



## **Model Domestic and Sexual Violence Policy for Private Businesses**

(Adapted from the New York State Office on Prevention of Domestic Violence's Model Policy)

Domestic and sexual violence pervades all aspects of our society. Studies show that at least one in four women is a victim of domestic or sexual violence at some point in her life. In almost any workplace, there are likely to be individuals who have been or are currently dealing with domestic or sexual violence. While it is very unusual for domestic violence to lead to violent incidents in the workplace itself, employees who are victims may need time off to take steps to address the violence in their lives and a variety of workplace accommodations to help protect themselves and their co-workers.

New York City's Human Rights Law, Administrative Code of City of New York § 8-107.1, explicitly prohibits discrimination against victims of domestic and sexual violence and requires employers to make "reasonable accommodations" to allow a victim to perform her or his job. Other laws, including federal and state antidiscrimination laws, the Family and Medical Leave Act, the Americans with Disabilities Act, state disability laws, and state torts, may offer victims of domestic violence important workplace rights. Developing and implementing a domestic violence policy is an important means of complying with the new New York City law and thus limiting your company's potential exposure to liability – and of keeping your workplace safe and your employees working.

Legal Momentum has prepared this model policy SOLELY to provide guidance in development of a company's own policies. Any company that develops a policy should do so in consultation with that company's legal counsel and consideration of that company's specific circumstances.

## **MODEL DOMESTIC VIOLENCE POLICY**

### **Purpose**

[Employer] is committed to providing a workplace in which employees who are victims of domestic or sexual violence have the support they need at work to address the violence in their lives. This policy is intended to increase awareness of domestic and sexual violence, assist employees who have experienced such violence, and help ensure that the workplace is a safe environment.

### **Definitions**

For the purpose of this policy, a *victim of domestic or sexual violence* is a victim of domestic violence or a victim of sex offenses or stalking, as defined below.

A *victim of domestic violence* is defined as an individual who has been subjected to acts or threats of violence, not including self-defense, committed by a current or former spouse, family member, household member, intimate partner, or person with whom the victim shares a child. Domestic violence may also include other physical, psychological, sexual, economic tactics used to establish and maintain power and control over the victim.

A *victim of sex offenses or stalking* is defined a victim of acts that would constitute violations of article 130 (addressing sex offenses) of the New York State Penal Law or a violations of sections 120.45, 120.50, 120.55, or 120.60 (addressing stalking) of the New York State Penal Law.

### **Model Policy Language**

#### **I. Protection from discrimination**

- A. *Non-discrimination*: [Employer] will not discriminate against a victim of domestic violence or sexual violence in hiring, staffing, or other terms, conditions, or privileges of employment.
- B. *Prohibition on actions against an employee because of an abuser's harassment of the employee at work or disruption of the workplace*: [Employer] will not take any actions against an employee who is a victim of domestic or sexual violence based on the actions of a person who has perpetrated violent acts or threats of violence against the employee, even if such actions disrupt the workplace. [Employer] may take actions, including the filing of a criminal complaint or initiation of a civil action, directly against a perpetrator whose violence affects an employee if the perpetrator's actions disrupt the workplace. Prior to taking any actions against such a perpetrator, [Employer] will consult with the employee to determine whether the action would be likely to put the employee's safety at risk and [Employer] will make reasonable efforts to address these concerns.

#### **II. Time Off and Other Reasonable Accommodations for Victims of Domestic or Sexual Violence**

- A. *Commitment to make reasonable accommodations*: [Employer] will make reasonable accommodations that permit an employee who is a victim of domestic or sexual violence to perform the essential duties of her or his job. Accommodations that impose an undue hardship on Employer are not required.

- B. *Time off:* [Employer] recognizes that victims of domestic or sexual violence may need time off from work to secure medical or legal assistance or counseling, attend court proceedings, relocate, or make other safety arrangements. [Employer] will try to grant unpaid or paid leave to an employee who is a victim or adjust that employee's work assignments to permit the employee to take steps to address the violence and maintain her employment. When the need for time off is foreseeable, an employee must provide reasonable advance notice of a request for leave, generally at least three days. When the need for time off is not foreseeable, an employee should explain the reason for an absence and request leave if applicable as soon as possible, generally no more than two days after the absence begins.
- C. *Other reasonable accommodations.* [Employer] understands that there are other accommodations that could permit a victim to continue to perform her or his job and provide a safe environment for the individual and her or his co-workers. Such accommodations could include changing a phone extension, transferring an employee to a different office, assisting in enforcing a protection order, or taking other steps to ensure that the perpetrator of violence is not allowed to enter the workplace. [Employer] will work with an employee who is a victim to make necessary reasonable accommodations.
- D. *Requesting an accommodation:* To request time off or other reasonable accommodations, employees should contact \_\_\_\_\_ or \_\_\_\_\_. [Employer] may ask the employee to provide proof that she or he is a victim of domestic or sexual violence. An employee may satisfy such a request by providing a statement from a victim service provider or other professional assisting the victim to address the violence; a court order; a police report; or other corroborating evidence. Any such documentation will be kept in strictest confidence.

### **III. Employee Payroll and Benefit Change Request**

- A. If an employee who is a victim informs [Employer] that she or he has separated from a spouse or covered domestic partner, [Employer] will make reasonable efforts to put company benefits in the employee's own name.
- B. [Employer] will process an employee who is a victim's requests for changes to his/her electronic payroll transfers.

### **IV. Education and Resources Regarding Domestic Violence**

- A. *Resources:* [Employer] will make available a list of resources for victims of domestic violence and abusers. The list will be posted in highly visible locations, such as bulletin boards, break rooms, rest rooms, health or first aid offices, company phone directories, and online information data bases.
- B. *Referrals:* [Employer]'s human resources department [or other relevant department] will provide information regarding local or national domestic violence or sexual violence service providers that may be able to provide support and advice to victims seeking to address an abusive or violent relationship. [Except as relevant through an Employee Assistance Program], [Employer] will not counsel or advise employees regarding safety planning or other aspects of

addressing violent relationships except as is directly relevant to protecting the safety of the workplace.

#### **V. Performance Issues Related to Being a Victim of Domestic Violence**

- A. [Employer] is aware that victims may have performance problems such as chronic absenteeism or trouble concentrating as a result of domestic or sexual violence.
- B. [Employer] will make reasonable efforts to consider all aspects of the employee's situation and, to the extent possible, utilize all reasonable options to attempt to resolve the performance or conduct problem.
- C. If reasonable attempts to resolve the performance problems are unsuccessful, [Employer] may decide to terminate the employee or the employee may decide to resign. In that event, [Employer] will inform the employee that she or he may be eligible for unemployment insurance.

#### **VI. Confidentiality**

If an employee reports that she or he is a victim of domestic or sexual violence, requests a reasonable accommodation because of such violence, or seeks a benefits or payroll change related to such violence, [Employer] will, to the extent allowed by law, take reasonable steps to respect the confidentiality and autonomy of the reporting employee, informing other employees or other persons on a need to know basis only, and only to the extent reasonably necessary to protect the safety of the employee or others and to comply with the law. Wherever practicable, advance notice will be given to the reporting employee if [Employer] needs to inform others about the domestic or sexual violence situation or if [Employer] receives a subpoena ordering the disclosure of such information.

#### **VII. Employees Who Commit Acts or Threats of Domestic Violence, Sex Offenses, or Stalking**

- A. Any employee who threatens, harasses or abuses a family, household member, or intimate partner, or who threatens or conducts activity that constitutes a sex offense or stalking, at, or from, the workplace may be subject to disciplinary action up to and including dismissal. This includes employees who use workplace resources such as phones, fax machines, e-mail, mail or other means to threaten, harass or abuse a family or household member.
- B. Some job positions may give an employee access to certain types of information or resources. If he or she uses this access to enable an abuser to harm the victim, that employee may be subject to corrective or disciplinary action.
- C. Some employees may be licensed to possess firearms as a condition of employment. If such employee is arrested, convicted or the subject of an order of protection in a domestic violence related offense the employee's authority to possess a firearm may be unlawful under federal law, 18 U.S.C. § 922(g)(8) & (9), or suspended/revoked under New York State Penal Law § 400.00(11), Criminal Procedure Law § 530.14 or Family Court Act § 842-a. [Employer] shall be notified by the employee in the event any of these circumstances occur.

## **VIII. Complaints related to violation of this policy**

- A. [Employer] encourages individuals who believe that a violation of this policy may have occurred to report the circumstances to \_\_\_\_\_ or \_\_\_\_\_. We encourage prompt reporting of complaints so that rapid and appropriate action may be taken.
- B. [Employer] will not retaliate in any way against an individual who makes a report alleging a violation of this policy, nor will [Employer] permit any supervisor or other employee to do so. Retaliation is a serious violation of this policy and anyone who feels subject to any acts of retaliation should immediately report such conduct to \_\_\_\_\_ or \_\_\_\_\_.
- C. Any allegation of a violation of this policy will be promptly investigated. Reports will be kept confidential to the extent practical and appropriate under the circumstances. [Employer], however, has an obligation to act on all information it receives if it believes an individual may be engaging in wrongful conduct or violation of the law. Our immediate goal is to take prompt remedial action to stop inappropriate or unlawful conduct. Our second goal is to assure violations do not recur. Even where a violation is not found, it may be appropriate to counsel individuals regarding their behavior.

## **IX. Disciplinary action for violating this policy**

- A. If [Employer] finds that this policy has been violated, the violator will be subject to appropriate disciplinary action, which may include verbal or written reprimand; referral to appropriate counseling; temporary suspension; and/or discharge.

## **Guidelines for a Workplace Safety Plan for Employers and Employees**

### **o For Employers**

When assisting employees to develop a personal workplace safety plan, ask what changes, if any, could be made at their workplace to make them safer. Victims of domestic violence know their abusers better than anyone else. When it comes to their own safety, offer to assist them in developing a personal workplace safety plan. However, if it is determined that other employees or customers are at risk of physical harm, it is essential to take reasonable measures to provide protection for them.

### **o For Employees**

- § Consider obtaining an order of protection that includes a stay away provision for the workplace. If you choose to obtain an order of protection, make sure that it is current and available at all times. If you think that your abusive partner may come to your workplace, you should provide a copy of the protective order to the police, your supervisor, human resources, the reception area, the legal department, the occupational health office, and/or security. Ask co-workers and/or supervisors to call the police if the abuser threatens or harasses you at work or violates any civil/criminal orders of protection.
- § Consider providing a picture of the abuser to the reception areas and/or security.
- § Consider identifying an emergency contact person should your employer be unable to contact you.
- § Review the safety of your parking arrangements.
- § Consider having security or a co-worker escort you to/from your car or public transportation and/or obtaining special parking access.
- § Consider requesting a change in, or unpredictable rotations of, your work schedule, work site, or work assignment if such a change is possible and would enhance your safety at work.
- § Consider having your telephone calls screened at work.
- § Where possible, discuss additional security measures with the on-site security department.
- § Review the safety of your child care arrangements. If you have an order of protection, make sure the provider has a copy.