schedule. (An example of intermittent leave would be a day each week to attend therapy)
- SB 946 – Protected Leave, Oregon Victims of Certain Crimes Leave.
- Employers must allow employees who are victims to take reasonable, unpaid leave from work in order to address domestic violence, sexual assault or stalking which is impacting them or their minor children or dependents.

Additional protected leaves that could be impacted.

- Leave may also be covered under OFLA/FMLA (May run concurrently).
- Assault incurred could result in a disability under ADA.
- Employee may be protected by Injured Workers law if in course of employment.

8) What is the employee allowed to take time off for?

- Seek legal or law enforcement assistance or remedies (to ensure the health and safety of the employee);
- Get medical treatment or recover from injuries;
- Get counseling from a licensed mental health professional or clergy;
- Obtain services from a victim service provider;
- Relocate, or make an existing home safe (includes making home safe, time to pack and move or security arrangements).

9) What is reasonable time?

- Reasonable time off is dependent on the circumstances. Dialog is important to have with the employee.
- Employer may only limit leave if it would create an undue hardship to the employer.
- Hardship means significant difficulty and expense to a business and includes consideration of the size of the business and the critical need for the employee.

10) Can I request some sort of proof from my employee?

- Employee must give reasonable notice of intent to take leave, unless such notice is not feasible.
- An employer/supervisor can accommodate the employee without legal documentation for proof.
- Police reports, protection order, and conviction orders can not be required.
- If requested in writing by the employer, the employee must provide certification.

11) What are considered certifications?

- Copy of Police report; or
- Protective order or other evidence from court or attorney; or
- Documentation from a qualified third party
- Note from service provider, included:
 - Attorney

- Law enforcement officer
- Health care professional
- Licensed mental health professional or counselor
- Clergy
- Victim service provider

12) Can I require the employee to fill out a leave request form?

- It is expected that with any time off taken a leave request form should be filled out.
- Consistent and clear expectations should be followed and directed to its employees.

13) Can I discuss the situation with other staff?

- Employee's confidentiality must be protected.
- All records and information kept by the employer regarding an eligible employee's leave, including the fact that the employee has requested or obtained leave, are confidential and may not be released without the express permission of the employee, unless otherwise required by law.

14) Is there ever a time when a manager might decide that other staff should know?

- If a manager feels that another staff member would be better at handling such a situation. You should ask the affected employee if the information could be shared and the reason for the request.
- If the protection order limits a person from the facility, staff must know that restriction, but not necessarily the reason for the restriction.

15) What can an employee do if they feel the employer is not following the law?

- Violations of unlawful employment practice may be file with BOLI or with civil action.
- Complaints must be filed or cases must be brought within one year of the violation.

16) If I want more information, where can I find it at?

- Contact your HR manager for assistance and information when you suspect an employee/volunteer is a victim of domestic violence.
- Executive Order No. EO0717 "Domestic Violence in the Workplace" Signed by Governor Kulongoski.
- HRSD 60.000.12
- Senate Bill 946
- ORS 839-009-0325