

NEW JERSEY STATE MODEL WORKPLACE VIOLENCE POLICY (2019)

I. Purpose

To set forth the Office of the Public Defender's (OPD) Workplace Violence Policy and procedures concerning violence in the workplace pursuant to Executive Order 49 (1996). New Jersey State employees have a right to work in a safe and secure environment.

II. Policy Statement

The OPD Workplace Violence Policy is committed to promoting a safe environment for employees, clients, customers and visitors and to work with employees to maintain a work atmosphere that is free from violence, harassment, intimidation, and other disruptive behavior. OPD has a zero tolerance for such behavior in the workplace. Employees at all levels are encouraged to report threatening or intimidating behavior to the appropriate authorities in and outside the OPD, which, in turn, will be promptly investigated and if substantiated remedied with appropriate administrative or disciplinary action.

III. Definitions

Workplace may be any location, either permanent or temporary, where an employee performs any work-related duty (any field location, any off-site business-related social function, or any facility where state business is conducted.) More specifically, a workplace includes, but is not limited to, office buildings and surrounding perimeters, including parking lots, field locations, clients' homes as well as traveling to and from work assignments.

Workplace Violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the workplace. It ranges from threats and verbal abuse to physical assaults and even homicide. It can involve employees, clients, customers and visitors.

The following acts are considered situations involving workplace violence:

- Violent acts by anyone who has no other connection with the workplace but enters with the intent to commit a robbery or another crime.
- Violence directed at employees by customers, clients, patients, students, inmates, or any others to whom an organization provides services.
- Violence by an employee against customers, clients, patients, students, inmates, or any others to whom an organization provides services.
- Violence against co-workers, supervisors, or managers by a present or former employee.
- Violence committed in the workplace by someone who does not work there, but has a personal relationship with an employee (for example, this can be an abusive spouse or domestic partner).

Threats or Threatening Behavior is overt expression, verbal or nonverbal, of an intent to cause physical or mental harm. It is intended to instill fear in the recipient thereof. An expression constitutes a threat without regard to whether the party communicating it has the present ability to carry out the threat or without regard as to whether the expression of harm is one of an immediate or future nature.

Harassment or Intimidation is threats or other conduct, which in any way, create a hostile environment; impair agency or department operations; or frighten, alarm or inhibit others. Psychological intimidation or harassment includes making statements which are false, malicious, disparaging, derogatory, rude, disrespectful, abusive, obnoxious, insubordinate, or which have the intent to hurt others' reputations. Physical intimidation or harassment may include holding, impeding or blocking movement, following, stalking, touching, or any other inappropriate physical contact or advances.

Note: Harassment or intimidation based on an individual's protected class are also covered by the New Jersey State Policy Prohibiting Discrimination in the Workplace and should therefore be reported to OPD's EEO Officer

Stalking is a malicious course of conduct that includes approaching or pursuing another person with intent to place that person in reasonable fear of serious bodily injury or death to him/herself or to a third party.

Physical Assault is the act of inflicting physical harm or unwanted or hostile physical contact of a non-sexual or sexual nature, including but not limited to, hitting, fighting, pushing, shoving or throwing objects.

Note: Physical assault of a sexual nature such as sexual assault or rape are also covered by the New Jersey State Policy Prohibiting Discrimination in the Workplace and should therefore be reported to OPD's EEO Officer. Such conduct should also be reported to the appropriate law enforcement.

Property Damage is damage to property which includes property owned or utilized by the State, its employees, clients and visitors.

Weapon shall mean any instrument which will cause bodily harm, physical damage, or death when used in the ordinary and usual manner contemplated by its design and construction and includes, but is not limited to: firearms, clubs, knives, stun guns, brass knuckles and martial arts weapons.

Employee Advisory Service provides professional referral services and counseling to state employees and their dependents who are dealing with personal, family or work-related issues that may be adversely impacting work performance including situations involving workplace violence.

IV. Prohibited Actions

Prohibited behaviors that are considered “acts or threats of violence” under this policy include, but are not limited to, the following:

- Disruptive or aggressive behavior intended to disturb, frighten, interfere or prevent normal work activities (such as yelling at others, use of abusive language, shaking fists at another person, punching a wall).
- Any type of physical contact to cause harm (hitting, shoving, slapping, punching or other physical attack).
- Threatening to harm an individual or his/her family, friends, or property. This includes direct or indirect threats such as sending threatening letters, threatening phone calls or threatening emails.
- Conduct that includes repeated verbal abuse and intimidation, profanity, or unwanted sexual comments, advances or physical contact. It should be noted that allegations of unwelcome or unwanted sexual comments, advances, or physical contact are covered under the New Jersey State Policy Prohibiting Discrimination in the Workplace and should be reported to the appropriate law enforcement as it may also subject the aggressor to criminal charges.
- Breaking or throwing objects.
- Making harassing or threatening telephone calls, or sending harassing or threatening written or electronic communications.
- Intimidating or attempting to coerce an employee to do wrongful acts.
- Concealing or using a weapon.

Other Forms of Violence

Bullying is a form of repeated aggressive, humiliating, and intimidating behavior over time to intentionally hurt another person, physically or mentally. Bullying is characterized by an individual behaving in a certain way to gain power over another person. Examples of this behavior include but are not limited to outbursts of anger, using derogatory names, withholding necessary work information, spreading rumors, or ridiculing someone in front of another. Like any other disruptive or violent behavior, conduct that undermines an employee’s right to dignity at work is a violation of this policy.

Obsession/Stalking is another form of workplace violence which occurs when an individual repeatedly seeks to establish a personal relationship with another, contrary to the wishes of the victim. The offender simply refuses to stop the escalating

attempts to maintain attachment with the victim, even when the victim tries to set limits or end the attachment. Obsessed individuals have been known to be a threat to the safety of the individual with whom they are obsessed. Employees are encouraged to seek assistance from their supervisor and the Office of Human Resources if they believe that someone has an obsessive attachment, or they are being stalked.

Domestic Violence is a pattern of abusive and controlling behaviors used by one person in an intimate relationship over another to gain power and control. This may include verbal, emotional and physical abuse. Employees who are victims of domestic violence are strongly encouraged to seek assistance. The Employee Advisory Service is available to help at 1-866-EAS- 9133.

Victims of domestic violence, or other personal problems, who believe that violence may extend to the workplace are encouraged to notify their supervisor and the Office of Human Resources. OPD understands the sensitivity of the requested information and will maintain confidentiality, to the extent possible, to respect the employee's privacy. In accordance with NJSA 11A:2-6a, Human Resources Officers shall follow the Uniform Domestic Violence Policy issued by the Civil Service Commission.

V. Policy Provisions

OPD will not tolerate any behavior of any employee, customer, contractor, vendor or any other person that reasonably poses a threat to the safety and security of, or that harms any OPD employee or OPD property. In furtherance of this policy, all employees, including directors, managers and supervisors, have a responsibility to adhere to work practices designed to make the work place more safe and secure. All employees, including directors, managers and supervisors, are responsible for using safe work practices; for following all OPD directives, policies and procedures, the OPD Workplace Violence Crisis Management Plan, and the OPD Emergency Operations Plan; and for assisting in maintaining a safe and secure work environment. Employee reports of violence or threats of violence will be held in confidence to the maximum extent possible and subject to all applicable laws. OPD will not tolerate any form of retaliation against an employee for making a report under this policy.

A. Protective or Restraining Orders

OPD employees who have been granted court-ordered protection which extends to the workplace must notify his/her supervisor and the Office of Human Resources, who will work together to develop a plan to ensure compliance with the order and maintain the safety of the employee and others at the workplace.

B. Weapons in the Workplace

Under no circumstances may an employee or member of the public (other than an appropriately licensed law enforcement or security officer) possess any form of weapon such as a firearm, knife (with a blade longer than 3 inches) or explosive device on their person or in their vehicle or in state vehicles. If an individual has a permit to carry such type of weapon, this policy shall supersede that permit. In

addition, use of or intent to use any other object as a weapon is also a violation of this policy. If the above situation exists, such individuals will be asked to remove any form of weapon from the worksite. Employees who become aware of the presence of a weapon should immediately report it to management. If management is unsuccessful in obtaining voluntary consent to this request, law enforcement assistance shall be sought.

C. Imminent or Actual Violence Situations

Actual threats should always be taken seriously and responded to immediately. If an employee feels that someone presents a danger or demonstrates peculiar behavior, he or she should take proper precaution, and promptly report such behavior to his or her supervisor or manager.

Moreover, if circumstances indicate imminent or actual danger involving weapons or personal injury, employees should take the necessary precautions to assure their own safety and the safety of others by dialing 9-911 from state phone lines (911 from cell phones) for immediate law enforcement and medical assistance.

D. Establishment of a Crisis Management Team

As part of this policy the OPD hereby establishes a Crisis Management Team to oversee the development of a workplace violence prevention plan, to respond to emergency situations involving workplace violence, and to ensure that this policy is implemented. Assistant Director of Investigations /Workplace Violence Control Plan Coordinator Gladys Rodriguez is designated as the authorized point person for the Crisis Management Team. Gladys Rodriguez, Workplace Violence Control Plan Coordinator, will receive the incident reports and conduct the investigations. In the event of a violent incident, a minimum of 3 members from this group will assemble, direct the agency response, and ensure that an incident report is filed with the Civil Service Commission.

Permanent Members

Gladys Rodriguez, Assistant Director of Investigations/Workplace Violence Control Plan Coordinator

Lauren S. Michaels, Esq., Equal Employment Opportunity/Affirmative Action Officer

Beth Kelly, Director of Investigations

Marla Friedman, Employee Relations Coordinator

Responsibilities of the Crisis Management Team – Gladys Rodriguez, Assistant Director of Investigations/Workplace Violence Control Plan Coordinator, shall function as the main point of contact for the Crisis Management Team and will ensure that the Team:

- Develops guidelines outlining how crisis incidents should be responded to and managed. The guidelines and procedures should relate to the severity level of the incident. Include protocol for reporting incidents to State Police and/or law enforcement authorities.
- Identifies and develops procedures for securing work areas where an incident

occurred and a plan for ensuring the safety of employees and others remaining in the area.

- Identifies and develops procedures that designate the ways that crisis communications should be managed. This should include distinct modes of communications with employees, family members of the victim(s), the media, etc.
- On an annual basis, reviews the various workplace violence incident report forms, and the administrative, disciplinary, and/or legal actions that may be administered in response to an incident to ensure they are appropriate and current.
- Identifies the specific roles and responsibilities of each team member.

VI. Consequences for Those Who Violate This Policy

Appropriate disciplinary, administrative or criminal action shall be taken against any person who violates the provisions of this policy. Administrative or disciplinary action can take many forms depending on the circumstances, up to and including immediate suspension, removal, and/or forfeiture of employment.

Any person who engages in any act of violence in a OPD facility may be removed from the workplace as quickly as safety permits, and may be banned from entering OPD facilities until an investigation is completed.

VII. Incident Reporting and Investigating

All incidents or alleged incidents of workplace violence shall be reported to Assistant Director of Investigations Gladys Rodriguez, immediately at gladys.rodriguez@opd.nj.gov, followed by submittal of the “Workplace Violence Initial Incident Report Form” (attached) within 24 hours of an alleged workplace violence infraction.

All reported incidents of workplace violence shall be investigated under the guidance of the OPD Workplace Violence Control Plan Coordinator.

No employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall be subjected to adverse employment consequences based upon such involvement or be the subject of other retaliation.

Roles and Responsibilities

It is important to understand the roles and responsibilities necessary to support and sustain a work environment in which violent or potentially violent situations are effectively addressed. There should be a focus on prevention by increasing employee understanding of the nature of workplace violence, how to respond to it, and how to prevent it.

It is up to each employee, supervisor or manager to assist with making the OPD a safe workplace free of violence, harassment, intimidation, and other disruptive behavior for all.

Employee Responsibilities:

Employees should familiarize themselves with the policy and are responsible for the following:

- Immediately notify their supervisor or manager of the work unit if they are a victim or witness an act of violence or other violation of this policy. If the supervisor or manager is the perpetrator of the violence, the incident should be reported to Assistant Director of Investigations Gladys Rodriguez.
- Document the incident (in writing) as soon as possible after it occurs.
- Complete and forward an incident report to the supervisor or manager, or where the supervisor or manager is the perpetrator of the violence to Assistant Director of Investigations Gladys Rodriguez, within (24) hours of an alleged workplace violence infraction.
- If applicable, complete and forward an Accident Report, to the supervisor or manager, or where the supervisor or manager is the perpetrator of the violence to Assistant Director of Investigations Gladys Rodriguez, within (24) hours upon sustaining any injury related to workplace violence.
- Cooperate with any subsequent investigation of workplace violence incidents.
- Be familiar with the services provided by the Employee Advisory Services.
- Inform managers or supervisors about restraining or protective court orders related to domestic situations so that assistance can be offered at the work place.

Unit Supervisor/ Manager Responsibilities:

Acts of aggression and violent behavior require immediate action. Managers and Supervisors are responsible for assessing situations to ensure the safety and security of employees and are responsible for the following actions:

- Obtain emergency police intervention or medical response, as needed.
- Take all reported incidents of workplace violence seriously.
- Immediately notify, the Assistant Director of Investigations Gladys Rodriguez at 609-292-7087.
- Notify and brief their division director or senior management designee of the division.
- Interview and obtain written statements from witnesses once the situation is brought under control.
- Complete the “Workplace Violence Initial Incident Report Form”, and forward the completed form and witness statements to Assistant Director of Investigations Gladys Rodriguez no later than one (1) business day following (receipt of and) completion of the incident form. Submit the “Workplace Violence Supplemental Report Form” (attached) which will contain their findings, actions taken and any recommendations to Assistant Director of Investigations Gladys Rodriguez within 10 days of the incident.
- Sign (or complete, if employee is unable to do so) an Accident Report, arising from any reported incident of workplace violence, and forward the completed report to Assistant Director of Investigations Gladys Rodriguez no later than one (1) business day following the receipt of and completion of accident report.
- Conduct, assist in, or cooperate with any subsequent investigations of workplace

violence.

- Provide feedback to employees regarding the outcome of their reports concerning violent or potentially violent incidents.
- Encourage employees who demonstrate signs of stress or evidence of possible domestic violence to seek assistance, such as the Employee Advisory Service.

Office of the Public Defender- Workplace Violence Control Plan Coordinator Responsibilities:

The following action should be taken by designated Point Person within (48) hours following alleged incident:

- Respond immediately to the incident.
- Assess reported incidents to determine the need to involve the Crisis Management Team.
- Advise unit supervisor/management on appropriate incident response measures.
- Conduct investigation, including obtaining interviews, written statements and other documentary evidence from the victim, the accused and all witnesses to the incident.
- Ensure a final report is issued after the investigation to the Public Defender. Such report shall include a summary of the interviews, findings of fact, analysis, conclusion, and recommendation for appropriate administrative and/or disciplinary action.
- Recommend to the agency or department head, or his or her designee, appropriate administrative/disciplinary or other action within 60 days of the initial reported incident/allegations.
- Track workplace violence incidents/allegations in accordance with State Policy.

VIII. Maintenance and Support

A. Employee Advisory Service (EAS)

Professional counseling services, provided by the Employee Advisory Service (EAS), will be used to assist in the assessment of violent or potentially violent situations, to assess an employee's fitness for work and to counsel victims of violence in the workplace. Private medical services provided by State-appointed doctors may also be used to assess an employee's fitness for work, following a verified incident of workplace violence covered by this policy.

B. Health and Safety

With the Occupational Safety and Health Act of 1970, Congress created the Occupational Safety and Health Administration (OSHA) to assure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education and assistance.

If applicable, identify the role and responsibilities of the agency/department Health and Safety Office.

C. Recordkeeping

Each State agency will be responsible for maintaining records on workplace violence. Injuries resulting from workplace violence shall be reported to the Department of the Treasury, Division of Risk Management and shall be recorded as required under the Public Employees Occupational Health and Safety (PEOSHA) procedures. All incident reports shall be maintained as confidential records, to the extent practicable and appropriate, and kept on file in accordance with State document retention schedules.

D. Training and Education

Training and education will be provided to all employees to increase awareness about workplace violence. This will include information to help employees understand what workplace violence is, and how it can be prevented. Employees are also encouraged to take *Active Shooter* training annually and *New Jersey State Workplace Violence: Recognize, Prevent, and Report* training upon hire and biennial thereafter. Any other associated training on this topic is encouraged.

E. Communications

Copies of this policy and the "Incident Report Form" shall be distributed to all OPD employees upon hire. Any revisions and/or additions made to this policy shall be distributed to all current and future employees in accordance with the effective date.

A copy of the OPD's Policy on Violence in the Workplace shall be posted in all department facilities and should be made accessible via OPD intranet. A copy, including any supplements, shall also be provided to the Civil Service Commission.

Public information regarding any incident of workplace violence involving an OPD employee, or occurring in an OPD facility, shall be released only by, or with approval of the Department's Director of Communications, and in accordance with the requirements of the Open Public Records Act (OPRA).