

## **DOMESTIC AND OTHER RELATED VIOLENCE AWARENESS & ASSISTANCE**

### **PURPOSE:**

The purposes of this policy are to assist directors, managers and supervisors:

- Enhance workplace awareness and their capacity to create a supportive, safe work environment for victims of domestic violence and their fellow employees;
- Establish responsive policies and procedures so that they are able to assist employees who are impacted by domestic violence, including providing training on this policy to employees and management;
- Provide immediate assistance to victims who are employees, especially information and referrals to community resources;
- When appropriate, provide assistance to employees who are perpetrators of domestic violence, including information and referral to community resources and counseling on the expected standards of workplace behavior.

### **SCOPE:**

This policy applies to all County directors, managers and supervisors at all work locations and employees, including full and part time employees, interns, contractors, volunteers, and temporary workers.

### **POLICY STATEMENT:**

Clackamas County establishes this policy as part of its commitment to a healthy and safe organizational climate and to the prevention and reduction of the incidence and effects of domestic violence, sexual violence, dating violence, and stalking. Clackamas County recognizes that domestic violence, sexual violence, dating violence, and stalking are workplace issues and impact the workplace even if the incidents occur elsewhere. Such incidents cross economic, educational, cultural, age, gender, racial, and religious lines. They can occur in both heterosexual and same sex relationships, including marital, cohabiting, or dating, as well as in interactions between coworkers or between a supervisor and an employee, or between strangers.

## **DEFINITIONS:**

### **A. Survivor or victim**

An individual who is currently subject to, or has in the past been subjected to, domestic violence, sexual violence, dating violence, or stalking.

### **B. Perpetrator**

The individual who commits or threatens to commit domestic violence, sexual violence, dating violence, or stalking.

### **C. Domestic Violence**

Domestic violence is an act or pattern of coercive behavior that is used by a perpetrator to gain power and control over a current or former spouse, family member, intimate/domestic partner, or person with whom the perpetrator shares a child in common.

Domestic violence includes, but is not limited to, physical violence, injury, or intimidation, sexual violence or abuse, emotional and/or psychological intimidation, verbal abuse, threats, or harassment, stalking, or economic control, attempting to cause, or intentionally, knowingly or recklessly causing, physical injury; intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury; or committing sexual abuse in any degree; where the conduct occurs between family or household members.

### **D. Sexual Violence**

Sexual violence is a range of behaviors, including but not limited to, sexual harassment, a completed nonconsensual sex act (i.e., rape), an attempted nonconsensual sex act, abusive sexual contact (i.e., unwanted touching), and non-contact sexual abuse (e.g., threatened sexual violence, exhibitionism, verbal harassment).

Sexual violence is any actual or attempted sexual act or behavior that is committed against another person when that person does not consent or is not legally capable of consent. Victims of sexual violence may know the perpetrator(s), such as a coworker or a supervisor, and/or may be involved in a dating or marital relationship with the perpetrator, or the perpetrator may be unknown to the victim. Consent is not given when a perpetrator uses force, harassment, threat of force, threat of adverse personnel action, coercion, or when the victim is asleep, incapacitated, or unconscious.

### **E. Dating Violence**

Dating violence is an act of violence threatened, attempted or committed by a person who is or has been in a relationship of a romantic or intimate nature with the victim. The existence of a "romantic or intimate" relationship is determined based upon the victim's perspective and in consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

## **F. Stalking**

Stalking refers to repeated and unwanted contact that alarms or coerces another person, or a member of that person's immediate family or household, where a reasonable person in a similar situation would be alarmed or coerced, and the contact causes reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household. Stalking conduct could include , but is not limited to: following or spying on a person, appearing at a person's home or work, showing up at a place where the perpetrator has no reason to be, waiting at places in order to make unwanted contact with the victim or to monitor the victim, leaving unwanted items, presents, flowers, etc. for the victim, and posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth. Stalking may occur through use of technology including, but not limited to e-mail, voice-mail, text messaging, and use of global positioning systems and social networking sites.

## **G. Protection or Restraining Order**

Protection orders, sometimes called restraining orders, are a mechanism where a victim can petition the court for protection from a perpetrator, as well as establish custody and visitation guidelines and provide for other forms of economic security, like rent or mortgage payments, which last for the duration of the order. Protection orders may also be issued in criminal cases as a condition of probation or condition of release, particularly in a domestic violence, sexual violence, dating violence, or stalking related crime.

## **H. Workplace-Related Incidents**

Workplace-related incidents of domestic violence, sexual violence, dating violence, and stalking include acts, attempted acts, or threatened acts by or against employees, and/or against employees' families or property, that occur in the workplace or that occur outside the workplace but have an impact on the workplace. An employee is considered to be in the workplace while in County facilities or on County work sites, while on County business at an alternate location, or while using County resources, such as equipment or vehicles, or while on work related travel.

## **I. Workplace Safety Plan**

A strategy developed in collaboration with a victim to implement workplace safety options, including but not limited to: handling of court protection orders, procedures for alerting security personnel, temporary or permanent adjustments to work schedules and locations, change in parking spots, and requests for escorts to and from workplace facilities.

## **INTERNAL RESOURCES**

Clackamas County recognizes that it is not always appropriate or possible for an employee to discuss issues related to domestic violence, sexual violence, dating violence, and/or stalking with his/her supervisor, manager or other staff. The County has designated certain positions within the organization as contacts for an employee to report impacts of domestic violence on the workplace:

- Wellness/EAP Program Coordinator
- Benefits Manager
- Labor & Employee Relations Manager
- Director of Employee Services

The role of these employees is to provide assistance with workplace issues, such as the development of a workplace safety plan and information about domestic violence leave. They will inform the employee that domestic violence and/or stalking are serious crimes and should be reported to appropriate authorities for investigation and enforcement activities. Department of Employee Services (DES) staff will ask the Domestic Violence Coordinator to contact the employee and provide information about referrals for service to appropriate agencies to assist the employee with issues that fall outside the workplace.

Other internal and external resources include the Sheriff's Office Domestic Violence Enhanced Response Team/Victim Assistance, District Attorney's Victim Assistance Program, and Clackamas Women's Services.

Employees also have access to confidential counseling through the Employee Assistance Program and through their health plans. Managers and supervisors are encouraged to seek guidance from the Domestic Violence Coordinator and DES when they become aware of issues that impact the workplace.

## **CONFIDENTIALITY**

Clackamas County recognizes and respects an employee's right to privacy and the need for confidentiality and autonomy. Clackamas County shall maintain the confidentiality of an employee's disclosure regarding violence to the extent permitted by law and unless to do so would result in a foreseeable risk of physical harm to any person and/or jeopardize safety within the workplace. When information must be disclosed to protect the safety of individuals within the workplace, Clackamas County shall limit the breadth and content of such disclosure to information reasonably necessary to reduce the risk of harm to the disclosing employee and others and to comply with the law. Clackamas County shall make every effort to provide advance notice to the employee who disclosed information if the disclosure must be shared with other parties in order to maintain safety in the workplace or elsewhere.

## **DISCRIMINATION & RETALIATION**

Clackamas County shall not discriminate in hiring, staffing, or other terms and conditions of employment against any employee for disclosing his or status as a victim of violence or for submitting a complaint or disclosing concerns about violence to Clackamas County.

Clackamas County shall not retaliate or take adverse employment actions against any employee for submitting a complaint made in good faith pursuant to this policy, for disclosing his or her status as a victim, or for reporting actions of violence perpetrated by another person against an employee that occur in or have an impact on the workplace. However, it is a violation of this policy to deliberately submit a knowingly false complaint or report.

## **OREGON DOMESTIC VIOLENCE VICTIM LEAVE**

Clackamas County also complies with the provisions of Oregon state law which grants employees who are victims of domestic violence, sexual assault or stalking the right to take unpaid leave from work for a reasonable period of time to seek assistance. The law applies to victims, as well as parents or guardians of minor children who are victims. See EPP #39 for more information.

## **LEAVES OF ABSENCE**

Clackamas County recognizes that victims of domestic violence, sexual assault, stalking and dating violence may need time off to secure medical assistance, legal assistance, counseling, or to attend to other matters related to the violence, such as court proceedings, relocation, or safety planning for himself or herself or for a family member. Clackamas County will make a reasonable effort to assist an employee to maintain employment when the employee is experiencing or has experienced violence in the workplace, or has experienced violence outside the workplace.

Clackamas County will work in collaboration with the employee to provide reasonable and flexible leave options when an employee is a victim of domestic violence, sexual assault, stalking and/or dating violence.

Employees may use accrued paid leave in accordance with County policy and collective bargaining agreements or may use unpaid leave. Leave without pay may not begin until all required or requested paid leave is used. Any newly accrued paid leave may not be used for the duration of the leave once unpaid leave has begun. No holiday will be paid unless the employee is in a paid status both the workdays immediately preceding and following the holiday consistent with Employment Policy & Practice #33.

When the need for time off is foreseeable, an employee must provide reasonable advance notice to the employer unless advance notice is not feasible. To request leave, the employee should contact the Labor & Employee Relations Manager and his/her supervisor.

If a director, manager or supervisor has any questions about the leave and or the process regarding an employee requesting leave, they should contact the Labor & Employee Relations Manager

## **OTHER WORKPLACE ASSISTANCE**

As long as it does not create an undue hardship, Clackamas County will work with the employee to provide other non-leave related assistance that facilitates the employee's ability to remain safe and maintain his or her work performance. Assistance can include but is not limited to, modifying work schedules, changing employee's location within the workplace or location of a parking spot, changing phone numbers, arranging telecommuting options, assisting the employee to enforce his or her protection order at the workplace, etc. Undue hardship refers to an action that is unduly costly, extensive, substantial, disruptive, or that would fundamentally alter the nature of the workplace or work activities.

## **UNEMPLOYMENT INSURANCE BENEFITS**

Clackamas County recognizes that in certain situations an employee who is a victim of violence may make the decision to leave or resign his/her employment with Clackamas County. In this event, Clackamas County shall provide the employee with information regarding access to unemployment insurance benefits.

## **WORK PERFORMANCE**

Clackamas County recognizes that employees who are victims of violence may experience temporary difficulty fulfilling job responsibilities. If Clackamas County becomes aware that an employee's work performance or conduct has been impacted by domestic violence, sexual assault, stalking or dating violence, Clackamas County will offer support to the employee and work in collaboration with the employee to address the issues, in accordance with established policies within the workplace. Such assistance is intended to be limited and temporary and does not relieve the employee of the responsibility to meet and maintain County standards for job performance and behavior. When these situations arise, managers and supervisors should contact the Labor & Employee Relations Manager for assistance.

## **PROTECTION & RESTRAINING ORDERS**

Clackamas County recognizes that a victim of violence may seek an order of protection, or may receive a restraining order, as part of his or her efforts to become safe and as part of his or her workplace safety plan. Clackamas County recognizes that the workplace may or may not be included on an order as a location from which a perpetrator must remain away. If an employee chooses to disclose the existence of a protection or restraining order to Clackamas County, Clackamas County may, wherever possible, assist the employee to enforce his or her order, shall archive said order in a confidential and separate file from employee's personnel file, and, if applicable, may assist employee to gather documentation from the workplace, such as emails or voice messages, that could support the employee's efforts in the justice system or otherwise to obtain or maintain safety from a perpetrator.

## **REPORTING ACTS OF VIOLENCE**

Managers and Supervisors who suspect acts of violence in the workplace pursuant to this policy should report their concerns to their supervisor or manager, or to the Labor & Employee Relations Manager, Risk Manager or Director of Employee Services.

Clackamas County shall not retaliate against, terminate, or discipline any employee for reporting concerns about workplace related incidents of violence pursuant to this policy, including an allegation that the act was perpetrated by a fellow employee, contractor or person in a management capacity. Any employee who believes he or she has been subjected to adverse action as a result of making a report pursuant to this policy should contact the Labor & Employee Relations Manager or Employee Services Director who will review the allegation and take appropriate action. Substantiated violations of this policy may result in disciplinary action up to and including termination of employment.

## **REPORTING OFFENSES OR ALLEGED OFFENSES**

Each department should consider its operational needs and to the extent that an employee, non-employee contractor, volunteer or temporary employee who is subject to a protection or restraining order, or a named defendant in a criminal action as a result of a threat or act of domestic violence, sexual violence, dating violence, or stalking must disclose the existence of such criminal or civil action and If such actions would interfere with the ability to perform his or her job or function.

If such actions would interfere with the ability of anyone to perform his or her job function, a policy should be developed deal with reporting and disclosure.

## **OTHER INTERNET LINKS**

EPP # 2 – Harassment (<http://www.clackamas.us/des/documents/epp/epp02.pdf>)

EPP # 6 – Employee Assistance Program

(<http://www.clackamas.us/des/documents/epp/epp06.pdf>)

EPP # 8 – Crime Victim Leave (<http://www.clackamas.us/des/documents/epp/epp08.pdf>)

EPP # 10 – Family & Medical Leave Policy

(<http://www.clackamas.us/des/documents/epp/epp10.pdf>)

EPP # 11 – Leaves of Absence (<http://www.clackamas.us/des/documents/epp/epp11.pdf>)

EPP # 34 – Violence in the Workplace

(<http://www.clackamas.us/des/documents/epp/epp34.pdf>)

EPP # 39 – Domestic Violence Victim Leave

(<http://www.clackamas.us/des/documents/epp/epp39.pdf>)