

Ulster County Gender-Based Violence and the Workplace Policy

I. POLICY STATEMENT

Domestic and other forms of gender-based violence permeates the lives and harms thousands of New Yorkers each day, with tragic, destructive, and often fatal results. The impact of such violence transcends beyond the various locations at which such incidents take place and are felt in the workplace. The safety of victims, co-workers, and others have the potential to be compromised.

It is the policy of Ulster County (the “County”) to maintain a workplace free from gender-based violence. The County, in its continuing effort to facilitate a safe and welcoming environment in employment and services to the community, and in support of federal and state gender-based violence prevention legislation, has adopted the following policy in furtherance of such efforts.

The County recognizes that gender-based violence occurs within a wide spectrum of relationships and it is committed to taking every appropriate measure to prevent and/or address gender-based violence as it impacts the workplace, while also recognizing the rights of victims to have self-determination and the need to respond in a survivor-centered, trauma-informed, and culturally responsive manner.

II. PERSONS COVERED BY THIS POLICY

This Policy shall extend to all full, part-time, and temporary employees, volunteers, and interns engaged by the County of Ulster in any official workplace capacity. Whenever possible, this Policy shall be extended to consultants, contractors, and other on-site providers.

III. DEFINITIONS

For purposes of this policy, key definitions include:

A. Gender-Based Violence

Violence or threats that happen because of someone’s sex, gender, sexual orientation, gender identity or expression, or other related characteristics. Gender-based violence is an umbrella term that includes domestic violence, sex-based discrimination, sexual harassment, sexual assault, and sexual violence, and can also include stalking or human trafficking.

B. Domestic Violence

A pattern of coercive behavior, including acts or threatened acts, used by a perpetrator to gain power and control over a victim, as defined in New York State Social Service Law § 459-a, including, but not limited to physical, sexual, psychological, economic, and/or emotional abuse; or the threat of any of the acts as mentioned earlier. Domestic violence includes but is not limited to family violence, intimate partner violence, dating violence, or dating abuse.

C. Sexual Violence

Sexual acts or activities that happen or are attempted without consent, including rape, molestation, groping, harassment, and sexual abuse. These acts may or may not be crimes.

D. Stalking

An unwanted pattern of repeated harassing or threatening behavior, causing fear, substantial emotional distress, or safety concerns for the victim.

E. Coercive control

An act or pattern of acts, threats, humiliation, and intimidation that is used to harm, punish, or frighten.

F. Victim/Survivor

A person who has experienced or is experiencing any form of gender-based violence.

G. Order of Protection ("OP")

An order issued by any court to limit the behavior of someone who harms or threatens to harm another person. Orders of Protection may direct the offending party not to injure, threaten, or harass the victim, their family, or any other person(s) identified and may include, but are not limited to ordering the person causing harm to stay away from the home, school, business, or place of employment of the victim; vacate a shared residence; abide by any active orders of custody and visitation; and surrender any firearms.

H. Workplace

For the purposes of this policy, any permanent or temporary location away from an employee's domicile where an employee performs any work-related duty in the course of employment.

IV. STATEMENT OF CONFIDENTIALITY

The County recognizes and respects every employee's right to privacy and confidentiality. All information, including employee disclosures about victimization, shall be kept confidential to the extent permitted by law and County policy without the employee's written informed consent, unless doing so creates a substantial risk of imminent danger to the victimized employee, other employees, or worksite. Should that circumstance occur, the victimized employee will be notified of the actions that will be taken by the County and information sharing will be limited to the employees deemed necessary for securing the safety of the victim, other employees, or worksite. All information shared with the employees identified will be as limited in scope as possible. Employees may be required to sign an acknowledgement of confidentiality stating that any information obtained regarding the victimized employee must be used only for its intended safety purpose.

V. SURVIVOR RIGHTS

It is unlawful to discriminate against an employee based on their status as a victim of domestic violence. Employees have the right to:

- Disclose or decline to disclose experiences of gender-based violence.
- Request reasonable workplace accommodations.
- Be free from discrimination and retaliation.
- Access gender-based violence services.

Ulster County may require an employee to provide documentation, such as an attestation, to substantiate the need for an accommodation.

VI. ULSTER COUNTY RESPONSIBILITIES

- A. The County designates the Personnel Director as its Gender-Based Violence Liaison (“GBVL”) to support adherence to this Policy.
- B. Each County department must post the name and contact information of the GBVL.
- C. The County will distribute this Policy to all employees, contractors, volunteers, and interns upon hire and to all employees on an annual basis.
- D. The County will take all appropriate actions to promote safety in the workplace by efficiently and effectively responding to gender-based violence and the needs of victims to the fullest extent possible without violating any existing rules, regulations, statutory requirements, contractual obligations, or collective bargaining agreements.
- E. Ulster County Responsibility for Employee Awareness:
 1. The County will increase awareness around gender-based violence and create an informed workforce regarding available sources of assistance for those experiencing gender-based violence.
 2. The County will increase awareness around possible disciplinary actions that may be implemented in the event of retaliation by employees or be taken against employees who perpetrate acts of gender-based violence.
 3. An explanation of employee's rights under this Policy shall be given during new employee orientation.
 4. If the County suspects that an employee is a victim of gender-based violence but the employee has not disclosed victimization, the County shall refer the employee to:
 - a. The GBVL;
 - b. The Employee Assistance Program (“EAP”) (1-888-881-5462) or <https://www.supportline.com>;

- c. The NYS Domestic and Sexual Violence Hotline (1-800-942-6906), text line (1-844-997-2121); and
 - d. Family of Woodstock (1-845-679-2485) or <https://www.familyofwoodstockinc.org>.
- F. Referrals to the above options must be offered to anyone who discloses they are a victim of gender-based violence.
- G. The County shall post information on gender-based violence as outlined within this Policy, on the County's intranet and in work locations where employees are able to utilize the information without having to request it or be seen removing it. Such places may include: employee newsletters, restrooms, breakrooms, kitchen and lounge areas, and any other frequently attended areas. Information will include sources of assistance and contact information as noted in this Policy.
 - 1. Additional referrals shall be made to the appropriate resources to best meet the employee's needs.
 - 2. The Personnel Director will ensure the implementation and compliance of this Policy, ensuring employees are aware of their rights through annual training/policy receipt. When notified that an employee is a victim of gender-based violence, the Personnel Director will provide the employee with confidential support services, including referrals to the EAP, NYS Domestic and Sexual Violence Hotline, Family of Woodstock, and any other confidential support services, and conduct workplace safety strategizing with victimized employees to ensure that the employee is informed of all accommodations available. This may include use of alternative scheduling and assisting the employee in identifying the best use of attendance and leave benefits.
 - 3. Personnel Department staff shall:
 - a. Ensure all employees who are required to attend training complete the required training;
 - b. Ensure all employees receive a copy of this Policy upon hire as well as annually;
 - c. Ensure any employee who discloses being a victim of gender-based violence is aware of and receiving any necessary accommodations; and
 - d. Consult with County leadership, as appropriate, to address complex cases.

VII. SUPERVISOR RESPONSIBILITIES

- A. Supervisors shall ensure that any employee who discloses being a victim of gender-based violence is aware of this Policy and understands this Policy and their rights, including the right to request accommodations or time off as discussed in Section VIII below.

- B. If any employee discloses being a victim of gender-based violence, or if the supervisor suspects that the employee may be a victim of gender-based violence, the supervisor shall refer the employee to the resources in Section VI.E.4 of this Policy.

VIII. NON-DISCRIMINATION AND RESPONSIVE PERSONNEL POLICIES

All County policies and procedures should be trauma-informed, survivor-centered, and culturally responsive to victims' needs, and should not discriminate. Under the New York State Human Rights Law, all persons covered by this Policy are protected from discrimination in the workplace on the basis of status as a victim of domestic violence, and on the basis of sex, sexual orientation, gender identity, and gender expression.

- A. Subdivision 34 of section 292 of the Executive Law of New York State establishes persons who qualify as a "victim of domestic violence."
- B. Victims of domestic violence are a protected class under New York State Human Rights Law (Executive Law § 296(22)) and as such:
 - 1. The County may not refuse to hire or license and may not terminate someone solely based on their status as a victim of domestic violence.
 - 2. The County may not discriminate against victims of domestic violence in compensation, terms, conditions, or privileges of employment.
 - 3. The County may not inquire about an applicant or employee's status as a current or past victim of domestic violence in any way that directly or indirectly expresses discriminatory treatment based on that status.
 - 4. The County may inquire about status as a victim of domestic violence to provide reasonable accommodations.
 - 5. The County is prohibited from retaliating against an employee for opposing unlawful discrimination and/or filing a formal complaint over alleged discriminatory conduct.
- C. The County must allow any employee who has disclosed their status as a victim of gender-based violence (or disclosed that a family member is a victim of gender-based violence) and must be out of work for a reasonable time to use accrued sick leave for the following purposes:
 - 1. To obtain services from a domestic violence shelter, rape crisis center, or other services program;
 - 2. To participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members;
 - 3. To meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding;
 - 4. To file a complaint or domestic incident report with law enforcement;
 - 5. To meet with a district attorney's office;
 - 6. To enroll children in a new school;

7. To address issues relating to technology or financial abuse; or
 8. To take any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.
- D. Employees can choose to use appropriate leave accruals to cover any absences, if available. If the employee does not have adequate leave accruals to cover the absence, the absence shall be treated as leave without pay.
- E. Any employee who must be absent from work to utilize accommodations in this section is entitled to the continuation of any health insurance coverage provided by the County to which the employee is otherwise entitled during any such absence, in accordance with any existing collective bargaining agreements, regulations, and County policy.
- F. Employees who must be absent to utilize accommodations as listed in this section shall provide the County with reasonable advanced notice of the absence whenever possible.
- G. The County is also required to grant time off, with prior day notification, and may not penalize any employee who, as a victim or witness of a criminal offense, is appearing as a witness, consulting with a district attorney, or exercising their rights as provided by law. Any questions regarding leave that must be granted to victims or subpoenaed witnesses should be directed to the appropriate County leadership.
- H. Supervisors should be aware that there may be occurrences when an employee is absent due to incidents of gender-based violence where they are unable to follow County protocol to report the absence. In that situation, the employee may lack documentation, may be unable to obtain documentation, or may not want to share documentation containing confidential information. The County may not require the disclosure of confidential information relating to an absence from work due to domestic violence, a sexual offense, stalking, or human trafficking, as a condition of providing sick leave.
- I. Employees who are victims of gender-based violence who separate from a covered family member due to an incident or incidents of gender-based violence shall be allowed to make reasonable changes in benefits at any time during the calendar year, where possible and in accordance with applicable statutes, regulations, contracts, and County policy.
- J. The County recognizes that victims of gender-based violence may experience temporary work performance difficulties or be unable to complete certain job aspects because of safety reasons. (Examples include overnight travel, "off" hour shifts, etc.) If it is found that the employee's work performance is being affected as a result of being a victim of gender-based violence, the County will work with the employee to try to create a satisfactory resolution, including, but not limited to, specific work plans, the ability to take leave, provision of reasonable accommodations, and referrals to the GBVL, EAP, and/or the local domestic violence service provider. Employees will be given clear information regarding performance expectations, priorities, and performance evaluations. Employees should be made aware that not all employees' requests for resolutions can be accommodated. If a

disciplinary process is initiated, special care should be taken to consider all aspects of the victimized employee's situation, and all available options in trying to resolve the performance problems should be exhausted, including a referral to the GBVL, EAP, domestic violence program or other relevant services, consistent with existing collective bargaining unit agreements, statutes, regulations, and County policy.

- K. Sex, sexual orientation, gender identity, and gender expression are all protected classes under the New York State Human Rights Law. Sexual harassment is a form of sex discrimination and is unlawful under the New York State Human Rights Law § 296, Human Rights Law § 296-c (for interns), and Human Rights Law § 296-d (for non-employees working in the workplace), and Title VII, the Federal Civil Rights Act of 1964. Sexual harassment includes harassment based on sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Gender-based violence may constitute sexual harassment when it subjects an individual to inferior terms, conditions, or privileges of employment.
- L. For all forms of discrimination and harassment, if an employee, including an intern, or contractor working in a County workplace, experiences sexual harassment or discrimination on the basis of their status as a victim of gender-based violence, or observes discrimination in the workplace, such person may file a complaint in accordance with the Ulster County Discriminatory Harassment Prevention Policy and Complaint Procedure, which is available on the County's intranet.

IX. NON-RETALIATION POLICY

The County shall not engage in any retaliatory practices against any employee that discloses they are a victim of gender-based violence, or any employee seeking accommodations or to exercise their rights under this Policy.

The County will not retaliate, tolerate retaliation by any superiors, terminate, or discipline any employees for reporting information about alleged incidents of gender-based violence that may have been committed by an employee, including those in management positions.

Retaliatory practices may include, but are not limited to, disciplining victimized employees for taking actions to promote their safety, fewer promotions, inappropriate jokes, snide comments, and excluding employee from conversations. Such practices may be carried out by everyone, not just the original perpetrator.

Any employee engaging in retaliatory practices may be subject to disciplinary action.

X. ORDERS OF PROTECTION

The County shall comply and assist with enforcement of all known Orders of Protection ("OP"). If requested by the victim, or by law enforcement, the County will provide any relevant information regarding an alleged Order of Protection violation.

- A. Employees are encouraged to disclose any active Orders of Protection to the Personnel Director. Copies of Orders of Protection will be maintained in a locked, confidential location, separately from the employee's personnel file. In the event of an emergency or that the OP needs to be presented to law enforcement, the GBVL, other staff member designated by the GBVL, or a member of the County Executive's staff shall retrieve and present the order. Employees should be made aware that they are responsible for notifying the GBVL in the event of a relevant modification or revocation of the OP.
- B. When requested by the victim, the GBVL and/or Personnel Department staff will work with the employee to develop a plan to how best increase safety for the victim, other employees, and the workplace. Options may include, but are not limited to:
 - 1. Providing front desk security or reception staff with a copy of the Order of Protection with a photo of the perpetrator;
 - 2. Protocols for reporting to law enforcement;
 - 3. Allowing the employee to move to a different work location, either temporarily or permanently;
 - 4. Temporary reassignment of certain duties, such as overnight travel;
 - 5. Providing employees an escort for entry and exit from the worksite;
 - 6. Allowing security to escort perpetrator out of the building and off the worksite premises;
 - 7. Working with the employee to address any identified concerns about the use of technology;
 - 8. Assigning a new email account or phone number if the perpetrator has been able to access the existing accounts;
 - 9. Creating a personalized safety plan in consultation with the local domestic or sexual violence program; and/or
 - 10. Requiring security to report a violation of an Order of Protection to law enforcement.

XI. ACCOUNTABILITY FOR EMPLOYEES WHO PERPETRATE ACTS OF GENDER-BASED VIOLENCE

The County will hold accountable any employee who is found to have engaged in behaviors that violate this Policy, including but not limited to:

- A. Using County resources, including time, to commit an act of gender-based violence;
- B. Committing acts of gender-based violence from or at the workplace, or from any location conducting County business, except for locations where employees are telecommuting;
- C. Using an employee's job-related authority and/or County resources in order to negatively affect victims of gender-based violence, assist perpetrators in locating a victim or perpetrating an act of gender-based violence, or protect a perpetrator from receiving appropriate consequences.

Acts of gender-based violence that occur outside of the workplace can subject a person to administrative and/or disciplinary action.

If the County finds that an employee has committed any act of gender-based violence, including making threats or harassment at or from the workplace using any County resources such as work time, County owned telephones or cell phones, email, or by any other means, the appointing authority, in conjunction with the Personnel Department, shall take any and all steps necessary to hold the employee accountable through administrative and/or disciplinary action in accordance with existing collective bargaining agreements, applicable statutes and/or regulations.

Disciplinary actions may include, but are not limited to:

- A. Administrative leave;
- B. Cease and desist memo;
- C. Relocation of employee alleged to have committed abuse to another work site;
- D. Surrender of work cell phone, laptop, etc.; and/or
- E. Termination/Section 75 Charges.