

<b>SUBJECT:</b> Workplace Effects of Domestic Violence, Harassment, Sexual Assault and Stalking	<b>NUMBER:</b> 50.010.04
<b>DIVISION:</b> Chief Human Resources Office	<b>EFFECTIVE DATE:</b> 2/01/2019
<b>APPROVED:</b> Signature on file with the Chief Human Resources Office	

**POLICY STATEMENT:** Oregon state government promotes early intervention to prevent or minimize the occurrence and effects of domestic violence, harassment, sexual assault or stalking in the workplace. This policy supplements other state HR policies on workplace violence and harassment. The existence of a protective order, a criminal proceeding or law enforcement involvement is not necessary to invoke this policy.

Domestic violence, harassment, sexual assault and stalking are crimes punishable by law.

**AUTHORITY:** ORS 240.145, 240.555, 240.560, Governor’s Executive Order 07-17, ORS 659A.270 to 659A.290, OAR 839-005-0160 to 839-005-0170 and OAR 839-009-0325 to 839-009-0365

**APPLICABILITY:** All employees where not in conflict with an applicable collective bargaining agreement

**ATTACHMENTS:** None

**DEFINITIONS:** Also refer to State HR Policy 10.000.01 Definitions For the purpose of this policy, the following definitions apply:

**Victim of domestic violence:** an individual who has been threatened with abuse or is a victim of abuse, as defined in [ORS 107.705](#); or any other person who has suffered financial, social, psychological or physical harm as a result of domestic violence committed against the victim, including a member of the victim’s immediate family. In no event will the perpetrator of domestic violence be considered a victim for the purposes of this policy.

**Victim of harassment:** an individual against whom harassment has been committed as described in Oregon’s criminal code at [ORS 166.065](#). In no event will the perpetrator of harassment be considered a victim for the purposes of this policy.

**Victim of sexual assault:** an individual against whom a sexual offense has been threatened or committed as described in [ORS 163.305 to 163.467](#) or 163.525; or any other person who has suffered financial, social, psychological or physical harm as a result of sexual assault committed against the victim, including a member of the victim’s immediate family. In no event will the perpetrator of sexual assault be considered a victim for the purposes of this policy.

**Victim of stalking:** an individual against whom stalking has been threatened or committed as described in [ORS 163.732](#); or any other person who has suffered financial, social, psychological or physical harm as a result of a stalking committed against the victim, including a member of the victim's immediate family; or an individual who has obtained a court's stalking protective order or a temporary court's stalking protective order under [ORS 30.866](#). In no event will the alleged perpetrator of stalking be considered a victim for the purposes of this policy.

**Immediate family:** spouse, domestic partner, father, mother, sibling, child, stepchild, grandparent, or any person who had the same primary residence as the victim at the time of the domestic violence, harassment, sexual assault or stalking.

**Protective order:** an order authorized by [ORS 30.866](#), [107.095\(1\)\(c\)](#), [107.700 to 107.735](#), [124.005 to 124.040](#) or [163.730 to 163.750](#) or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent.

**Victim services provider:** prosecutor-based victim assistance program or a nonprofit program offering safety planning, counseling, support or advocacy related to domestic violence, harassment, sexual assault or stalking.

## **POLICY:**

(1) An agency director must administer State HR Policy 50.010.04 as the agency's policy to address the workplace effects of domestic violence, harassment, sexual assault and stalking.

(a) **Mandated Posting and Notification Requirements:**

- (A) Executive branch agencies must provide either a hard copy or electronic version of this policy and related agency procedures, including a [resource list](#), to all new employees.
- (B) Executive branch agencies must post [summaries](#) of [ORS 659A.270 to 659A.285](#); [OAR 839-005-0160 to 839-005-0170](#); [OAR 839-009-325 to 839-009-265](#) in a conspicuous and accessible place in the premises where employees are employed.
- (C) Executive branch agencies must inform all employees of the provisions of ORS 659A.290, regarding reasonable safety accommodations on an annual basis. This can be accomplished through annual training, or electronic notification to each employee that includes a link to ORS 659A.290 and state HR policy 50.010.04.

(b) **Training for Managers, Supervisors and Human Resource Staff:**

- (A) All managers, supervisors and human resource staff must complete mandatory training within two years of appointment.
- (B) The mandatory training may be conducted online or in person by the agency, DAS, a local victim services provider or the Bureau of Labor and Industries (BOLI), and must include the information listed in (1)(a)(C) and the following:
  - (i) Responsibilities as an employer

- (ii) How to respond when employees self-disclose or request referral information
  - (iii) How to work with a victim services provider to assist identified victims in workplace safety planning
  - (iv) How domestic violence, harassment, sexual assault and stalking affect the workplace, productivity, and safety risks to other on-site staff and visitors.
- (c) **Training for Employees:**
- (A) An agency must provide regular opportunities to all employees to attend voluntary training to learn more about:
- (i) The policy and agency procedures
  - (ii) The characteristics of domestic violence, harassment, sexual assault and stalking presented by a victim services provider
  - (iii) Where an employee may request or locate referral information
  - (iv) Support and safety accommodations available from the agency
  - (v) How domestic violence, harassment, sexual assault or stalking impacts the workplace, productivity, and safety risks to other on-site staff and visitors
  - (vi) Other applicable policies and collective bargaining agreement provisions:
    - [State HR Policy 10.030.01](#) Support of Employee's Work and Family Needs
    - [State HR Policy 50.010.01](#) Discrimination and Harassment Free Workplace
    - [State HR Policy 50.010.02](#) Violence-Free Workplace
    - [State HR Policy 50.010.03](#) Maintaining a Professional Workplace
    - [State HR Policy 60.000.12](#) Statutorily Required Leaves With and Without Pay.
    - [State HR Policy 60.000.15](#) Family and Medical Leave.
- (d) **Resources:**
- (A) Employees may obtain resource information by talking with a manager, supervisor or human resource staff.
- (B) Agency Resource List. An agency's resource list must, at a minimum, include all of the information listed below:
- (i) The names of the local domestic violence, harassment, sexual assault and stalking victim services providers

- (ii) The National Domestic Violence Hot Line: 1-800-799-7233 or <http://www.thehotline.org/>; The National Sexual Assault Hotline 1-800-656- HOPE (4673) or [www.rainn.org](http://www.rainn.org); The National Center for Victims of Crime - Victim Helpline 1-855-4-VICTIM
  - (iii) The Oregon Coalition Against Domestic and Sexual Violence website's list of victim services providers across the state, <https://www.ocadsv.org/find-help>
  - (iv) The Employee Assistance Program (EAP) local service provider. State agencies with contracts with Cascade Centers, Inc. may use 1-800-433-2320 or [www.cascadecenters.com](http://www.cascadecenters.com) to reach counselors 24 hours each day for intake and referrals to a local victim services provider
  - (v) The Oregon Law Help Web site [www.oregonlawhelp.org](http://www.oregonlawhelp.org) contains contact information for local legal service offices as well as basic information about protections for gaining employment and housing
  - (vi) Perpetrator Information: Contact the EAP service provider as listed above, or go to [The Batterer Intervention Providers Directory 2016](#) for a list of batterer intervention providers throughout Oregon.
- (e) **Confidential Request and Referral:**
- (A) A manager, supervisor, human resource and safety staff must keep the following information confidential to the fullest extent permitted by law:
    - (i) An employee's request for resource or referral information about domestic violence, harassment, sexual assault, stalking, and additional security in the workplace.
    - (ii) Witness reports of a threat or incident of domestic violence, harassment, sexual assault or stalking.
    - (iii) An employee's request for other related assistance from the manager, supervisor, human resource and safety staff.
    - (iv) All records and information kept by an agency regarding a reasonable safety accommodation made for an individual, including requests for a reasonable safety accommodation, are confidential and may not be released without the express permission of the individual, unless otherwise provided by law.
    - (v) The report that an employee is a victim of domestic violence, harassment, sexual assault, or stalking.
  - (B) If the law or certain circumstances require disclosure of the above in (A)(i)-(v), the manager, supervisor, human resource or safety staff will give advance notice to the employee whenever possible before making the disclosure.
  - (C) Employee Safety and Support: The agency must take appropriate action to keep all staff safe in the workplace if an agency manager, supervisor, human resource or safety staff learn of a threat or possibility of workplace domestic violence, harassment, sexual assault or stalking. Refer to policies listed in (1)(c)(A)(vi).

- (D) If an agency has knowledge, or reasonably should have knowledge, that an employee is a victim of domestic violence, harassment, sexual assault or stalking, and if anyone makes or attempts to make, in the victim's workplace, direct or indirect communication to the eligible employee related to the employee's victimization, the agency shall immediately inform the employee and offer to report the communication to law enforcement.
- (E) Any employee who witnesses a threat or incident of domestic violence, harassment, sexual assault or stalking at the employee's workplace must report it to their manager, supervisor, human resource or safety staff immediately.
- (F) If an employee who is a victim of domestic violence, harassment, sexual assault or stalking requests additional safety accommodations, the agency must take additional reasonable safety accommodations to protect the employee at work or in connection with work as consistent with the agency's operational needs and does not create an undue hardship on the agency. An undue hardship is a significant difficulty and expense to the agency. The agency considers its size and critical needs when it assesses an employee's request for additional safety and support measures.
- (G) Agencies must comply with all protective orders while the employee is in the workplace. If the parties to a civil protection order are employees of the same agency or work for different agencies in the same building or have on-the-job contact with one another, the pertinent managers will minimize or eliminate contact between the parties, as required by the order or as requested by the victim. Note: protective orders from other states are enforceable in the state of Oregon.
- (H) Reasonable safety accommodations, support and assistance may include but are not limited to the following (as per federal or state law, state HR policy or collective bargaining agreement):
  - (i) Suppressing, at the employee's request, their personnel information from public records requests as per OAR 137-004-0800
  - (ii) Providing local advocacy and safety planning resource information
  - (iii) Creating a pseudo name and email address for performing work
  - (iv) Initiating altered or reduced work schedules, transfer, or reassignment according to applicable policies and collective bargaining agreements
  - (v) Offering alternate parking spaces
  - (vi) Relocating or adjusting the employee's workstation, worksite or location
  - (vii) Screening telephone calls and visitors
  - (viii) Changing telephone number(s)
  - (ix) Providing alternate methods of receiving a paycheck
  - (x) Approving leave of absence or intermittent leave per state law, state HR policy 60.000.12 or collective bargaining agreement

- (xi) Sharing a copy of the protective order and a photograph of the abuser with the building security or safety staff, manager, supervisor or human resource manager to stop the abuser entering the workplace
  - (xii) Providing other safety accommodations as appropriate
- (I) Prior to making a reasonable safety accommodation, an agency may require an employee to provide certification that the employee is a victim of domestic violence, harassment, sexual assault, or stalking. Upon request, an employee must provide the certification within a reasonable time. Any of the following constitutes sufficient certification:
- (i) A copy of a police report indicating that the individual was or is a victim of domestic violence, harassment, sexual assault or stalking.
  - (ii) A copy of a protective order or other evidence from a court or attorney that the individual appeared in or is preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault or stalking.
  - (iii) Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider that the individual was or is undergoing treatment or counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault or stalking.
- (f) **Prohibited Behavior:**
- (A) This policy prohibits discrimination and retaliation against an employee who is a victim of domestic violence, harassment, sexual assault or stalking or who requests or uses any provision of this policy. If any employee suffers such retaliation or discrimination, the employee may file a complaint with the human resource manager for investigation and appropriate action.
  - (B) An agency shall not refuse to hire an otherwise qualified individual; or discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an individual with regard to promotion, compensation, or other terms, conditions or privileges of employment because the individual is a victim of domestic violence, harassment, sexual assault or stalking.
  - (C) This policy prohibits the threat of or commission of domestic violence, harassment, sexual assault, or stalking by an agency employee on agency premises or during working hours or at an agency-sponsored event.
  - (D) An agency has the authority to impose discipline or take other appropriate action for conduct that involves the threat or commission of domestic violence, harassment, sexual assault, or stalking by an agency employee in off-duty hours, in certain circumstances.
  - (E) It is an unlawful employment practice for a covered employer to discharge, expel or otherwise discriminate against any person because the person filed a complaint, testified or assisted in any proceeding in connection with the Oregon Victims of Certain Crimes Victim Leave Act (OVCCLA).

**(h) Violations:**

- (A) The agency may impose disciplinary action up to and including dismissal, against violators of this policy.
- (B) An agency may impose discipline or take other appropriate action for conduct that involves the threat or commission of domestic violence, harassment, sexual assault, or stalking by an agency employee in off-duty hours, in certain circumstances.
- (C) An eligible employee claiming a violation of this policy may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries pursuant to ORS 659A.820.