

## **Developing a Workplace Policy to Prevent & Respond to Domestic Violence, Sexual Assault, & Stalking in the World of Work**



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## What is Workplaces Respond?



Workplaces Respond to Domestic and Sexual Violence is a National Resource Center offering free resources, training, and technical

assistance to employers, workers, and advocates to prevent and respond to domestic violence, sexual assault, stalking, and sexual harassment (DVSASSH) impacting the workplace. [Learn more about our resource center here.](#)

## How Does this Resource Work?

This resource has three main parts. First, it will define the terms that are commonly used in workplace violence policies that address Domestic Violence, Sexual Assault, and Stalking (DVSAS).

Next, it will offer guidelines on ensuring that any policy that is developed is meaningfully integrated into pre-existing workplace policies and practices. This section will also discuss how this policy should be integrated with federal, state, and local laws, and provide resources for determining what employment rights of survivors exist in each state or locality.

Finally, it will cover the most common elements of a workplace policy on responding to and preventing DVSAS, provide recommended policy language, and highlight some key questions that should be addressed when customizing this policy to your workplace.

## A Note on Safety

This resource is for all employers who want to create a healthy and safe workplace that supports survivors of DVSAS or strengthen pre-existing policies. This resource is designed to make sure that whatever policy you create is effective. However, though an effective policy can increase the safety of a workplace, no single policy or practice can create a workplace that is entirely safe.

For those impacted by domestic violence, sexual assault, and stalking - one of the most troubling aspects is the feeling of losing control over one's surroundings and environment. That control has been taken by the person causing harm and making the workplace more dangerous for everyone through their actions.

While navigating the upheaval caused by these forms of violence, too often employers and others wrongly identify the person experiencing DVSAS as the person bringing an element of danger or chaos into the workplace. This is never the case. The perpetrator is creating the lack of safety, whether they are an employee, a board member, a volunteer, or the partner of an employee.

Responsive policies can save lives. Policies that address DVSAS are critical to creating safer workplaces, but they cannot always guarantee complete safety in every situation. Ultimately, the person causing harm may continue to perpetrate that harm. However, an effective DVSAS policy can mitigate preventable threats to the workplace and ensure survivors feel supported and are not further isolated or harmed by the perpetrator's actions.

## Legal Disclaimer

The information in this resource is not legal advice. Please consult with an attorney licensed in your jurisdiction.

## Why Create a Workplace Policy on Domestic Violence, Sexual Assault, and Stalking?

While every workplace is unique, with its own culture, values, and practices, no workplace is exempt from the impacts of domestic violence, sexual

assault, and stalking (DVSAS). An employer has a duty to maintain a safe and respectful workplace where everyone is welcome and able to thrive. This is not possible when the impact of DVSAS go unaddressed.

In the U.S., 5.6% of women (almost 7 million) and 2.5% of men (nearly 3 million) reported some type of sexual violence by a workplace-related perpetrator.<sup>1</sup> 27% of violent events in the workplace are domestic violence-related.<sup>2</sup> Most stalking victims are stalked by someone they know, commonly a current/former intimate partner (40%) or an acquaintance (42%). Among stalking survivor-offender relationships that are acquaintances, about 1 out of 4 are acquaintances met through work.<sup>3</sup> 23% of women & 9% of men experienced workplace sexual assault and nearly all (97%) reported experiencing escalating incidences of sexual harassment before experiencing sexual assault.<sup>4</sup>

When employers fail to proactively prevent and address DVSAS, workplaces become less safe and productive for everyone. It is estimated that every year \$137.8 billion is lost in productivity due to the impacts of violence on a survivor.<sup>5</sup> This can be in the form of lost or distracted work days, decreased work output, as well as damage to company property due to the actions of the perpetrator

Employers also bear the associated retention and recruitment costs to replace employees who leave due to the violence they experience. No matter where it occurs, domestic violence, sexual assault, stalking, and sexual

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<sup>1</sup> Basile, K. C., D’Inverno, A. S., & Wang, J. (2020). National Prevalence of Sexual Violence by a Workplace-Related Perpetrator. *American Journal of Preventive Medicine*, 58(2), 216–223.

<https://doi.org/10.1016/j.amepre.2019.09.011>

<sup>2</sup> U.S. Department of Labor. (2024). *DOL workplace violence program* | U.S. department of labor.

Www.dol.gov. <https://www.dol.gov/agencies/oasam/centers-offices/human-resources-center/policies/workplace-violence-program>

<sup>3</sup> Morgan, R.E. & Truman, J.L. (2022). Stalking Victimization, 2019. Washington, DC: US DOJ, Bureau of Justice Statistics, Special Report. <https://bjs.ojp.gov/content/pub/pdf/sv19.pdf>.

<sup>4</sup> Kearn, H., Johns, N. E., & Raj, A. (2019). Measuring #metoo: A national study on sexual harassment and assault. Retrieved from [https://www.raliance.org/report\\_posts/measuring-metoo-a-national-study-on-sexual-harassment-and-assault/](https://www.raliance.org/report_posts/measuring-metoo-a-national-study-on-sexual-harassment-and-assault/).

<sup>5</sup> Peterson, C., et al. (2018). Short-Term Lost Productivity per Victim: Intimate Partner Violence, Sexual Violence, or Stalking, *American Journal of Preventive Medicine* 55(1), 106–10.

<https://doi.org/10.1016/j.amepre.2018.03.007>

harassment, can have impacts for survivors, their coworkers, and the world of work. These forms of violence are common, scary, and destabilizing for everyone.

This resource offers a framework for developing a workplace policy that addresses the workplace impacts of DVSA, whether workers experience these forms of violence when they are away from the workplace or in it.

Having a DVSA policy is important. It defines the roles and responsibilities of both employers and workers. It anticipates questions that workers experiencing these forms of violence may have but are afraid to ask. It notifies workers survivor these forms of violence that help is available and outlines what steps can be taken to access protection in the workplace. It communicates that your workplace values the contributions of all workers and wants them to thrive in a safe, respectful and productive environment.

While this resource provides model language to guide the development of your workplace policy, every workplace is different. The policy that works best for a university, factory, fully remote company, restaurant, or hospital will all be different.

Having a policy addressing DVSA is a necessary component of preventing DVSA in the world of work. However, no policy on its own will create a safe, supportive, and respectful workplace. This guidance is intended to be used as a part of a comprehensive program that also includes:

- On-going interactive training on the dynamics and impacts of DVSA that is designed in collaboration with the workers in your workplace and made available for all workers within your workplace;
- Regular workplace environment surveys that are developed by a representative group of workers and that ask employees about workplace culture and the effectiveness of workplace policies; and
- A transparent and trauma-informed complaint process to ensure that any written policy is mirrored in workplace culture and practice.

## Definitions

When it comes to preventing DVSA in the world of work, there are several terms and phrases that people may not encounter in their daily professional lives. Having a shared language to talk about DVSA in the world of work promotes understanding and makes workplace policies more effective.

### **How this resource defines the following terms related to DVSA:**

**Domestic Violence** – Domestic violence is a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, psychological, or technological actions or threats of actions or other patterns of coercive behavior that influence another person within an intimate partner relationship. This includes any behavior that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.<sup>6</sup>

Under some state laws, domestic violence includes abuse in familial relationships that are not romantic or in nature, such as between siblings or between a parent and a child. This is also called “family violence.”

Domestic violence can also occur within a dating relationship. When it occurs in a dating relationship, it may be called “dating violence.”

**Dating Violence** - The term “dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. It is sometimes called “Teen Dating Violence.”<sup>7</sup>

Courts of law determine if the type of violence a person experiences can be legally classified as “dating violence” based on consideration of certain

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<sup>6</sup> U.S. Department of Justice. (2025, January 22). *Domestic Violence*. Justice.gov; U.S. Department of Justice. <https://www.justice.gov/ovw/domestic-violence>

<sup>7</sup> Centers for Disease Control and Prevention. (2024, May 22). *About Teen Dating Violence*. Intimate Partner Violence Prevention. <https://www.cdc.gov/intimate-partner-violence/about/about-teen-dating-violence.html>

factors such as: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.<sup>8</sup>

**Sexual Assault** - The term “sexual assault” means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.<sup>9</sup>

**Sexual Harassment** - Sexual harassment in the workplace is a type of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Sexual Harassment describes unwanted attention or violence directed at an employee by a co-worker, supervisor, or another member of the workplace or public because of their sex. Behavior that constitutes domestic violence, sexual assault, dating violence, or stalking can sometimes be considered sexual harassment. Sexual harassment can also be verbal abuse, unwanted physical contact, or offensive pictures, cartoons, slogans or posters displayed in a work area.

Sexual harassment does not have to be related to sexual desire. It can be tied to employment actions that stem from pre-conceived ideas about how a person of a particular gender is meant to act or generally acts. Sexual harassment can also occur when an employer’s practices, policies, or stated attitudes strongly indicate that a person of a specific gender is not wanted or welcome in that workplace. Examples of a hostile workplace environment that may be a form of sexual harassment but aren't necessarily related to sexual desire include environments where co-workers or supervisors regularly say derogatory or disparaging statements about a specific sex, where work gear is only provided to fit one gender, even when requests for other types of work gear are made, and where employees of one gender are routinely singled out for more menial or more dangerous tasks.

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<sup>8</sup> U.S. Department of Justice. (2019, May 16). *Dating Violence*. Justice.gov; U.S. Department of Justice. <https://www.justice.gov/ovw/dating-violence>

<sup>9</sup> The United States Department of Justice. (2019, January 3). *Sexual Assault*. Justice.gov. <https://www.justice.gov/ovw/sexual-assault>



**Stalking** - The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.<sup>10</sup> Stalking can take the form of surveillance, life invasion, intimidation, or interference.<sup>11</sup>

**Employment Sabotage** - **Employment sabotage** encompasses behaviors intended to prevent an individual experiencing DVSASH from obtaining or maintaining employment.<sup>12</sup> The goal of employment sabotage is to deprive an individual of the financial resources and opportunities necessary to become free from an abusive relationship. Employment sabotage can also isolate the person experiencing DVSASH from others in the workplace who may provide valuable resources and support.

**Safety Plan** - A safety plan is a survivor-led tool that outlines a set of actions that can help lower their risk of experiencing violence. Safety plans are specific to an individual and consider their safety needs at home, in the community, and in the workplace. Safety plans, best developed with a trained victim advocate, cover safety in the home including options for alternative housing arrangements and items to have readily available in case of a need to quickly vacate the home; how to safely commute to school and/or work; who can serve as an emergency contact; how to protect access to email, phone, and online accounts; keeping children safe; and strategies to promote emotional health.

There are generally two types of safety plans in the context of the workplace – one specific to the person experiencing violence (**personal safety plan**) and one focused on the overall workplace (**workplace safety plan**). Both are

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<sup>10</sup> U.S. Department of Justice. (2019, May 16). *Stalking*. Justice.gov; U.S. Department of Justice. <https://www.justice.gov/ovw/stalking>

<sup>11</sup> *Identifying Stalking Behaviors | Stalking Awareness & Prevention | SPARC*. (2025, April 2). Stalking Awareness. <https://www.stalkingawareness.org/stalking-behaviors/>

<sup>12</sup> Stylianou, A. Economic Abuse Within Intimate Partner Violence: A Review of the Literature. *Violence and Victims* Vol 33. Issue 1., Jan 2018

designed to reduce the chance that the perpetrator will be able to harass or abuse them at work.

**Workplace Accommodation or Workplace Adjustment** - When used in the context of domestic violence, dating violence, sexual assault, or stalking, a workplace accommodation<sup>13</sup> is a reasonable job-related modification or safety procedure, requested by a survivor and implemented by an employer. It is designed to promote the safety of an employee who has experienced domestic violence, sexual assault, or stalking.

Some examples of this workplace accommodation can include:

- Assignment or shift changes;
- Having security walk with you to your car or bus stop;
- Changes in seating assignments; and
- Other safety measures.

**Protection Order** - A Protection Order (alternatively called a stay away order or restraining order depending on one's state of residence) is a legally binding order issued by a judge in either a civil or criminal proceeding that may require the perpetrator to, among other things, stay away from the survivor at home, at work, and in the community and prohibit them from threatening, physically abusing or otherwise harming the petitioner. Some states have enacted laws that allow an employer to apply for civil protection orders to prevent violence, harassment, or stalking against their employees by people who are not employed by the employer. An employer should only consider obtaining a workplace protection order after they have consulted their employee who is experiencing the violence and/or because they will be able to inform the employer if obtaining such an order will make them safer or if it will increase their risk of safety concerns.

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<sup>13</sup> The state laws requiring employers to provide "reasonable accommodations" to survivors of DVSA are distinct from the reasonable accommodation process under the ADA. Employees with qualifying disabilities may also be experiencing DVSA, so these employees may have access to reasonable accommodations based on their disability under state and federal laws including the Americans with Disabilities Act. 42 U.S.C. § 12111 et. seq. (2008).

**Advocate** - A domestic violence or sexual assault victim advocate is a certified or trained professional, working for a victim services agency, who provides vital support to survivors of DV/SAS. The victim advocate may provide access to:

- Counseling resources and support groups
- Information about legal rights
- Medical care for physical and psychological recovery
- Economic and job assistance
- Safe and accessible housing
- Emotional and legal support in court
- Help with compensation applications
- Assistance communicating with lawyers, family, and employers

These advocates may be on call to provide support as needed and help victims make crucial decisions in the legal and recovery process.<sup>14</sup>

**Financial Abuse** - Financial Abuse is a form of Domestic Violence where a partner who chooses to abuse will control their partner's finances or their ability to provide for themselves through a job or public assistance they receive.<sup>15</sup>

**Victim Service Provider** – A victim service provider is an organization that provides advocacy and other services such as shelter to victims. Most victim service providers are nonprofit organizations but, in some cases, they may also be part of local government.

**Disclosure** - When a victim/survivor intends to or does tell someone about their abuse experience they are disclosing that information or sharing the information with another person.<sup>16</sup> Note, the way disclosure is used in the

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<sup>14</sup> This definition of advocate is adapted from [Victim Advocacy: Guide to Supporting Survivors of Domestic Violence | Maryville Online](#).

<sup>15</sup> [What is Financial Abuse? - The Hotline](#)

<sup>16</sup> Behounek, E. (2023). Barriers to Disclosure of Domestic Violence. *Springer EBooks*, 1–6.  
[https://doi.org/10.1007/978-3-030-85493-5\\_80-1](https://doi.org/10.1007/978-3-030-85493-5_80-1)

context of employment differs dramatically. See [Disclosure as it relates to employment](#).

**Trauma-Informed Approach** - A trauma-informed approach is a way of interacting with other people that operates with an understanding of trauma, its negative effects on the organization's employees, and the communities it serves and works to mitigate those effects.<sup>17</sup>

**Survivor-Centered Approach**- A survivor-centered approach places the rights, wishes, needs, safety, dignity and well-being of the survivor at the center of all prevention and response measures concerning DVSAS.<sup>18</sup>

**Survivor or Victim** - Individuals who are currently subjected to, or in the past have been subjected to DVSASSH are often referred to as victims in a criminal justice context but as survivors by the broader advocacy community. Survivor is often the preferred terminology because it signifies strength and resilience while “victim” can bring a sense of powerlessness and shame. Individuals who experience DVSAS may or may not identify themselves as either survivor or victim. While the policy will define one term, it is important for those who are acting within the policy to mirror the language a survivor may choose when they seek support or report an incident.

**Perpetrator** - Perpetrator is a term used to describe individuals who commit acts or threats of DVSAS. Perpetrators of DVSAS are also sometimes referred to as abusive partners or batterers.

### **How this resource defines the following common employment terms:**

**Confidentiality** - Confidentiality refers to the practice of safeguarding sensitive or private information and preventing its unauthorized disclosure,

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<sup>17</sup> Manning, K. (2022, March 31). *We Need Trauma-Informed Workplaces*. Harvard Business Review. <https://hbr.org/2022/03/we-need-trauma-informed-workplaces>

<sup>18</sup> *IASC Definition & Principles of a Victim/Survivor Centered Approach*. (n.d.). [https://interagencystandingcommittee.org/sites/default/files/migrated/2023-06/IASC%20Definition%20%26%20Principles%20of%20a%20Victim\\_Survivor%20Centered%20Approach.pdf](https://interagencystandingcommittee.org/sites/default/files/migrated/2023-06/IASC%20Definition%20%26%20Principles%20of%20a%20Victim_Survivor%20Centered%20Approach.pdf)

access, or sharing. It is a crucial aspect of information security and privacy, and it often involves legal, ethical, and contractual obligations to protect certain types of information from being accessed or disclosed to unauthorized individuals or entities.<sup>19</sup>

**Privacy** - Privacy refers to an individual's right to control their personal information, activities, and personal space. It encompasses the ability to determine what information about oneself is shared with others as well as the freedom to establish boundaries regarding one's personal life. Privacy is a crucial aspect of personal autonomy, dignity, and freedom.<sup>20</sup> Though "privacy" is often used interchangeably with "confidentiality", these terms have different functions in legal contexts.

**World of Work** - The World of Work consists of any location in which employees, paid and unpaid interns, contractors, volunteers, board members, consultants, and temporary workers, perform their job duties. This includes in the workplace, including public and private spaces where they are a place of work; in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities; during work-related trips, travel, training, events or social activities; through work-related communications, including those enabled by information and communication technologies in employer-provided accommodation; and, when commuting to and from work.

**Discrimination** - To "discriminate" against someone means to treat that person differently, or less favorably. Discrimination can occur while you are at school, at work, or in a public place, such as a mall or subway station. You

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<sup>19</sup> *Privacy and confidentiality: 3 main differences*. (2025, January 2). TrustCommunity. [https://community.trustcloud.ai/docs/grc-launchpad/grc-101/risk-management/privacy-and-confidentiality-what-is-the-difference/#What\\_is\\_the\\_difference\\_between\\_privacy\\_and\\_confidentiality](https://community.trustcloud.ai/docs/grc-launchpad/grc-101/risk-management/privacy-and-confidentiality-what-is-the-difference/#What_is_the_difference_between_privacy_and_confidentiality)

<sup>20</sup> Ibid.

can be discriminated against by school friends, teachers, coaches, co-workers, managers, or business owners.<sup>21</sup>

**Retaliation** - Retaliation occurs when employers treat applicants, employees or former employees, or people closely associated with these individuals, less favorably for:

- Attempting to enforce their workplace rights;
- reporting discrimination;
- participating in a discrimination investigation or lawsuit (for example, serving as a witness), or;
- opposing discrimination (for example, threatening to file a charge or complaint of discrimination).

**Intranet** - An intranet is a private network used by organizations to facilitate secure communication, collaboration, and information sharing among authorized users. Unlike the internet, which is accessible to anyone with a connection, an intranet is restricted to members of a specific organization.

**Mandated Reporter** – A Mandated Reporter is someone who is required by law to report suspected or known instances of abuse, typically when it involves children or vulnerable adults.

**Documentation** - Employee documentation refers to the necessary paperwork and files that an employer maintains for each of their employees as it relates to their eligibility, their job performance, or their qualification for certain employer-provided supports or protections.

**Audit** - An audit is a systematic review of a specific aspect of an organization (whether that is finances, workplace culture, etc.) done by either an external

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<sup>21</sup> [What is Employment Discrimination? | U.S. Equal Employment Opportunity Commission](https://www.eeoc.gov/youth/what-employment-discrimination) U.S. Equal Employment Opportunity Commission. (2022). *What Is Employment discrimination? | U.S. Equal Employment Opportunity Commission*. [www.eeoc.gov](https://www.eeoc.gov/youth/what-employment-discrimination); U.S. Equal Employment Opportunity Commission. <https://www.eeoc.gov/youth/what-employment-discrimination>

or internal entity. Regular audits help organizations identify areas for operational improvement.

**Disclosure (as it relates to employment)**- Disclosure in the employment context means sharing private information about an individual for the purposes of furthering an investigation or because of safety considerations.

**Sector** - A sector describes an area of the labor force in which businesses share the same or related business activity, product, or service.

**Safe Leave** - Safe leave is a type of leave that allows employees to take time off from work when they or a family member is experiencing situations related to safety and well-being, such as domestic violence, sexual assault, or stalking. The concept of safe leave is intended to give employees or family members of a victim the time they need to address these safety issues without risking their job or income.<sup>22</sup>

**Workplace Environment Survey**- A work environment survey is a research method used to collect data about employees' perceptions, opinions, and satisfaction with their work environment. The results of such surveys can provide valuable insights into areas that may need improvement, such as company culture, physical working conditions, opportunities for growth, management, and job satisfaction.

**Terms and Conditions of Employment**- Terms or Conditions of employment are the rules, requirements, and policies an employer and employee agree to abide by during the employee's service to the company. They spell out the rights and obligations of each party.

**Employee Assistance Program** - An Employee Assistance Program (EAP) is a voluntary, work-based program that offers free and confidential assessments, short-term counseling, referrals, and follow-up services to employees who have personal and/or work-related problems. EAPs address a broad and complex body of issues affecting mental and emotional well-being, such as

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<sup>22</sup> Adapted from [What Is Safe Leave? - ELH / HR4Sight](#).

alcohol and other substance abuse, stress, grief, family problems, and psychological disorders. EAP counselors also work in a consultative role with managers and supervisors to address employee and organizational challenges and needs. Many EAPs are active in helping organizations prevent and cope with workplace violence, trauma, and other emergency response situations.<sup>23</sup>

**Self-Certification** - Self-Certification is a form of documentary evidence that allows individuals to submit a written declaration, under penalty of perjury. For the purposes of this resource, allowing an individual covered by this policy to self-certify that they are survivors of DVSAS without the undue burden of providing additional documentary evidence from a third-party will allow the impacted individual to maintain privacy and get the support they need.

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<sup>23</sup> OPM. (2024). *What is an Employee Assistance Program (EAP)?* | OPM.gov. U.S. Office of Personnel Management. <https://www.opm.gov/frequently-asked-questions/work-life-faq/employee-assistance-program-eap/what-is-an-employee-assistance-program-eap/>



## Creating an Effective Policy

Here are a few of the most common considerations for employers who are developing an effective DVSAS policy for their organization:

*1. How can this policy be integrated into your pre-existing policies and employee resources?*

A standalone policy on DVSAS that is hard to find or kept separate from the rest of your workplace's policies will not be effective. Make sure that the policy you develop is integrated into pre-existing employee handbooks, manuals, and any HR webpages or your workplace's intranet.

Integrating your DVSAS policy into the rest of your employee resources and guidance means:

- Referring to the sections that define workplace safety accommodations<sup>24</sup> and safe leave into your pre-existing sections on accommodations and different types of leave from work;
- Incorporating review of your DVSAS policy into orientation materials and onboarding programming;
- Prohibiting the misuse of workplace equipment, resources, or benefits for the purpose of perpetrating DVSAS in your general policies on workplace equipment and resources and in discussions about employee benefits;
- Ensuring that your policy on sexual harassment acknowledges that DVSAS can become sexual harassment in certain circumstances; and

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<sup>24</sup> The state laws requiring employers to provide “reasonable accommodations” to survivors of DVSAS are distinct from the reasonable accommodation process under the ADA. Employees with qualifying disabilities may also be experiencing DVSAS, so these employees may have access to reasonable accommodations based on their disability under state and federal laws including the Americans with Disabilities Act. 42 U.S.C. § 12111 et. seq. (2008).

- Including discrimination based on an employee's status as a survivor of DVSAS in your anti-discrimination policy.

2. *Does your organization conduct business or have employees in more than one state?*

Different states and localities have different laws and workplace protections for survivors of DVSAS, and you may need to adapt your policy accordingly.

3. *Does your organization have a sexual harassment, anti-discrimination, and anti-harassment and bullying policy?*

- If so, what implications does this policy have on your existing sexual harassment policy and procedure for investigating complaints?

4. *Is your workplace unionized?*

- If so, have you spoken to the union officers or steward about this policy?
- How will this policy work with the provisions of the collective bargaining agreement?

5. *How does this policy fit into broader efforts to prevent and respond to DVSAS in the world of work?*

Effectively addressing both DVSAS and sexual harassment in the world of work requires not only a policy to serve as a strong foundation but efforts to educate individuals about these forms of violence as they impact the world of work. To learn more about developing a comprehensive program to address these forms of violence visit [Workplaces Respond](#) and contact the [National Resource Center Team](#).

6. *How will you determine if this policy is working?*

Employers should regularly audit their DVSAS policy and related practices to determine if your policy and your practices are aligned and effectively supporting survivors and holding perpetrators accountable.

*7. How will you educate individuals covered in the policy about these protections and responsibilities?*

While DVSAS is common, it is rarely discussed. Not talking about DVSAS in trainings and in employee-facing material creates the false impression that these forms of violence do not impact the world of work.

Not talking about the way DVSAS impacts the world of work can inadvertently result in shame, myths, and an overall lack of awareness of the complexities of these experiences. To ensure that your policy is effective, all those covered by the policy must be made aware of the expectations this sets for the workplace.

The policy should be reviewed as part of onboarding for employees, contractors, and other third parties where it makes sense. You should also routinely remind those covered by this policy of these expectations, your commitment as an employer to supporting survivors and holding perpetrators accountable, and of the available resources and guidance for those who may witness an incident.

*8. How will you communicate with those to whom the policy applies about incidents of DVSAS with transparency while also upholding commitments to privacy?*

Incidents of DVSAS that impact the world of work are rarely completely unknown to others within an organization. When incidents occur, those associated with the employer are looking for acknowledgement and assurances that their situation will be addressed fairly and swiftly. Developing a communications strategy and rapid response plan will help to prevent errors that can lead to distrust.

## Legal Requirements

Federal laws including the Americans with Disabilities Act (the ADA), the Family Medical Leave Act (FMLA), and Title VII of the Civil Rights Act of 1964 may provide employment protections for survivors of DVSAS in certain situations.<sup>25</sup> For this reason, it is important to make sure that all training and information on these laws acknowledge their applicability for survivors of DVSAS.

Guidance from the Equal Employment Opportunity Commission (EEOC) clarifies that Title VII prohibits certain forms of employment discrimination and retaliation against employees who experience DVSAS when the employer's response to this violence constitutes sexual harassment. A Question-and-Answer document issued by the EEOC addressing when Title VII may apply to survivors of DVSAS is in the appendices of this document.

Along with federal protections, many states and local laws protect employees who are experiencing DVSAS from negative employment impacts and mandate the provision of paid or unpaid time off to address needs that arise from the impacts of DVSAS.

It is important to check your state and local laws to make sure that any policy being enacted complies with all the laws to which an employer of your size and sector are subject. Our suggested policy language was developed taking these laws into consideration.

If you live in a state that does not have a mandate, most employers provide these protections, and these laws can be helpful points of reference for crafting your own workplace policy. Employers can, and should, go well

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<sup>25</sup> However, these federal laws only apply to employers who employ a specific number of people. Title VII applies to employers with 15 or more employees. See 42 U.S.C. 2000e(b). The ADA also applies to employers with 15 or more employees. See 42 U.S.C. 12111(5). The FMLA applies to employers with 50 employees within 75 miles of the employee's worksite. See 29 U.S. Code § 2611 (4).

beyond these basic protections to ensure that their policy accurately addresses the needs of their specific organization.

For example, an employer could establish or use an existing Employee Relief/Employee Assistance Fund to provide emergency financial assistance to survivors seeking safety. Because survivors know best what they need to maintain their safety and ability to work, it is important to collaborate with survivors to determine what actions, if any, an employer should take.

The following resources make it easy to check your state laws on a variety of topics focused on supporting working families, including supporting employees and their families when surviving DVSA.

Internal Resources
<p>Workplaces Respond’s <a href="#">Advancing Safety Through Employment Rights Initiative</a> has compiled quick reference charts detailing what state and territory laws require employers to:</p> <ul style="list-style-type: none"><li>• <a href="#">Provide time off of work to survivors of DVSA:</a></li><li>• <a href="#">Prohibit employment discrimination on an employee’s survivor status</a>; and</li><li>• <a href="#">Mandate employers provide reasonable accommodations</a><sup>26</sup> to employees surviving DVSA.</li></ul> <p>This resource is up to date as of January 2025. The Advancing Safety Through Employment Rights Project has also developed a quick reference chart on what states have explicitly clarified that <a href="#">unemployment insurance</a> is available in a state or territory for a survivor forced to leave work due to domestic violence, and sometimes sexual assault, and stalking. This resource is up to date as of January 2025.</p>
External Resources:

<sup>26</sup>The state laws requiring employers to provide “reasonable accommodations” to survivors of DVSA are distinct from the reasonable accommodation process under the ADA. Employees with qualifying disabilities may also be experiencing DVSA, so these employees may have access to reasonable accommodations based on their disability under state and federal laws including the Americans with Disabilities Act. 42 U.S.C. § 12111 et. seq. (2008).

Legal Momentum’s State Guide: [State Guide on Employment Rights for Survivors of Domestic Violence, Sexual Assault, and Stalking | Legal Momentum](#). This comprehensive guide is the only guide focused on state employment protections for survivors of DVSAS. It includes all states and Guam, Puerto Rico, and the U.S. Virgin Islands. It was last updated in December of 2023.

Family Values at Work State and Local Guide: [State and City Laws - Family Values @ Work](#). This resource is a compilation of all Paid Sick and Safe Leave laws across states, counties, and cities. Its information is current as of 2022.

A Better Balance’s Workers Rights Hub: [Know Your Rights - A Better Balance](#). This resource is a worker-facing guide to the employment rights of caregivers across the country. It includes some information on DVSAS, as well as information about pregnancy anti-discrimination and caregiver protections. It was last updated in 2023.

## Anatomy of a Workplace Policy

### Purpose

The purpose section of your policy should explain why having this policy is important to you as an employer. It should affirm the values that guide your work and connect those values to how this policy will prevent workplace violence, support employees experiencing DVSAS, and address the impacts of DVSAS.

The purpose section of a policy can serve as a guide to inform how workers, particularly those in supervisory roles, should approach unanticipated or new situations.

### Model Purpose Language

*This policy is as part of [Employer]’s commitment to supporting a safe and respectful workplace by promoting the prevention and reduction of incidences and impacts of domestic violence, sexual assault, and stalking*

*(hereinafter DVSAS) in the world of work. [Employer] recognizes that such violence presents unique issues for its workforce, even when incidents occur elsewhere.*

*[Employer] recognizes these impacts and is committed to taking every appropriate measure to address and provide assistance because of such violence in the context of:*

- *Subordinate/supervisor working relationships;*
- *Coworkers;*
- *Intimate partner relationships, including marital, cohabiting, or dating;*
- *Parent/child relationships;*
- *Violent acts of non-employees committed against employees or their family members; and,*
- *Violent acts of non-employees that potentially could occur within the organization's workplace.*

*The purposes and goals of this policy are to:*

- *Make reasonable accommodations<sup>27</sup> or provide time off for employees who are the victim or a family member is a victim of DVSAS;*
- *Create a healthy, supportive organizational work environment that promotes well-being;*
- *Provide assistance to employees who are perpetrators of violence and take appropriate disciplinary action to ensure accountability for violent behavior;*
- *Institutionalize responsive policies and procedures to assist employees who experience or are impacted by violence, including the provision of training on this policy to employees and management; and,*

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<sup>27</sup> The state laws requiring employers to provide “reasonable accommodations” to survivors of DVSAS are distinct from the reasonable accommodation process under the ADA. Employees with qualifying disabilities may also be experiencing DVSAS, so these employees may have access to reasonable accommodations based on their disability under state and federal laws including the Americans with Disabilities Act. 42 U.S.C. § § 12111 et. seq. (2008).

- *Provide immediate assistance and support to employees who experience or have experienced violence, including the availability of workplace safety accommodations, safe days (included in the sick and safe leave category), and information about community resources, to ensure that those who experience DVSAS in the world of work, or whose experiences of DVSAS impacts the world of work, have support.*

In adapting this model language to your workplace, consider:

1. Which of your workplace values or principles support having this policy?
  - a. Could any of these values (such as “the customer is always right”) impact how employees may interpret this policy?
2. Are there specific vulnerabilities your workplace has because of your specific sector that this purpose statement could address?

## Definitions

All policies that have sections addressing DVSAS should include a section that articulates how you, as an employer, will define these forms of violence for your workplace. The definitions provided in [Section Two](#) of this resource can provide a starting place for developing your policy’s definitions.

Remember to incorporate these definitions into any pre-existing definitions section of your employee handbook, policies, or manual. For example, any section that defines different types of leave should include a definition of safe leave.

Certain terms, such as the “world of work” may be unique to your DVSAS policy. If that is the case, defining those terms within a subsection of your DVSAS policy.

Clear definitions are an important element of an effective DVSAS policy because they create a shared vocabulary for talking about these forms of violence with their employees. Shared vocabulary is particularly important



when talking about DVSAS because many individuals who experience DVSAS do not recognize their experiences as violence or abuse.<sup>28</sup>

Many federal, state, and local laws define DVSAS for the purpose of protecting against employment discrimination, mandating the provision of paid time off from work for survivors, obtaining protective orders, and countless other reasons. These laws can be a starting place for creating your own definitions. It is important that any definitions used in your policy acknowledge and encompass these legal definitions. Provide hyperlinks to any definitions that mirror federal or state law.

To help individuals better identify the varying ways in which DVSAS occurs, definitions should be broad yet descriptive. Use examples specific to your workplace or sector to describe the range of conduct that are acts of DVSAS so workers can connect these terms with specific behavior.

Your workplace policy may also define phrases that a worker experiencing DVSAS may hear from a victim service provider or advocate if they seek support. These are phrases like “protection order” and “safety plan.” Having these phrases defined will support an employee in crisis who may not be familiar with these terms.

When customizing this policy to your workplace, make sure that the language and phrasing that is already being used to describe the particulars of your workplace match. For example, if your workplace refers to their human resource department as an “operations,” “personnel,” or “people” division, that language should be reflected in your DVSAS policy to ensure that workers who experience DVSAS can quickly and easily identify where they need to go to get support within their workplace.

<b>Model Definition Language</b>

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<sup>28</sup> According to a Select Task Force of the Equal Employment Opportunity Commission, anywhere from 25% to 85% of women report having experienced sexual harassment in the workplace. This wide range of responses was due to how the questions about sexual harassment were framed for the people taking the survey. See <https://www.eeoc.gov/select-task-force-study-harassment-workplace> (2016).

*For the purposes of [Employer]’s DVSAS policy, the following definitions apply:*

*[Employer’s selected definitions here]*

*If a question arises about one of these definitions or if anyone covered by this policy would like another term defined, please contact [Employer Designee].*

When developing the definitions section of your policy, consider:

Do you want to use the term “survivor” or “victim”?

Individuals who are currently subjected to, or in the past have been subjected to, DVSAS are often referred to as victims in a legal context but as survivors by the broader advocacy community. This split in terminology can be confusing.

Someone may need to qualify or identify as a “victim” to receive certain legal protections, but “victim” can be a disempowering term for someone who is surviving violence. It takes agency, and bravery to leave an abusive situation and calling someone a “victim” can bring a sense of powerlessness and shame.

“Survivor” is often the preferred terminology within advocacy circles because it signifies strength, resilience, and autonomy. Using the phrase “survivor” also foreground the reality that the person surviving this form of violence is the expert in their own experience.

Individuals who experience DVSAS may or may not identify themselves as either survivor or victim based on what their needs or experiences.

While your policy needs to define these terms to create a shared vocabulary for talking about these forms of violence, it is important for training on DVSAS in the world of work to incorporate a trauma-informed approach. Part of this approach includes those who are

<p>acting within the policy mirroring the language a survivor may choose when they seek support or report an incident.</p>
<p>How can your definitions intentionally reflect the needs of those at your organization or in your sector?</p>
<p>Your workplace policies and practices are how you, as an employer, get to define the norms and expectations of your workplace. They provide an opportunity to tailor your definitions to be welcoming to all those in the world of work.</p> <p>Consider using definitions that proactively acknowledge non-traditional family relationships (including “chosen family”) or explicitly define terms that are less well-known, such as “employment sabotage” or “financial abuse.”</p>

### Applicability

This section of the policy should make clear when, where, and to whom, your DVSA policy will apply. Including this section in your policy ensures that those who are covered by this policy know when they are covered and what this coverage means.

#### **Who should this policy cover?**

Your policy should be broad in who it covers because the goal of an effective DVSA policy is to address situations *as they occur* and keep the entire workplace safe.

To be effective, your policy should go beyond covering full and part-time employees, and include contractors, consultants, interns, and all third-party individuals (such as customers and clients) who are accessing the workplace.

Limiting the coverage of your DVSAS policy means people in your organization will be less likely to seek support if they think their experience of DVSAS falls outside of the policy's coverage.

**Example:**

Your workplace is largely staffed by volunteers, but your DVSAS policy only applies to full-time employees. One of the volunteers has started touching the volunteer coordinator inappropriately and following them throughout the workday. The volunteer coordinator is uncomfortable and checks your workplace policy on DVSAS.

She sees that the policy only applies to full-time employees, so she doesn't speak with her supervisor or manager about her discomfort, assuming that dealing with this behavior is just "part of the job." She starts to think that maybe she is in the wrong line of work if this is something she must navigate on her own.

Here, even though a DVSAS policy exists, it is not effective because it does not address the reality of who is in that specific workplace.

This means that neither the employer nor the employee is getting the full benefit of the time and effort invested in creating this DVSAS policy.

The people who should be covered by this policy will look different for every employer based on the type of work an organization does. To get a broad range of perspectives, consider conducting a culture walk, convening a working group, or conducting a Workplace Environment Survey to see who your workforce interacts with on a regular basis.

**Where should this policy apply?**

Articulating what constitutes the "workplace" has become trickier since the rise of hybrid work and awareness of employment sabotage that can happen outside of the physical workplace. The World of Work is a broad term that acknowledges the many settings where work is done or that are related to work.

The key factor in determining where your DVSAS should apply is looking at where the people in your organization are actually working.

These may be **physical locations**, such as an office, factory floor, the break room, cafeteria, the restroom, lactation room, or company parking lot.

These locations may also be **temporary workspaces** because your staff in that space are functioning as representatives of your organization, such as during work-related travel, conferences, off-site gatherings, training, events, or social activities.

These locations may be **virtual**, such as in remote video calls, over a communication platform like slack, or in someone's email inbox.

Finally, these locations may be **related to work** but not directly a part of the workplace, such as when someone covered under this policy is commuting to or from work.

### **When should this policy apply?**

Your policy should address DVSAS not only occurring within the world of work but also when DVSAS that occurs outside of the world of work has *workplace impacts*.

Broadly, a workplace will be affected by DVSAS in two ways. First, it will be affected by **incidents** of violence that happen directly within the world of work. Second, it will be affected by the **impacts** of violence that occurs outside of the world of work.

#### **Example of a DVSAS Incident Within the World of Work**

An employee is being stalked by a former partner. The perpetrator comes to the workplace to talk to their target's co-workers.

Here, the stalking is happening within the world of work and is having a direct effect on the workplace.

#### **Example of DVSAS with Impacts on the World of Work**

The employee from the previous example needs to go to court to get a protective order and the courthouse is only open during standard work hours. These are also the operational hours for your workplace.

Here, the employee's need to take time from work to go to court isn't directly related to the workplace, but it will impact the workplace in terms of staffing and scheduling.

An effective DVSAS policy will address both of these situations.

Remember, while employers should recognize and respond to the workplace impacts of DVSAS occurring outside of the world of work (such as at home or in the community), employers should not address non-work-related impacts of DVSAS.

Employers, supervisors, and other people in the world of work with managerial discretion should defer to the employee's expressed safety needs rather than their own ideas about what the employee should do.

The most dangerous time for someone experiencing domestic violence is when they try to leave or obtain safety.<sup>29</sup> This increased danger means that it is essential that separation from an abusive relationship happens on the abused partner's terms. If there have been no workplace impacts, employers should not engage law enforcement, seek protective orders on someone's behalf, or intervene in any other way.

If an employee discloses that they are experiencing DVSAS but doesn't share any workplace impacts, employers should be prepared to refer them to a local victim service agency to receive support from a trained professional.

#### Model Applicability Language

*Persons covered by this policy include all full and part-time employees (including managers, supervisors, executives, and senior level staff members), paid and unpaid interns, contractors, volunteers, board*

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<sup>29</sup> Nearly 77 percent of domestic violence-related homicides occur upon separation, and there is a 75 percent increase of violence upon separation for at least two years. See: Ernstmeyer, K., & Christman, E. (2022). *Chapter 15 Trauma, Abuse, and Violence*. [www.ncbi.nlm.nih.gov](https://www.ncbi.nlm.nih.gov/books/NBK590028/); Chippewa Valley Technical College. <https://www.ncbi.nlm.nih.gov/books/NBK590028/>

*members, consultants, contractors and temporary workers engaged by [Employer] in any workplace location, customers, clients, anyone with access to the workplace for work-related reasons.*

*[Employer] is committed to preventing and responding to DVSA that occur within the world of work or DVSA occurring outside of the world of work that affects persons covered by this policy while performing work-related duties.*

*Accordingly, this policy applies when:*

- (1) An incident of DVSA occurs within the world of work (see definition), or*
- (2) DVSA, regardless of where it occurs, impacts a person's ability to work and this person is covered by this policy while performing their job duties within the world of work.*

*Impacts may include but are not limited to:*

- Being harassed via phone or email;*
- Being prevented from arriving to work on time because of the actions of the perpetrator;*
- Unexpected visits from the perpetrator,*
- Being followed while commuting, or*
- Having employer-issued resources (such as a laptop, uniform, or credit card) are damaged or abused.*

**When developing the applicability section of your policy, consider:**

1. Does your workplace have any [sector-specific risk factors](#), such as physical isolation, that can be addressed in this section of the policy?
2. Do any third parties (such as customers, patients, vendors) exercise a high degree of influence over how a worker is compensated or perceived? How can the language of your policy clearly address this influence?

## Non-Discrimination and Non-Retaliation Provisions

An effective DVSAS policy proactively assures those to whom this policy applies that they are protected from discrimination and retaliation and communicates how these protections can be enforced.

Many survivors of DVSAS are worried that disclosing their experience of these crimes will change how their employer, co-workers, or community sees them.

Survivors have been subjected to additional scrutiny, not considered for promotions, blamed for the violence they experience, and even terminated after coming forward about their experiences of DVSAS. Fear of adverse employment outcomes or being ostracized are just two of the many reasons people choose not to disclose the violence they are experiencing to their employer.

Acts of discrimination or retaliation are not always obvious. Providing examples can help those covered by the policy recognize when they may be experiencing such acts following disclosing their status as someone surviving DVSAS.

### Model Anti-Discrimination and Retaliation Language

*[Employer] will not discharge or in any manner discriminate, harass or retaliate against an individual covered by this policy because of that individual's status as a survivor of DVSAS in any terms and conditions of employment.*

*Examples of prohibited acts of discrimination include, but are not limited to:*

- *Adverse employment actions affecting one's salary or compensation;*
- *Demotion, suspension, or termination of employment;*
- *Taking away opportunities for advancement;*
- *Excluding the individual from important meetings;*
- *Threatening an individual who has made a report;*
- *Directing an individual who has made a report not to report to outside regulators;*
- *Deliberately rude or hostile behaviors or speech; and*



- *Creating or allowing the creation of a work atmosphere that is hostile toward an individual who has reported a concern.*

*[Employer] will not discharge, discriminate harass, or retaliate against persons covered by this policy in any terms and conditions of employment for use of the protections and supports described in this policy, including leave from work or a workplace safety accommodation.*

*[Employer] will not discharge, or in any manner discrimination, harass, or retaliate against any person covered by this policy for reporting information to [Employer Designee] about alleged incidents of DVSAS, as defined by this policy that may have been committed by anyone within the world of work.*

*Any individual who believes they have been subject to an adverse employment action because they made a report pursuant to this policy, should contact [Employee Designee]. See the section entitled, “Violations of this Policy” for how violations of this policy will be addressed.*

### **Remember**

Integrating these policies into pre-existing workplace policies increases their effectiveness. Ensure that any pre-existing workplace policies or manual section on the prohibition of illegal discrimination based on legally-protected identities also includes prohibitions on discrimination and retaliation based on an employee’s status as a survivor of DVSAS and references this policy.

Make sure that your pre-existing anti-discrimination policy is updated to reference your DVSAS policy.

## **Workplace Safety Protections, Accommodations, & Leave from Work Related to DVSAS**

This section of your DVSAS policy will outline what protections and supports will be available to those covered by your DVSAS policy.

## Workplace Safety Planning and Safety Accommodations <sup>30</sup>

Survivors may have many needs when experiencing DVSAS, either in or outside of the world of work. These needs may require accommodation in the workplace to ensure their safety while at work and incorporating the workplace into an individual safety plan.

Explicitly uplifting safety planning in your DVSAS policy is important because of the strong likelihood that someone perpetrating DVSAS will target a survivor's workplace. By including a specific section on safety planning, you, as an employer, are signaling that you want to collaborate with the person experiencing this violence to support their safety.

A comprehensive safety plan for an individual is best done with a victim service provider. While comprehensive safety plans for an individual experiencing DVSAS typically have basic safety measures for the workplace, you – as an employer – can dramatically increase the safety available to an individual experiencing DVSAS within a workplace.

Be open to potentially meeting with a survivor and their advocate when collaborating in developing a [workplace-specific safety plan](#) for a survivor covered by this policy. It is not an employer's responsibility, nor is it appropriate for an employer to oversee a survivor's safety considerations outside of the workplace.

To help promote a survivor's safety at work, a designee of the employer, such as a representative from your human resources department or a similar department, should work with the individual experiencing DVSAS to better understand how that individual's safety can be supported at work.

If a survivor of DVSAS is obtaining an [order of protection](#), including the workplace can be crucial to keeping them, and everyone in the workplace

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<sup>30</sup> The state laws requiring employers to provide "reasonable accommodations" to survivors of DVSAS are distinct from the reasonable accommodation process under the ADA. Employees with qualifying disabilities may also be experiencing DVSAS, so these employees may have access to reasonable accommodations based on their disability under state and federal laws including the Americans with Disabilities Act. 42 U.S.C. § 12111 et. seq. (2008).

safer. Talk with the survivor about including the workplace in their protection order, provide any needed support in documenting any workplace-specific interference being done by the perpetrator, and ask the survivor to provide you, or your designee with a copy of the protection order once it has been granted.

Remember that a protection order does not guarantee safety and is not available to all survivors of DVSA. In some cases, seeking a protection order or pressing criminal charges against the perpetrator will not be the best way for a survivor to stay safe.

The existence of a formal individual safety plan should not be required to provide workplace safety accommodations.

Examples of workplace safety accommodations include:

- Transfer/reassignment to another work location;
- A modified schedule;
- Changes to a workstation, phone number, or email address;
- Assistance with documenting DVSA occurring within the world of work;
- Support enforcing a protection order that includes the workplace; or
- Other measures to ensure a survivor's safety while working.

With the goal of survivor autonomy and privacy in mind, employers should design their workplace Safety Planning and Accommodation Policy with as few barriers as possible to support an impacted individual's ability to access available workplace safety accommodations.

For example, requiring a police report may not be possible due to the risk of escalating abuse. Similarly, some people covered by these policies may not have the ability to safely secure a doctor's note or certification from a victim service provider. The best practice is to allow for self-certification.

A workplace safety plan is different from an individual safety plan focused on keeping the whole workplace safe. Workplace safety plans should include

specific plans to address DVSAS but can also include plans for multiple forms of workplace violence, such as what to do if there is an active shooter, if a client or customer becomes belligerent, or if there is a natural disaster.

#### Model Workplace Safety Planning and Accommodation Language

*[Employer] recognizes that a survivor of DVSAS, including those who use violence to defend themselves, may require specific safety planning and accommodations or supports to continue performing their job safely for themselves and their co-workers.*

*To support employee safety and their ability to continue to perform their duties, [Employer] will collaborate with the survivor to determine appropriate workplace safety accommodations, taking reasonable steps to permit all those covered by this policy to continue to perform their job, unless the requested accommodation imposes an undue hardship on the company.*

*Examples of accommodations and supports for survivors, based on needs identified by the survivor and employer capacity to meet these needs, may include, but are not limited to:*

*These may include but are not limited to:*

- *Flexible scheduling so that the employee survivor can access health care, counseling, legal support, relocating their home, identifying child care, and attend to other needs related to the victimization;*
- *Adjustments to job site infrastructure, including relocating to another workstation, and enhancing security protocols;*
- *Changing and hiding online contact information, and enhancing security protocols;*
- *Co-developing a workplace safety plan in collaboration with local resource providers;*
- *Support in reporting to law enforcement;*
- *Assistance in enforcing a protective order;*
- *Taking steps to reduce the risk that the person causing violence enters the workplace, or providing other support if the perpetrator of DVSAS is also covered by this policy; and*

- *Any other precautions that the employee can reasonably demonstrate will support their safety and continued employment.*

#### **Model language recognizing state or local reasonable accommodation law for survivors**

*[Employer] recognizes that [state or location] mandates that employers in [state or location] provide reasonable accommodations for survivors of [domestic violence, sexual assault, or stalking]. This policy complies with the requirements outlined in [state or local] law.*

*This law is available for view at: [link to state law].*

#### **Model Process for Requesting Workplace Safety Accommodations**

*Those covered under this policy who wish to request a workplace accommodation under this policy should contact [Employer Designee] and make this request in writing. [Employer], by and through [Employer's Designee], shall communicate with the employee and engage in good faith in a cooperative dialogue concerning the employee's accommodation request.*

*At the conclusion of this dialogue, [Employer] will provide the individual covered by this policy and participated in the dialogue with the final written determination identifying any accommodation granted or denied. If the individual covered by this policy disagrees with the determination of [Employer's Designee], they must submit a written complaint to [Employer's Designee], who will notify [Employer].*

*Recognizing that requests made under this policy will likely be time-sensitive, [Employer] will process these requests and engage in this cooperative dialogue as soon as practicable.*

*Recognizing that the individual requesting this accommodation may be working with a victim service provider, advocate, or other professional, [Employer] will communicate with the relevant third party as part of this process upon receiving a written and signed release by the individual requesting this accommodation.*

*The individual requesting this workplace safety accommodation must notify [Employer] if their needs change or if the accommodation is no longer needed.*

#### **Model Workplace Safety Accommodation Documentation Language**

*[Employer] may require an employee to provide a certification, such as a police report, court order or documentation from a medical professional of the need for an accommodation. The individual requesting the accommodation will be able to self-certify to their need for an accommodation under this policy, so long as they articulate how this accommodation will support their safety.*

*[Employer] may request recertification periodically as permitted by applicable law.*

**In adapting this model workplace safety accommodation language, consider:**

1. How can sector-specific considerations be incorporated into your policy?
  - a. If your organization deals with customers or patients on a regular basis, how can these aspects of the work be accounted for in a safety plan?
  - b. If there is one work location, offering a transfer to another location is not applicable. Would working remotely or a staggered schedule be a better solution?
2. How can you respect a survivor's privacy and maintain their confidentiality while making sure that your workplace is safe?
  - a. For example, if a perpetrator is coming to the workplace and staff need to recognize him for the purpose of calling security, does his relationship to the survivor also need to be disclosed?
3. How can safety planning for the purposes of DVSAS be incorporated into your pre-existing workplace violence prevention policy?

4. If your workplace is unionized, how will accommodations like scheduling preferences or changes in work location be impacted? Can those impacts be proactively addressed in your policy?
5. What timeframe for processing this request makes sense given the realities of your workplace and the needs of the person requesting the accommodation?
6. If an accommodation request is denied, what sort of review mechanism makes sense for your workplace to ensure that any denials are not arbitrary?
7. Recognizing that each survivor will have their own unique needs, how will the training attached to this policy encourage impacted employees to request the accommodations that works best for them?

#### **Remember**

The process for making workplace safety accommodations is distinct from the legally-required reasonable accommodation process mandated by the ADA. Make sure that any section that discusses accommodations under the ADA or for the purpose of disability acknowledges that survivors of DVSAS may have qualifying disabilities and references this policy and the availability of workplace safety accommodations.

#### **Job-Protected Safe Leave from Work or Time Off**

Many survivors of DVSAS need access to services only available during work hours. The goals of a DVSAS policy are to increase the safety of those in an organization and to support those experiencing these forms of violence in reaching safety.

If possible, you, as an employer, should consider providing paid leave explicitly to address the impacts of DVSAS. Providing paid leave will ensure that those in your organization experiencing DVSAS are not being forced to choose between seeking safety and a paycheck.

The reasons why someone covered by this policy may need to take time off work include:

- Seeking medical attention for injuries caused by DVSAAS;
- Obtaining services from a domestic violence shelter, program or rape crisis center;
- Receiving psychological counseling;
- Participating in safety planning;
- Taking other actions to increase safety from future DVSAAS, including temporary or permanent relocation; or
- Obtaining legal services, including seeking a protection order, assisting in the prosecution of an offense or appearing in court in relation to an incident of domestic violence.

Many employers may be required under state or local law to provide employees who are survivors of DVSAAS with unpaid or paid leave from work to address the impact of this victimization on their lives or on the lives of their children or family members. Check your state and local laws and consult with a licensed attorney to ensure that whatever policy you develop aligns with your legal obligations as an employer.

Model Policy Language on Safe Leave from Work
<p><i>[Employer] recognizes that people experiencing DVSAAS or have family members experiencing DVSAAS may need to take time off from work.</i></p> <p><i>[Employer] provides two weeks of paid leave, annually starting at the time of employment, to support those covered by this policy who are experiencing DVSAAS.</i></p> <p><i>The following section details the ways in which employees who are survivors may use our leave policies to meet their needs and the process for accessing it.</i></p>
Model Language on Acceptable Safe Leave Uses
<p><i>[Employer] provides up to [Employer amount of provided leave] [paid/unpaid] job-protected leave for those experiencing DVSAAS. This leave can be used for the following reasons:</i></p> <ul style="list-style-type: none"> <li>• <i>Heal from injuries;</i></li> <li>• <i>Seek medical attention;</i></li> </ul>



- Seek legal assistance;
- Attend or prepare for court proceedings;
- Relocate;
- Find childcare; or
- Any other reason that is reasonably related to supporting a covered individual's ability to access safety due to DVSAS.

#### Model Process for Requesting Safe Leave

*When the need for time off is foreseeable, an individual covered by this policy must provide reasonable advance notice (as defined by our leave request policy) prior to the need for leave to [Employer Designee].*

*When the need for time off is not foreseeable, an individual covered by this policy must promptly inform [Employer's Designee] that they are a victim of DVSAS and request leave as soon as possible, generally no more than two days after the absence begins.*

#### Model Documentation Guidance for Safe Leave

*[Employer] will accept self-certification from the individual seeking leave.*

#### Model language for those who need leave but choose not to disclose their status

*Recognizing that not everyone experiencing DVSAS will be comfortable disclosing that these forms of violence are impacting their ability to work, [Employer] encourages those who do not want to disclose their experiencing of DVSAS to other forms of leave that are available, such as vacation and personal leave. Please review those policies [link to policies] and the processes outlined in those sections.*

#### Model language recognizing state or local leave laws

*[Employer] recognizes that [state or location] mandates that employers in [state or location] provides [paid/unpaid] time off of work for survivors of [domestic violence, sexual assault, stalking, or victims of crime]. This policy complies with the requirements outlined in [state or local] law.*

*This law is available for view at: [link to state law].*

**In drafting your safe leave policy, consider:**

- What is a reasonable rate of accrual for those covered under this policy?
- Can an employee borrow against future accrued time? If not, can unpaid leave be explicitly made available to support an employee until they have accrued sufficient time off?
- What is your current process for communicating shift assignments, requesting time off, or addressing scheduling considerations? How may this process need to be altered for an individual in crisis because of DVSAS?

### **Remember!**

Check the leave policies in your organization that address vacation, sickness, bereavement, and administrative leave to make sure they explicitly define and refer to the availability of safe leave and provide a link to your DVSAS policy

## Access to Unemployment Insurance Benefits

When an individual experiences DVSAS, the likelihood that they will experience job loss dramatically increases. Nearly 9 in 10 survivors of domestic violence report experiencing “Employment Sabotage” with up to 60% reporting resulting job loss.<sup>31</sup> Following a sexual assault, 1 in 7 women and 1 in 17 men sought new job assignments, changed jobs, or quit a job.<sup>32</sup> Among victims stalked by an ex-partner, nearly 50% described job losses because of the actions of that abuser.<sup>33</sup>

<sup>31</sup> Showalter, K. (2016). Women’s employment and domestic violence: A review of the literature. *Aggression and Violent Behavior*, 31(31), 37–47. <https://doi.org/10.1016/j.avb.2016.06.017>

<sup>32</sup> Kearn, H., Johns, N. E., & Raj, A. (2019). Measuring #metoo: A national study on sexual harassment and assault. Retrieved from [https://www.raliance.org/report\\_posts/measuring-metoo-a-national-study-on-sexual-harassment-and-assault/](https://www.raliance.org/report_posts/measuring-metoo-a-national-study-on-sexual-harassment-and-assault/).

<sup>33</sup> Logan, T., & Showalter, K. (2022). Work Harassment and Resource Loss Among (Ex)partner Stalking Victims. *Journal of Interpersonal Violence*, 088626052210866. <https://doi.org/10.1177/08862605221086649>

Access to unemployment insurance benefits can provide a critical safeguard during a time of immense disruption and precarity for someone surviving DVSA. Crucially for employers, when an employee notifies the state agency that their job separation was due to a qualifying act of violence, the employer is typically not charged for their employee's unemployment insurance claim. Both the survivor and the employer therefore benefit when employees who must leave work due to DVSA are given information about unemployment insurance benefits.

Model Language on Unemployment Insurance Benefits
<p><i>[Employer] recognizes that in certain situations it is no longer feasible for an employee survivor to continue working for [Employer]. In such circumstances, [Employer] shall provide information regarding access to unemployment insurance benefits. [Employer] has designated [Employer Designee] to proactively provide accurate information regarding unemployment benefits for survivors of DVSA who must leave work.</i></p> <p><i>In [Employer's State], the state agency that administers unemployment insurance benefits is [Name of State Unemployment Insurance Agency].</i></p>

### Disclosure and/or Reporting

This section of your DVSA policy will address how those covered under this policy should report to their employer that they are experiencing DVSA or if they think another person covered under this policy is experiencing DVSA. Note that the term “disclosure” has a different meaning in the workplace than in victim advocacy circles. In victim advocacy circles, disclosure typically refers to when a person experiencing DVSA chooses to share that experience with an individual.

Typically, this type of disclosure is a core component of accessing safety. “Reporting” is the term used in the model policy for when information about an individual's experience of DVSA is shared with the person or department designated by the employer for the purpose of describing the impacts of DVSA to obtain workplace support.

However, confusingly, this type of reporting is different from those of a “mandated reporter.”<sup>34</sup>

In the workplace context, disclosure has a very different meaning. Here, it means sharing private information about an individual for the purposes of furthering an investigation or because of safety considerations.

This section will require a large amount of customization to be effective because key considerations, such as who can report, to whom they should report, how they should report, and what happens following a report of DVSAS, will all be specific to an individual workplace.

### **Why is reporting important?**

Reporting is important because employers and workplaces will not be able to provide tailored support for someone surviving DVSAS if they do not know this support is needed. If clear guidance is not included on how someone should report that they qualify for the protections or supports outlined in your DVSAS policy, those covered by the policy will not use it.

#### **Model Reporting and Disclosure Language**

*To access the protections and supports outlined in Section \_\_\_\_ [Workplace Accommodation/leave/safety planning], persons covered by this policy will need to report any DVSAS that is impacting the workplace to [Employer Designee] by [method of reporting].*

#### **Methods of Reporting for Survivors of DVSAS**

*If the offered method of reporting is impracticable or dangerous for the person seeking to access the protections and supports in this section, alternative forms of reporting include \_\_\_\_\_.*

*If the reported DVSAS occurred, or is occurring, within the world of work  
If the reported DVSAS occurred, or is occurring, within the world of work, persons covered by this policy must report to [Employer Designee]. If an incident of DVSAS involves [Employer Designee] or if the person reporting*

<sup>34</sup> In most states, mandated reporters are designated by their profession. But in some states, all adults are considered mandated reporters. Because **mandated reporter laws vary by state**, understanding who a mandated reporter is can feel confusing. Learn more here: [What is a Mandated Reporter?](#)

*feels unsafe reporting to [Employer Designee], the person reporting should contact [Employer Designee Alternate].*

*[Employer Designee] will describe the investigatory process, connect the person who is reporting to the relevant internal policies and external resources.*

*Please review Section \_\_\_\_\_ for [Employer]’s investigation process.*

*If the reported DVSA occurred outside of the world of work*

*Any person covered by this policy who is experiencing or has experienced incidents of DVSA outside of the world of work but that is impacting their work and would like to access the protections and supports outlined in Section \_\_\_\_ must inform [Employer Designee].*

*[Employer designee] shall share relevant policies, possible accommodations, and offer community and service provider referrals and resources, if desired by the impacted person.*

*No one who discloses that they are a victim or survivor of DVSA will be fired, discriminated against or otherwise retaliated against as defined in this policy.*

*Guidance for Concerned Individuals*

*An individual who reasonably believes that someone covered by this policy is experiencing DVSA or has experienced DVSA within or outside of the world of work are encouraged to consult with [local victim service provider/EAP/Domestic Violence or Sexual Assault National Helplines] to confidentially seek guidance and learn more about resources and community supports that may be available to the person experiencing DVSA.*

*[Employer] emphasizes that the privacy of those experiencing DVSA who are covered by this policy are entitled to privacy and respect. Outside of immediate safety concerns for the individual or organization communicated to [Employer Designee], no one covered by this policy should discuss or opine about another individual’s experience of DVSA.*

*Guidance for those who Witness Incidents of DVSA in the World of Work*  
Individuals covered by this policy who witness or are informed of any incident of DVSA are strongly encouraged to report to [Employer Designee]. To balance survivor autonomy, safety, and privacy, witnesses to DVSA incidents within the world of work are strongly encouraged to consult with the individual who experienced the DVSA about their preferred course of action.

*Reports of this nature will be kept confidential to the best of [Employer]’s ability.*

*In the event of an immediate, demonstrable threat to the physical safety workplace of individuals covered by this policy, witnesses to events of DVSA are directed to call law enforcement if practicable.*

*Reports of this nature will be kept confidential to the best of [Employer]’s ability.*

*If individuals covered by this policy observe inappropriate surveillance or the misuse of workplace equipment or resources to perpetrate DVSA, they shall report what was witnessed to [Employer Designee] as soon as practicable. Reports of this nature will be kept confidential to the best of [Employer]’s ability.*

**In drafting the disclosure/reporting section of your policy, consider:**

1. Who can report?
3. How can reports be made? Should people needing to access the supports and protections offered in this policy make these requests by email, in-person, submit a form online?
4. Can reports be made anonymously? If so, how?

4. Who receives reports? If this responsibility sits with a single individual, who is the alternate for when that individual is unavailable or may experience a conflict of interest?

3. Do you have mandated reporters in your workplace? What are their obligations under this policy if a co-worker or supervisee reports that they are experiencing DVSAS?

#### Mandated Reporting Considerations

For some organizations and workplaces, particularly those who work with children, special training and guidance will be needed to clarify how mandated reporting requirements are implicated when a mandated reporter learns that a minor has been exposed to DVSAS through the disclosure of an individual covered by your DVSAS policy.

In organizations where mandated reporters work, individuals covered by this policy should be informed of who (whether specific people or job types) are mandatory reporters. Be mindful about the obligations mandated reporters have when identifying who an individual covered under this policy must disclose to in order to access the protections provided by this policy. Providing this information ensures survivors are aware of those responsibilities and understand that a disclosure may require a report.

Check your state laws around mandatory reporting laws as role and responsibilities vary widely from state to state.

#### Confidentiality

A clear and comprehensive [confidentiality policy](#) is a core element to an effective DVSAS policy, and in creating a workplace culture where those covered by the policy feel safe disclosing information to seek assistance without fear of reprisal.

Many people who experience DVSAS may be afraid to tell anyone in their workplace if they believe it will be shared. They could be worried that:

- The person causing them harm could find out, increasing the risk to their safety;
- The people they work with will gossip about them;
- Their co-workers or clients will treat them differently because of what they have experienced;
- Their employer could think they are “causing drama” and fire them or not give them the same opportunities for growth that they give other people in the workplace;
- Their reputation will be damaged; or
- They will be seen as less credible.

Well-meaning or even inadvertent disclosures of a survivor’s experiences may prove dangerous or fatal. It also deprives a survivor of control over their private information, at a time when the harm they are experiencing is already depriving them of autonomy or control.

The best way to honor the privacy of survivors is to minimize what detailed information needs to be provided ahead of someone accessing support. Confidentiality can look like not requiring detailed information to prove that they are survivors, limiting the number of individuals who need to be involved in providing support or investigating an incident in the workplace, and keeping information around DVSAAS separate from one’s personnel file.

Model Confidentiality Language
<p><i>[Employer] recognizes and respects the importance of privacy and autonomy of all persons covered by this policy.</i></p> <p><i>To the extent allowed by law, [Employer] shall maintain the confidentiality of information pertaining to DVSAAS disclosed by persons covered by this policy, unless to do so would result in life threatening harm to any person, jeopardize safety within the workplace, or unreasonably inhibit investigatory processes.</i></p> <p><i>To the extent allowed by law, [Employer] shall maintain the confidentiality of information pertaining to harm caused by persons covered by this policy,</i></p>



*unless to do so would result in life threatening harm to any person, jeopardize safety within the workplace, or inhibit investigatory processes.*

*When confidential information must be disclosed*

*When confidential information must be disclosed to protect workplace or individual safety, facilitate investigatory processes, or comply with the law, [Employer] shall limit the breadth and content of such disclosure to only the information reasonably necessary to protect the safety of persons covered by this policy, facilitate investigatory processes, and to comply with the law.*

*If a disclosure is required*

*If a disclosure is required to protect workplace or individual safety, facilitate investigatory processes, or comply with the law, [Employer] shall provide advance notice to the affected person(s), to the extent possible and as soon as practicable.*

*[Employer] shall also provide the affected person(s) with the name and title of all other individuals, such as security guards or benefits administrators, with whom it intends to share information. [Employer] shall explain the necessity and purpose regarding the disclosure, to the extent possible.*

*Individuals who receive confidential information will be given notice that this information is confidential and shall not to be discussed with others. This notice will explicitly state that breaching confidentiality could jeopardize the safety of persons involved and a breach in confidentiality may result in disciplinary action.*

*Questions regarding the applicability of this policy should be directed to [Employer's Designee]*

*Violations of Confidentiality*

*If this confidentiality provision is violated, [Employer] will seek to limit the spread of information. Violations of this confidentiality policy will result in discipline for those responsible for this violation as appropriate, up to and not excluding termination.*

**When developing your workplace policy on confidentiality, consider:**

1. What forms of documentation will be required of an employee to prove that they are a survivor?

Permitting a survivor to self-certify is considered the best practice in victim service organizations and other communities that support survivors of DVSAS. Having a self-certification option for your DVSAS policy will encourage people who may not be ready to obtain a protective order or press criminal charges against a person causing them harm to still benefit from the protections provided in the policy.

2. Who needs to be involved in providing support to a survivor that requests it?
3. Where will the information be kept?
4. Who within the organization can confidentiality answer questions about when disclosure is necessary?
5. Does your state or local law have any requirements of employers when it comes to DVSAS, confidentiality, and how documentation related to disclosures should be stored or handled?

### **Use of Workplace Equipment to Document DVSAS**

For many people surviving DVSAS, their privacy is being routinely violated. Personal phones, computers, and vehicles may be continuously monitored and surveilled. When this happens, many survivors may use workplace equipment or resources to document the harm they are experiencing.

This can present a challenge for survivor-centered employers. This use of these workplace materials is not a part of the individual's job. It may also be the only way that a survivor of DVSAS can safely document the abuse they are experiencing.

Explicitly including guidance on how this use of workplace equipment or materials will be treated in your DVSAS policy can go a long way towards

supporting survivors and the people who supervise them. If a workplace is not prepared for this potential use of workplace equipment, a supervisor may not be able to respond effectively. The survivor may be disciplined for perceived misuse of workplace equipment, or have the equipment taken from them. If this happens, they lose the documentation of their abuse which will have an adverse impact on their ability to show law enforcement or a judge the violence they are experiencing.

**Model Language on the Use of Workplace Equipment or Resources to Document Instances of DVSAS**

*[Employer] recognizes individuals surviving DVSAS may be subject to surveillance and intrusive monitoring of their personal devices. [Employer] further recognizes that an individual covered by this policy may need to use workplace equipment and resources to document instances of violence that they are experiencing either within or outside of the world of work.*

*Reasonable use of workplace equipment or resources in this way will not be considered misuse of workplace equipment or resources.*

*[Employer] will not retaliate against an individual covered by this policy or deprive that individual of employer-issued equipment because the individual used employer-issued equipment to document an instance of DVSAS committed against the covered individual or a family member of that individual.*

*[Employer] shall grant an employee access to any photographs, voice or video recordings, sound recordings, or any other digital documents or communications stored on an employer-issued device relating to DVSAS.*

*This policy does not prohibit [Employer] from complying with an investigation, court order, or subpoena for a device, information, data, or documents. Furthermore, this policy does not relieve an employee's obligation to comply with an employer's reasonable employment policies or to perform the essential functions of employment.*

## Responses to Perpetrators of DVSAS in the Workplace

Just as survivors of DVSAS exist in every workplace, so do perpetrators of DVSAS.

Take stalking as one example. Most stalking victims are stalked by someone they know, commonly a current/former intimate partner (40%) or an acquaintance (42%).<sup>35</sup> Among stalking survivor-offender relationships that are acquaintances, about 25% met through work.<sup>36</sup>

Additionally, studies from 2004 and 2011 (the last time this data was collected) show that workplace equipment is being used to perpetrate DVSAS. 78% of intimate partner violence offenders used workplace resources at least once to express remorse or anger, check up on, pressure, or threaten the victim.<sup>37</sup> 25% went to the victim's house while on the clock.<sup>38</sup> 49% spent time during the work day keeping track of where their partner was and what their partner was doing.<sup>39</sup> 25% left work or were late to work to be abusive to their partner.<sup>40</sup>

A DVSAS policy that does not acknowledge this reality leaves the work of developing a safer workplace undone and endangers everyone in their workplace by not addressing the person responsible for perpetrating DVSAS.

To ensure fairness to everyone in the workplace, this element of your DVSAS policy should seek to balance accountability and privacy. Incidents of DVSAS within the world of work should be met with a consistent and transparent

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<sup>35</sup> Morgan, R.E. & Truman, J.L. (2022). Stalking Victimization, 2019. Washington, DC: US DOJ, Bureau of Justice Statistics, Special Report. <https://bjs.ojp.gov/content/pub/pdf/sv19.pdf>

<sup>36</sup> Morgan, R.E. & Truman, J.L. (2022). Stalking Victimization, 2019. Washington, DC: US DOJ, Bureau of Justice Statistics, Special Report. <https://bjs.ojp.gov/content/pub/pdf/sv19.pdf>

<sup>37</sup> Reckitt, L. G. & Fortman, L. A. (2004). Impact of Domestic Violence Offenders on Occupational Safety & Health: A Pilot Study. Maine Department of Labor. [https://www.maine.gov/labor/labor\\_stats/publications/dvreports/domesticoffendersreport.pdf](https://www.maine.gov/labor/labor_stats/publications/dvreports/domesticoffendersreport.pdf); alternative citations and statistics from 2012 are here: [Domestic Violence and the Workplace Study September 2011](#) (page 14).

<sup>38</sup> 2004 Maine Study [Impact of Domestic Offenders on Occupational Safety & Health: A Pilot Study](#)

<sup>39</sup> [Domestic Violence and the Workplace Study September 2011](#)

<sup>40</sup> [Domestic Violence and the Workplace Study September 2011](#)

response in both how the employer supports impacted persons and perpetrators of DVSAS.

Workplace cultures and environments will be significantly harmed if those covered by the policy believe their employer is taking no corrective action. Similarly, those who perpetrate harm will believe that they will not be held accountable and may be emboldened to escalate their behavior.

Some employers have a one-size-fits-all zero-tolerance policy for any behavior that violates their policy. This approach may lessen the effectiveness of your DVSAS policy as the person experiencing harm likely just wants the behavior to stop, not for someone to be fired.

Another challenge with having a zero-tolerance approach is that it forces an employer to apply the same punishment to vastly different actions – such as verbal harassment versus rape. Finally, perpetrators may escalate abuse in retaliation to termination.

When it comes to employee misconduct, the Federal Office of Personnel Management has developed a set of relevant factors to consider in determining how severe employment discipline should be. A copy of this guidance is in the appendix.

Model Policy Language for Workers Who Perpetrate DVSAS
<p><i>[Employer] does not tolerate, and will not tolerate, any perpetration of DVSAS done by an individual covered by this policy. [Employer] expressly prohibits the use of any workplace equipment, resources, or benefits to perpetuate or further DVSAS.</i></p> <p><i>If [Employer] receives information that alleges or suggests an individual covered by this policy has engaged in an incident of DVSAS, including the use of workplace equipment, resources, or benefits, the matter shall be referred to [Employer Designee] for the purpose of investigation the information or allegation received.</i></p>

When customizing this element of your DVSAS policy, consider:
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Should the same person or department that serves as the Employer Designee for those seeking to access protection and supports under this policy be the same entity to receive reports of suspected DVSAS perpetrated by those covered under this policy?

#### **Integration Reminder:**

Studies have shown that workplace equipment is used to perpetrate DVSAS. Make sure that any section in your workplace policy or handbook that addresses the use of workplace equipment, resources, or benefits explicitly prohibits the misuse of that equipment, resource, or benefit in the perpetuation of DVSAS. Refer to your DVSAS policy in those sections.

### **Investigations into Allegations of Workplace-Related DVSAS**

Describing the process by which allegations of workplace-related DVSAS will be handled as part of your DVSAS policy ensures that those who come forward about DVSAS they experience by someone covered under this policy will know exactly what to expect once they come forward.

Ideally, investigations into allegations of DVSAS perpetrated by someone subject to a DVSAS policy should be undertaken by an independent, third party to reduce the risk of bias. If this type of third-party involvement is not available because of employer size or cost, clear guidance becomes even more important to ensure a process that all involved perceive as fair while also accounting for immediate safety concerns.

#### **Model Investigation Language**

*If an individual has reason to believe that a person covered by this policy has perpetrated DVSAS or misused workplace equipment, resources, or benefits to perpetrate DVSAS, they should report their concerns to [Employee Designee] and provide any documentation of the perpetuation of that violence or misuse of workplace equipment, resources, or benefits related to an incident of DVSAS at that time.*

*If [Employer] receives information that alleges or suggests that a person covered by this policy has committed an incident of DVSAS within the world of work, as defined in this policy, local, state or federal law, or if any manager or supervisor receives information that any person covered by this policy has engaged in any incident of workplace-related or non-workplace DVSASSH, then the matter shall be referred to the [Employer designate] for investigation.*

*[Employer] is committed to reviewing all reports of DVSAS and conducting a prompt, transparent, fair and thorough investigation tailored to the circumstances of the incident.*

*All matters related to the investigation will remain confidential unless immediate safety is in jeopardy. There will be no discrimination or retaliation against anyone for cooperating with an investigation.*

*This investigation may include initial inquiries and fact-gathering to determine whether an internal investigation is appropriate or if a third-party should be engaged. An investigation does not indicate that the report has been deemed credible.*

*[Employer] will comply with the law in conducting investigations and expect that persons covered under this policy will cooperate with an investigation, except when voluntary compliance is being requested.*

*[Employer] will notify the individual(s) who make the report and any individual at the center of the report about:*

- *Who will be made aware of the report;*
- *Who will be conducting the investigation; and*
- *When the investigation will be completed.*

*To promote workplace safety during an investigation, [Employer] will collaborate with the individuals experiencing DVSAS to determine appropriate workplace safety accommodations including [paid/unpaid] leave.*

*If necessary to promote the safety of others covered by this policy, [Employer] may also place the individual under investigation on administrative leave for the duration of the process.*

*If the investigation concludes that a person covered by this policy has committed an incident of DVSAS within the world of work or misused workplace equipment, resources, or benefits in furtherance of DVSAS, as defined in either this policy, or federal, state, or local law, then that individual shall be subject to disciplinary action up to and including termination.*

*The individual might also be required to participate in counseling or other restorative or remedial measures.*

When customizing this element of your DVSAS policy, consider:

1. Given your organization's resources, size, and ability to conduct investigations into allegations of workplace-related DVSAS, what is a reasonable timeline for concluding investigations?
2. If it is not possible to use a third party for the purposes of investigation, what training will the Employer Designee require to successfully conduct an investigation?

## Violations of the Policy

To be effective, your DVSAS policy must be enforceable. This means that the consequences of not complying with the policy are clearly identified as part of the policy and that reported violations of the policy are taken seriously and dealt with in accordance with the policy.

How an employer responds to violations of the policy will determine whether persons covered by this policy trust in the process and feel comfortable enough to use the protections and supports your policy is providing.

Model Violation Language



*Any persons who believe this policy has been violated should contact [Employer Designee].*

*Any person covered by this policy who is found through an investigation to have unlawfully violated this policy, including discriminating or retaliating against another covered person who has sought to use this policy, will be subject to corrective action, up to and including termination.*

*[Employer] will not discharge or in any manner discriminate or retaliate against any person covered by this policy because they reported an alleged violation of this policy.*

In drafting the violation section of your policy, consider:

How are violations of other parts of your workplace policies or handbook handled?

What is the best way for violations to be reported given the way your organization is set up?

## Incorporating National and Local Resources

It is important to conclude your DVSAS policy with a list of both national and local resources so that individuals covered by this policy know where they can find support outside of the world of work.

### The Role of Local Victim Service Organizations

These organizations can be your partners in supporting survivors within the world of work. Establishing a strong relationship with your local victim service provider will make it easier to refer individuals to the organization for support. Advocates at these organizations or at your state coalition against domestic violence and sexual assault may also be available to provide training on the impacts of DVSAS, trauma-informed care and being survivor-centered.

Once you have contacted your local victim service provider, make sure that information about their services is posted in shared communal spaces in and around the workspace.

To find your local victim services provider, visit [www.justice.gov/ovw/local-resources](http://www.justice.gov/ovw/local-resources).

## **Domestic Violence Prevention Programs for Perpetrators**

State and local government agencies should have information about available domestic violence intervention programs for perpetrators. Keep in mind that these programs can have other names, such as “Batterer Intervention Prevention Programs.” You can also contact your local state courthouse or victim service organization to see if there are any programs where perpetrators of harm are regularly referred.

### **A list of potential external resources to include:**

- **Contact Information** for national hotlines and local victim service agencies that support survivors of DVSA.
  - [The National Domestic Violence Hotline:](#)
    - Phone: 800-799-7233
    - SMS/Text Messaging: Text START to 88788
    - Website: [thehotline.org/](http://thehotline.org/)
  - The National Sexual Assault Hotline:
    - Phone: 800-656-4673
    - Chat Line: [rainn.org/content/online-hotline](http://rainn.org/content/online-hotline)
    - Website: [rainn.org](http://rainn.org)
  - The National Helpline for Male Survivors:
    - Phone: 800-656-4673
    - Chat Line: <https://survivorspace.org/>
    - Website: <https://1in6.org/>
  - Victim Connect:
    - Phone: 855-484-2846
    - Website: [victimconnect.org](http://victimconnect.org)

- The contact information for your local victim service provider.
- **Relevant legal information** about the federal, state, and local laws that apply to your organization. Along with the resources listed in the “Legal Requirements” section of this resource, [www.womenslaw.org/](http://www.womenslaw.org/) will also have helpful legal information for survivors of DV/SAS generally.
- Information for the federal and state agencies charged with enforcing the relevant laws, including the Equal Employment Opportunity Commission (EEOC). The EEOC’s Public Portal can be accessed here: [www.publicportal.eeoc.gov/Portal/Login.aspx](http://www.publicportal.eeoc.gov/Portal/Login.aspx).

## Ongoing Review

To be effective, the policy that you create must be **customized, reviewed, and regularly updated** to reflect the input of your workers, the practices of your workplaces, and the values that inform your work. Any policy that is developed must be reviewed and audited regularly to make sure that it continues to provide meaningful answers and guidance to your workers when they experience DV/SAS. This policy should also be fully integrated and referenced with all other policies, employee manuals, and guidance that is provided to your workers.

To maintain an effective policy, consider:

1. How often will you, as an employer, review your DV/SAS policy?
2. Whose responsibility within your organization will it be to review the policy? Will it be reviewed annually, bi-annually, or quarterly?
3. How will you gather data to determine if your policy is being effectively implemented?
4. Who will you engage within the world of work to get feedback on your policy?
5. How will changes in other aspects of your policy, the laws your organizations must abide by, or how your workforce performs their job impact the policy?

Workplaces Respond provides technical assistance to workplace stakeholders seeking to better prevent and respond to domestic violence, sexual assault, stalking, and sexual harassment impacting the workplace. Scan this QR code to access the Resource Center.



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## Appendix

### Resource A: Workplace DVSAS Policy Checklist

- This document is a Workplace DVSAS Policy Checklist. You can use this checklist to see how well your current workplace policies support survivors of DVSAS or to check that the final version of your customized DVSAS policy includes the core elements for an effective policy.

### Resource B: Questions and Answers – Title VII and ADA Application to Survivors of DVSAS

- This document was issued by the EEOC in December of 2024 to clarify how Title VII and the ADA can apply to survivors of DVSAS.

### Resource C: Office of Personnel Management Guidance on Employee Misconduct

- This document is guidance developed by the Office of Personnel Management to guide supervisors and employers generally in determining the proper response to different types of employee misconduct.

# Workplace Domestic Violence, Sexual Assault, & Stalking Policy Checklist

A workplace domestic violence, sexual assault, and stalking (DVSAS) policy is an important tool to help prevent and respond to the impacts of DVSAS in the workplace. The strength of such a policy depends on its ability to address the broad effects DVSAS has on individuals in the workplace and the ways in which DVSAS impacts work.

This checklist highlights essential elements of a strong and responsive policy. Employers and those in charge of developing and approving workplace policies should use this checklist to make sure their DVSAS policy is comprehensive.

Check if your current workplace policy does the following:

- ☐ Incorporates references to your DVSAS policy in all relevant sections of any pre-existing employee policies, handbooks, and manuals
- ☐ Defines all relevant forms of violence that your DVSAS policy is intended to protect against or refers to, including domestic violence, dating violence, sexual assault, sexual violence, and stalking.
- ☐ Defines and covers all employment and work-related relationships to which the DVSAS policy applies, including subordinate/superior relationships, contractors, vendors, unpaid and paid interns, and third parties, such as clients, patients or customers.
- ☐ Defines and covers all employment and work-related spaces where the DVSAS policy applies, including physical and remote work locations, conferences, trainings, and social events associated with work.

- ☐ Outlines the terms of confidentiality, when a disclosure of confidential information is necessary, and how those involved will be notified of a necessary disclosure.
- ☐ Details protocols for those who wish to report DVSAS for purposes of obtaining support from their workplace.
- ☐ Describes the protocols for requesting workplace safety accommodations for those covered by your DVSAS policy.
- ☐ Describes the steps an employer may take to support an individual's safety plan.
- ☐ Affirms non-discrimination and non-retaliation against individuals exercising their rights under the DVSAS policy.
- ☐ Details protocols for employees who have witnessed or are concerned about another employee who may be experiencing DVSAS.
- ☐ Details the employers' response to individuals perpetuating harm including investigations, consequences, and accountability measures.
- ☐ Identifies local and national resources to provide for those experiencing DVSAS.

For guidance on developing an effective DVSAS policy, please use our resource, ["Developing a Workplace Policy to Prevent & Respond to Domestic Violence, Sexual Assault, & Stalking in the World of Work."](#)

Strengthening your workplace policy is an important step in supporting the safety and wellbeing of employees. But, a policy is only as effective as its implementation. For support in the development and implementation of a policy and program to address DVSAS in the workplace, please contact the Workplaces Respond Team at [workplacesrespond@futureswithoutviolence.org](mailto:workplacesrespond@futureswithoutviolence.org).

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Workplaces Respond provides technical assistance to workplace stakeholders seeking to better prevent and respond to domestic violence, sexual assault, stalking, and harassment impacting the workplace. Scan this QR code to access the Resource Center.



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U.S. Equal Employment Opportunity Commission

# Questions and Answers: The Application of Title VII and the ADA to Applicants or Employees Who Experience Domestic or Dating Violence, Sexual Assault, or Stalking

This technical assistance document was issued upon approval of the Chair of the U.S. Equal Employment Opportunity Commission.

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**Concise Display Name:** Questions and Answers: The Application of Title VII and the ADA to Applicants or Employees Who Experience Domestic or Dating Violence, Sexual Assault, or Stalking

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**General Topics:** Sex, Harassment, Disability

**Summary:** This document addresses how Title VII and the ADA may apply to employment situations involving applicants and employees who experience domestic or dating violence, sexual assault, or stalking.

**Citation:** Title VII, ADA, 29 CFR Part 1604, 29 CFR Part 1630

**Document** Employees, Employers, Applicants, HR Practitioners

**Applicant:**

**Previous Revision:** Yes. This document revises the iteration originally issued 10-12-2012 (EEOC-NVTA-2012-1).

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Title VII of the Civil Rights Act of 1964 (Title VII) prohibits discrimination based on race, color, sex (including sexual orientation, gender identity, and pregnancy), religion, or national origin, and the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability.[1] The examples provided in this publication illustrate how Title VII and the ADA may apply to employment situations involving applicants and employees who experience domestic or dating violence, sexual assault, or stalking—whether the violence occurs within or outside of the workplace.[2] Whether discrimination has actually occurred in a particular instance must be determined through an investigation of the facts alleged. Information on how to file an employment discrimination claim may be found at the end of this document.

***Q: What are some examples of employment decisions that may violate Title VII and involve applicants or employees who experience domestic or dating violence, sexual assault, or stalking?***

**A:** Title VII prohibits disparate treatment based on sex, which may include treatment based on sex-based stereotypes. Employees and applicants of any sex, sexual orientation, or gender identity may experience domestic or dating violence, sexual assault, or stalking. For example:

- An employer terminates an employee after learning she has been subjected to domestic violence, saying he fears the potential “drama battered women bring to the workplace.”
- A hiring manager, believing that only women can be true victims of domestic violence because men should be able to protect themselves, does not select a

male applicant when he learns that the applicant obtained a restraining order against his husband.

- A supervisor demotes an employee after learning she has been subject to dating violence, saying women can't be relied on to have good judgment and make good choices because they can't even manage their personal problems.
- An employer allows a male employee to use unpaid leave for a court appearance to testify in the criminal prosecution of an assault but does not allow a similarly situated female employee to use equivalent leave to testify in the criminal prosecution of domestic violence she experienced. The employer says that the assault by a stranger is a "real crime," whereas domestic violence is "just a marital problem" and "women think everything is domestic violence."

Title VII prohibits sex-based harassment, including sexual harassment. As explained in the EEOC's ***Enforcement Guidance on Harassment in the Workplace*** ([https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace#\\_Toc164808002](https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace#_Toc164808002)), harassment can include verbal or physical conduct based on sex in which coworkers or supervisors engage. It can also include conduct predicated on sex-based assumptions and stereotypes regarding how survivors of gender-based violence may act or appear.[3] Harassment may violate Title VII if it is sufficiently severe or pervasive to create a hostile work environment, or if it results in an explicit change to the terms or conditions of the person's employment, such as refusal to hire or promote, firing, or demotion.[4] For example:

- An employee's co-worker sits uncomfortably close to her in meetings and has made suggestive comments. He waits for her outside the women's bathroom, blocks her passage in the hallway in a threatening manner, and waits for her in the dark in the parking lot outside of work. He also repeatedly telephones her on her personal phone after hours, sends personal e-mails, and shows up outside her apartment building at night. She reports these incidents to management and complains that she feels unsafe and afraid working nearby him. In response, management transfers him to another area of the building, but he continues to subject her to sexual advances and stalking.[5] She notifies management but no further action is taken.
- An employee has recently been subject to dating violence and is now living in a shelter. When a coworker learns about her current living situation, he

repeatedly asks the employee out on dates, despite her declining his requests, saying things like, “Is living in a shelter really worse than cuddling me at night?”

- An employee’s supervisor learns that she has recently separated from her husband because of domestic abuse. Viewing her as vulnerable, he requests the employee to perform a sex act on him, and when she refuses, he terminates her.
- During a consensual intimate relationship, an employee sends sexually explicit images of herself to a coworker. When she ends the relationship, the coworker threatens to share the sexually explicit images on social media unless she gives him a second chance. When the employee refuses, the coworker posts the images on a picture-sharing social media application and tags some of their other coworkers. Even though the sexually explicit images were created, obtained, and distributed outside of the workplace, they had an impact on the workplace and therefore could contribute to or constitute a sex-based hostile work environment.

Title VII prohibits retaliation for protected activity. Protected activity can include actions such as filing a charge of discrimination, complaining to one’s employer about job discrimination, requesting accommodation under the EEO laws, participating in an EEO investigation, or otherwise opposing discrimination. For example:

- An employee files a complaint with her employer’s human resources department alleging that she was raped by a prominent company manager while on a business trip. In response, other company managers reassign her to less favorable projects, stop including her in meetings, and tell co-workers not to speak with her.
- An employee notifies her supervisor that one of the business’s regular guests cornered and sexually assaulted her. In response, the supervisor places her on unpaid leave and ultimately cuts her work hours.

***Q: What are some examples of employment decisions that may violate the Americans with Disabilities Act and involve applicants or employees who experience domestic or dating violence, sexual assault, or stalking?***

***A:*** The ADA prohibits different treatment or harassment at work based on a disability, including disabilities resulting from domestic or dating violence, sexual

assault or stalking.[6] For example:

- An employer searches an applicant's name online and learns that she was a complaining witness in a rape prosecution and received counseling for depression. The employer decides not to hire her based on a concern that she may require future time off for continuing symptoms or further treatment of depression.
- An employee has facial scarring from skin grafts, which were necessary after she was badly burned in an attack by a former domestic partner. When she returns to work after a lengthy hospitalization, co-workers subject her to frequent abusive comments about the skin graft scars, and her manager fails to take any action to stop the harassment.

The ADA may require employers to provide reasonable accommodation requested by or on behalf of a person who has an actual disability or a record of a disability.[7] An "actual" disability is a physical or mental impairment that substantially limits one or more major life activities (which include major bodily functions). A "record of" a disability is a history of a substantially limiting impairment. An impairment need not prevent or severely or significantly limit a major life activity to be considered "substantially limiting." [8] A reasonable accommodation is a change in the workplace or in the way things are usually done that enables an individual with a disability to enjoy equal employment opportunities. Reasonable accommodations may include time off for treatment, modified work schedules, and reassignment to a vacant position. For example:

- A qualified employee who has no accrued sick leave and whose employer is not covered by the FMLA requests a schedule change or unpaid leave as a reasonable accommodation to get treatment for disabling depression and anxiety following a sexual assault by an intruder in her home. The employer, which is covered by the ADA, improperly denies her accommodation request on the grounds that it "applies leave and attendance policies the same way to all employees."
- In the aftermath of stalking by an ex-boyfriend who works for a different employer in the same office building, an employee develops disabling depression that is exacerbated by continuing to work in the same location as the ex-boyfriend. As a reasonable accommodation for her disability, the employee requests reassignment to an available vacant position for which she

is qualified at a different location operated by the employer. The employer denies the request, citing its “no transfer” policy.

The ADA prohibits disclosure of confidential medical information.[9] For example:

- An employee who is being treated for post-traumatic stress disorder (PTSD) resulting from sexual assault requests reasonable accommodation. Her supervisor tells the employee’s co-workers about her medical condition.

The ADA prohibits retaliation or interference with an employee’s exercise of his or her rights under the statute.[10] For example:

- In the prior example, the employee tells the supervisor she intends to complain to human resources about his unlawful disclosure of confidential medical information. The supervisor warns that if she complains, he will deny her the pay raise she is due to receive later that year.

***Q: What is the legal process for filing claims of discrimination?***

**A:** The process is different depending on the type of employer:

*Private Sector Employers and State and Local Government Employers*

A private sector or state or local government applicant or employee who believes that his or her Title VII or ADA employment rights have been violated and wants to make a claim against an employer must file a “charge of discrimination” with the EEOC. For a detailed description of the EEOC charge process, including instructions for filing a charge, refer to <https://www.eeoc.gov/how-file-charge-employment-discrimination> (<https://www.eeoc.gov/how-file-charge-employment-discrimination>) or call 1-800-669-4000/1-800-669-6820 (TTY).

*Federal Government Employers*

A federal government applicant or employee who believes that his or her employment rights have been violated under Title VII or the ADA and wants to make a claim against a federal agency must file an “EEO complaint” with that agency. For more information concerning enforcement procedures for federal applicants and employees, visit <https://www.eeoc.gov/federal-sector/overview-federal-sector-eeo-complaint-process> (<https://www.eeoc.gov/federal-sector/overview-federal-sector-eeo-complaint-process>).

[1] Title VII and the ADA apply to employers (including employment agencies and unions) with 15 or more employees, and to federal, state, and local governments. An employer may have additional obligations under other federal statutes, such as the Family and Medical Leave Act; state or local anti-discrimination laws that contain broader protections than the federal EEO laws; or guidance for federal agencies. See OPM, Fact Sheet: Time Off for Safe Leave Purposes, <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/time-off-for-safe-leave-purposes/> (<https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/time-off-for-safe-leave-purposes/>). For example, some state and local non-discrimination laws apply to smaller employers, and some states have laws expressly prohibiting discrimination against victims of domestic violence, and requiring employers to provide a certain amount of unpaid leave for related circumstances, including seeking medical care or legal assistance and attending court. See Kate Miceli, 4 Types of Employment Laws That Can Help Domestic Violence Survivors at Work, U.S. Dep't of Lab. Blog (Oct. 5, 2023), <https://blog.dol.gov/2023/10/05/4-types-of-employment-laws-that-can-help-domestic-violence-survivors-at-work> (<https://blog.dol.gov/2023/10/05/4-types-of-employment-laws-that-can-help-domestic-violence-survivors-at-work>) (providing links to state laws related to safe leave, anti-discrimination, reasonable accommodations, and unemployment insurance for survivors of partner violence).

[2] The U.S. Department of Justice defines these terms as follows:

Domestic violence: “[A] pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, psychological, or technological actions or threats of actions or other patterns of coercive behavior that influence another person within an intimate partner relationship. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.”

Dating violence: “Dating violence is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.”

Sexual assault: “Sexual assault is any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent.”

Stalking: “Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety.”

For more information, see [\*\*https://www.justice.gov/ovw/our-focus-areas\*\*](https://www.justice.gov/ovw/our-focus-areas) ([\*\*https://www.justice.gov/ovw/our-focus-areas\*\*](https://www.justice.gov/ovw/our-focus-areas)).

[3] EEOC, Enforcement Guidance on Harassment in the Workplace § II.B.3 (2024), [\*\*https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace#\\_Toc164808014\*\*](https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace#_Toc164808014) ([\*\*https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace#\\_Toc164808014\*\*](https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace#_Toc164808014)).

[4] An employer is always responsible for harassment by a proxy or alter ego of the employer (a person that possesses such high rank or authority that his or her actions can be said to speak for the employer). Likewise, an employer is always responsible for harassment by a supervisor that culminates in a tangible employment action, such as discipline or termination. If the supervisor’s unlawful harassment did not lead to a tangible employment action, the employer is liable unless it proves that: (1) it exercised reasonable care to prevent and correct promptly any harassment, and (2) the employee unreasonably failed to complain to the employer or to avoid harm otherwise. An employer is liable for unlawful harassment by a co-worker or by a third party, such as a customer or vendor, if the employer did not take appropriate steps to prevent harassment, for example by not having an effective anti-harassment policy, or did not appropriately respond to harassment about which it knew or should have known. For more information, see Enforcement Guidance on Harassment in the Workplace § IV (2024), [\*\*https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace#\\_Toc164808039\*\*](https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace#_Toc164808039) ([\*\*https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace#\\_Toc164808039\*\*](https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace#_Toc164808039)); Small Business Fact Sheet: Harassment in the Workplace, [\*\*https://www.eeoc.gov/small-business-fact-sheet-harassment-workplace\*\*](https://www.eeoc.gov/small-business-fact-sheet-harassment-workplace) ([\*\*https://www.eeoc.gov/small-business-fact-sheet-harassment-workplace\*\*](https://www.eeoc.gov/small-business-fact-sheet-harassment-workplace)); Questions and Answers for Employees: Harassment at Work, [\*\*https://www.eeoc.gov/questions-and-answers-employees-harassment-work\*\*](https://www.eeoc.gov/questions-and-answers-employees-harassment-work) ([\*\*https://www.eeoc.gov/questions-and-answers-employees-harassment-work\*\*](https://www.eeoc.gov/questions-and-answers-employees-harassment-work)).

[5] These facts are based on a Title VII sexual harassment case in which EEOC filed an amicus brief. Crowley v. LL Bean, Inc., No. 01-2732 (1st Cir. June 2, 2002) ([\*\*https://www.eeoc.gov/sites/default/files/migrated\\_files/eeoc/litigation\*\*](https://www.eeoc.gov/sites/default/files/migrated_files/eeoc/litigation)).



**([https://www.eeoc.gov/sites/default/files/migrated\\_files/eeoc/litigation/briefs/crowle.txt](https://www.eeoc.gov/sites/default/files/migrated_files/eeoc/litigation/briefs/crowle.txt))**  
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[6] The ADA defines disability as (1) a physical or mental impairment that substantially limits one or more major life activities, (2) a record of such an impairment, or (3) being regarded as having a physical or mental impairment. 42 U.S.C. § 12102(1). The ADA prohibits discrimination based on disability, including disparate treatment or harassment. See 42 U.S.C. § 12112(b).

[7] Qualified individuals with an impairment that substantially limits a major life activity or who have a record of such an impairment may be entitled to reasonable accommodation absent undue hardship on the employer. For more information, see EEOC, Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the ADA (2002), **[www.eeoc.gov/policy/docs/accommodation.html](http://www.eeoc.gov/policy/docs/accommodation.html)** (**<http://www.eeoc.gov/policy/docs/accommodation.html>**); Small Employers and Reasonable Accommodation, **<https://www.eeoc.gov/laws/guidance/small-employers-and-reasonable-accommodation>** (**<https://www.eeoc.gov/laws/guidance/small-employers-and-reasonable-accommodation>**).

[8] Under the ADA, as amended, the term “substantially limits” is to be construed broadly in favor of expansive coverage. For more information, see Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008, **<https://www.eeoc.gov/laws/guidance/questions-and-answers-final-rule-implementing-ada-amendments-act-2008>** (**<https://www.eeoc.gov/laws/guidance/questions-and-answers-final-rule-implementing-ada-amendments-act-2008>**).

[9] EEOC, Enforcement Guidance on Disability-Related Inquiries & Medical Examinations of Employees Under the ADA (2000), **<https://www.eeoc.gov/laws/guidance/enforcement-guidance-disability-related-inquiries-and-medical-examinations-employees>** (**<https://www.eeoc.gov/laws/guidance/enforcement-guidance-disability-related-inquiries-and-medical-examinations-employees>**).

[10] The ADA protects all applicants or employees, whether or not they are individuals with a disability, from retaliation for protected activity, interference with the exercise of rights under the ADA, disability-related inquiries and medical examinations that are not job-related and consistent with business necessity, and improper disclosure of confidential medical information. For more information about these and other provisions of the ADA, go to **<https://www.eeoc.gov/eeoc-disability-related-resources>** (**<https://www.eeoc.gov/eeoc-disability-related-resources>**).

## The Douglas Factors

The Merit Systems Protection Board in its landmark decision, *Douglas vs. Veterans Administration*, 5 M.S.P.R. 280 (1981), established nonexclusive criteria that supervisors must consider in determining an appropriate penalty to impose for an act of employee misconduct. The following relevant factors must be considered in determining the severity of the discipline:

1. The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
3. The employee's past disciplinary record;
4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's ability to perform assigned duties;
6. Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. Consistency of the penalty with any applicable agency table of penalties;
8. The notoriety of the offense or its impact upon the reputation of the agency;
9. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
10. Potential for the employee's rehabilitation;
11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.