

Domestic and Workplace Violence Guidelines

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Purpose

Compliance with the Federal Occupational Safety and Health Act of 1970 requires an employer to furnish every employee a safe and healthy work environment. The purpose of these guidelines is to define workplace violence and help ensure that all employees are provided a work environment free from violence.

These guidelines are also intended to comply with Section 1-1-1410 of the South Carolina Code of Laws of 1976, as amended, which states that each state agency shall develop and implement an agency workplace domestic violence policy which must include, but is not limited to, a zero-tolerance policy statement regarding acts or threats of domestic violence in the workplace and safety and security procedures. The statute further requires that the Department of Administration maintain guidelines.

Introduction

It should be the policy of an agency to have zero tolerance regarding acts or threats of violence in the workplace. This includes violence committed or threatened against agency employees or members of the public. Acts of violence in the workplace must be investigated and dealt with accordingly, which may include disciplinary action and notification of law enforcement personnel for determination of arrest and prosecution.

An agency's most important defense in preventing workplace violence is to combine preventive practices with clear policies for acting upon incidents of violence. An agency should have protocols and procedures in place to address potential situations before they erupt into violence and to deal with incidents when they occur.

Decisions regarding the appropriate response to instances of workplace violence should be made on a case-by-case basis. However, actions which may constitute a crime or emergency should be reported to law enforcement.
AN EMPLOYEE IN IMMEDIATE DANGER SHOULD CONTACT 911.

Types of Violence

All forms of workplace violence are prohibited. These include, but are not limited to, the following four types of violence committed by or against agency employees or members of the public in the workplace, on-duty but off-site, or by using state resources:

- Physical – the use of force in order to harm;
- Threat – a communicated intent to inflict harm or loss on a person or on a person's property;

- Harassment – substantial and unreasonable words, gestures, or actions that are intended to frighten, alarm, or abuse another person or that would cause a reasonable person mental or emotional distress; and
- Property Damage – intentional damage to property owned or leased by the state, employees, visitors or vendors.

Harassment

An agency should prohibit conduct which can contribute to an offensive work environment. This conduct includes, but is not limited to:

- Verbal Harassment
 - Verbal threats, suggestions or otherwise imitating an act to injure/harm persons or property.
 - Vulgar or profane language toward others.
 - Disparaging or derogatory comments or slurs.
 - Offensive flirtations and propositions.
 - Verbal intimidation, exaggerated criticism or name calling. (This includes physical and verbal threats or gestures reasonably perceived to harm another individual or endanger the safety of an individual.)
 - Harassing or threatening telephone calls, sending letters or other forms of written or electronic communications.
- Physical Harassment
 - Any physical assault such as hitting, pushing, kicking, holding, impeding or blocking the movement of another person.
 - Harassing surveillance (stalking) which is the willful, malicious and repeated following of another person and/or making a threat with intent to place the other person in reasonable fear of his or her safety.

Restraining Order

An employee who is a perpetrator of violent or criminal behavior and is the subject of a restraining order which affects the workplace or the employee's ability to perform job duties, must report the restraining order to the agency's Human Resources Department, on the first working day after issuance of the order. Failure to report may result in disciplinary action, up to, and including termination.

Domestic Violence

Any employee in immediate danger should contact 911 immediately.

For purposes of these guidelines, "domestic violence" and "household member" shall be used as defined in S.C. Code of Laws 16-25-10.

The State of South Carolina is committed to the health and safety of its employees and will not tolerate any act of domestic violence in the workplace. Should an employee's supervisor or the agency's Human Resources Department become aware that such an event has occurred in the workplace, off-site but on-duty, and/or through the use of State resources, the agency shall report the incident to appropriate law enforcement.

Employees are encouraged to report to law enforcement domestic violence which occurs outside of the workplace.

The Department of Administration, Division of State Human Resources, shall maintain a list of resources for survivors and perpetrators of domestic violence on its website, based on recommendations from the South Carolina Coalition Against Domestic Violence and Sexual Assault. Consistent with S.C. Code of Laws 16-25-20(G), only perpetrator treatment programs approved by the S.C. Department of Social Services shall be included in the list. In the event an employee reports that the employee or a household member has experienced domestic violence to a supervisor or to the agency's Human Resources Department, the agency shall provide this list to the employee.

While perpetrators of domestic violence are encouraged to seek help, an employee who is a perpetrator of domestic violence in the workplace, off-site but on-duty, and/or using State resources, may be subject to discipline up to, and including, termination. Off-duty conduct constituting domestic violence may also result in disciplinary action up to, and including, termination under certain circumstances.

An employee who experiences domestic violence is encouraged to seek assistance and to report the situation to their supervisor or the agency's Human Resources Department. The agency will maintain any information received outside of the employee's personnel record, and reporting will not be considered in employment decisions. The information shall be maintained confidentially, and disclosure shall be limited to legitimate legal and business purposes.

An employee who is an alleged perpetrator and the subject of an Order of Protection which affects workplace operations or the employee's ability to perform job duties, must report the order to the agency's Human Resources Department no later than the employee's next scheduled work day. Failure to report may result in disciplinary action up to, and including, termination.

Employees who experience domestic violence may require support from the agency. If a request for assistance is received by a supervisor or the agency's Human Resources Department, the agency shall provide a list of external resources available, as well as reviewing possible options for providing the employee flexibility in work schedules, security measures such as escorts to and from parking areas, and appropriate leave.

A variety of leave options may be available to employees, and agencies are encouraged to exercise flexibility in their application to the extent that business is not unduly disrupted. Agencies may request appropriate documentation related to the leave. Options to consider include:

- Sick leave for the purpose of the employee or certain family members receiving medical treatment or counseling services related to domestic violence. Agencies have the authority to advance sick leave if necessary and appropriate;
- The employee may qualify for FMLA if the domestic violence results in a serious health condition for the employee or certain members of the employee's family;
- Agencies may consider a request for use of more than 30 days of annual leave in a year for emergency or extreme hardship conditions;
- Agencies may consider transferring annual or sick leave to the employee from the agency's leave pool;
- Agencies may grant court leave when the employee is absent for purposes of seeking an order of

protection or restraining order, or assisting with the prosecution of a domestic violence case in which they are a witness or survivor; and

- Unpaid leave may be granted if no other option is available.

Under no circumstances shall an agency take retaliatory action against an employee based upon their report of experiencing domestic violence.

Prohibited Items

Weapons of any kind (firearms; knives; dangerous chemicals; explosives or blasting caps; chains; clubs; and other objects carried for the purpose of injury or intimidation) shall not be allowed on agency premises or in the possession of an employee during work time, except when permitted by the agency in order to perform job duties.

Preventive Measures

An agency should be committed to providing a safe environment for employees and visitors. Employees should refrain from acts of violence and seek assistance to resolve personal issues that may lead to violent behavior in the workplace.

Management should assess the current level of security and related policy and procedures and, if necessary, make changes that will improve the security of the work environment. This includes the following:

- Ensuring office floor plans are readily available and are kept up-to-date.
- Ensuring internal and external emergency contact numbers are posted in conspicuous areas.

All employees should know what constitutes inappropriate behavior and how to react if they witness or are subjected to such behavior. Management should encourage employees to notify supervisors if they feel threatened by anyone, including employees and non-employees.

When evaluating the safety of a workplace the following should be considered:

- *Workplace Environment*

Regularly review the agency's workplace environment and minimize any physical attributes which may expose employees, customers, clients, patients or suppliers to violent acts whenever possible. Control entrances and exits to monitor persons entering the work area and review lighting in outside areas and potential places for predators to hide.

Managers should consider identifying a safe area where employees can gather if the threat of violence requires an area lock down.

An agency should consider a review of the physical security of its facility including, but not limited to, security of entrance and exits, adequate lighting in parking lots, potential need for security staff, etc.

- *Indicators of Potential Offenders*

There are many signs that can possibly indicate an employee has violent tendencies. In some cases these individuals can be identified and provided assistance through Job Retention Services of the Department of Vocational Rehabilitation or an Agency's Employee Assistance Program (EAP) before they contribute to a violent incident. Employees should be advised that if they are concerned about the behavior of an

employee or visitor they should notify their supervisor, manager or the Human Resources Department as soon as possible. Early reporting of, and response to, disruptive behavior can prevent more serious incidents of workplace violence from occurring. Many extreme incidents of violence are preceded by lesser offenses such as insubordination, challenges to authority and harassing comments.

Employees should be encouraged to watch for potential warning signs by an individual such as the following:

- Past history of destructive, violent or threatening behavior
- Extreme stress in an individual's personal or job life
- Difficulty controlling emotions
- Evidence of chemical dependency/substance abuse
- An obsession with weapons
- Any harassing behavior
- Destructive behavior
- Repeated violations of agency policy or rules
- Obsession with retaliation after being disciplined or reprimanded
- Drastic change or deterioration in physical appearance
- Significant changes in work performance or other behavior
- Coworker's reasonable fear of an individual
- Showing excessive interest in recently publicized violent acts or violent entertainment
- Exhibiting paranoid behavior
- An unsuccessful personal history, someone who believes society is "out to get me"
- Does not accept responsibility for personal actions, blames others
- Obsessive behavior such as becoming fixated on another person
- Preoccupation with violence
- Change in the level of involvement with coworkers

Circumstances such as a reduction in force or other major life change may increase the chances a person will commit workplace violence. Therefore, it is particularly important to be diligent if the above warning signs are coupled with these circumstances.

- *Employment Process*

One way to prevent violence in the workplace is to avoid hiring people who exhibit violent behavior. To accomplish this, agencies may consider:

- Conducting criminal inquiries with criminal background checks;
- Conducting experience/reference checks;

- Checking motor vehicle records, if applicable to the individual's position;
- Verifying educational credentials;
- Questioning unexplained gaps in employment history; and
- Observing Indicators of Potential Offenders as described above.

Reporting

The following steps should be taken once a potential threat is identified or a violent act is committed:

- If the act constitutes a severe emergency, call 911, or appropriate emergency contact, before calling the officials designated. (Please note: Designated officials should be notified as soon as practical.)
- Employees who experience or witness non-emergency actions prohibited by agency policy must immediately contact his or her supervisor/manager or the Human Resources Department. Human Resources staff will in turn determine if it is necessary to contact the appropriate law enforcement agency or the Bureau of Protective Services (BPS) at 803-734-2422 if they have jurisdiction.
- Employees that feel threatened by domestic violence are encouraged to let their supervisors, managers or Human Resources know immediately and notify the supervisor, manager or Human Resources of who the possible threats may be from, the name and description of the person, and any details as to why the employee feels threatened.
- Any supervisor, manager or Human Resources representative receiving a complaint of violence, threats or harassment, or who has reason to suspect that these acts or behaviors are occurring, must notify the Human Resources Director or designee immediately.
- Upon being informed of an allegation of violence, threat or harassment, the staff of the Human Resources Department, agency security or other designated officials will investigate the matter. Upon the conclusion of the investigation, the agency will determine how to respond. The Executive Director, or designee, in consultation with the Office/Division Director and the Human Resources Director or designee, will determine a course of action up to and including termination. The course of action may also include notification of law enforcement authorities to determine if arrest and prosecution is appropriate. The reporting employee will be notified of the outcome of the investigation.
- Supervisors may, in extreme cases, find it necessary to take immediate action, such as suspension pending investigation if the employee is involved in behavior that seriously endangers the safety of other persons or property.
- If the employee's behavior could potentially harm others and the employee is on State premises, the employee may be required to leave the State property at once. The employee should be suspended without pay and, if necessary, instructed not to return to Department property until otherwise instructed by the supervisor or other designated official. This directive should be followed by written notification coordinated through the Human Resources Department.
- If an employee who is the subject of a workplace violence investigation is not at work, and it becomes necessary to suspend the employee pending the outcome of the investigation, the employee should be notified by telephone not to report to work and, if necessary, instructed not to return to agency property until further notice. The phone conversation with the employee should be followed with written notification. If the employee is not contacted by phone, written notification should be sent via certified mail. Appropriate agency security should be informed of the action to ensure the employee does not

attempt to return to the workplace. State property should be confiscated, and information access revoked as appropriate.

Disciplining an Employee

An employee who is disciplined or terminated may respond angrily to supervisors and even co-workers because of what he or she perceives as unfair treatment by management. The following should be considered when dealing with the employee:

- For less serious matters, or when the investigation does not affirm the employee's behavior took place, the supervisor/manager with guidance from the Human Resources Department may counsel the individual concerning the individual's behavior.
- If disciplinary action is warranted, follow the agency's Progressive Discipline Policy with guidance from the Human Resources Department regarding the appropriate disciplinary action.
- Prior to imposing the discipline, assess the employee's potential for violence when planning the disciplinary meeting. The supervisor and another member of management should meet with the employee to present the disciplinary action, with guidance from the Human Resources Department. The manager should notify the Human Resources Department if he or she wishes to have a security officer available on standby at the time of the disciplinary action.
- Conduct a discipline session privately in a professional manner to avoid further incitement of hostile behavior by the employee.
- Clearly explain reason(s) for discipline.
- Offer counseling services, as appropriate.

Threat Management Response

Agencies should have policies and procedures in place involving personnel who are well prepared to respond to threats and acts of violence. Assigned personnel should answer calls when acts of violence or threats are made, investigate incidents, debrief affected employees, offer assistance, and deal with the media and the public.

- *Post-Trauma Crisis Management*

Long-term problems can develop if post-traumatic consequences are not managed. It is important to address these as soon as possible following an act of violence. The following may be implemented during post-trauma crisis management to assist those who have been harmed:

- Contact family members as soon as possible, as appropriate.
- Demonstrate concern and care for those who have been harmed.
- Set up meetings with those who are affected on a regular basis to debrief them on issues related to the event.
- Open up communication channels and control rumors.
- Determine personnel and business requirements in order to restore the agency back to normal as soon as possible.

- Support employees by discussing the steps necessary to get back to normal.
- Arrange for the post-trauma team to return to the workplace on a periodic basis to counsel and debrief employees.

Recordkeeping and Evaluation

The agency should keep records tracking threats and acts of violence and reports on agency efforts to prevent and address any threats or acts of violence. Records should be reviewed periodically by the agency's leadership in order to develop strategies to prevent workplace violence and to enhance prevention efforts. These records should include:

- Date of the incident.
- Name of the person(s) reporting the incident, their title, work location and phone number.
- Name of the victim or target of the threat.
- Name and work location.
- Names of witnesses.
- Signed statements from witnesses.
- Detailed summary of the incident.
- Background of perpetrator, employment status, history, etc.

Training for Supervisors and Employees

Training on workplace safety is an integral part of creating a safe environment. Agencies should offer training regularly on topics related to workplace and domestic violence, and violence prevention and response.

Vulnerable Workers

While workplace violence can occur in any environment and to any employee, there are some employees who are particularly vulnerable. Special consideration should be given to these types of employees. Vulnerable workers include those who:

- Exchange money with the public;
- Make deliveries or transport people;
- Work alone or in small groups;
- Work at night or in the early morning;
- Work in high-crime areas; and
- Have extensive contact with the public.

Employees who work in the homes of their customers may be particularly vulnerable to workplace violence because they interact extensively with members of the public and often work alone or in small groups.

Agencies may consider providing cell phones to employees who work in the field away from the main or home office. In addition, field employees may be required to provide an itinerary of daily work, including any changes that may occur during the day, and to notify someone in the office of their location(s).

For more information and assistance please contact the Division of State Human Resources at 803-896-5300.

Sources:

Workplace Violence OSHA Fact Sheet

Workplace Violence: Issues in Response, S.C. Department of Justice