DOMESTIC VIOLENCE AND THE WORKPLACE

Summary

The University at Buffalo will respond effectively to the needs of victims of domestic violence and take appropriate actions to keep employees safe from incidents related to domestic violence.

Policy

BACKGROUND

Domestic violence permeates the lives and compromises the safety of thousands of adults and children each day, with tragic, destructive, and often fatal results. Domestic violence occurs within a wide spectrum of intimate and familial relationships including married and formerly married couples; couples with children in common; couples who are dating or have dated; gay, lesbian, bisexual, and transgender couples; couples who live together or have lived together in the past; and people sharing a household including children and elders.

In addition to exacting a tremendous toll on the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers resulting in lost productivity and increased health care costs, absenteeism, and employee turnover.

New York State (NYS) has established that victims of domestic violence are now a protected class in the employment provisions of the NYS human rights law. This law prevents an employer from firing or refusing to hire any individual based on their status as a victim of domestic violence and prevents discrimination in compensation or in the terms, conditions, or privileges of employment.

POLICY STATEMENT

The University at Buffalo (UB, University), will respond effectively to the needs of victims of domestic violence and take appropriate actions to keep employees safe from domestic violence related incidents to the fullest extent possible without violating any applicable rules, regulations, statutory requirements, contractual obligations, or collective bargaining agreements. The University will investigate an act or acts of domestic violence occurring on the campus, whether or not an official complaint has been received.

Representatives from the University Police Department (UPD), Employee Assistance Program (EAP), Employee Relations (ER), Equity, Diversity and Inclusion (EDI), and State and Research Foundation (RF) Benefits Administration, are available to support those in need of assistance concerning domestic violence.
GUIDELINES

Employee Awareness

The University will educate employees regarding the effects of domestic violence, ways to prevent and curtail violence, and methods to report such violence to authorities.

Information on domestic violence and available resources will be posted and, if necessary replaced or reposted annually, in areas where other employment policies and information are traditionally posted.

- The University includes information on domestic violence awareness and services in written materials provided to new employees and as part of new employee orientation.
- The University advises employees that NYS law prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims. The law prohibits designation of domestic violence as a pre-existing condition. An insurance company cannot deny or cancel an insurance policy or require a higher premium or payment because the insured is or has been a domestic violence victim. [§2612 of the Insurance Law.]
- The University integrates information on domestic violence and the company's domestic violence and the workplace policy into existing materials and literature, policies, protocols, and procedures, as appropriate.
- The University may conduct domestic violence awareness activities such as "brown bag" lunch programs and other health and wellness programs.

Non-Discriminatory Guidelines for Victimized Employees

The University will be responsive to the needs of victims of domestic violence to the fullest extent possible while ensuring that personnel policies and procedures do not discriminate against victims of domestic violence.

- NYS law makes it a crime for employers to penalize an employee who, as a victim or witness of a criminal offense, is appearing as a witness, consulting with a district attorney, or exercising his/her rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law (Penal Law §215.14). This law requires employers, with prior day notification, to allow time off for victims or subpoenaed witnesses to exercise their rights.
  o The University, upon request, will assist the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of being a victim of domestic violence. If an employee requests time off to care for and/or assist a family member who has been a victim of domestic violence, the University will evaluate the employee's request for leave for eligibility under existing law, collective bargaining agreements applicable to the employee, and attendance rules.
  o The University understands that victims of domestic violence may lack the required documentation or have difficulty obtaining the required documentation to justify absences without compromising their safety. Therefore, Employee Relations (ER) will consult with the employee to identify the documentation he/she might have or be able to obtain, that will not compromise his/her safety-related needs and will satisfactorily meet the documentation requirement of the employer. Because there is an issue of confidentiality associated with the submission of documentation in these instances, the University may choose to consult with the Attendance and Leave Unit at the Department of Civil Service when questions arise.
- Employees who are victims of domestic violence and who separate from a spouse (or terminate a relationship with a domestic partner, if covered), will be allowed to make
reasonable changes in benefits at any time during the calendar year, in accordance with statute, regulation, contract, and policy.

- The University will not make inquiries about a job applicant's current or past domestic violence victimization, and employment decisions will not be based on any assumptions about or knowledge of such exposure.

- If it is determined that an employee's work performance difficulties are the result of domestic violence, the University will utilize all reasonable options to resolve work-related performance problems consistent with applicable collective bargaining unit agreements, regulations, statute, and policy, and may make a referral to the Employee Assistance Program (EAP).

- If determined to be in the best interest of the employee to take a leave of absence, Human Resources will inform the employee of his/her potential eligibility for unemployment insurance and respond to requests for information needed in the claims process.

**Workplace Safety Plans**

In accordance with applicable policies and procedures, UB will:

- make employees aware of their options and available resources
- help employees safeguard each other
- encourage employees to report domestic violence to designated officials.

Employee Relations (ER) and Equity, Diversity and Inclusion (EDI) are the designated liaisons between the University and State University of New York (SUNY) System Administration and the NYS Office for the Prevention of Domestic Violence (OPDV).

UB maintains emergency response procedures for contacting University Police and other law enforcement agencies when appropriate, and provides employees with clear instruction on the steps to take if employees observe anyone engaging in threatening behavior.

University Police will discuss the limitations on confidentiality under NYS law with victims of domestic violence.

To protect all employees, including the victim, the University will take actions to assist in mitigating the occurrence of domestic violence in the workplace. Assistance may include, but is not limited to:

- advising co-workers and others (including union representatives, as applicable) of a situation, on a need-to-know basis
- establishing procedures for alerting University Police
- temporarily relocating the victim to a secure area
- providing options for voluntary transfer or permanent relocation to a new work site and/or escort for entry to and exit from the building
- permitting a change of work schedule and assignment of a parking space
- responding to telephone, fax, email, or mail harassment
- keeping a photograph of the abuser and/or a copy of any existing court orders of protection (OP) in a confidential on-site location.

A representative from one or more of the responsible University departments (Employee Relations (ER), University Police Department (UPD), Employee Assistance Program (EAP), or Equity, Diversity and Inclusion (EDI)) will collaborate as necessary and work with the employee to develop a plan to ensure the safest possible work environment for the employee and the rest
of the staff. With the permission of the employee, this may include implementing actions to mitigate the occurrence of domestic violence as follows:

- providing a copy of the order of protection (OP) and/or photo of perpetrator to security or front desk personnel
- discussing who should be told if there is no security or front desk staff, such as a supervisor/colleague who is able to assist with identifying the perpetrator
- blocking the subject perpetrator of the order of protection (OP) from being entered into the visitor management system, if available
- implementing the actions to mitigate the occurrence of domestic violence in the workplace bulleted above
- creating a personal workplace safety plan.

The University will comply and assist with enforcement of all known court orders of protection (OP), particularly orders in which abusers have been ordered to stay away from the work site. If requested by the victim of domestic violence or law enforcement, the University will provide information in its possession concerning an alleged violation of an order of protection (OP). Employees are encouraged to bring their orders of protection (OP) to the attention of the University Police Department, Bissell Hall, Buffalo, NY 14260, Tel. (716) 645-2222. Once the order of protection (OP) has been brought forward, the document will be kept on file at the University Police Department. The employee is responsible for notifying University Police of any changes to the order of protection (OP).

The University will address any additional concerns raised by a situation in which both the victim and offender are employed at the University.

Confidentiality of Information

Information related to an employee being a victim of domestic violence will be kept confidential except when dictated by law, UB policy, or when necessary to protect the safety of individuals.

- Reported information is kept private to the extent possible by federal and state law, and University policy, however NYS law includes clear limitations on legal confidentiality.
  - Confidentiality exists in certain instances for medical personnel, counselors, social workers, clergy, attorneys, and rape crisis counselors, but information may be required to be released through a subpoena or court order.
  - Information reported to anyone not in one of the above named positions may have to be disclosed where otherwise required by law or pursuant to a subpoena.
  - When medical information is received from an employee who is the victim of domestic violence, such medical information will be kept confidential to the extent permitted and required by law including, but not limited to, the Americans with Disabilities Act and the Family and Medical Leave Act.
- When it is determined that maintaining confidentiality puts the victim or other employees at risk of physical harm, those individuals deemed necessary to protect the safety of the victim and other employees, or to enforce an order of protection (OP), will be given the minimum amount of information required. Where possible, the University will provide the victim of domestic violence with notice of the intent to provide information to other employees and/or safety personnel.
- Some examples of situations where confidentiality cannot be maintained include:
government officials investigating a report of domestic violence or incident that occurred in the workplace will be provided relevant information in accordance with legal requirements when requested

supervisors, managers, and first responders may be informed about a report of domestic violence or incident that occurs in the workplace, if it is necessary to protect the safety of the employee or the employee’s co-workers.

Accountability for Employees Who Are Offenders

Employees may be subject to corrective or disciplinary action in accordance with collective bargaining agreements, statutes, and regulations in the following situations:

• an employee has threatened, harassed, or abused an intimate partner using University resources such as work time, workplace telephones, fax machines, mail, email, or other means

• an employee intentionally uses his/her job-related authority and/or University resources in order to:
  o negatively impact a victim of domestic violence
  o assist an abuser in locating a victim
  o assist an abuser in perpetrating acts of domestic violence
  o protect an abuser from appropriate consequences of their behavior

• an employee whose job functions include the authority to take actions that directly impact victims of domestic violence, who act inappropriately or abuse their authority.

Firearms

Pursuant to NYS penal law, it is illegal for anyone to carry firearms on campus except for police officers. Additionally, federal law includes prohibitions relating to shipping, transporting, or receiving firearms or ammunition.

University police officers (the only employees authorized to carry a firearm as part of their job responsibilities) must notify the campus Chief of Police or designee if they are arrested on a domestic violence-related offense and/or served with an order of protection (OP). Under certain circumstances, such police officers are responsible for surrendering their issued firearms. Should such a police officer fail to comply with these requirements, he/she may be subject to corrective or disciplinary action in accordance with existing collective bargaining unit agreements, statute, or regulations. In addition, law enforcement will review for possible criminal action.

Training

All personnel designated to provide support for victims of domestic violence (University Police Department (UPD), Employee Assistance Program (EAP), Employee Relations (ER), and Equity, Diversity and Inclusion (EDI)) will complete training related to domestic violence. Additionally, the University will make available to staff, training materials and/or sessions on domestic violence and its impact on the workplace.

APPLICABILITY

This policy applies to all University entities and employees.
DEFINITIONS

**Abuser** - a person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

**Domestic violence** - a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

**Intimate partner** - includes persons legally married to one another; persons formerly married to one another; persons who have a child in common, regardless of whether such persons are married or have lived together at any time, couples who are in an intimate relationship, including but not limited to, couples who live together or have lived together, or persons who are dating or who have dated in the past. An intimate partner includes same sex and transgender couples.

**Victim** - the person against whom an abuser directs coercive and/or violent acts. This person is typically an adult; however, domestic violence also affects many children.

RESPONSIBILITY

**Benefits Administration; University Police Department (UPD); Employee Assistance Program (EAP); Employee Relations (ER); Equity, Diversity and Inclusion (EDI)**

- Provide information and support to employees who are victims of domestic violence.
- Provide the following statistics (excluding personally identifiable information) to Employee Relations (ER):
  - the number of employees who report domestic violence
  - the number of employees who request information/services
  - the number of referrals made to domestic violence service providers.
- Maintain confidentiality about employees who seek assistance, to the extent permitted by law.
- Review and update this Policy as necessary.

**Human Resources – Benefits Administration**

- Assist an employee in determining the best use of his/her attendance and leave benefits when the employee must be absent as a result of being a victim of domestic violence, including unemployment benefits information, if appropriate.
- Evaluate an employee’s leave request to care for and/or assist a family member who has been a victim of domestic violence for eligibility under existing law, collective bargaining agreements applicable to the employee, and attendance rules.

**Human Resources**

- Inform the employee of his/her potential eligibility for a leave of absence and unemployment benefits, if appropriate. Respond to requests for information regarding leave benefits.
- Disseminate this Policy to new employees during new employee orientation and make available to all employees on the University Policy Library website.
• Provide all current and new employees with information on domestic violence, including but not limited to:
  o resources available in the workplace: Employee Assistance Program (EAP); local domestic violence service providers; the NYS Domestic Violence and Sexual Assault hotline; and/or human resources personnel who are trained and available to serve as confidential sources of information, support, and referral
  o domestic violence programs located on the NYS OPDV website
  o a statement informing employees that NYS law prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims or designation of domestic violence as a pre-existing condition [§2612 of the Insurance Law].

University Police Department
• Enforce all known valid court orders of protection (OP).
• Comply with federal and state law when information is requested by domestic violence victims or law enforcement agencies regarding an alleged violation of an order of protection (OP).
• Discuss the limitations on confidentiality under NYS law with known victims of domestic violence.

Employee Relations (UB/SUNY Designated Liaison)
• Consult with the employee to identify the documentation he/she might have or be able to obtain that will not compromise his/her safety and will meet the documentation requirement of the employer.
• Provide the employee’s supervisor with pertinent information required to be shared.
• Document all incidents of domestic violence consistent with applicable law and UB policy.
• Review this Policy and forward substantive policy revisions and updates to SUNY system-wide Affirmative Action Officer and the NYS OPDV.
• Provide the following information, excluding personally identifying information, to SUNY System Administration and the NYS OPDV:
  o number and general nature of domestic violence incidents that happen in the workplace
  o number of employees who report domestic violence
  o number of employees who request information/services
  o number of referrals made to domestic violence service providers.

Employee
• Contact Employee Relations (ER) with questions regarding leave that must be granted to victims or subpoenaed witnesses.
• Notify University Police of all valid court orders of protection (OP) including any updates.

Contact Information

<table>
<thead>
<tr>
<th>Employee Relations (ER)</th>
<th>Employee Assistance Program (EAP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>120 Crofts Hall</td>
<td>156 Parker Hall and 109 HRD</td>
</tr>
<tr>
<td>Buffalo, NY 14260-7022</td>
<td>Buffalo, NY 14214-8004</td>
</tr>
<tr>
<td>Phone: (716) 645-4460</td>
<td>Phone: (716) 645-4461</td>
</tr>
</tbody>
</table>
Related Information

Related Links:
- Domestic Violence and Unemployment Insurance Benefits: Frequently Asked Questions
  http://www.labor.ny.gov/ui/claimantinfo/domesticviolenceanduibenefits.shtm
- Americans with Disabilities Act
  http://www.ada.gov/
- New York State Criminal Procedure Law and Family Court Act
  http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS
- Employee Assistance Program
  http://eap.buffalo.edu/
- Family and Medical Leave Act
  http://www.dol.gov/whd/fmla/
- New York State Office for the Prevention of Domestic Violence
  http://www.opdv.ny.gov/
- Office of Equity, Diversity and Inclusion
  http://equity.buffalo.edu
- University Human Resources
  http://hr.buffalo.edu/
- University Police
  http://upolice.buffalo.edu/

Revision History

November 2010 - Amended to add information regarding the NYS Human Rights Law to the policy background.
November 2011 - Updated Office of Equity, Diversity and Affirmative Action (EDAAA) department name to reflect the current name of: Office of Equity, Diversity and Inclusion (EDI).
March 2014 - Additional information added to clarify the following sections: Employee Awareness, Non-Discriminatory Guidelines for Victimized Employees, Workplace Safety Plans, and Firearms.

Presidential Approval

Signed by President John B. Simpson 4/2/10
John B. Simpson, President Date