

SECTION: 6.45

SUBJECT: Domestic, Sexual and Workplace Violence

AUTHORITY: Executive Director, Chapters 110, 112, 119, and 741, 784, Florida Statutes; Chapter 60L-36, Florida Administrative Code; Resolution and Model Domestic Violence in the Workplace Policy adopted by the Governor and Cabinet - September 26, 1996 and April 15, 1997.

Policy:

The Commission will use early intervention and awareness strategies to avoid or minimize domestic, sexual and workplace violence. This policy provides guidance to employees and addresses the occurrence of domestic violence and sexual violence and its effects in the workplace.

The Commission will not tolerate domestic, sexual or workplace violence, including harassment against any employee or stakeholder, while in state owned or leased offices, facilities, work sites, vehicles or while conducting state business or using state equipment. As defined in Section 741.28(2), Florida Statutes, domestic violence means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. As defined in Section 784.046, Florida Statutes, sexual violence means sexual battery, a lewd or lascivious act committed on or in the presence of a person under the age of 16, luring or enticing a child, any forcible felony wherein a sexual act is committed or attempted, or any crime the underlying factual basis of which has been found by a court to include an act of sexual violence. Any employee, who assaults, threatens, harasses, abuses or batters someone at the workplace will be subject to disciplinary action, up to and including dismissal, notification to law enforcement and referral to the Employee Assistance Program (EAP). Law Enforcement employees must also adhere to the policies and procedures outlined in General Order 11-Duty Restrictions Related to Domestic Violence.

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Procedure:

6.45.1 Definitions

- A. Arrest or Injunction** - To be detained in legal custody or have a court order to protect against domestic violence.
- B. EAP**- The agency's Employee Assistance Program (Horizon Health www.MyFlorida.com/MyEAP) who provides EAP services for the State of Florida.
- C. Supervisory Referral** - The referral of an employee to the EAP by the employee's supervisor or appropriate authority based upon an arrest or issuance of a permanent injunction for domestic violence or the employee's request to seek such referral. Participation is voluntary. The EAP will apprise the supervisor whether the employee is participating in the prescribed treatment or intervention program.
- D. Domestic Violence** –As defined in s. 741.28 (2), F.S., and /or as defined in 741.313, F. S. “any crime underlying factual basis of which has been found by a court to include an act of domestic violence”.
- E. Sexual Violence** - As defined in Section 784.046, F. S., means sexual battery, a lewd or lascivious act committed on or in the presence of a person under the age of 16, luring or enticing a child, any forcible felony wherein a sexual act is committed or attempted, or any crime the underlying factual basis of which has been found by a court to include an act of sexual violence.
- F. Workplace Violence** – Any assault or battery occurring in the work place.
- G. Assault** – As defined in s784.011, F.S , “an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.”
- H. Battery** –Defined for this policy as the actual and intentional striking of another person against their will, or intentionally causing bodily harm to another person.
- I. Victim** – As defined in s. 741.313(1)(e), F.S., “an individual who has been subjected to domestic violence”.
- J. Employee** - Any individual in an FTE or OPS position.
- K. Family or Household Member** – As defined in s. 741.28(3), F.S., “spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit”.

6.45.2 Assistance for Victims and Perpetrators

- A.** An employee who is currently or believes they may become a victim of

domestic or sexual violence, and any employee who is aware of such are encouraged to contact either his or her supervisor, the Office of Human Resources Director or the Inspector General. An employee who is currently, or believes they may become, a victim of workplace violence, and any employee who is aware of such are encouraged, and in some cases required (as specified in 6.45.6), to contact either his or her supervisor, the Office of Human Resources Director or the Inspector General. The Commission will assist the employee with issues related to personal safety, security, referral to counseling, referral to law enforcement and other assistance as appropriate.

- B.** Employees who are perpetrators of workplace, domestic or sexual violence are encouraged to seek assistance by contacting the Office of Human Resources Director, the Inspector General or a supervisor in the employee's chain-of-command.
- C.** The Commission will treat any employee who is a victim of workplace, domestic or sexual violence with sensitivity. The supervisor should take appropriate action to change the workplace environment or workplace activities to heighten security and safety for the employee and employee's co-workers.

6.45.3 Leave and Work Schedule

- A.** Section 741.313, F.S., requires an employer to permit an employee to take, upon request, up to three working days of leave from work in any rolling twelve-month period if the employee or a family or household member of an employee is the victim of domestic or sexual violence. The statute also provides, except in cases of imminent danger to the health or safety of the employee, or to the health or safety of a family or household member, an employee seeking leave from work under this section must provide to his or her employer appropriate advance notice of the leave as required by the employer's policy along with sufficient documentation of the act of domestic or sexual violence as required by the employer. Examples of sufficient documentation include, but are not limited to, police reports, medical verification, court papers, subpoena, injunction for protection, etc.
 - 1.** According to Section 741.313, F.S., the employee may use the leave intermittently provided the use of such leave does not exceed three days in the rolling 12-month period. However, while an employer is required to provide up to three working days of leave on issues related to domestic or sexual violence, employers, at their discretion, may grant additional days of leave if needed. The employee will not be required to exhaust accrued leave prior to requesting leave without pay for issues relating to domestic or sexual violence.
 - 2.** In lieu of leave without pay, an employee may use accrued, annual and compensatory leave, or where appropriate, sick leave, in accordance with the provisions of Chapter 60L-34, Florida

Administrative Code.

3. The supervisor may adjust schedules or work assignments, or take other actions as deemed appropriate for employees who are victims of workplace, domestic or sexual violence. The supervisor may grant time off to:
 - a. Seek an injunction for protection against domestic violence or an injunction for protection in cases of repeat violence, dating violence, or sexual violence.
 - b. Obtain medical care or mental health counseling or both, for the employee or a family household member to address physical or psychological injuries resulting from the act of domestic or sexual violence.
 - c. Obtain services from a victim-services organization, including, but not limited to, a domestic or sexual violence shelter or program or a rape crisis center as a result of the act of domestic or sexual violence.
 - d. Make the employee's home secure or to seek new housing.
 - e. Seek legal assistance to address issues arising from the act of domestic or sexual violence or to attend and prepare for court-related proceedings arising from the act of domestic or sexual violence.
 - f. Other reasons related to domestic or sexual violence as appropriate.
4. The supervisor should make every effort to grant leave time or adjust an employee's work schedule to allow an employee to attend an approved batterers' intervention program for employees who are perpetrators of workplace, domestic or sexual violence.
5. It is the responsibility of the employee to incur all costs, except for services provided by the EAP, associated with participation in a batterers' intervention program.

6.45.4 Resources

- A. The Office of Human Resource maintains resource information on the agency's intranet site.
 1. Statewide Victim Information and Referral Hotline Number (800) 226-6667 (provides information on crimes compensation and victim's rights)
 2. Statewide Domestic Violence Hotline Number (800) 500-1119
 3. Florida Domestic Violence Hotline TTY 1-800-621-4202.
- B. The Department of Children and Families maintains a list of domestic violence centers and certified batterers' intervention programs.
- C. Deaf, hard-of-hearing or speech-impaired employees may use the Florida Telecommunications Relay Service by dialing 711 to access their local domestic violence center.

6.45.5 Privacy, Confidentiality, and Record Keeping

- A.** Pursuant to Section 110.1091, F.S., any communication relative to an employee's participation in the EAP or equivalent program shall be a confidential communication between program personnel of the Commission and the participating employee to the extent allowed by law.
- B.** Pursuant to 741.313 (7)(a) F.S., documents submitted to an agency by an employee that provide personal identifying information and that identifies an act of domestic or sexual violence, shall be confidential and exempt from s. 119.07 (1) and s. 24 (a), Article I of the State Constitution.
- C.** A written request for leave that is submitted by an agency employee under the requirements of the section and any agency time record that reflects such a request are confidential and exempt from s. 119.07 (1) and s. 24 (a), Art. I of the State Constitution until one year after the leave has been taken. 741.313 (7)(b) F.S.
- D.** The Commission will maintain records relating to victims or perpetrators of workplace, domestic or sexual violence with the required level of confidentiality.

6.45.6 Reporting Responsibilities

- A.** Workplace Violence: Employees are required to report to either their supervisor, the Office of Human Resources Director or the Inspector General, incidents of workplace violence or real and imminent threats of workplace violence.
- B.** Domestic or Sexual Violence: Employees arrested and/or who have an injunction entered against them for domestic or sexual violence are required to report it to either their supervisor, the Director of Human Resources or the Inspector General. The Commission will respond in accordance with this policy.

6.45.7 Disciplinary Action

Any employee of the Commission who commits a prohibited act under this policy shall be subject to disciplinary action in accordance with the Commission's disciplinary policy.

History: Est. 04/29/2008; Revised 09/08/2008

APPROVED:

Nick Wiley
Executive Director or designee

September 8, 2008
Date