



FAMILY COURT OF THE STATE OF DELAWARE

MICHAEL K. NEWELL
CHIEF JUDGE

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WILMINGTON, DELAWARE 19801-3703

INTERNAL POLICY MEMORANDUM NO. 23-003

TO: Family Court Statewide
FROM: Michael K. Newell, Chief Judge
DATE: September 22nd, 2023
RE: Domestic Violence in the Workplace Policy

1. POLICY PURPOSE STATEMENT

The Delaware Judicial Branch promotes the health and safety of State employees; creates a supportive workplace for employees who are survivors¹ of domestic violence, sexual offenses, or stalking in which employees can discuss and seek assistance regarding domestic violence. The purpose of this policy is to support employees who are survivors of domestic violence and those impacted by domestic violence, and to provide a standard for Human Resource representatives and Supervisors to follow when responding to employees who may be experiencing domestic violence.

2. SCOPE

This policy applies to all Classified and Non-Classified employees of Family Court as outlined in the Judicial Branch Rules, Section 3.1, as well as Confidential employees, contractors, temporary and casual/seasonal staff.

This policy replaces Internal Policy Memorandum 10-007.

3. DEFINITIONS AND ACRONYMS

- **Employee Survivor:** An individual who is currently subject to, or has in the past been subjected to, domestic violence, sexual violence, or stalking. This policy may include workplace and non-workplace related incidents.
- **Perpetrator:** An individual who commits or threatens to commit an act of domestic violence, sexual violence, or stalking.
- **Domestic Violence:** Domestic violence is a pattern of coercive behavior, including acts or threatened

¹ Throughout this document, we refer to individuals affected by domestic violence as survivors. According to many advocates, the term 'survivor' can be used as a term of empowerment to convey that a person has started the healing process and has gained a sense of autonomy in their lives.

acts, which is used by a perpetrator to gain power and control over a current or former spouse, family member, intimate partner, a person in a current or former substantive dating relationship, 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 or psychological intimidation; verbal abuse; threats; harassment; stalking; cyber stalking; or economic abuse and control.

- **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). Some or all acts may also be addressed in the State's Respectful Workplace and Anti-Discrimination Policy. Sexual violence is any sexual act or behavior that is perpetrated against someone's will when someone does not or cannot consent. Survivors of sexual violence may know the perpetrator(s), such as a coworker or a Supervisor, or may be involved in a dating or marital relationship with the perpetrator, or the perpetrator may be unknown to the survivor. Consent is not given when a perpetrator uses force, harassment, threat of force, threat of adverse personnel action, coercion, or when the survivor is asleep, incapacitated, or unconscious.
- **Stalking:** Stalking refers to harassing, intimidating, or threatening conduct that causes the survivor to fear for their safety or the safety of a family member, or would cause a reasonable person in a similar situation to fear for their safety. Stalking conduct includes but is not limited to following or spying on a person; appearing at a person's home or work; engaging in unwanted, harassing, or threatening phone calling, emailing, texting, etc.; waiting at places in order to make unwanted contact with the survivor or to monitor the survivor; leaving unwanted items, presents, or flowers for the survivor; and posting information or spreading rumors about the survivor on the internet, in a public place, or by word of mouth. Stalking may occur through use of technology including, but not limited to email; voicemail; text messaging; and use of GPS and social networking sites.
- **Protection From Abuse (PFA) Order:** A PFA Order is an order of Family Court that protects a person from certain kinds of abuse. A court can order the abuser to stop the abuse and to stay away from the person who was abused. A PFA can also provide other short-term protections. Legal protections (relief) can take many forms such as no contact, support, or custody of a child. Parents and legal guardians can also ask for a PFA for a child or children. For information about Delaware's PFA process: <https://courts.delaware.gov/family/pfa/index.aspx>
- **Workplace-Related Incidents:** Workplace-related incidents of domestic violence include acts, attempted acts, or threatened acts by or against employees, the families of employees, or their property, that imperil the safety or well-being of any person associated with an employee of the State, regardless of whether the act occurred in or outside the organization's physical workplace. An employee is considered to be in the workplace while in, or utilizing the resources of the State, including but not limited to facilities, work sites, equipment, or vehicles, or while on work-related travel.
- **Non-workplace-Related Incidents:** Non-workplace incidents of domestic violence, sexual violence, dating violence, and stalking include acts, attempted acts, or threatened acts by or against employees that occur outside a state agency's workplace, or while an employee is not engaged with or traveling for the State.
- **Individualized Workplace Safety Plan:** A strategy developed in collaboration with the employee survivor and victim service provider to implement workplace safety options, including but not

limited to handling of court protection orders; procedures for alerting security personnel of threats or incidents; temporary or permanent adjustments to work schedules, locations, contact information, change in parking spots, and requests for escorts to and from workplace facilities.

- **DVCC** - Domestic Violence Coordinating Council.
- **PHRST** - Payroll Human Resource Statewide Technology.
- **Human Resources (HR) Representative** – A Family Court HR employee designated to work with the employee, their Supervisor, and the Domestic Violence (DV) Coordinator to provide support regarding their roles and responsibilities, under this policy, and applicable rules, regulations, laws, and contracts.
- **Domestic Violence (DV) Coordinator** – A Family Court employee, or designee assigned to work with employee survivors to provide support, resource information and assistance with safety planning and reasonable accommodation requests, as applicable, as well as to provide guidance and support to Family Court Supervisors/members of management regarding service connection and victim advocacy.

4. POLICY

- a. Employee survivors seeking to utilize the protections and benefits offered by the Domestic Violence, Sexual Offense and Stalking Policy may make confidential disclosures to Court Supervisors, members of management, or Human Resources staff. If a disclosure is made to a Supervisor, the Supervisor shall confidentially consult with the designated HR Representative.
- b. Employees who are survivors of domestic violence are encouraged to seek immediate assistance from their DV Coordinator and HR Representative.
- c. When a disclosure is made, the DV Coordinator or HR Representative(s) will work with employee survivors and shall provide community referrals and resources to assist with their concerns or experiences regarding violence. Employees should be provided a list of referrals found in section #7 of this policy.
- d. The HR Representative(s) shall provide information related to leave and other reasonable accommodation requests under this policy. To qualify for leave benefits and protections under this policy, the employee survivor shall be informed that verification may be required and kept in a confidential accommodations file for the employee. Verification includes an official document, such as a court order. Similarly, documentation from a reliable third-party professional, including a law-enforcement agency or officer, a domestic violence or domestic abuse service provider, or health care provider is acceptable. Verification is only required if the employee is requesting relief outlined in section 5.h in the Procedures section.
- e. The DV Coordinator or HR Representative, Court designee, or Supervisor may discuss the matter with other appropriate authorities if there is an immediate safety risk to anyone in the workplace. The DV Coordinator and HR Representative, Court designee, or Supervisor will maintain the confidentiality of the disclosing employee to the extent permitted by law and this policy.
- f. The Court recognizes and respects an employee's right to privacy. Strict confidentiality will be maintained by informing others only to the extent necessary to protect the safety of the individual or others in the workplace. Except in times of extreme emergency where the timeframe does not permit

disclosure, the employee survivor will be given notice of necessary disclosures.

- g. Mandated disclosures shall only be made in instances where there is immediate danger to the survivor, or if an incident of domestic violence occurs in the workplace. In these instances, the person who witnesses the incident or believes the survivor is in immediate danger will report the incident to the designated HR representative. The HR Representative will then work with the DV Coordinator to ensure the safety of the survivor and to address incidents that occur in the workplace, including notifying law enforcement if there has been a violation of the law within the workplace.
- h. Family Court is prohibited from discriminating against employees who are survivors of domestic violence based on knowledge of the employee survivor's current or past incidents. It shall be an unlawful employment practice for Family Court to:
 - 1) Fail or refuse to hire or to discharge or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because the individual was the survivor of domestic violence; or
 - 2) Fail or refuse to make reasonable accommodations to the limitations known to the Court and related to domestic violence unless the Court can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such Court. For purposes of this subsection, "reasonable accommodations" means making reasonable changes in the workplace including, but not limited to, reasonable changes in schedules or duties of the job that would accommodate the employee survivor of domestic violence, enabling such person to satisfactorily perform the essential duties of the job in question. Reasonable accommodations may also include flexible scheduling or granting the use of accrued leave per the Judicial Branch Rules to address the domestic violence.
- i. An employee who is found using any State resources, including work time or equipment, to commit an act of domestic violence may be subject to discipline, up to and including dismissal, based on the standards set forth in the Judicial Branch Rules, collective bargaining agreements, or other applicable laws or policies.
- j. In cases where the perpetrator and the employee survivor are employed at the same work site, Family Court shall investigate and contact the authorities, if appropriate, and if it is the employee's choice to report. The Court should avoid pursuing charges with the identified perpetrator if it is against the survivor's wishes. The Court is to give due consideration to an employee survivor's request for a modification of duties, reassignment to another position or work shift, or relocation to a separate work site.

- 1) Family Court is under no obligation to create a new position.
- k. Nothing in this policy is intended to reduce or modify existing directives and policies regarding prevention of violence in the workplace.
- l. Family Court will maintain current referral resources supplied by the DVCC. This information is also accessible at the [DVCC's Victim Service Resource Page](#).
- m. Family Court shall designate at least one individual in Human Resources who will assist with domestic violence issues. The designated HR Representative or DV Coordinator must receive training, within six (6) months of being assigned, on responding to and assisting employees who disclose they are survivors of domestic violence, in accordance with this policy.

5. PROCEDURES

- a. Employees who are survivors of domestic violence may choose to notify a Supervisor, who would then confidentially consult with the designated HR Representative or DV Coordinator. Consideration may be given to contacting law enforcement when there is an imminent, emergency need.
- b. The employee survivor should be offered an opportunity to make the necessary calls for services, emergency intervention (shelter) and supportive services confidentially, when appropriate.
- c. In order to provide leave and certain accommodations, the employee survivor may be required to provide the designated HR Representative with copies of any official documents including PFA Orders or other court documents that pertain to restraints, no contact, or "stay-away" provisions. Documents can also include third-party verification from a counselor, therapist, or advocate. Production of an order is generally required for the Court to prohibit a person legally from the premises.
- d. Should a survivor request a PFA Order or other Family Court assistance, the Supervisor and HR Representative shall refer to Policy number 06-007: Employee Litigation. This policy outlines the steps taken to ensure that employees who need Family Court services can do so without having to appear in Court before colleagues and coworkers. The survivor should be made aware that their case will likely be heard in a different County, but that when they appear for their Court hearing or hearings, Family Court staff from that County may be in attendance. This should not be disclosed to the survivor to discourage a filing within Family Court, but to be transparent with who may have access to the survivor's file and hearings.
- e. When a disclosure is made, the designated HR Representative will meet with the employee survivor to discuss their rights, provide resources, and partner with the employee survivor to determine the appropriate actions to provide assistance and support. The employee survivor will be asked to identify an emergency contact person in the event the Court is unable to contact the employee survivor, and the contact person will be documented in PHRST.
- f. The limitations of confidentiality will be discussed with the employee who is a survivor of domestic violence. Those situations that are deemed to potentially put the employee survivor and other employees at risk may require limited disclosure to those employees deemed to be at risk. Disclosure may be required in instances in which domestic violence has occurred at an employee survivor's worksite.

- g. Other assistance may be provided based on individual needs and availability consistent with existing regulations, statutory requirements, contractual obligations, and collective bargaining agreements. When appropriate, the State's Employee Assistance Program may be consulted. Assistance may also be provided with work-related needs such as requests for work schedule adjustments or leave consistent with the Judicial Branch Rules and collective bargaining agreements, as needed, to obtain assistance.
- h. Individualized workplace safety plans may include, but are not limited to, advising co-workers of the situation (subject to the employee survivor's agreement); setting up procedures for alerting security and the police; temporary relocation to a new worksite; assignment of a parking space; escort for entry to and exit from the building; screening of telephone calls; and providing a photograph of the perpetrator and a copy of any existing court orders to security, Family Court designee, and Human Resources personnel.
- i. Every reasonable effort will be made to assist employees who are survivors of domestic violence with use of available leave consistent with the Judicial Branch Rules, where appropriate. Appropriate instances may include, but are not limited to, court appearances including appearances for filings and appointments with domestic violence advocates/social workers. The designated HR Representative(s) will provide guidance related to leave and other reasonable accommodation requests.
 - 1) Leave may include as applicable, available compensatory time, sick or annual leave, or other appropriate paid leave or unpaid leave.
 - 2) If time off from work is necessary, leave shall be taken in compliance with Delaware Code, Judicial Branch Rules, statewide policy, and collective bargaining agreements. Family Court may ask an employee survivor to present acceptable documentation before leave is granted.
 - 3) When on approved leave, the employee survivor is to follow applicable leave procedures.
- j. If an employee experiences or witnesses domestic violence or threats of such behavior in the workplace, the employee must report the incident to a Human Resources staff member immediately. If disclosure is made to a Supervisor that domestic violence or threats of such behavior occurred in the workplace, the Supervisor shall report it to the designated HR Representative immediately who shall refer the DV Coordinator to follow up with the employee.
- k. If an employee discloses to another employee or to a Supervisor that they are experiencing domestic violence outside of the workplace, and there is no immediate danger of harm, confidentiality is to be prioritized. The individual is NOT mandated to report or refer the employee to HR or to the DV Coordinator. However, the person can refer the survivor to this policy and encourage that they reach out to HR or to the DV Coordinator for support and resources. Additionally, the Supervisor may confidentially² consult with HR to ensure that they are providing adequate support and resources.
- l. When an incident involves employees from more than one State agency, each designated HR Representative will ensure that appropriate responses to the situation are coordinated.

² In this instance, the Supervisor would not disclose the survivor's name or other identifying information. They can use HR as a supervision resource to ensure that the Survivor is directed to all applicable resources.

6. DISSEMINATION AND TRAINING

- a. Family Court will post and maintain information about domestic violence in work areas. Also, information may be made available where employees can obtain it without having to request it or be seen removing it. Some suggestions are restrooms, lunchrooms, Family Court's intranet site or where other employee resource information is located.
- b. This policy will also be:
 - Distributed to existing employees, as defined in Scope of this policy, within 30 days of the effective date of this policy revision.
 - Distributed to new employees at the commencement of employment.
 - Distributed to new Supervisors, when promoted or newly hired; and posted on the Family Court intranet website.
- c. The DV Coordinator and all members of the HR Unit shall attend DCADV's [Domestic Violence 101 training](#) within six (6) months of hire or six (6) months from the issuance of this policy. Trainings and webinars available through DCADV can be found [here](#).

7. ASSOCIATED POLICY/REGULATIONS/INFORMATION

- [11 Del. C. §§ 761,763 Criminal Conduct](#)
- [19 Del. C. §§ 710, 711](#)
- [Certified Domestic Violence Treatment and Intervention Programs](#)
- [Domestic Violence Agency Coordinator Contact List](#)
- [Employee Assistance Program \(EAP\)](#): ComPsych: 877-527-4742
- [Judicial Intranet Vicarious Trauma Resource Link](#)
- [Executive Order #30](#)
- [Statewide Benefits Office](#)
- [State of Delaware Respectful Workplace and Anti-Discrimination Policy](#)
- [Victims Services Resources](#)
- National Domestic Violence Hotline: 800-799-SAFE (7233)
- New Castle County, CHILD Inc: 302-762-6110 (bilingual services available)
- Kent & Sussex Counties, People's Place II: 302-422-8058
- En español (Kent/Sussex), Abriendo Puertas Program of People's Place: 302-745-9874

Information & Referrals

If you feel that you are in danger, call 9-1-1

- [Domestic Violence Coordinating Council \(DVCC\)](#): 302-255-1700
- [Delaware Coalition Against Domestic Violence \(DCADV\)](#) 302-658-2958
- [Delaware Alliance Against Sexual Violence \(DAASV\)](#): 302-290-7404
- [National Domestic Violence Hotline](#): 800-799-SAFE (7233)
- [National Sexual Assault Hotline](#): 800-656-HOPE (4673)

Delaware Hotline Numbers:

New Castle County

Domestic Violence	302-762-6110
Rape Crisis	800-773-8570
Bi-lingual Hotline	302-762-6110
TTY	800-232-5460

Northern Kent County

Domestic Violence	302-678-3886
Bi-lingual Hotline	302-745-9874

Kent & Sussex Counties

Domestic Violence	302-422-8058
Rape Crisis	800-262-9800
Bi-lingual Hotline	302-745-9874

All hotline numbers are confidential and available 24/7. Hotlines are staffed by trained professionals who will assist in safety planning and will refer to available resources. Services are available to survivors who do not speak English or who are hearing impaired (for Delaware Relay Services, dial 711).

Delaware Child Abuse Hotline

800-292-9582

Domestic Violence Court Advocacy Program: CHILD Inc offers this program in all three counties. Victim advocates may provide assistance with filing for Protection From Abuse (PFA) petitions.

New Castle County
302-255-0420

Kent County
302-672-1075

Sussex County
302-856-5843

Family Court for the State of Delaware:

[Policy number 06-007: Employee Litigation](#)

[Understanding the Protection From Abuse Process](#)

[Family Court for the State of Delaware Protection from Abuse \(PFA\) Case Instruction Packet](#)

In addition to the above resources, the link below provides a list of domestic violence-related frequently asked questions (FAQs).

[Link](#)

Victims' Compensation Assistance Program of the State of Delaware

When an individual becomes separated from work due to circumstances related to domestic violence, sexual offense, or stalking the individual should be informed that unemployment benefits may be available pursuant to [Delaware law found at, Title 19, Chapter 33, Section 3314.](#)

8. FORMS ASSOCIATED WITH THIS POLICY

N/A

This policy is not intended to create any individual right or cause of action not already existing and recognized under State or Federal law.