



## Workplace Domestic Violence

### Purpose

The purpose of this policy is to set forth procedures and guidance for management and employees to address and reduce the occurrence of domestic violence and its impact on the workplace.

### Policy

The Ohio Department of Agriculture (ODA) is committed to promoting the health and safety of its employees and to improve workplace responses to domestic violence, sexual assault, and stalking experienced by its workforce. ODA recognizes that incidents of these forms of violence include those that occur at work as well as those that occur outside of work but still impact the workplace (e.g., through decreased productivity and increased risk for violence). Therefore, it is the policy of ODA to take the necessary corrective action against employees who commit acts or threats of domestic violence while on State property, conducting State business at a State-sponsored event, or when using State resources. ODA does not tolerate violence, threats, harassment, intimidation, or other disruptive behavior in the workplace. In addition, it is the policy of the agency to give due consideration and accommodation to employees who are victims or survivors of domestic violence.

### Authority

- a. Ohio Administrative Code 123:1-34-01, 123:1-47-01(B)
- b. Ohio Revised Code Sections 124.04, 124.34, and 2919.25

### Reference

Barbara Warner Workplace Domestic Violence Policy

### Scope

This policy applies to all employees, including full-time, part-time, interim or temporary, and contractors and agents of ODA.

### Definitions

“Batterer”, “Perpetrator”, or “Abuser” is defined as the individual who commits or threatens to commit an act of domestic violence, sexual assault, and/or stalking

“Domestic Violence” is defined as a pattern of coercive behavior, including acts or threatened acts, 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, 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, economic control, harassment, threats, physical intimidation, or injury. Domestic violence may occur among people of all racial, economic, educational, religious backgrounds, and in heterosexual and same sex



relationships, and may occur in marital, cohabiting, or dating relationships that are not dependent on the existence of a sexual relationship.

“Ohio Employee Assistance Program” is 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” is 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” is defined as the individual who is the subject of or experienced an act of domestic violence. Those who have escaped violent relationships often are referred to as survivors rather than victims.

**Employee Awareness**

ODA will maintain, publish, and post in locations of high visibility a list of resources for survivors and perpetrators of domestic violence. These resources should include, but are not limited to, the following:

Action Ohio Coalition for Battered Women	1-888-622-9315 <a href="http://www.actionohio.org/">http://www.actionohio.org/</a>
Buckeye Region Anti-Violence Organization (Lesbian, Gay, Bisexual and Transgender)	1-866-862-7268 <a href="http://www.bravo-ohio.org/">http://www.bravo-ohio.org/</a>
Local Domestic Violence resources	<a href="http://www.odvn.org/">http://www.odvn.org/</a>
National Domestic Violence Hotline	1-800-799-SAFE <a href="http://www.thehotline.org/">http://www.thehotline.org/</a>
National Teen Dating abuse Hotline	1-866-331-9474 <a href="http://loveisrespect.org">http://loveisrespect.org</a>
Ohio Domestic Violence Network	1-800-934-9840 <a href="http://www.odvn.org/">http://www.odvn.org/</a>
Ohio Employee Assistance Program	1-800-221-6327 <a href="http://www.ohio.gov/EAP">http://www.ohio.gov/EAP</a>
Ohio Office of Criminal Justice Services Family Violence Prevention Center	1-888-448-4842 <a href="http://www.ocjs.ohio.gov/family_violence.stm">http://www.ocjs.ohio.gov/family_violence.stm</a>

For incidents that occur outside of the workplace, state 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 pursuant to applicable procedures concerning the reporting of workplace incidents or to ODA’s Human Resources Office. Employees in immediate danger should call 911.

**Anti-Discrimination**

- a. No applicant or employee will be denied equal employment opportunity because of race, color, religion, national origin, sex, gender identity, age, disability (physical or mental), genetic information, status as a parent, sexual orientation, marital status, political affiliation, or any other non-merit factor. Depending on the particular circumstances, ODA’s Anti-Discrimination and Harassment Policy may apply to incidents or reports of domestic or dating violence, sexual assault, or stalking that occur in the workplace. ODA prohibits discrimination 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.

### **Survivor Services**

ODA's policy is to offer appropriate and timely support to employees to address violence in the workplace. Workplace support will be available to employees who are victims of domestic violence, sexual assault, and stalking in order to minimize the impact of violence on the victim and others in the workplace and to facilitate victim and workplace safety.

#### a. Workplace Domestic Violence Representative

- i. The Human Resources Director shall serve as the Domestic Violence Designee for ODA.
- ii. Employees are encouraged to contact the Domestic Violence Designee with concerns relating to domestic violence impacting the workplace. Contact with this designee will help ensure that information relating to personal circumstances is not disseminated to unnecessary individuals.
- iii. Information provided to the Domestic Violence Designee shall be shared with only individuals who can help ensure the employees safety in the workplace or provide authorized accommodations or resources. The confidentiality of employee or third-party information and records related to domestic violence, sexual assault, and stalking is critical. ODA's policy is to only maintain written records if required to do so, and it will make every effort to protect written information. ODA employees shall keep information regarding victims of domestic violence, sexual assault, and stalking confidential, except as limited herein and by other laws, regulations, and ODA policies, such as when ODA is investigating an incident occurring in the workplace. Whenever practicable, 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.

#### b. Protection and Restraining Orders

If a victim chooses to disclose the existence of a protection or restraining order to ODA management, to the extent practicable, ODA's policy is to assist the victim to enforce his or her order within the workplace. Such assistance does not create an actionable duty or indicate acceptance by ODA of the jurisdiction of the court issuing the order. It may be necessary to consult with Human Resources and/or the Office of General Counsel regarding this assistance.

#### c. Required Absences

- i. If an employee needs to be absent from work due to current or past domestic violence incidents, the employee and the Domestic Violence Designee, in conjunction with the employee's 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:
  - a. Available Leave Balances
  - b. Civic Duty Leave



- c. Donated Leave
  - d. Family Medical Leave (FMLA)
  - e. Schedule Adjustments
- ii. If no paid leave options are available, the Director may grant a leave of absence to the employee without pay for personal reasons in accordance with the Ohio Revised Code and applicable Collective Bargaining Agreement.
- d. Modifications, Reassignments and Relocations

In the case where the batterer and the victim or survivor are employed at the same site, the Human Resources Director shall 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 a separate work site. 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. All requests for Modifications, Reassignments and Relocations shall be made to the ODA Domestic Violence Designee. If a bargaining unit position is affected an agreement with OCSEA will be required.

e. Discipline for Performance Related Issues

ODA employees may not be penalized or disciplined solely for being a victim or survivor of domestic violence, although ODA 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 and may take extended periods of time to fully address.

If an employee subject to discipline discloses that their job performance issues are caused by domestic violence, the following steps should be taken:

- i. The first time this disclosure is made, the employee's supervisor in consultation with the Domestic Violence Designee may request that the employee enter into an EAP participation agreement with the agency.
  - ii. The EAP participation Agreement serves as an agreement between the employee, the employee's supervisor and the employee's Union representative (if applicable) , and 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.
- f. Upon successful completion of the program, the agency should modify or dismiss the disciplinary action.
- g. 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, ODA has the right to carry out the discipline originally contemplated. Issues of domestic violence should be taken into



consideration as a mitigating factor in determining any appropriate discipline in misconduct cases involving a victim. ODA shall strive to ensure that workplace policies do not re-victimize victims to the extent possible, while maintaining appropriate workplace standards.

- i. Such discipline will carry an effective date of the date of the employee's referral to EAP.
  - ii. The employee, the employee's supervisor, the employee's union representative (if applicable) and the Domestic Violence Designee shall meet at least (3) working days before any disciplinary action is taken.
- h. Disclosure is very difficult for victims or survivors of domestic violence and requests for documentation may threaten an employee's ability to disclose. If a supervisor has reason to believe that the individual is not a victim of domestic violence, then the supervisor should consult with ODA's Human Resources office, Legal Counsel, or EAP regarding further documentation that may be requested to substantiate the assertion.

### **Handling of Domestic Violence in the Workplace**

ODA 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.

- a. Any ODA employee who commits acts or threats of domestic violence, sexual assault, or stalking while on State property or conducting State business or sponsored social event is in violation of ODA's workplace violence policy.
- b. Any ODA employee who 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 act or threats of domestic violence, sexual assault, or stalking may be in violation of ODA's workplace violence policy and other state policies on the use of State telephones, Internet, E-mail and other IT resources.

Concerns regarding the conduct of contractors, such as perpetration of domestic violence, sexual assault, or stalking shall be promptly brought to the attention of the relevant contracting officer, Human Resources Director, and/or ODA Enforcement personnel.

- c. Employees are reminded of the ODA's policy regarding self-reporting if convicted of a felony. Pursuant to section 2919.25 of the Ohio Revised Code, individuals who commit acts of domestic violence may be charged with a misdemeanor or 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.
- d. ODA division chiefs, directors, and supervisors, upon notification of domestic violence, sexual assault, or stalking, shall take immediate steps to investigate incidents perpetrated in the workplace by employees or contractors. If ODA employees are involved, ODA management and the Human Resources Director shall take appropriate disciplinary action.
- e. Relevant to domestic violence, employees are reminded of federal law prohibiting possession of firearms. Specifically, under certain provisions of the Federal Gun Control Act, persons subject to a qualifying protection order (18 U.S.C. § 922 (g)(8)) or convicted of a qualifying misdemeanor crime



of domestic violence (18 U.S.C. § 922(g)(9)) are prohibited from possessing firearms or ammunition. 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.

In addition, ODA policy prohibits the knowing possession of, or the causing to be present, firearms or other dangerous weapons in state facilities. See ODA's Unauthorized Weapons Policy at <http://agri.ohio.gov/divs/hr/docs/Unauthorized%20Weapon.pdf>.

### **Contact**

Employees should contact the ODA Human Resources Manager or the Human Resources Director for issues and questions relating to this policy.

### **Revision History**

Date	Description of Change
8/2012	Initial Policy Issued
10/2012	Revisions to Policy Issued
7/2015	Policy Reviewed

