

## DMH POLICY

<b>Title: Sexual Assault, Domestic Violence And Stalking</b>	<b>Policy #: 11-01 Date Issued: 10/04/11 Effective Date: 10/04/11</b>
<b>Approval by Commissioner:</b>	
<b>Signature: Barbara A. Leadholm, M.S., M.B.A.</b>	<b>Date:</b>

### I. PURPOSE

Executive Order 491 establishes a zero tolerance policy for Sexual Assault, Domestic Violence, and Stalking; requires state agencies to issue written policies on Sexual Assault, Domestic Violence, and Stalking; and requires state agencies to provide copies of their policies to all employees. This policy is issued to comply with Executive Order 491, which is incorporated herein by reference, and to affirm the Department of Mental Health's ("DMH") policy of zero tolerance for Sexual Assault, Domestic Violence, and Stalking.

### II. SCOPE

This policy applies to DMH and its employees, volunteers, and workers.

### III. POLICY STATEMENT

The Department of Mental Health has zero tolerance for Sexual Assault, Domestic Violence, and Stalking. All employees and workers should have a work environment free from all forms of Sexual Assault, Domestic Violence, and Stalking.

Any act of Sexual Assault, Domestic Violence, or Stalking, or any threat to commit such an act, whether undertaken in or near the workplace, during work time, or with work equipment, may be cause for discipline up to and including termination and may be considered as part of the perpetrator's work history.

Employees shall cooperate in any investigations of alleged Domestic Violence, Sexual Assault, or Stalking, and shall report to their supervisors any co-worker

behavior in the workplace that they believe to be Sexual Assault, Domestic Violence, or Stalking.

The Commonwealth's view of Sexual Assault, Domestic Violence, and Stalking reflects, in part, the following considerations:

- A man as well as a woman may be the victim of Sexual Assault, Domestic Violence, or Stalking, and a woman as well as a man may be the abuser.
- The victim does not have to be the opposite sex from the abuser.

#### IV. DEFINITIONS

**Abuse** is the occurrence of one or more of the following acts between Family or Household Members:

- attempting to cause or causing physical harm; or
- placing another in fear of imminent serious physical harm; or
- causing another to engage involuntarily in sexual relations by force, threat of force, or duress.

**Appointing Authority**, for purposes of this Policy, is the individual empowered to hire and to make other personnel decisions regarding an employee.

**Domestic Violence** is a form of abuse among Family or Household Members, which includes those individuals who are or have been involved in a substantive dating relationship.

**DV/SA/S Consultation Team** is a resource of DV/SA/S experienced staff available to assist supervisors, managers and/or agency DV/SA/S Coordinators in the administration of EO #491 (see Appendix A).

**DV/SA/S Coordinator** is the DMH manager available to assist supervisors, managers, and employees with the administration of this policy and EO #491.

**Family or Household Members** are persons who:

- are or were married to one another;
- are or were residing together in the same household;
- are or were related by blood or marriage;
- have a child in common regardless of whether they ever have married or lived together; or
- are or have been in a substantive dating or engagement relationship.

**Sexual Assault** includes any action causing another to engage in sexual relations by force, threat, or duress.

**Stalking** includes any pattern or series of acts, conduct or threats causing or intended to cause alarm or fear in violation of chapter 209A or chapter 265 of the General Laws, or any other applicable law of the Commonwealth.

## V. POLICY

### A. Restraining Orders

General Laws Chapter 209A provides a victim protection from an abuser through the issuance of a restraining order. Such an order may direct the abuser to refrain from Abuse, vacate the home, comply with temporary custody and support orders, or have no contact with the victim. Although Chapter 209A orders are civil in nature, violations of certain provisions are criminal in nature.

A victim of Domestic Violence, Sexual Assault, or Stalking is strongly encouraged to notify his or her agency of the existence of a restraining order protecting the employee. Upon such notification, the agency shall make all reasonable efforts to enforce the restraining order in the workplace. Such efforts, following consultation with Human Resources and Labor Relations, may include:

- In consultation with the employee, notifying security personnel of the identity of the person against whom the order is issued;
- In consultation with the employee, providing security personnel with a photograph or other identifying information, such as motor vehicle information;
- At the employee's request, having the employee's calls screened;
- At the employee's request, moving the employee's workstation away from an unsecured entrance;
- With the employee's consent, reassigning her or him to a different geographical location;
- Giving a request for reassignment by an alleged victim every due consideration;
- Requiring an abuser to accept reassignment to a different geographic location.

DMH will report any incident of Domestic Violence, Sexual Assault or Stalking that occurs in the workplace, including violation of 209A restraining orders, to the appropriate law enforcement authorities, and also will report known violations of restraining orders to the alleged victims.

## **B. Investigation and Employee Discipline**

DMH will follow the terms of collective bargaining agreements when disciplining abusers covered under such agreements.

Managers will consult with the DV/SA/S Consultation Team, the Legal Office, Human Resources, Labor Relations, and the DMH DV/SA/S Coordinator for guidance in these matters.

To the extent possible, all investigations of Domestic Violence, Sexual Assault, or Stalking policy violations within the workplace will be conducted in a manner to protect the confidentiality of the victim, the alleged abuser and all witnesses. All parties involved in the proceedings will be advised to maintain strict confidentiality.

Acts of Domestic Violence, Sexual Assault, or Stalking may result in discipline, including, but not limited to:

- An oral warning or reprimand;
- A written warning or reprimand to be placed in a personnel file;
- Required completion of a Department of Public Health certified batterer intervention program;
- Suspension or termination; or
- A combination of the above.

Incidents of Domestic Violence, Sexual Assault, or Stalking may be used as a factor in hiring decisions in accordance with the EOHHS CORI policy. Also, past employee discipline may be considered in regards to promotions, new work assignments, and other types of personnel actions.

## **C. Leaves of Absence**

The Commonwealth recognizes that victims of Domestic Violence, Sexual Assault, and Stalking may suffer from physical, mental, emotional, and sexual abuse. In an effort to afford victims of Domestic Violence, Sexual Assault, and Stalking the ability to protect themselves and their families, and to minimize risk to the safety of employees, the Commonwealth has established the following policies:

1. An employee who is a victim of Domestic Violence, Sexual Assault or Stalking or whose children are victims and the employee is not the abuser shall be entitled to up to fifteen (15) days of paid leave per calendar year for the purposes of counseling, obtaining medical treatment, attending legal proceedings, or carrying out other necessary activities resulting from Domestic Violence, Sexual Assault, or

Stalking. The fifteen (15) days of paid leave per calendar year will be recorded as Leave with Pay (LWP).

2. An employee who is a victim of Sexual Assault, Domestic Violence, or Stalking and/or whose children are victims and the employee is not the abuser may be granted up to six (6) months of unpaid leave, where the employee requests such leave as a result of Domestic Violence, Sexual Assault or Stalking. Leave accruals and insurance benefits shall be handled in the same way as is done for any other type of leave without pay. Upon the employee's return from leave, the agency shall restore the employee to the same position or to an equivalent position, with equivalent employment benefits, pay, and other terms and conditions of employment, provided that the employee has not been displaced from his/her position in the interim due to a reduction in force.
3. An employee who requests Domestic Violence, Sexual Assault or Stalking leave should make the request to his or her Appointing Authority prior to the start of his or her work shift or as close to the start of the work shift as possible. Such notice should include the general nature of the absence and estimated date to return to work. In general, this request should be made in person or in a phone conversation and not via a voicemail message or an email. If it is an emergency and the employee finds there is no alternative but to leave a voice mail, the employee should contact the Appointing Authority personally as soon as possible. If the supervisor or manager does not hear from the employee, he/she may attempt to contact the employee after consulting the Agency DV/SA/S Coordinator or the DV/SA/S Consultation Team. The safety of the employee must always be a priority.
4. In order to make ongoing or continued use of Domestic Violence, Sexual Assault, or Stalking leave, an employee may be asked to produce written documentation to the supervisor or manager. If the supervisor or manager is unsure of the appropriateness of the request, they may contact the Agency DV/SA/S Coordinator or the DV/SA/S Consultation Team for guidance. Please note that documentation often is not available or readily available.
5. Documentation submitted by the employee should be shared only as necessary and should be retained in a secure location separate from any other employee records. Any DV/SA/S documentation produced by the employee would not be considered "public records" under the State's Public Records Law. If no documentation is submitted, supervisors or managers may consult the Agency DV/SA/S Coordinator or the DV/SA/S Consultation Team. If no written

documentation is available, judgment must be exercised. Sometimes granting leave without written documentation may be appropriate.

Where the Appointing Authority has reason to believe that this leave benefit is being abused the Appointing Authority may require documentation to substantiate appropriate use of this leave benefit. The documentation should be kept in a secure confidential file, separate from the employee's personnel file.

The 15 days of paid leave will be recorded as LWP. Leave accruals and insurance benefits shall be handled in the same way as is done for any other type of leave with pay.

**D. Dissemination of Policy, Training, and Posting of Resources Information**

The DMH Human Resources Liaison will coordinate the dissemination of this Policy (and any updates) and Executive Order No. 491 to all employees and the posting of appropriate Domestic Violence resources information, including information regarding the state-wide "Safe-Link" emergency hotline number (1-877-785-2020) and TTY number (1-877-521-2601) or any successor thereto.

The EOHHS Center for Staff Development will coordinate and deliver Domestic Violence and Sexual Assault in the Workplace Prevention Training.

**VI. POLICY IMPLEMENTATION**

It is the responsibility of the DMH Chief of Staff and Human Resources Liaison to implement the provisions of this policy.

**VII. REVIEW OF THIS POLICY**

This policy and its implementation shall be reviewed at least every three years, but immediately upon any change to relevant federal or state law or regulation.

## Appendix A

<p style="text-align: center;"><b>Domestic Violence/ Sexual Assault and Stalking Resources and Contacts as of September 2011</b></p>
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### **DMH DV/SA/S Coordinator**

Abigail Monska  
Human Resources Liaison  
25 Staniford Street  
Boston, MA 02114  
617-626-8019

### **Executive Office of Health and Human Services**

#### **EOHHS DV/SA/S Consultation Team Members**

Bonnie Tavares 617-348-5030  
Janet Fender 617-348-5978 or (cell) 617-447-3987  
Marilyn Tarmey 617- 348-5956 or (cell) 617-519-7770  
Cindie Smey (617) 348-5137  
Andrea Mitchell (617) 348-5204  
Susan Hubert (617) 748-2334

#### **EOHHS DV/SA/S Coordinator**

Bonnie Tavares  
EOHHS Office of Human Resources  
600 Washington Street  
Boston, MA 02111  
617-348-5030

#### **EOHHS DV/SA/S Coordinator (alternate)**

Cindie Smey  
EOHHS Office of Human Resources  
600 Washington Street  
Boston, MA 02111  
617 348-5137

#### **EOHHS Office of Human Resources Customer Service (for all EOHHS work locations)**

600 Washington Street  
Boston, MA 02111  
1-800-850-6968

### **SafeLink Statewide Domestic Violence Hotline**

**1-877-785-2020 (24-hour hotline)**

SafeLink is answered by trained advocates 24 hours a day in English, Spanish and Portuguese as well as TTY (1-877-521-2601). It also has the capacity to provide multilingual translation in more than 140 languages.

**Boston Area Rape Crisis Center (BARCC)**  
**1-800-841-8371 (24-hour hotline)**

For deaf or hard of hearing, use Mass Relay at 1-800-439-2370 and ask to be connected to the Hotline number.

**Dial 911 right away when in immediate danger.**