



DOMESTIC VIOLENCE AND WORKPLACE VIOLENCE POLICY

1 PURPOSE

The purpose of this policy is to establish guidelines for employees and management to address domestic violence, sexual assault, and stalking in the workplace, as well as the effects of these offenses in the workplace. Another purpose of this policy is to provide guidance for employees and management regarding available support and assistance, including a confidential means to seek assistance.

2 SCOPE

This policy applies to all DFA employees.

3 REFERENCES

Executive Order 2008-047; 30-3-11(A) NMSA.

4 BACKGROUND

The State of New Mexico and DFA are committed to promoting the health and safety of its employees. Domestic violence, sexual assault and stalking permeates the lives and compromises the safety of thousands of New Mexico State employees each day, with tragic, destructive, and sometimes fatal results. Domestic violence occurs within a wide spectrum of relationships, including spouses, former spouses, current or former family members, co-parents of a child or between individuals who have or have had a dating or intimate relationship. Sexual assault and stalking may occur within any of those same relationships or may be perpetrated by an individual who has no direct relationship with the victim.

In addition to exacting a tremendous toll on the individuals it directly affects, the effects of domestic violence, sexual assault and stalking often spill over into the workplace,

compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover.

5 DEFINITIONS

5.1 “Agency head” means the DFA Cabinet Secretary.

5.2 “Batterer, Perpetrator, or Abuser” means an individual who commits domestic violence, sexual assault, or stalking.

5.3 “Bullying” means unreasonable or inappropriate behavior which intimidates, harasses, degrades, humiliates, condescends, or offends.

5.4 “Designated Family Member” means a victim who is the employee’s minor child or an incapacitated adult, where the employee is the guardian of the incapacitated adult.

5.5 “Domestic Violence” means a pattern of coercive behavior that is used by a person against a household member, as defined in NMSA 30-3-11(A), to gain power and control over the other household member in the relationship. This behavior may include any of the following: physical violence, sexual abuse, emotional and psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, economic control, and destruction of personal property.

5.6 “Domestic Violence Response Team/Responder” means designated employees, with specialized training to handle disclosures, referrals, and office safety planning and with management or supervisory responsibility, are Responders.

5.7 “Reasonable Person” is a standard used to determine reasonable conduct during a given situation; this standard is a cabinet secretary determination made on a case-by-case basis.

5.8 “Sexual Assault” means an act of sexual violence whereby a party forces, coerces, or manipulates another to participate in sexual activity. This behavior may include rape, attempted rape, child sexual assault, attempted child sexual assault, criminal sexual contact, exposure, and voyeurism.

5.9 “Stalking” means purposely pursuing a pattern of conduct directed at a specific person when the individual knows or should know that the pattern of conduct would cause a reasonable person to fear for his or her safety or the safety of a household member. The “pattern of conduct” means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by an action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.

5.10 “Supervisory Chain” refers to the hierarchical structure within DFA. An employee’s immediate or first line supervisor is the first step “up” the supervisory chain.

5.11 “Survivor or Victim” is an individual subjected to domestic violence, sexual assault, or stalking, child sexual assault, criminal sexual contact, exposure, and voyeurism.

5.12 “Threat” means any expressed or implied behavior which suggests future harm of any type can be avoided upon compliance with the wishes of the individual exhibiting such behavior.

5.13 “Workplace” means an employee is considered to be in the workplace when the employee is conducting state business, is using state resources or equipment, is using a vehicle that is owned or leased by DFA or is attending work-related events or traveling on work related business.

5.14 “Workplace Safety Plan” is a strategy developed in collaboration with a victim or survivor to implement workplace safety options.

6 WORKPLACE VIOLENCE POLICY

It is DFA's policy to promote a safe work environment for its employees. DFA is committed to working with its employees to maintain a work environment free from violence, threats of violence, intimidation, sexual assault, menacing behavior, stalking, and other disruptive behavior. Violence, threats, intimidation, sexual assault, menacing behavior, stalking, and other disruptive behavior in DFA workplace will not be tolerated and is strictly prohibited; that is, all reports of incidents will be taken seriously and will be dealt with appropriately. The possession of weapons in the workplace, threats, threatening or menacing behavior, stalking, or acts of violence against employees, visitors, guests, or other individuals by anyone on DFA or other state property is strictly prohibited. Any violation of this policy will lead to disciplinary actions up to and including dismissal and the involvement of appropriate law enforcement authorities as needed.

Any person who engages in violence, threats, sexual assault, menacing behavior, intimidation, stalking and other disruptive behavior on DFA or other state property must be removed from the property as quickly as safety permits; may be placed on administrative leave pending the outcome of an investigation into the incident; may be required to participate in mandatory Employee Assistance Professionals ("EAP") sessions; may be required to provide a fitness for duty certification from a licensed medical doctor, psychologist, or psychiatrist; and/or, may be subject to disciplinary action, up to and including dismissal.

DFA may make a referral to appropriate law enforcement agencies for investigation and criminal prosecution of any person involved in violence, threats, sexual assault, menacing behavior, intimidation, stalking, and other criminal behavior.

No existing DFA policy, practice, or procedure should be interpreted to prohibit decisions designed to prevent a threat from being carried out, a violent act from occurring, or a life-threatening situation from developing.

Any form of retaliation against employees for making a bona fide report concerning workplace violence, threats, sexual assault, menacing behavior, intimidation, stalking, and other disruptive behavior is prohibited.

If an investigation conducted pursuant to this policy reveals that a report or interview was intentionally falsified or made maliciously, the employee who provided the false information or made the malicious report may be subject to disciplinary action, up to and include dismissal, and/or referred to appropriate entity for potential criminal prosecution.

7 REPORTING PROCEDURE FOR WORKPLACE VIOLENCE

It is the goal of DFA to promote safe, respectful and productive work environment in which to deliver services to the public and other state and private agencies. DFA will not tolerate, condone or ignore workplace violence. DFA requires every employee to actively cooperate to implement this policy effectively and maintain a safe working environment.

Each employee is responsible for doing his or her part to keep the workplace free of violence. Workplace violence includes intimidating, hostile, threatening, or violent behavior by employees or non-employees (vendors, job applicants, visitors, spouses, etc.) against self, others, or DFA property.

Do not ignore violent, threatening, intimidating or other disruptive behavior. If an employee observes or experiences such behavior by anyone on DFA property or at a DFA-sponsored event, the employee should report it immediately to a supervisor or manager. Supervisors and managers who receive such reports should seek advice from the Office of General Counsel regarding initiating appropriate action and investigating the incident.

Any employee who experiences, observes, or has knowledge of actual or threatened workplace violence, including domestic violence, has the responsibility to report the situation as soon as possible.

7.1 Responsive Action:

- a. In case of an actual or imminent threat of violent behavior, call 911.
- b. Any employee who believes that he or she is a victim of violent conduct, whether in the workplace or non-work related, may contact the Employee Assistance Program to obtain advice in dealing with the situation. In addition, the employee should report the details to the DFA Human Resources Bureau (HRB).
- c. A report shall be made to the employee's supervisor and/or to the Human Resources Bureau. If the employee's supervisor is the problem source, then the impacted employee should contact the second level supervisor and/or the Office of General Counsel.
- d. Supervisors and managers who receive such reports shall seek advice from the Human Resources Bureau and the General Counsel regarding investigating the incident and initiating appropriate action.
- e. All reports of workplace violence will be investigated promptly, impartially, and as confidentially as possible.
- f. A resolution of each report should be reached and communicated to all parties involved, as soon as possible.

7.2 Investigation and Appropriate Action:

- a. After the investigation, a written report is submitted to DFA management, a review and decision will be rendered for appropriate action.
- b. If the investigation determines that a report was intentionally falsified or made maliciously, the employee who provided the false information may be subjected to appropriate disciplinary action, and/or referred to appropriate entity for potential criminal prosecution.
- c. If the investigation determines that an employee violated this policy, the employee will be appropriately disciplined, and/or referred to the appropriate entity for criminal prosecution.

7.4 Employee Responsibility:

DFA employees are responsible for notifying their supervisor of any threats that they have witnessed, received, or have been told that another person has witnessed or received, or have been told that another person has witnessed or received, including those related to domestic violence. Even without an actual threat, employees should also report any behavior they have witnessed which they regard as threatening or violent, when the behavior is job related or might be carried out on a DFA controlled site, or is connected to this DFA and its employees. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person or persons who were threatened or were the focus of the threatening behavior.

If the supervisor is not available or is involved in the threat, the employee should report the threat to Human Resources Bureau or another member within the employee's supervisory chain. In all cases, the supervisor or other management representative shall notify Human Resources of the report. No employee should ever directly confront a perpetrator.

8 CONFIDENTIALITY

Information related to an employee being a victim or a reporting employee shall be kept confidential, to the extent possible.

8.1 Protective or Restraining Orders:

A victim of domestic violence who believes the violence may extend into the workplace, or employees who believe they may be subjected to violence extending into the workplace, must notify their supervisor and/or the HR Manager, so that appropriate action may be taken to protect all employees.

All individuals who apply for and obtain a protective or restraining order which lists DFA work locations as being protected areas, must provide their supervisor or HR Manager a copy of the petition and order.

Employees shall not carry firearms or other dangerous weapons on DFA premises or during work hours, nor in state vehicles. Any violation of this policy may lead to disciplinary action, up to and including termination.

9 DOMESTIC VIOLENCE IN THE WORKPLACE

DFA is committed to heightening awareness of domestic violence and providing guidance for employees and management to address the occurrence of domestic violence and its effects on the workplace, thus DFA will make assistance available to employees involved in domestic violence. This assistance may include a confidential means for coming forward for help, resource and referral information, special considerations at the workplace for employee safety, work schedule adjustments, or leave necessary to obtain medical, counseling, or legal assistance, and workplace relocation (if available). In responding to domestic violence, DFA will maintain appropriate confidentiality and respect for the rights of the employee/s involved.

DFA will not deny job benefits or other programs to employees based solely on domestic violence related problems. When employees confide that a job performance or conduct problem is related to domestic violence, in addition to appropriate corrective or disciplinary action consistent with DFA policy and procedure, a referral for appropriate assistance may be made to the employee.

10 VIOLENCE TO SELF

Employees have a responsibility to report suicidal comments to a manager or Human Resources Representative. DFA expects all employees to take all suicidal comments seriously.

10.1 Interventions for Suicide Only:

- a. If actively suicidal, call 911, call emergency contact, and get the employee to an emergency room.

b. The HR Representative will call the Employee Assistance Program (“EAP”) 800 number to consult with an Employee Assistance Consultant about the comments or concerns.

c. The HR Representative will converse with the person who allegedly made the comments, i.e. what was said, what is going on, but will not attempt to diagnose.

d. The HR Representative will refer to EAP crisis line for initial assessment, even if the employee was being facetious.

10.2 Resources

a. EAP: 1-833-515-0771

b. National Suicide Prevention Lifeline: 1-800-273-8255

c. New Mexico Suicide Intervention: 1-505-820-1066

11 LEAVE OPTIONS FOR EMPLOYEES EXPERIENCING THREATS OF VIOLENCE

DFA will make every effort to assist an employee experiencing threats of violence. If an employee needs to be absent from work due to threats of violence, the length of the absence will be determined by the individual’s situation through collaboration with the employee, the employee’s supervisor, and Human Resources Bureau.

12 REVIEW AND APPROVAL

The DEPARTMENT OF FINANCE AND ADMINISTRATION WORKPLACE VIOLENCE POLICY is effective upon the signature of the cabinet secretary.

Approved by:



Wayne Propst, Cabinet Secretary

12.29.23

Date