Office for the Prevention of Domestic Violence

Gender-Based Violence and the Workplace

Model Policy for Public Employers

Purpose and Goals

Gender-based violence[1] affects all aspects of our lives, including the workplace. New York State recognizes this impact and established State Finance Law § 139-m, requiring entities bidding on state contracts to implement a Gender-Based Violence and the Workplace policy.

A stable job can be a lifeline for survivors, increasing their ability to be safe and independent. However, many people who cause harm try to disrupt survivors' employment opportunities, a practice known as employment sabotage. This common form of abuse includes forcing a victim to miss work or harassing a victim and/or their colleagues at work. More than half of survivors in one study reported they lost a job because of gender-based violence.[2] Gender-based violence may compromise the safety of victims, co-workers, and clients in the workplace.

Gender-based violence can be physical, financial, sexual, or emotional, and may have tragic, sometimes fatal results. It can also result in lost productivity, increased health care costs, absences, and employee turnover. Even when the harm occurs outside of work, employers can actively support victimized employees through responsive personnel policies that mitigate the impact of gender-based violence on employees as well as the effects on the business or organization. Employers have a moral and legal obligation to assist employees who experience such victimization.

New York State is committed to safe and supportive workplaces. State Agencies have adopted policies to support their employee-survivors. Now, New York is building on this necessary work so public employers bidding on state contracts can utilize this Model Policy. The purpose of this Model Policy is to identify and prescribe employment practices that will respond effectively to employees' needs as victims of gender-based violence and promote safety in the workplace. This Model Policy provides employers with a template that can be tailored to their individual needs. The policies are required to include the following:

- **Share Information:** Employers must provide information regarding gender-based violence where employees can see and access it, including displaying the NYS Domestic and Sexual Violence Hotline information and a gender-based

[1] Violence or threats that happen because of someone's sex, gender, sexual orientation, gender identity or expression, or other related characteristics. Gender-based violence is an umbrella term that includes domestic violence, sex-based discrimination, sexual harassment, sexual assault, and sexual violence, and can also include stalking or human trafficking. See below for additional definitions.

[2] Hess, C. and Del Rosario, A. (2018). Dreams Deferred: A Survey on the Impact of Intimate Partner Violence on Survivors' Education, Careers, and Economic Security. Institute for Women's Policy Research. https://iwpr.org/wp-content/uploads/2020/09/C475_IWPR-Report-Dreams-Deferred.pdf

violence and the workplace poster.[3] When possible, materials should be available in an employee's primary language.

- **Refer Employee-Survivors to Services:** The policy must require that the employer refer employees who disclose current or past victim[4] status to the NYS Domestic and Sexual Violence Hotline and/or a local service provider. For bidders outside of New York State, referrals should be made to a local provider or statewide hotline. While referrals are required to be provided by the employer, it is not required for the employee to access services.
- **Prohibit Retaliation:** The policy must clearly state that discrimination or retaliation against employees who identify as victims or survivors of gender-based violence is prohibited.
- **Comply with Laws:** Ensure your policy follows State law. For employers based in New York State, this means that the policy must follow the New York State Human Rights Law and any other relevant laws and regulations which may include the SAFE Leave Act.
- **Offer Implementation Support:** OPDV is able to assist employers in developing and implementing this policy. Employers must provide information to supervisors and human resources, where available, about this technical assistance from OPDV. OPDV can be contacted at workplace@opdv.ny.gov.

The Gender-Based Violence and the Workplace policy should be distributed to all employees, board members, and directors upon hire and annually.

Under New York State Finance Law § 139-m, all bidders for New York State contracts must establish a policy addressing gender-based violence and the workplace. Under New York State Procurement Guidelines, a "bidder" is defined as "any individual, business, vendor or other legal entity, or any employee, agent, consultant or person acting on behalf thereof, that submits a bid in response to a solicitation."

Gender-Based Violence and the Workplace Model Policy Template:

The following text can be used as a template for an employer's policy development. The main portion of the text meets the minimum standards. The information provided in boxes provides additional information, including steps that an employer could take to implement policies that are above the minimum standards.

[3] Very often, gender-based violence is normalized for survivors who may not understand their experience as gender-based violence or don't know what resources are available to them. Raising awareness of the different types of gender-based violence and available resources can make an incredible difference for victimized employees. Bidders located outside of New York State review the resources available in their state to provide an appropriate hotline number to their employees.

[4] Gender-based violence can have lifelong impacts on survivors even if the trauma they experienced is not recent or if they are not in immediate danger. It is important for employers to be mindful that survivors may need support and accommodation long after violence occurs.

Purpose

Gender-based violence occurs within a broad spectrum of relationships; therefore, (Name of Organization) will take appropriate measures to prevent and/or address gender-based violence as it impacts the workplace. (Name of Organization) recognizes the rights of victims to have self-determination and the need to respond in a survivor-centered, trauma-informed, and culturally responsive manner. This policy shall apply to all victims of gender-based violence, regardless of where the incidents took place.

> ***Important Note:*** *Gender-Based Violence does not need to occur in the workplace for the policy to apply. Employees who experience gender-based violence outside the workplace are still covered by the policy.*

The importance of a responsive gender-based violence workplace policy cannot be overstated. Studies show stable employment increases survivor safety. It can offer survivors a "level of independence that lessens an abuser's ability to control them as well as increase their ability to escape violence."[5] The Centers for Disease Control and Prevention estimates intimate partner violence, a form of gender-based violence, has a lifetime cost of $1.3 trillion in lost productivity for both offenders and victims.[6]

(Name of Organization), to the fullest extent possible, without violating any existing rules, regulations, statutory requirements[7], contractual obligations, or collective bargaining agreements, designates and directs appropriate management, supervisory, and/or human resources staff to implement the following Gender-Based Violence and the Workplace Policy covering the following areas:

I. Definitions;
II. Persons Covered by the Policy;
III. Statement of Confidentiality;
IV. Survivor Rights;
V. Employer Responsibilities;
VI. Non-Discrimination and Responsive Personnel Policies;
VII. Non-Retaliation Policy;
VIII. Workplace Safety Plans;
IX. Accountability for Employees who Perpetrate Acts of Gender-Based Violence;
X. Training;
XI. Firearms (for applicable organizations);

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[5] Sanders, C. K. (2015). Economic Abuse in the Lives of Women Abused by an Intimate Partner: A Qualitative Study. Violence Against Women, 21(1), 3-29. https://doi.org/10.1177/1077801214564167 (Original work published 2015)

[6] Peterson, Cora, et al (2018). Lifetime Economic Burden of Intimate Partner Violence Among U.S. Adults. American Journal of Preventive Medicine, 55(4), 433-444. doi:10.1016/j.amepre.2018.04.049.

[7] When gender-based violence constitutes sexual harassment, New York State Labor Law § 201-g and New York State Human Rights Law § 296 supersedes this policy. For more information on sexual harassment and New York State requirements, please visit the New York State Combatting Sexual Harassment in the Workplace website

XII. Violations of Policy.

I. Definitions

Unless otherwise noted, OPDV defines the terms below for the purposes of this policy:

a. **Gender-Based Violence:** Violence or threats that happen because of someone's sex, gender, sexual orientation, gender identity or expression, or other related characteristics. Gender-based violence is an umbrella term that includes domestic violence, sex-based discrimination, sexual harassment, sexual assault, and sexual violence, and can also include stalking or human trafficking.

b. **Domestic Violence**: A pattern of coercive behavior, including acts or threatened acts, used by a perpetrator to gain power and control over a victim, as defined in New York State Social Service Law § 459-a, including, but not limited to physical, sexual, psychological, economic, and/or emotional abuse; or the threat of any of the acts as mentioned earlier. Domestic violence includes but is not limited to family violence, intimate partner violence, dating violence, or dating abuse.

c. **Sexual Violence:** Sexual acts or activities that happen or are attempted without consent, including rape, molestation, groping, harassment, and sexual abuse. These acts may or may not be crimes.

d. **Stalking:** An unwanted pattern of repeated harassing or threatening behavior, causing fear, substantial emotional distress, or safety concerns for the victim.

e. **Coercive Control:** An act or pattern of acts, threats, humiliation, and intimidation that is used to harm, punish, or frighten.

f. **Sexual Harassment:** Sexual Harassment is a type of gender-based violence. New York State law provides special protections against sexual harassment in the workplace. Under New York State Human Rights Law § 296 and Labor Law § 201-g, sexual harassment is defined as unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex, and:

   i. unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment; or
   ii. made, explicitly or implicitly, a term or condition of employment; or
   iii. when submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

   Anyone who experiences sexual harassment in the workplace can report it to the New York State Division of Human Rights. If the conduct is covered by the New York State Human Rights Law, a formal complaint can be filed, and the Division of Human Rights will investigate. If violations of the Human Rights Law are found, the Division can order a wide variety of remedies ranging from financial compensation to changes in an employer's policies.

g. **Survivor-Centered:** An approach to supporting and assisting survivors focused on meeting their needs as they prioritize and define them. Key elements of a survivor-centered approach include confidentiality, safety, respect, and non-discrimination.
h. **Trauma-Informed:** An approach to supporting and assisting survivors that realizes trauma is common, recognizes the signs, activators, and symptoms of trauma, and uses this knowledge to inform practices, policies, and procedures.
i. **Culturally Responsive:** A holistic approach to supporting and assisting survivors that recognizes a person's complex identities and cultural values, by responding to differences in identities to actively meet the needs of all survivors and communities.

Important Note:
For more information on how to be survivor-centered, trauma-informed, and culturally responsive, refer to Introducing OPDV's Three Pillars: A Foundation to Serve Survivors of Gender-Based Violence.

j. **Victim of Domestic Violence – pursuant to NYS Social Services Law § 459-a (1):** Any person over the age of sixteen, any married person, or any parent accompanied by his or her[8] minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to, acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation, identity theft, grand larceny, or coercion; and
    i. Such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and
    ii. Such act or acts are or are alleged to have been committed by a family or household member.
k. "**Family or household members" means the following individuals pursuant to NYS Social Services Law § 459-a (2):**
    i. persons related by consanguinity or affinity (blood or a person's relation to blood relatives of their spouse);
    ii. persons legally married to one another;
    iii. persons formerly married to one another, regardless of whether they still reside in the same household;
    iv. persons who have a child in common, regardless of whether such persons are married or have married or have lived together at any time;

[8] New York State recognizes and affirms the diversity of New Yorkers. LGBTQIA+ people are covered under this definition provided they meet the criteria set forth.

v. unrelated persons who are continually or at regular intervals living in the same household or who in the past continually or at regular intervals lived in the same household;
vi. persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; or
vii. any other category of individuals deemed to be a victim of domestic violence as defined by the Office of Children and Family Services in regulation.

l. **"Parent" pursuant to NYS Social Services Law § 459-a (2):** means a natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.
m. **Victim or Survivor:** A person who has experienced or is experiencing any form of gender-based violence. People of all genders, sexual orientations, and gender identities may experience gender-based violence, but women and girls are impacted the most. Some people will have a strong preference for which term to use.
n. **Perpetrator or Abusive Partner or Person who Causes Harm:** A person who commits or threatens to commit coercive or violent acts, which may include, but is not limited to, physical, psychological, sexual, economic, and/or emotional abuse against a victim.
o. **Order of Protection (OP) ("Restraining Order" or "Stay-Away Order"):** An order issued by any court to limit the behavior of someone who harms or threatens to harm another person. Orders of Protection may direct the offending party not to injure, threaten, or harass the victim, their family, or any other person(s) identified and may include, but are not limited to ordering the person causing harm to stay away from the home, school, business, or place of employment of the victim; vacate a shared residence; abide by any active orders of custody and visitation; and surrender any firearms.
p. **Workplace:** For the purposes of this policy, any permanent or temporary location away from an employee's domicile where an employee performs any work-related duty in the course of employment.
q. **Human Resources:** The department of a business or organization responsible for workforce management. If no such department exists, the responsibilities of Human Resources fall on the employer.

r. **Gender-Based Violence Liaison (GBVL):** Where possible, a designated employee(s) of the business or organization who assists victimized employees with referrals to local service providers. The GBVL may or may not be a Human Resources employee.

s. **Local Service Providers:** An organization in a given geographical area whose mission is to provide services to victims of gender-based violence. In New York State, each county has a designated service provider(s) for domestic violence and sexual violence. Services can include emergency shelter, advocacy, accompaniment to hospitals and court, safety planning, counseling, etc. Visit opdv.ny.gov for a list of New York State-based domestic and sexual violence service providers.

> ***Important Note:*** *OPDV encourages the GBVL to attend trainings and review materials from OPDV as well as local service providers in their community to enhance their knowledge of gender-based violence and information about local resources.*

II. Persons covered by this policy

This policy shall extend to all full, part-time, temporary employees, volunteers, and interns working for (Name of Organization) in any official work capacity. Whenever possible, this policy also covers consultants, contractors, and other on-site providers.

III. Statement of Confidentiality

(Name of Organization) recognizes and respects the employee's right to privacy and confidentiality. All information, including details an employee shares about being a victim, shall be kept confidential to the extent permitted by law without the employee's written permission, unless doing so creates a substantial risk of imminent danger to the victimized employee, other employees, or the worksite. If such a situation arises, (Name of Organization) will:

a. Inform the victimized employee of the actions (Name of Organization) will take.
b. Share information only with the specific employees who need to know.
c. Limit the information shared to only what is necessary.
d. Consider requiring employees who receive this sensitive information to sign a confidentiality agreement, committing to use it only for its intended safety purpose.

IV. Survivor Rights

Victims of domestic violence are a protected class under New York State Human Rights Law § 296, which applies to settings like employment, housing, education, and public accommodations. Every employer in the State of New York is required to follow the New York State Human Rights Law. This means it is unlawful to discriminate against an employee based on their status as a victim of domestic violence.

a. Employees have the right to:
    i. Disclose or not disclose experiences or details of gender-based violence.
    ii. Ask for reasonable accommodations to address concerns related to gender-based violence.
    iii. Be free of discrimination and retaliation in seeking such accommodation.
    iv. Access gender-based violence services.
b. Employers may require an employee to provide documentation, such as an attestation, to substantiate their need for an accommodation or to use sick or safe leave.

> ***Important Note:*** *OPDV recommends not requiring documentation whenever possible as that may require them to disclose confidential or privileged information. To be survivor-centered, trauma-informed, and culturally responsive, OPDV encourages employers to accept an employee's statement that they are a victim of gender-based violence as sufficient proof.*

V. Employer Responsibilities

a. (Name of Organization) shall implement the Gender-Based Violence and the Workplace policy and where possible, designate the Human Resources department or appropriate staff personnel to perform duties associated with implementing the policy. Where possible, (Name of Organization) will designate at least one employee as its Gender-Based Violence Liaison (GBVL).
    i. The GBVL is a designated employee who assists victimized employees with referrals to local service providers. The GBVL may or may not be a Human Resources employee.
b. Increase awareness around gender-based violence and create an informed workforce by posting information in such places where employees can utilize the information without having to request it or be seen removing it (i.e. organization intranet, employee newsletters, restrooms, kitchen and lounge, and any other frequently used areas.) The information should include:
    i. Employee Assistance Program (EAP) information, if applicable,
    ii. Human resources staff,
    iii. NYS Domestic and Sexual Violence Hotline Number (1-800-942-6906), Chat and Text Line (1-844-997-2121), and
    iv. Contact information for local gender-based violence programs.

c. Ensure victimized employees know and understand this policy and their rights, including all possible options available to them, and are aware of accommodations outlined in section VI of this policy, such as the use of alternative scheduling or a change in work location, and assisting the employee in identifying the best use of attendance and leave benefits.
d. Offer support to those victimized through the following minimum steps:
    i. Provide information on available sources of services and assistance for victims and survivors, such as the New York State Domestic and Sexual Violence Hotline or local victim services provider.
    ii. Educate employees on disciplinary practices that may be implemented in the event of retaliation for reporting or used with employees who commit acts of gender-based violence. Assist supervisors to ensure that all employees who knowingly violate this policy are held accountable.
    iii. Include this policy as part of the written materials provided to all new employees and provide the policy to all employees on an annual basis.
    iv. Provide a detailed explanation of employees' rights under this policy during new employee orientation, including information about anti-discrimination protections for victims of domestic violence under the New York State Human Rights Law.
    v. Provide confidential support services, such as safety planning, and refer anyone who discloses they are a victim to the EAP, if applicable, the NYS Domestic and Sexual Violence Hotline (or the statewide hotline for workplace sexual harassment, if appropriate), and any local programs serving victims of domestic and sexual violence. Additional referrals may be made to the appropriate resources to meet the employee's needs best.
    vi. Consider conducting programs and activities throughout the year to increase awareness about gender-based violence, such as supply drives for local domestic and gender-based violence programs, brown bag lunch discussions, and/or presentations by local gender-based violence programs.
e. Human Resources (and/or GBVLs) (Name of Organization) Human Resources staff[9] must create a safe and supportive workplace culture for anyone who has experienced gender-based violence. They can do this by communicating that information and resources are available to victims and that abusive behavior by any employee will not be tolerated.
f. Supervisors

Important Note:
The responsibilities of Human Resources employees, and GBVLs include the above employer requirements if designated by the employer.

[9] If no such department exists, the responsibilities of Human Resources fall on the employer.

(Name of Organization) Supervisors shall ensure that any employee who discloses being a victim of gender-based violence is aware of and understands this policy and their rights, including the right to request accommodations or time off as discussed below. Additionally, supervisors shall refer employees to the Human Resources department and/or GBVL to receive referrals and resources as outlined above.

VI. Non-Discrimination and Responsive Personnel Policies

All (Name of Organization) policies and procedures must not discriminate and should be trauma-informed, survivor-centered, and culturally responsive to victims' needs. Under the New York State Human Rights Law, all persons are protected from discrimination in the workplace on the basis of their status as a victim of domestic violence, and on the basis of sex, sexual orientation, gender identity, and gender expression. If such discrimination occurs, the employee can report it to the New York State Division of Human Rights for potential investigation and remediation. Responsive personnel policies can increase the stability of gender-based violence survivors and help them navigate safety.

a. Victims of domestic violence are a protected class under New York State Human Rights Law (Executive Law § 296(22)) and as such;
    i. Employers may not refuse to hire or license and may not terminate someone solely based on their status as a victim of domestic violence.
    ii. Employers may not discriminate against victims of domestic violence in compensation, terms, conditions, or privileges of employment.
    iii. Employers may not inquire about an applicant or employee's status as a current or past victim of domestic violence in any way that directly or indirectly expresses discriminatory treatment based on that status.
    iv. Employers may inquire about status as a victim of domestic violence to provide reasonable accommodations.
    v. Employers may not refuse to provide certain reasonable accommodations to an employee who is known by the employer to be a victim of domestic violence and who needs such accommodation to seek medical care and/or obtain certain services connected to an incident or incidents of domestic violence.
    vi. Employers are prohibited from retaliating against an employee for opposing unlawful discrimination and/or filing a formal complaint over alleged discriminatory conduct.
b. **Use of Safe Leave:** Under New York State Labor Law, some private employers in New York must allow any employee who has disclosed their status as a victim of gender-based violence (or disclosed that a family member is a victim of gender-based violence) and must be out of work for a reasonable time to use accrued sick leave[10], known as safe leave, for the purposes outlined in Labor Law § 196-b(4).

[10] Labor Law § 196-b(4).

c. **Leave Options:** Employees can choose to use appropriate leave accruals to cover any absences, if available. If the employee does not have adequate leave accruals to cover the absence or chooses not to charge leave accruals, the absence shall be treated as leave without pay.
d. **Continuation of Benefits:** Any employee who must be absent from work to utilize accommodations in this section is entitled to the continuation of any health insurance coverage provided by the employer to which the employee is otherwise entitled during any such absence, in accordance with any existing collective bargaining agreements, regulations, and organization policy.
e. **Notice of Absence:** Employees who must be absent to utilize accommodations as listed in this section shall provide their employer with reasonable advanced notice of the absence when possible.
f. **Time Off for Legal Proceedings**: Employers are also required to grant time off, with prior day notification, and may not penalize any employee who, as a victim or witness of a criminal offense, is appearing as a witness; consulting with a district attorney; or exercising their rights as provided by law.[11]
g. **Privacy and Documentation:** There may be occurrences when an employee is absent due to incidents of gender-based violence where they are unable to follow organizational protocol to report the absence. In that situation, the employee may lack documentation, may be unable to obtain documentation, or may not want to share documentation containing confidential information. Under New York State Labor Law, an employer may not require the disclosure of confidential information relating to an absence from work due to domestic violence, a sexual offense, stalking, or human trafficking, as a condition of providing sick or safe leave.
h. **Changes to Benefits:** Employees who are victims of gender-based violence who separate from a covered family member due to incidents of gender-based violence shall be allowed to make reasonable changes in benefits at any time during the calendar year, where possible and in accordance with statute, regulation, contract, and policy.
i. **Work Performance Impact:** (Name of Organization) recognizes that victims of domestic and gender-based violence may experience temporary work performance difficulties or be unable to complete certain job aspects because of safety reasons. (Examples include overnight travel, “off” hour shifts, etc.)
    i. If performance is affected as a result of being a victim of gender-based violence, (Name of Organization) will work with the employee on solutions which may include specific work plans, taking leave, reasonable accommodations, referrals to the GVBVL or HR, EAP, if applicable, and/or the local domestic violence service provider.

[11] Penal Law § 215.14

1. Employees should be made aware that not all employees' requests for assistance can be accommodated.

ii. OPDV is available for case-specific technical assistance as needed.

iii. Employees will be given clear information on performance expectations, priorities, and performance evaluations.

iv. If disciplinary action is considered, special care should be taken to consider all aspects of the victimized employee's situation, and all available options in trying to resolve the performance problems should be exhausted, including making a referral to HR, EAP, if applicable, domestic violence program, or other relevant services, consistent with existing collective bargaining unit agreements, statute, regulations, and organization policy.

j. **Termination and Unemployment Eligibility:** If reasonable measures have been exhausted and the work performance issue remains and the employee is terminated or voluntarily separates from employment, the employee shall be informed of their potential eligibility for unemployment insurance, and (Name of Organization) shall respond promptly to any requests for information that may be needed in the claims process. New York State law provides that a victim of domestic violence who voluntarily separates from employment may, under certain circumstances, be eligible for unemployment insurance benefits.[12]

k. **Protection Against Sexual Harassment:** Sex, sexual orientation, gender identity, gender expression, and status as a victim of domestic violence are all protected classes under the New York State Human Rights Law. Sexual harassment is a form of sex discrimination and is also prohibited under the New York State Human Rights Law § 296 and Title VII, the Federal Civil Rights Act of 1964. Sexual harassment includes harassment based on sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Gender-based violence may constitute sexual harassment when it subjects an individual to inferior terms, conditions, or privileges of employment.

i. Every New York State employer must have a policy on sexual harassment prevention, including a procedure for the receipt and investigation of complaints of sexual harassment.

a. **Reporting Discrimination or Harassment:** For all forms of discrimination and harassment, if an employee, including an intern or contractor, experiences sexual harassment or discrimination on the basis of their status as a victim of domestic or other gender-based violence, or observes discrimination in the workplace, the employee may file a complaint with the employer.

i. Any complaint of potential discrimination, whether verbal or written, must be investigated.

[12] NYS Labor Law § 593(1)(b)(i)

ii. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to [*person or office designated*].
iii. (Name of Organization) shall maintain the confidentiality of the complainant to the extent practical.
iv. Any employee in NYS may file a complaint with the New York State Division of Human Rights.

VII. Non-Retaliation Policy

(Name of Organization) shall not engage in any retaliatory practices against employees who disclose they are a victim of gender-based violence, or any employee seeking accommodations or to exercise their rights under this policy.

(Name of Organization) will not retaliate, tolerate retaliation by any superiors, terminate, or discipline any employees for reporting information about alleged incidents of gender-based violence that may have been committed by an employee, including those in management positions.

Retaliatory practices may include, but are not limited to:

a. Commencing discipline against victimized employees for actions taken to promote their safety
b. Fewer promotions
c. Inappropriate jokes
d. Comments that communicate bias or minimization
e. Excluding the employee from conversations, etc.
f. Discussing employee's status or experience in open/non-private settings with individuals other than the employee and the related staff (GBVL, HR, etc).

Retaliation may be carried out by anyone, not just the original perpetrator.

Any employee or organization engaging in retaliatory practices may be subject to disciplinary actions. If you believe you have been subject to retaliatory practices, please see Section XIV: Violations of Policy.

Retaliation against any employee who files a complaint of violation of the policy is also prohibited.

VIII. Workplace Safety Plans

Gender-based violence can lead to safety concerns at the workplace. Safety plans are simple but critical steps an employee can take to increase their safety and the safety of coworkers. While not all employee-survivors will need help with safety planning, employers should be prepared to provide referrals to the local service provider and, when feasible, strategize with an employee-survivor if so desired by the victimized employee.

Employers shall have workplace safety response plans in place, including procedures for reporting to supervisors or contacting law enforcement, if necessary, should an event take place in the workplace.

a. **Orders of Protection:** (Name of Organization) shall comply and assist with the enforcement of all known Orders of Protection (OP).
    i. If requested by the victim or by law enforcement, (Name of Organization) will provide any relevant information regarding an alleged OP violation.
b. **Disclosing an Order of Protection:** If an employee has an active OP, they are encouraged to disclose it to the GBVL or designated staff member at their work site. Employees should not be compelled to disclose an OP or provide a copy, but it may assist the employer in implementing a safety plan. Copies of Orders of Protection will be maintained in a locked, confidential location, separately from the employee's personnel file. In the event of an emergency or if the OP needs to be presented to law enforcement, the liaison, other designated staff member, director of Human Resources, or a member of executive staff/management shall retrieve and present the order.
    i. Employees should notify the liaison in the event of a relevant modification or revocation of the OP.
c. **Developing a Safety Plan:** When requested by the victim, Human Resources staff will work with the employee to develop a plan on how best to increase safety for the victim, other employees, and the workplace. Options may include, but are not limited to:
    i. Providing front desk security or reception staff with a copy of the OP and a photo of the perpetrator;
    ii. Allowing the employee to work staggered hours, an "off shift," or move to a different work location, either temporarily or permanently;
    iii. Temporary reassignment of certain duties, such as overnight travel;
    iv. Reassignment of parking space;
    v. Providing employees with an escort for entry and exit from the worksite;

Important Note:
Organizations should customize this section to reflect options available for their employees. Employers should not attempt to create a comprehensive safety plan for all aspects of an employee's life outside of work. Beyond developing a safety plan for the workplace in coordination with HR and/or the organization's GBVL, employees with general safety planning needs should be referred to the local domestic or sexual violence program. OPDV can also provide technical assistance related to workplace safety planning: workplace@opdv.ny.gov.

d. If the circumstances indicate a need for (Name of Organization) to take steps to increase safety for the victim, other employees, and the workplace, the organization should follow their internal protocols.

IX. **Accountability for Employees who Perpetrate Acts of Gender-Based Violence**

(Name of Organization) will hold accountable and shall subject to corrective or disciplinary action any employee who violates this policy, in accordance with existing collective bargaining agreements, applicable statutes, and regulations. The following behaviors are prohibited under the policy:

a. Using the authority of their employment and/or misusing any workplace resources in order to:
   i. negatively impact any victim of gender-based violence;
   ii. assist a perpetrator in locating a victim;
   iii. assist a perpetrator in perpetrating any act of gender-based violence; or
   iv. protect a perpetrator from receiving appropriate consequences.
b. Committing acts of gender-based violence from or at the workplace, or from any location conducting official business, except for locations where employees are telecommuting.

Disciplinary actions may include, but are not limited to:

a. Administrative leave;
b. Cease and desist memo;
c. Removing/modifying the chain of supervision pending an official report;
d. Relocation of the employee alleged to have abused to another work site;
e. Surrender of work cell phone, laptop, etc.;
f. Revocation of permanent employment status (reverting to contingent or probationary status);
g. Termination.

X. **Training:**

Gender-based violence can be complex. To effectively respond to employee-survivors' needs in a survivor-centered, trauma-informed, and culturally responsive manner, bidders are encouraged to attend trainings offered by OPDV or local service providers, but are not required to do so.

Important Note: *The amendment of State Finance Law §139-m does not require organizations to take or provide training to employees. However, we strongly recommend that supervisors, Human Resources, and organizational leadership attend OPDV's free and publicly available trainings and utilize the resources available on the OPDV website. OPDV will also consider requests for live trainings submitted to:* opdvtraining@opdv.ny.gov. *Similarly, OPDV recommends supervisors, Human Resources, and organizational leadership consider attending additional trainings and review materials developed by local service providers.*

XI. Firearms (For Applicable Organizations Only)

Pursuant to New York State and Federal law, any person convicted of a domestic violence-related crime, or who is subject to any Order of Protection, forfeits the right to legally possess a firearm or long gun under certain circumstances. Additionally, federal law contains prohibitions relating to shipping, transportation, or receiving firearms or ammunition.

In addition to complying with State and Federal law, employees who are authorized to carry a firearm as part of their job-related duties are required to notify the organization if they are arrested for a domestic violence-related offense and/or are served with an Order of Protection. Under certain circumstances, such employees are responsible for surrendering their firearms to the issuing organization or to the appropriate police organization.

Should an employee fail to comply with the above-listed requirements of this policy, they would be subject to corrective or disciplinary action, under existing collective bargaining unit agreements, statute, or regulations. In addition, law enforcement may be notified of possible criminal action.

XII. Violations of Policy

Employers must investigate complaints of policy violations. Employers should outline in their policy any applicable steps for filing a grievance or complaint. Section VIII of the policy prohibits retaliation for filing a complaint.

Employees may also report alleged violations of the New York State Human Rights Law to the New York State Division of Human Rights (DHR). DHR is the state agency responsible for enforcing the New York State Human Rights Law. DHR reviews every report of discrimination filed with the agency. In every case where the alleged discrimination falls within the agency's jurisdiction, DHR will investigate and seek to hold violators of the law accountable. The discrimination reporting form and all related information can be found on DHR's website.