

SPECIAL CONDITION IMPLEMENTATION GUIDE

Guide for Implementing the Office on Violence Against Women's (OVW) Special Condition on Workplace-Related Sexual Misconduct and Domestic/Dating Violence

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Workplaces Respond to Domestic & Sexual Violence

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.

Workplaces Respond is available for technical assistance in complying with the Special Condition. Upon request and resources permitting, Workplaces Respond helps workplaces interest holders develop policies, resource materials, education and training to promote workplace cultures that support survivors and prevent sexual misconduct, domestic violence, and dating violence domestic violence, sexual assault, affecting workers and the workplace.

→ Learn more about our resource center.

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ABOUT THE SPECIAL CONDITION

The Office on Violence Against Women, U.S. Department of Justice (OVW), has adopted a Special Condition on Workplace Related Sexual Misconduct and Domestic/Dating Violence (Special Condition). This Implementation Guide will help grant recipients and subrecipients (Grantees) prepare for the Special Condition and create the required policy. This guide will also help Grantees develop training programs so their employees, volunteers, contractors, and consultants (workers) understand the required policy and their rights and obligations under it.

FULL TEXT OF THE SPECIAL CONDITION

Award Condition:

The recipient, and any subrecipient at any tier, must have a policy, or issue a policy within 270 days of the award date, to address workplace-related incidents of sexual misconduct, domestic violence, and dating violence involving an employee, volunteer, consultant, or contractor.

- The details of this requirement are posted on the OVW website at <https://www.justice.gov/ovw/award-condition-policy-response-workplace-related-incidents-sexual-misconduct-domestic-violence>.
- Workplaces Respond: [OVW Grantee Resource Page](#) featuring resources on implementing the Special Condition.

In short, grantees must:

- Have a policy or issue a policy within 270 days of the award date, to address workplace-related incidents of sexual misconduct, domestic violence, and dating violence involving an employee, volunteer, consultant, or contractor.
- This policy must address:
 1. allegations of workplace-related incidents of sexual misconduct, domestic violence, and dating violence by an employee, volunteer, consultant, or contractor;
 2. workplace supports for employees, volunteers, consultants, or contractors who are victims of sexual misconduct, domestic violence, or dating violence; and
 3. adjudications that will result in an employee, volunteer, contractor, or consultant being prohibited from occupying positions that could undermine the ability of the recipient or subrecipient to carry out the grant-funded project, such as positions working with victims and other vulnerable populations.
- The recipient must make its policy available to OVW upon request. Subrecipients must make their policies available to the recipient upon request.

THE POLICY APPLIES TO:

Examples of when the policy applies include but are not limited to:

- A worker who sexually assaults another worker.
- A worker who has an order of protection or restraining order issued against them because they were found by a judge to have perpetuated violence. The policy applies to this worker even if the victim/survivor does not work for the Grantee.
- A worker who uses violence against any other person during a Grantee-sanctioned event, including informal social events that occur solely because of the attendee's relationship with Grantee.
- If a worker is adjudicated as having used violence, they should be prohibited from occupying positions that undermine the Grantee's ability to carry out OVW-funded projects (exceptions as described in a subsequent section of this guide may apply).

CHECKLIST: HOW TO DEVELOP A COMPLIANT POLICY

- Convene a Working Group
- Develop a Consensus Purpose Statement
- Customize Persons Covered & Definitions Section
- Draft the Policy
- Identify & Promote Workplace & Community Supports

CONVENE A WORKING GROUP

Make it a team effort! To facilitate compliance with the Special Condition and an effective policy, bring together a Working Group made up of representatives from different roles within a workplace to co-create a comprehensive policy and program that promotes a culture of prevention, safety, and support.



● CONVENE A WORKING GROUP, CONT.

→ Potential Working Group Tasks

○ **Assess Needs**

Familiarize interest holders with the Special Condition & provide confidential opportunities for all to express their views, experiences, & needs.

○ **Draft & Customize the Policy's Value Statement**

All Grantees have unique needs and challenges. Using the information gathered through the needs assessment, tailor your policy's value statement to identified needs.

○ **Access Technical Assistance**

Consult Workplaces Respond for guidance on best practices in developing policies, training practices, & resource materials.

○ **Raise Awareness & Train**

Take the lead on informing and training stakeholders on new and amended policies.

○ **Educate and train people covered by the policy on what it covers and what supports it provides.**

Connect with OVW. OVW must have access to the policy upon request.

○ **Evaluate & Refine**

Track the policy's impact on the workplace, solicit feedback, and make adjustments as needed.

○ **Address Additional Needs**

Working Groups provide a great opportunity to assess organizational culture; conduct activities like a Workplace Environment Survey to address and identify other needs.

DEVELOP A PURPOSE STATEMENT

Beginning the policy with a purpose statement clearly articulates the workplace culture the Grantee seeks to create and sets broad goals for the policy.

SAMPLE PURPOSE STATEMENT

[Grantee] institutes this policy as part of its commitment to a safer and more supportive organizational climate and to the prevention and reduction of the occurrences and effects of workplace-related incidents of sexual misconduct, domestic violence, and dating violence [hereinafter "violence"]. [Grantee] recognizes violence presents unique issues for its employees, volunteers, consultants, and contractors [hereinafter "workers"].

Violence can be workplace-related even if incidents occur elsewhere. It crosses economic, educational, cultural, age, gender, racial, and religious lines and occurs in a wide variety of contexts.

The purposes and goals of this policy are to:

- Support a comprehensive workplace education and training program that prevents violence;
- Institutionalize responsive policies and procedures to assist and support workers who are impacted by violence;
- Discipline and hold workers who use violence accountable, which – in certain cases – may include such assistive and supportive measures as requiring counseling; and
- Ensure a worker who uses violence is prohibited from occupying positions that could undermine [Grantee's] mission - as well as the missions of other grantees.

Feature - Crystallizing Purpose: Model Code of Conduct



Consider developing an optional Code of Conduct to highlight the policy's essential elements.

Draft an introductory paragraph that:

- Refers to the Policy on Sexual Misconduct, Domestic Violence & Dating Violence (hereinafter "policy"), and summarizes its purpose;
- Clarifies the policy applies regardless of whether a worker is physically present on a site controlled by Grantee or discharging work-related responsibilities;
- Emphasizes the Code of Conduct establishes broad principles designed to illustrate, but not replace, policy provisions; and
- Identifies supports that are available to workers who report they have experienced violence. Supports can include planning for their immediate safety needs, resources for their physical and emotional well-being, and the availability of survivor-specific reasonable accommodations.

- 1. Sexual misconduct, domestic violence & dating violence (hereinafter "violence") perpetrated by [Grantee's] employees, volunteers, consultants, and contractors (hereinafter "workers") undermine [Grantee's] mission and purpose. Accordingly, workers shall not use violence in any work-related capacity, including at any [Grantee]-sanctioned event or [Grantee]-related social occasion
- 2. [Grantee] is committed to the safety and support of workers who have experienced or witnessed violence. Workers who have experienced or witnessed violence are encouraged to document in writing as much information as possible, and report incidents to any supervisor. All reports will be kept confidential to the extent allowed by law.
- 3. Supervisors must report all work-related violence that they are aware of to [appropriate contact]. Please consult [appropriate contact] for more information about the supervisors' duty to report.

Feature - Crystalizing Purpose: Model Code of Conduct, cont.



- 4. [Grantee] encourages workers who experienced or witnessed violence to request any reasonable accommodation necessary for their immediate safety needs and physical and emotional well-being.
- 5. Workers accused of using violence shall cooperate with all internal and external investigations.
- 6. [Grantee] prohibits all acts of retaliation against any worker who has experienced, witnessed, or reported an act of violence.
- 7. [Grantee] may terminate any formal or informal relationship with workers who have been adjudicated as having used violence.



CUSTOMIZE PERSONS COVERED & DEFINITIONS

The Special Condition requires the policy cover **employees, volunteers, consultants, and contractors**. A customized policy may cover additional persons, such as interns, temporary workers, visitors, and event faculty, training participants, or event attendees.

The Special Condition provides the following definitions (note, some policies may require additional definitions):

- “**Adjudication**” includes a conviction, issuance of a final protection order, court-ordered diversion, or other judicial finding that the employee, volunteer, consultant, or contractor has engaged in domestic violence, dating violence, sexual assault, or stalking. The recipient may choose to include adjudications for additional, related offenses, such as sex trafficking.
- “**Domestic violence**,” “**dating violence**,” “**sexual assault**,” and “**stalking**” have the meanings given in 34 U.S.C. § 12291(a).
- “**Sexual misconduct**” means sexual assault, stalking, and sexual harassment.
- “**Sexual harassment**” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment, whether such activity is carried out by a supervisor or by a co-worker, volunteer, or contractor.

● CUSTOMIZE PERSONS COVERED & DEFINITIONS, CONT.

- An individual is considered to be in the “**workplace**” of the recipient or subrecipient while in, or using the resources of, the recipient’s or subrecipient’s offices or facilities, using its equipment or vehicles, engaging in approved remote work, on work-related travel, or otherwise conducting business on behalf of the recipient or subrecipient. The nature of the response to a workplace-related incident may depend on the location at issue.
- “**Workplace-related incidents**” of sexual misconduct, domestic violence, and dating violence include acts, attempted acts, or threatened acts by or against employees, consultants, volunteers, or contractors, that occur in the workplace or that occur outside the workplace but have an impact on the workplace or otherwise undermine the ability of the recipient or subrecipient to carry out the grant-funded project.



● DRAFT THE POLICY

→ Drafting Discussion Points

- How will your policy define an “incident?”
- What makes an incident “workplace-related?”
- How will reports of alleged violence be made?
- What steps will be taken immediately after a report is made?
- What happens to a worker accused of violence while a report is under investigation?
- How will confidentiality be protected?
- What supports or flexibilities will be available to the person experiencing harm?



DRAFT THE POLICY, CONT.

OVW requires the policy to address:

"Adjudications that will result in an employee, volunteer, contractor, or consultant being prohibited from occupying positions that could undermine the ability of the recipient or subrecipient to carry out the grant-funded project, such as positions working with victims and other vulnerable populations."

In short:

Workers who have been found by a judge or judicial body as having used violence cannot be in roles within the organization that would impact the grantee's ability to carry out the goals of the grant. The policy must address when and under what circumstances the Grantee may not have working relationships with individuals who have been adjudicated as using violence.

OVW requires the policy to address:

"A policy may provide that certain adjudications do not prohibit an individual from occupying such a position but must include standards for granting such an exemption for an individual."

In short:

Grantees may opt to allow certain workers who have been adjudicated as using violence to be in positions that impact the grant project. For example, an employee who has completed a "batterer intervention" program may be uniquely positioned to effectively facilitate a batterer intervention program. Under the special condition, this is permissible, but the Grantees must have a set of standards that govern when such an exception will be granted. Another example of when an exception may apply would be a worker whose abuser has obtained an order of protection against the survivor as a form of litigation abuse.



Feature - Model Policy

MODEL WORKPLACE POLICY ON WORKPLACE-RELATED SEXUAL MISCONDUCT AND DOMESTIC/DATING VIOLENCE

I. Purpose

[Grantee] institutes this policy as part of its commitment to a safer and more supportive organization. The goal of this policy is to prevent and reduce the occurrences and effects of workplace-related incidents of sexual misconduct, domestic violence, and dating violence [hereinafter "violence"]. [Grantee] recognizes violence presents unique issues for its employees, volunteers, consultants, and contractors [hereinafter "workers"]. Violence can be workplace-related even if incidents occur elsewhere. It crosses economic, educational, cultural, age, gender, racial, and religious lines and occurs in a wide variety of contexts.

The purpose of this policy is to:

- Support a comprehensive workplace education and training program to prevent violence;
- Institutionalize responsive policies and procedures to assist and support workers who are impacted by violence;
- Discipline and hold accountable workers who use violence, which – in certain cases – may include such assistive and supportive measures such as required counseling; and
- Assure that a worker who uses violence is prohibited from occupying positions that could undermine [Grantee's] mission - as well as the missions of other grantees.

II. Definitions

"Adjudication" includes a conviction, issuance of a final protection order, court-ordered diversion, or other judicial finding that the employee, volunteer, consultant, or contractor has engaged in domestic violence, dating violence, sexual assault, or stalking.



Feature - Model Policy, cont.

“Domestic violence,” “dating violence,” “sexual assault,” and “stalking” have the meanings given in 34 U.S.C. § 12291(a).

“Sexual misconduct” means sexual assault, stalking, and sexual harassment.

“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment, whether such activity is carried out by a supervisor or by a co-worker, volunteer, or contractor.

An individual is considered to be in the **“workplace”** of the recipient or subrecipient while in, or using the resources of, the recipient’s or subrecipient’s offices or facilities, using its equipment or vehicles, engaging in approved telework, on work-related travel, or otherwise conducting business on behalf of the recipient or subrecipient. The availability and nature of the response to a workplace-related incident may depend on the location at issue.

“Workplace-related incidents” of sexual misconduct, domestic violence, and dating violence include acts, attempted acts, or threatened acts by or against employees, consultants, volunteers, or contractors, that occur in the workplace or that occur outside the workplace but have an impact on the workplace or otherwise undermine the ability of the recipient or subrecipient to carry out the grant-funded project.

III. Persons Covered by this Policy

Persons covered by this policy include full and part-time employees, volunteers, consultants, and contractors engaged by - or in any location or event controlled or endorsed by - [Grantee].



Feature - Model Policy, cont.

IV. Statement of Confidentiality

[Grantee] recognizes and respects a worker's right to privacy and the need for confidentiality and autonomy. [Grantee] shall maintain the confidentiality of a worker's disclosure regarding violence to the extent allowed by law, or unless to do so would result in physical harm to any person, and/or jeopardize safety within any location or event controlled by [Grantee]. When information must be disclosed to protect the safety of individuals within any location or event controlled by [Grantee], [Grantee] shall limit the breadth and content of such disclosure to information reasonably necessary to protect the safety of the disclosing workers and others, and to comply with the law.

If the disclosure must be shared with other parties to maintain safety in any location or event controlled by [Grantee] or elsewhere, [Grantee] shall provide advance notice to the worker who disclosed information, to the extent possible.

[Grantee] shall also provide the worker with the name and title of the person to whom [Grantee] intends to share the worker's statements, and shall explain the necessity and purpose regarding said disclosure.

V. [Grantee] Responses to Violence

→ A. Reporting by Workers with Information About Violence

Workers who have information about, or who witness, an act of violence perpetrated by another worker, or who have information about or witness violence against a worker, are encouraged to report this information to the [appropriate contact]. Supervisors who have information about or witness an act of violence perpetrated by another worker or supervisor, or who have information about or witness violence against a worker or supervisor, are required to report this information to the [appropriate contact].



Feature - Model Policy, cont.

→ **B. Responses to Workers Accused of Using Violence**

If [Grantee] receives information that alleges or suggests that a worker has committed an incident of workplace-related violence, as defined in this Policy, or if any manager or supervisor receives information that any worker has engaged in any incident of workplace-related violence, then the matter shall be referred to the [designated official] for the purpose of investigating the information or allegation. [Grantee] shall conduct an immediate investigation of the information or allegation. The investigation shall be completed within 45 days of receipt of the information or allegation concerning the alleged incident of violence.

Every worker has a duty to cooperate with the investigation, and failure to do so will result in disciplinary action being taken against the uncooperative worker up to and including termination or severance of a contractual relationship. Additionally, every worker has the duty to disclose all information known to the worker when requested to do so by any person designated by [Grantee] to investigate an alleged incident of violence.

Any worker who fails to be completely truthful or who withholds information shall be subject to disciplinary action up to and including termination or severance of a contractual relationship.

At the conclusion of the investigation conducted by [Grantee], the investigator shall report their findings to the [designated official]. If the investigator concludes, by a preponderance of the evidence, that the worker has engaged in a workplace-related incident, as defined in this Policy, then the subject of the investigation shall be subject to disciplinary action up to and including termination or severance of a contractual relationship. The worker may also be required to participate in counseling or other remedial measures.



Feature - Model Policy, cont.

A worker who is subject to a final protection or restraining order, or a named defendant in a criminal action as a result of a threat or act of violence, as defined in this Policy, must notify the [Grantee's Appropriate Contact] immediately regarding the existence of such criminal or civil action. Failure to disclose the existence of such criminal or civil actions in these circumstances will result in disciplinary action, up to and including termination from employment or severance of a contractual relationship.

→ **C. Responses to Workers Found to Have Used Violence**

In the event that the investigator reports to the [designated official] that the worker has engaged in a workplace-related incident, as defined in this Policy, or the worker has been found guilty or liable in a criminal or civil action arising from a threat or act of violence, as defined in this Policy, the [designated official] shall determine whether a continued employment, contractual, or volunteer relationship with the worker would undermine [Grantee's] ability to carry out Office on Violence Against Women (OVW) grant-funded projects.

If the [designated official] determines a continued employment, contractual, or volunteer relationship with the worker would undermine [Grantee's] ability to carry out OVW grant-funded projects, the designated official shall remove the worker from any position that may undermine [Grantee's] ability to carry out OVW grant-funded projects.

[Grantee] may grant an exception and allow an employee, contractor, or volunteer who was previously adjudicated of having used violence by any jurisdiction or previous employer or contractee to occupy a position that could otherwise undermine the ability of [Grantee] to carry out the OVW funded project, so long as the [Grantee] can establish to that the worker has met the following qualifications:

- No survivor of violence used by the worker, nor any family member or friend of a survivor of violence used by the worker, will encounter the worker in any [Grantee]-controlled capacity;



Feature - Model Policy, cont.

- The worker demonstrates accountability, restoration, and rehabilitation; and
- [Grantee]'s mission would benefit from the worker's experience.

All terminations of an employment or contractual relationship with a worker pursuant to this provision, as well as any exception granted pursuant to this provision (including the standards [Grantee] relied upon in granting an exception), will be reported to OVW.

VI. Reporting by Workers Who are Victims/Survivors

Workers who are surviving violence, and workers who are concerned about coworkers who might be surviving violence, are encouraged to provide a report to [Grantee]. [Grantee] has designated [person] or any supervisor as persons to whom such reports should be made. [Grantee's] designee shall provide community referrals and resources to assist workers with their experiences and concerns.

VII. Reporting Violation of Policy

A person who wishes to report a violation of this policy should also contact [person] or any supervisor. [Grantee] prohibits retaliation against any person who makes a report under this policy.



Feature - Crystallizing the Policy: Model Contractual Language



The policy should cover contractors, vendors, volunteers, visitors, or any other person who is not directly employed by a Grantee, but acts at a Grantee's behest. Consider integrating a provision on violence into contracts and other agreements:

MODEL CONTRACTUAL PROVISION ON WORKPLACE-RELATED SEXUAL MISCONDUCT AND DOMESTIC/DATING VIOLENCE

- **a)** Definitions [as adopted by the Working Group]
- **b)** Sexual misconduct, domestic violence & dating violence (hereinafter "violence") perpetrated by [Grantee's] employees, volunteers, consultants, or contractors] undermine [Grantee's] mission and purpose. Accordingly, [Grantee] expressly prohibits acts of violence perpetrated by [Employee / Volunteer / Consultant / Contractor] in any [Grantee]-related or privacy capacity, including any [Grantee]-sanctioned event or [Grantee]-related social occasion regardless of where it occurs.
- **c)** A determination by [Grantee] or adjudication by any civil or criminal authority that [Employee / Volunteer / Consultant / Contractor] has perpetrated violence shall render [Employee / Volunteer / Consultant / Contractor] in material breach of this agreement and subject to disciplinary action up to and including cancellation of this agreement.

If this agreement is cancelled pursuant to this provision, parties expressly agree that they shall be held harmless for any and all payments, obligations, performance, or any other contractual requirements arising after the date of the incident of violence subject to the adjudication



Feature - Crystalizing the Policy: Model Contractual Language, cont.

- **d)** If [Grantee] receives information that [Employee / Volunteer / Consultant / Contractor] has perpetrated violence, then the matter shall be referred to the [designated official] for the purpose of investigating the information or allegation. [Grantee] shall conduct an immediate investigation of the information or allegation, which investigation shall be completed within 45 days of receipt of the information or allegation concerning the alleged incident of violence. [Grantee] may at its discretion suspend the obligations and performance requirements of all parties to this agreement during an investigation until such time as the investigation is complete.
- **e)** [Employee / Volunteer / Consultant / Contractor] is informed that [Grantee] will report to the Office on Violence Against Women, U.S. Department of Justice, when [Grantee] has cancelled an agreement pursuant to this provision. [Employee / Volunteer / Consultant / Contractor] expressly holds [Grantee] harmless for any and all outcomes arising from [Grantee's] duty to report, including any challenges [Employee / Volunteer / Consultant / Contractor] might encounter in securing future grant-funded contracts.
- **f)** [Employee / Volunteer / Consultant / Contractor] is further informed that [Grantee] at its discretion may optionally enter into a future agreement with [Employee / Volunteer / Consultant / Contractor] after an adjudication of having used violence, so long as [Grantee] can establish that [Employee / Volunteer / Consultant / Contractor] can fully comply with the following conditions: No victim/survivor of violence perpetrated by [Employee / Volunteer / Consultant / Contractor], nor any family member or friend of the victim/survivor, will encounter [Employee / Volunteer / Consultant / Contractor] in any [Grantee]-controlled capacity:
 - [Employee / Volunteer / Consultant / Contractor] demonstrates accountability, restoration, and rehabilitation; and
 - [Grantee]'s mission would benefit from [Employee / Volunteer / Consultant / Contractor] experience.

IDENTIFY & PROMOTE WORKPLACE & COMMUNITY SUPPORTS

The Working Group should ensure that all interest holders are informed of workplace and community supports available to victims/survivors of violence. Consider attaching a document with information and local resources to all policies, codes of conduct, contracts, and all other policy-related materials.

→ At a minimum, the document should highlight:

- Information about protections against retaliation;
- Assistance in developing a workplace safety plan;
- Process for requesting workplace flexibilities

Examples of available reasonable accommodations for the worker who has experienced violence may include but are not limited to:

- Flexible scheduling and leave policies so that the victim/survivor can access health care, counseling, legal support, and attend to other needs;
- Adjustments to job site infrastructure, including relocating to another work station, changing contact information, and enhancing security protocols;
- Support in reporting to law enforcement, if the victim/survivor so chooses; and/or
- Affirmation of the victim/survivor's personal agency to weigh in on what actions should be taken against the worker reported to have used violence or how to terminate their employment or contractual relationship without penalty because of the trauma and impacts of their experience with violence.

● IDENTIFY & PROMOTE WORKPLACE & COMMUNITY SUPPORTS

Supports available to the worker reported to have used violence, may include but are not limited to:

- Adjustments to job site infrastructure, including relocating to another work station or scheduling adjustments; and/or
- Requirements to and support in participating in counseling or other remedial or restorative measures; and

- List of national hotlines, employee assistance programs, and local service providers.

**SCAN THIS
QR CODE TO
ACCESS THE
RESOURCE CENTER.**



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.