

# Domestic and Gender Based Violence Prevention Policy

## **POLICY STATEMENT**

The County of Sullivan (the County) is committed to maintaining a workplace free from domestic and other forms of gender-based violence. The County, in its continuing effort to facilitate a safe and welcoming environment in employment and services to the community, and in support of federal and state gender-based violence prevention legislation, has adopted the following policy in furtherance of such efforts.

Domestic violence and other forms of gender-based violence impact the lives of thousands of New Yorkers each day, with tragic, destructive, and often fatal results. The impact of such violence transcends beyond the various locations at which such incidents take place and are felt in the workplace. The safety of victims, co-workers, and clients have the potential to be compromised.

The County recognizes that domestic and gender-based violence occurs within a wide spectrum of relationships and is committed to taking every appropriate measure to support employees who may be experiencing victimization in a survivor-centered, trauma-informed, and culturally responsive manner.

## **POLICY**

### Persons Covered by this Policy

This Policy shall extend to all full, part-time, and temporary employees, volunteers, and interns engaged by the County of Sullivan in any official workplace capacity. Whenever possible, this Policy shall be extended to consultants, contractors, and volunteers.

### Statement of Confidentiality

The County recognizes and respects every employee's right to privacy and confidentiality. All information, including employee disclosures about victimization, shall be kept confidential to the extent permitted by law and County policy. Disclosure of such information may occur when an employee provides written informed consent or when the failure to disclose would create a substantial risk of imminent danger to the victimized employee, other employees, or worksite. Should that circumstance occur, the victimized employee will be notified of the actions that will be taken by the County and information sharing will be limited to the employees deemed necessary for securing the safety of the victim, other employees, or worksite. All information shared with the employees identified will be as limited in scope as possible. Employees may be required to sign an acknowledgement of confidentiality stating that any information obtained regarding the victimized employee must be used for the sole intended purpose of facilitating the safety and security of the impacted persons and organization, as applicable.

### The County of Sullivan

- A. The County designates the Commissioner of Human Resources as its Domestic Violence Agency Liaison (DVAL) to support adherence to this policy. **Contact information is (845) 807-0481.**
- B. Each Department/location must post the name and contact information of the DVAL and provide annual written notice of such information to full, part-time, temporary employees, volunteers, interns, and contractors. Such information is distributed to all new staff, interns and volunteers upon hire.
- C. The County will take all appropriate actions to promote safety in the workplace by efficiently and effectively responding to gender-based violence and the needs of victims to the fullest extent possible without violating any existing rules, regulations, statutory requirements, contractual obligations, or collective bargaining agreements.

D.All County employees, contractors, volunteers, and interns must comply with this Policy as outlined.

E.Employee Awareness:

- 1.The County will increase awareness around domestic and gender-based violence and create an informed workforce regarding available sources of assistance for those experiencing domestic or gender-based violence.
- 2.The County will increase awareness around possible disciplinary practices that may be implemented in the event of retaliation or used with employees who perpetrate acts of domestic or gender-based violence, in each case under the existing collective bargaining agreements, if applicable.
- 3.The County shall include this Policy as part of the Employee Practices Handbook that is provided to all new employees and to all employees on an annual basis.
- 4.An explanation of employee's rights under this Policy shall be given during new employee orientation.
- 5.If the County suspects that an employee is a victim of domestic and gender-based violence but the employee has not disclosed victimization, the County shall refer the employee to:
  - a.**The Commissioner of Human Resources (845)807-0481**
  - b.**The EAP at (800)252-4555 or (900)225-2527 or [www.theeap.com](http://www.theeap.com)**
  - c.**The NYS Domestic and Sexual Violence Hotline 800-942-6906, text: 844-997-2121, website: <https://opdv.ny.gov/survivors-victims>**
  - d. **Fearless! Hudson Valley Inc. (845) 562-5340, <https://www.fearlesshv.org>**

F.Referrals to the above options must be offered to anyone who discloses they are a victim of domestic or gender-based violence.

G.The County shall post information on domestic and gender-based violence as outlined within this Policy, on the County portal and in work locations where employees are able to utilize the information without having to request it or be seen removing it. Such places may include: employee restrooms, breakrooms and any other frequently attended areas. Information will include sources of assistance and contact information as noted in this policy.

- 1.Additional referrals shall be made to the appropriate resources to best meet the employee's needs.
- 2.The County shall consider conducting programs and activities throughout the year to increase awareness about domestic and gender-based violence such as informational presentations or supply drives for local domestic and gender-based violence programs.
- 3.The Commissioner of Human Resources will ensure the implementation and compliance of this Policy, ensuring employees are aware of their rights through annual training/policy receipt. When notified that an employee is a victim of domestic or gender-based violence, the Commissioner will provide the employee with confidential support services, including referrals to the EAP, NYS Domestic and Sexual Violence Hotline, and/or Fearless! Hudson Valley Inc and conduct workplace safety strategizing with victimized employees to ensure that the employee is informed of all accommodations available. This may include use of alternative scheduling and assisting the employee in identifying the best use of attendance and leave benefits.

4.Human Resources

- a.County Human Resources ensures that each office establish a workplace culture that is safe and supportive for anyone who has experienced domestic or gender-based violence by communicating information and resources are available to victims and that abusive behavior by any employee will not be tolerated.
- b.Human Resources staff shall also ensure that all employees who are required to attend training complete the required training.
- c.Human Resources staff shall ensure that employees shall receive a copy of this Policy upon hire as well annually.

- d. Human Resources staff shall ensure that any employee who discloses being a victim of domestic or gender-based violence is aware of and receiving any necessary accommodations and shall consult with County leadership, as appropriate, to address complex cases.
- e. Human Resources staff shall assist supervisors to ensure that all employees who violate this Policy are held accountable.

#### 5. Supervisors

- a. Supervisors shall ensure that any employee who discloses being a victim of domestic or gender-based violence is aware of this Policy and understands this Policy and their rights, including the right to request accommodations or time off as discussed below.
- b. If any employee discloses being a victim of domestic or gender-based violence, or if the supervisor suspects that the employee may be a victim of domestic or gender-based violence, the Supervisor must refer the employee to:
  - 1. the Commissioner of Human Resources
  - 2. The EAP
  - 3. The NYS Domestic and Sexual Violence Hotline (or the statewide hotline for workplace sexual harassment, as may be appropriate).
  - 4. Fearless! Hudson Valley Inc. (845) 562-5340, <https://www.fearlesshv.org>
- c. There is no mandatory reporting of domestic or gender-based violence, unless it may constitute sexual harassment as defined in this Policy.

### **NON-DISCRIMINATION AND RESPONSIVE PERSONNEL POLICIES**

All County policies and procedures should be trauma-informed, survivor-centered, and culturally responsive to victims' needs, and should not discriminate. Under the New York State Human Rights Law, all persons covered by this Policy are protected from discrimination in the workplace on the basis of status as a victim of domestic violence, and on the basis of sex, sexual orientation, gender identity, and gender expression.

H. Subdivision 34 of section 292 of the Executive Law of New York State establishes persons who qualify as a "victim of domestic violence."

I. Victims of domestic violence are a protected class under New York State Human Rights Law (Executive Law § 296(22)).

- 1. Employers may not refuse to hire or license and may not terminate someone solely based on their status as a victim of domestic violence.
- 2. Employers may not discriminate against victims of domestic violence in compensation, terms, conditions, or privileges of employment.
- 3. Employers must prohibit inquiries about an applicant's status as a current or past victim of domestic violence and may not make any employment decisions based on assumptions or actual knowledge about someone's status as a current or past victim of domestic violence. Employers may inquire about status as a victim of domestic violence in order to provide reasonable accommodations.

J. Employers must allow any employee who has disclosed their status as a victim of domestic or gender-based violence (or disclosed that a family member is a victim of domestic or gender-based violence) and must be out of work for a reasonable time to use accrued sick leave for the following purposes:

- 1. to obtain services from a domestic violence shelter, rape crisis center, or other services program;
- 2. to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members;
- 3. to meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding;

- 4.to file a complaint or domestic incident report with law enforcement;
- 5.to meet with a district attorney's office;
- 6.to enroll children in a new school;
- 7.to address issues relating to technology or financial abuse; or
- 8.to take any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

- K.Employees can choose to use appropriate leave accruals to cover any absences, if available. If the employee does not have adequate leave accruals to cover the absence, the absence shall be treated as leave without pay.
- L.Any employee who must be absent from work to utilize accommodations in this section is entitled to the continuation of any health insurance coverage provided by the employer to which the employee is otherwise entitled during any such absence, in accordance with any existing collective bargaining agreements, regulations, and County policy.
- M.Employees who must be absent to utilize accommodations as listed in this section shall provide their employer with reasonable advanced notice of the absence whenever possible.
- N.Employers are also required to grant time off, with prior day notification, and may not penalize any employee who, as a victim or witness of a criminal offense, is appearing as a witness; consulting with a district attorney; or exercising their rights as provided by law. Employees can choose to use appropriate leave accruals to cover any absences, if available. If the employee does not have adequate leave accruals to cover the absence, the absence shall be treated as leave without pay. Any questions regarding leave that must be granted to victims or subpoenaed witnesses should be directed to the appropriate County leadership.
- O.Supervisors should be aware that there may be occurrences when an employee is absent due to incidents of domestic or gender-based violence where they are unable to follow County protocol to report the absence. In that situation, the employee may lack documentation, may be unable to obtain documentation or may not want to share documentation containing confidential information. An employer may not require the disclosure of confidential information relating to an absence from work due to domestic violence, a sexual offense, stalking, or human trafficking, as a condition of providing sick leave.
- P.Employees who are victims of domestic violence or gender-based violence who separate from a covered family member due to an incident or incidents of domestic or gender-based violence shall be allowed to make reasonable changes in benefits at any time during the calendar year, where possible and in accordance with statute, regulation, contract, and policy.
- Q.The County recognizes that victims of domestic and gender-based violence may experience temporary work performance difficulties or be unable to complete certain job aspects because of safety reasons. (Examples include overnight travel, "off" hour shifts, etc.) If it is found that the employee's work performance is being affected as a result of being a victim of domestic or gender-based violence, the County will work with the employee to try to create a satisfactory resolution, including, but not limited to, specific work plans, the ability to take leave, provision of reasonable accommodations, referrals to the DVAL designee, EAP, and/or the local domestic violence service provider. Employees will be given clear information of performance expectations, priorities, and performance evaluations. Employees should be made aware that not all employees requests for resolutions can be accommodated. If a disciplinary process is initiated, special care should be taken to consider all aspects of the victimized employee's situation, and all available options in trying to resolve the performance problems should be exhausted, including a referral to the DVAL designee, EAP, domestic violence program or other relevant services, consistent with existing collective bargaining unit agreements, statute, regulations, and County policy.
- R.If all reasonable measures have been exhausted to resolve related performance problems of employees who are victims of domestic or gender-based violence, but the performance problems persist and the employee is terminated or voluntarily separates from employment, the employee shall

be informed of their potential eligibility for unemployment insurance and the County shall respond quickly to any requests for information that may be needed in the claims process. New York State law provides that a victim of domestic violence who voluntarily separates from employment may, under certain circumstances, be eligible for unemployment insurance benefits.

S. New York State law prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims by prohibiting status as a domestic violence victim to be considered a "pre-existing condition." Insurance companies may not deny or cancel an insurance policy or require a higher premium or payment because the insured party is a current or former victim of domestic violence.

T. Sex, sexual orientation, gender identity, and gender expression are all protected classes under the New York State Human Rights Law. Sexual harassment is a form of sex discrimination and is unlawful under the New York State Human Rights Law § 296.1, Human Rights Law § 296-c (for interns), and Human Rights Law § 296-d (for non-employees working in the workplace), and Title VII, the Federal Civil Rights Act of 1964. Sexual harassment includes harassment based on sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. Gender-based violence may constitute sexual harassment when it subjects an individual to inferior terms, conditions, or privileges of employment.\*

\*For more information please refer to the Sexual Harassment Prevention Policy in the Employee Practices Handbook.

U. For all forms of discrimination and harassment, if an employee, including an intern or contractor working in a County workplace, experiences sexual harassment or discrimination on the basis of their status as a victim of domestic or other gender-based violence, or observes discrimination in the workplace, the employee may file a complaint in accordance with the County Discrimination and Discriminatory Harassment Complaint Procedure, available on the portal in your Employee Practices Handbook.

### **NON-RETALIATION POLICY**

The County shall not engage in any retaliatory practices against any employee that discloses they are a victim of domestic or gender-based violence, or any employee seeking accommodations or to exercise their rights under this Policy.

The County will not retaliate, tolerate retaliation by any superiors, terminate, or discipline any employees for reporting information about alleged incidents of domestic violence that may have been committed by an employee, including those in management positions.

Retaliatory practices may include, but are not limited to, fewer promotions, inappropriate jokes, snide comments, excluding employee from conversations, etc., and may be carried out by everyone, not just the original perpetrator. Retaliation includes commencing discipline against victimized employees for actions taken to promote their safety.

Any employee engaging in retaliatory practices may be subject to disciplinary action.

### **WORKPLACE SAFETY PLANS**

County Administration shall have workplace safety response plans in place, including procedures for reporting to supervisors or contacting law enforcement, if necessary, should an event take place in the workplace. Information is contained in the County Workplace Violence Prevention Policy.

V. The County shall comply and assist with enforcement of all known orders of protection (OP).

- 1.If requested by the victim, or by law enforcement, the County will provide any relevant information regarding an alleged order of protection violation.
- W.Employees are encouraged to disclose any active orders of protection to the Commissioner of Human Resources. Copies of orders of protection will be maintained in a locked, confidential location, separately from the employee's personnel file. In the event of an emergency or that the OP needs to be presented to law enforcement, the liaison, other designated staff member, director of human resources, or a member of executive staff shall retrieve and present the order. Employees should be made aware that they are responsible for notifying the liaison in the event of a relevant modification or revocation of the OP.
- X.When requested by the victim, the System DVAL, and/or Human Resources staff will work with the employee to develop a plan to how best increase safety for the victim, other employees, and the workplace. Options may include, but are not limited to:
  - 1.Providing front desk security or reception staff with a copy of the Order of Protection with a photo of the perpetrator;
  - 2.Protocols for reporting to law enforcement;
  - 3.Allowing the employee to move to a different work location, either temporarily or permanently;
  - 4.Temporary reassignment of certain duties, such as overnight travel;
  - 5.Providing employees an escort for entry and exit from the worksite;
  - 6.Allowing security to escort perpetrator out of the building and off the worksite premises;
  - 7.Working with the employee to address any identified concerns about the use of technology;
  - 8.Assigning a new email account or phone number if the perpetrator has been able to access the existing accounts;
  - 9.Creating a personalized safety plan in consultation with the local domestic or sexual violence program;
  - 10.If an Order of Protection is in place and has been violated (i.e. by perpetrator showing up at workplace of victim), requiring security to report the violation to law enforcement.

## **ACCOUNTABILITY FOR EMPLOYEES WHO PERPETRATE ACTS OF DOMESTIC OR GENDER-BASED VIOLENCE**

The County will hold accountable any employee who is found to have engaged in behaviors including but not limited to:

- Y.Use of County resources, including time, to commit an act of domestic or gender-based violence;
- Z.Committed an act of domestic or gender-based violence from or at the workplace, or from any location conducting County business, except for locations where employees are telecommuting; or
- AA.Used their job-related authority and/or County resources in order to negatively affect victims of domestic or gender-based violence and/or assisted perpetrators in locating a victim and/or in perpetrating an act of domestic or gender-based violence;
- BB.Acts of domestic or gender-based violence that occur outside of the workplace can subject a person to administrative and/or disciplinary action.
- CC.If the County has found that an employee has committed any act of gender-based violence, including making threats or harassment at or from the workplace using any County resources such as work time, County owned telephones or cell phones, e-mail, or by any other means, the appointing authority, in conjunction with Human Resources shall take any and all steps necessary to hold the employee accountable through administrative and/or disciplinary action in accordance with existing collective bargaining agreements, applicable statutes and/or regulations.
- DD.Actions may include, but are not limited to:
  - 1.Administrative leave;
  - 2.Cease and desist memo;

3. Relocation of employee alleged to abuse to another work site;
4. Surrender of work cell phone, laptop, etc.;
5. Termination/Section 75 Charges.

EE. The County shall determine if corrective action or disciplinary action is warranted, in accordance with existing collective bargaining agreements, relevant statutes, and regulation if the County has received verification that an employee is responsible for any gender-based violence related offense, or is the respondent on any order of protection, including temporary, final, and/or out of state orders because of a gender-based violence related offense, and said employee has any job functions that include:

1. the authority to take actions that directly impact victims of gender-based violence domestic violence; and/or
2. actions which may protect perpetrators from appropriate consequences for their behavior;
3. Any employee who intentionally uses the authority of their employment and/or misuses any County resources in order to:
  - a. negatively impact any victim of gender-based violence;
  - b. assist a perpetrator in locating a victim;
  - c. assist a perpetrator in perpetrating any act of gender-based violence; or
  - d. protect a perpetrator from receiving appropriate consequences shall be subject to corrective or disciplinary action, in accordance with existing collective bargaining agreements; applicable statutes, and regulations.