



OREGON DEPARTMENT OF FISH AND WILDLIFE POLICY

Human Resources Division

Title:	Workplace Effects of Domestic Violence, Harassment, Sexual Assault and Stalking	HR_450_11
Supersedes:	HR_450_11, dated May 15, 2012	
Applicability:	All employees (where not in conflict with the collective bargaining agreement)	
Reference:	ORS 240.145, 240.555, 240.560, Governor's Executive Order 07-17, ORS 659A.270 to 659A.290, OAR 839-005-0160 to 839-005-0170 and OAR 839-009-0325 to 839-009-0365, and State Policy 50.010.04.	
Effective Date:	December 1, 2014	Approved: <i>Ante E. Miller</i>

I. PURPOSE

The State shall promote the use of early intervention strategies to avoid or minimize the occurrence and effects of domestic violence, harassment, sexual assault or stalking in the workplace. This policy is in addition to any other statewide policies regarding workplace violence and/or harassment.

II. DEFINITIONS

For the purpose of this policy, the following definitions apply to terms referenced in this policy:

- A. **Victim of Domestic Violence:** an individual who has been threatened with abuse or is a victim of abuse, as defined in ORS 107.705; or any other person who has suffered financial, social, psychological or physical harm as a result of domestic violence committed against the victim, including a member of the victim's immediate family. In no event will the perpetrator of domestic violence be considered a victim for the purposes of this policy.
- B. **Victim of Harassment:** an individual against whom harassment has been committed as described in Oregon's criminal code ORS 166.065. In no event will the perpetrator of harassment be considered a victim for the purposes of this policy.
- C. **Victim of Sexual Assault:** an individual against whom a sexual offense has been threatened or committed as described in ORS 163.305 to 163.467 or 163.525; or any other person who has suffered financial, social, psychological or physical harm as a result of sexual assault committed against the victim, including a member of the victim's immediate family. In no event will the perpetrator of sexual assault be considered a victim for the purposes of this policy.
- D. **Victim of Stalking:** an individual against whom stalking has been threatened or committed as described in ORS 163.732; or any other person who has suffered financial, social, psychological or physical harm as a result of stalking committed against the victim, including a member of the victim's immediate family; or an individual who has obtained a court's stalking protective order or a temporary court's stalking protective order under ORS 30.866. In no event will the perpetrator of stalking be considered a victim for the purposes of this policy.

- E. Protective Order: an order authorized by ORS 30.866, 107.095(1)(c), 107.700 to 107.735, 124.005 to 040 or 163.730 to 163.750 or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent.
- F. Victim Services Provider: prosecutor-based victim assistance program or a nonprofit program offering safety planning, counseling, support or advocacy related to domestic violence, harassment, sexual assault or stalking.

III. POLICY

The department must administer this policy, in support of State of Oregon Policy 50.010.04, to address the effects of domestic violence, sexual assault and stalking. This policy promotes the use of early intervention strategies to prevent or minimize the occurrence and effects of domestic violence, harassment, sexual assault or stalking in the workplace. The existence of a protective order, a criminal proceeding or law enforcement involvement is not necessary to invoke this policy. Domestic violence, harassment, sexual assault and stalking are crimes punishable by law.

- A. Training
 - 1. The department must provide either a hard copy or electronic version of this policy and related department procedures, including a resource list, to all current and new employees.
 - 2. Summaries of ORS 659A.270 to 659A.285; OAR 839-005-0160 to 839-005-0170; OAR 839-009-325 to 839-009-365 must be posted in a conspicuous and accessible place in the premises where employees are employed.
 - 3. Training for managers, supervisors and human resources staff
 - a. All managers, supervisors and human resource staff must complete mandatory training within two years of appointment. All managers, supervisors, and human resource staff shall complete refresher training every five years thereafter.
 - b. The mandatory training may be conducted on-line or in person by the department, DAS, a local victim services provider or the Bureau of Labor and Industries (BOLI), and must include the information listed in III, A, 4 in addition to the following:
 - 1) Responsibilities as an employer;
 - 2) How to respond when employees self disclose or request referral information;
 - 3) How to work with a victim services provider to assist identified victims in workplace safety planning; and
 - 4) How domestic violence, harassment, sexual assault and stalking affect the workplace, productivity, and safety risks to other on-site staff and visitors.
 - 4. Training for Employees
 - a. The department must provide regular opportunities to all employees to attend voluntary training to learn more about:
 - 1) The policy and agency procedures

- 2) The characteristics of domestic violence, harassment, sexual assault and stalking presented by a victim services provider
- 3) Where an employee may request or locate referral information
- 4) Support and safety accommodations available from the department
- 5) How domestic violence, harassment, sexual assault or stalking impacts the workplace, productivity, and safety risks to other on-site staff and visitors
- 6) Other applicable policies and collective bargaining agreement provisions:
 - HR Policy 450_15 Support of Employee's Work and Family Needs
 - HR Policy 450_10 Discrimination and Harassment Free Workplace
 - HR Policy 450_04 Violence-Free Workplace
 - HR Policy 450_01 Maintaining a Professional Workplace
 - HR Policy 460_11 Statutorily Required Leaves With and Without Pay
 - HR Policy 460_04 Family and Medical Leave

B. Resources

1. A copy of this policy and related department procedures, including a resource list, shall be made available in each office location in areas of high visibility (such as bulletin boards, break rooms, restrooms, HR Policy Manuals, etc.). This policy and related information shall also be posted on the department's website to provide for private access.
2. The department must keep summaries of ORS 659A.270 to 659A.285 and summaries of OAR 839-005-0160 to 839-005-0170 and OAR 839-009-325 to 839-009-365 posted in a conspicuous and accessible place in or about the premises where the employees are employed.
3. Employees may also obtain resource information by talking with a manager, supervisor or human resources staff.
4. The department's resource list must, at minimum, include all of the following information listed below:
 - a. The names of the local domestic violence, harassment, sexual assault and stalking victim services providers (Attachment B)
 - b. The National Domestic Violence Hot Line: 1-800-799-7233 or <http://www.thehotline.org/>; The National Sexual Assault Hotline 1-800-656-HOPE (4673) or www.rainn.org; The National Center for Victims of Crime - Victim Helpline 1-800-FYI-CALL
 - c. The Department of Human Services Domestic Violence website's list of victim services providers across the state www.dhs.state.or.us/abuse/domestic/gethelp.htm;

- d. The Employee Assistance Program (EAP) local service provider. State agencies with contracts with Cascade Centers, Inc. may use 1-800-433-2320 or www.cascadecenters.com to reach counselors 24 hours each day for intake and referrals to a local victim services provider
- e. The Oregon Law Help website www.oregonlawhelp.org contains contact information for local legal service offices as well as basic information about protections for gaining employment and housing
- f. Perpetrator Information: Contact the EAP service provider as listed above, or go to The Batterer Intervention Providers Directory 2013 for a list of batterer intervention providers throughout Oregon.

C. Confidential Request and Referral

- 1. A manager, supervisor, human resources staff and safety personnel must keep confidential to the fullest extent permitted by law:
 - a. An employee's request for resource or referral information about domestic violence, harassment, sexual assault, stalking, and additional security in the workplace
 - b. Witness reports of a threat or incident of domestic violence, harassment, sexual assault or stalking
 - c. An employee's request for other related assistance from the manager, supervisor, human resources staff and safety personnel
 - d. All records and information kept by the department regarding a reasonable safety accommodation for an individual, including requests for a reasonable safety accommodation, are confidential and may not be released without the express permission of the individual, unless otherwise provided by law.
 - e. The report that an employee is a victim of domestic violence, harassment, sexual assault, or stalking
- 2. If the law or certain circumstances require disclosure of the above in C, 1, a-e, the manager, supervisor, human resources staff or safety personnel will give advance notice to the employee whenever possible before making the disclosure.

D. Employee Safety and Support

- 1. If the department manager, supervisor, safety personnel or human resources staff learns of a threat or possibility of workplace domestic violence, harassment, sexual assault or stalking, the department must take appropriate action to keep all staff safe in the workplace. Refer to policies listed in III. A. 3. a. 6.
- 2. If the department has knowledge, or reasonably should have knowledge, that an employee is a victim of domestic violence, a victim of harassment, a victim of sexual assault or a victim of stalking and that any direct or indirect communication to the eligible employee related to the victimization of the employee is made or attempted to be made in the workplace, the department shall immediately inform the employee and offer to report the communication to law enforcement.
- 3. Any employee who witnesses a threat or incident of domestic violence, harassment, sexual assault or stalking at the employee's workplace must report it to his or her manager, supervisor, human resources staff or safety personnel immediately.

4. If an employee who is a victim of domestic violence, harassment, sexual assault or stalking requests additional safety accommodations, the department must take additional reasonable safety accommodations to protect the employee at work or in connection with work as consistent with the department's operational needs and does not create an undue hardship on the department. An undue hardship is a significant difficulty and expense to the department. The department considers its size and critical needs when it assesses an employee's request for additional safety and support measures.
5. The department must comply with all protective orders while the employee is in the workplace. If the parties to a civil protection order are employees of the same work section or work for different sections in the same building or have on-the-job contact with one another, the pertinent managers will minimize or eliminate contact between the parties, as required by the order or as requested by the victim. Note: protective orders from other states are enforceable in the state of Oregon.
6. Reasonable safety accommodations, support and assistance may include but are not limited to the following (as per federal or state law, ODFW Policy, state policy or collective bargaining agreement):
 - a. An employee may request their personnel information be suppressed from public records requests as per OAR 137-004-0800
 - b. Local advocacy and safety planning resource information
 - c. Pseudo name and email address for performing work
 - d. Altered or reduced work schedules, transfer, or reassignment according to applicable policies and collective bargaining agreements
 - e. Offering alternate parking spaces
 - f. Relocating or adjusting the employee's workstation, worksite or location
 - g. Screening telephone calls and visitors
 - h. Changing telephone number(s)
 - i. Alternate methods of receiving a paycheck
 - j. Leave of absence or intermittent leave per state law, statewide policy 60.000.12 or collective bargaining agreement
 - k. Sharing a copy of the protective order and a photograph of the abuser with the building security or safety personnel, manager, supervisor or human resources staff to stop the abuser from entering the workplace
 - l. Other safety accommodations as appropriate.
7. Prior to making a reasonable safety accommodation, the department may require an employee to provide certification that the employee is a victim of domestic violence, harassment, sexual assault, or stalking. Upon request, an employee must provide the certification within a reasonable time. Any of the following constitutes sufficient certification:

- a. A copy of a police report indicating that the individual was or is a victim of domestic violence, harassment, sexual assault or stalking.
- b. A copy of a protective order or other evidence from a court or attorney that the individual appeared in or is preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault or stalking.
- c. Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider that the individual was or is undergoing treatment or counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault or stalking.

E. Prohibited Behavior

1. This policy prohibits discrimination and retaliation against an employee who is a victim of domestic violence, harassment, sexual assault or stalking or who requests or uses any provision of this policy. If any employee suffers such retaliation or discrimination, the employee may file a complaint with the Human Resource Division Administrator for investigation and appropriate action.
2. The department shall not refuse to hire an otherwise qualified individual; or discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an individual with regard to promotion, compensation, or other terms, conditions or privileges of employment because the individual is a victim of domestic violence, harassment, sexual assault or stalking.
3. This policy prohibits the threat of or commission of domestic violence, harassment, sexual assault, or stalking by a department employee on department premises or during working hours or at a department-sponsored event.
4. The department has the authority to impose discipline or take other appropriate action for conduct that involves the threat or commission of domestic violence, harassment, sexual assault, or stalking by a department employee in off-duty hours, in certain circumstances.
5. It is an unlawful employment practice for a covered employer to discharge, expel or otherwise discriminate against any person because the person filed a complaint, testified or assisted in any proceeding in connection with the Oregon Victims of Certain Crimes Victim Leave Act (OVCCCLA).

F. Violations

1. The department may impose disciplinary action up to and including dismissal, against violators of this policy.
2. The department may impose discipline or take other appropriate action for conduct that involves the threat or commission of domestic violence, harassment, sexual assault, or stalking by an employee in off-duty hours, in certain circumstances.
3. An eligible employee claiming a violation of this policy may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries pursuant to ORS 659A.820.

Additional information can be found at: <http://www.oregon.gov/DAS/CHRO/pages/toolkit.aspx>.

Attachment A: Certification for Requested Leave to address Domestic Violence, Harassment, Sexual Assault or Stalking Issues