

**Executive Office of Health and Human Services**

**Policy on Zero Tolerance  
For Domestic Violence, Sexual Assault and Stalking**

**Implementation Protocols**

**October 2018**

## **Table of Contents**

### **Implementation Protocol for Zero Tolerance Policy**

#### **Page**

<b>3</b>	<b>Introduction to the Zero Tolerance Policy</b>
<b>3</b>	<b>Confidentiality</b>
<b>3</b>	<b>Protocol Resources</b> <b>For Employees</b> <b>For Supervisors and Managers</b>
<b>4-5</b>	<b>Agency Personnel who assist with implementing the Zero Tolerance Policy and Protocols</b>
<b>5-6</b>	<b>Definitions of Domestic Violence, Sexual Assault, and Stalking</b>
<b>6-7</b>	<b>Process for DV/SA/S notification and Leave Time Authorization</b> <b>For Employees</b> <b>For Supervisors and Managers</b>
<b>6-8</b>	<b>Domestic Violence, Sexual Assault and Stalking Leave Time</b> <b>Process for Requesting Leave Time</b> <b>Process of Approving Leave Time</b> <b>Documentation for Leave Time Request</b> <b>Use of Leave Time</b> <b>Usage and Tracking Leave Time</b>

### **Addendum: Zero Tolerance Policy**

<b>8-9</b>	<b>Roles and Responsibilities of Employer and Employee</b>
<b>9</b>	<b>Protection to Victims</b>
<b>10</b>	<b>References</b>

## **EOHHS Policy on Zero Tolerance for Domestic Violence, Sexual Assault and Stalking Implementation Protocols**

### **Policy**

In response to [Executive Order # 491](#), Executive Branch employees work under the Commonwealth's Zero Tolerance Policy for Domestic Violence, Sexual Assault and Stalking occurring within or outside the workplace. Sexual assault and domestic violence not only affect the personal safety of the individual, but also undermine the integrity of the work place.

It is the policy of the Commonwealth that:

1. All employees work in an environment free from all forms of sexual assault and domestic violence;
2. Employees who have been victims of domestic violence, sexual assault or stalking, or whose children have been so victimized, receive support that is crucial to their wellbeing; and
3. Commonwealth employees who perpetrate these acts are held accountable.

Per the Commonwealth's Policy, "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 fifteen (15) days of paid leave per calendar year to carry out necessary activities resulting from the domestic violence, sexual assault or stalking." An employee may also be granted up to six (6) months of unpaid leave to address concerns related to the victimization.

Situations in which an employee or their child is victimized are often complex and complicated. In an effort to ensure that all employees have access to the benefits afforded them under the Executive Order and that the policy is adhered to, the following implementation protocols have been adopted and resources have been identified. We expect that these guidelines will provide enhanced uniformity regarding the way these situations are handled.

### **Confidentiality**

It is the intent of this protocol to respect and support the employee's confidentiality. Only personnel who have a direct role in DV/SA/S policy enforcement will be involved, and only on a need-to-know basis. Sharing of information on a need-to-know basis may be required in EHS's discretion to maintain workplace safety, security, effective reporting requirements and other issues as deemed appropriate.

Records will not be stored at the Agency or in Human Resources personnel files. Records regarding the DV/SA/S will be retained only by the EOHHS DV/SA/S Administrator.

### **Protocol Resources**

#### For Employees:

- **Lisa Pace**, Secretariat EOHHS Domestic Violence, Sexual Assault and Stalking Administrator – 617-875-6072 or via email at [Lisa.Pace@state.ma.us](mailto:Lisa.Pace@state.ma.us)
- **Domestic Violence/ SA/S Coordinators:** [Click here for a complete list](#)
- **Domestic Violence/Sexual Assault/ Stalking Consultation Team:** [Click here for a complete list](#)

#### For Managers/Supervisors

- **Lisa Pace**, Secretariat EOHHS Domestic Violence, Sexual Assault and Stalking Administrator – 617-875-6072 or via email at [Lisa.Pace@state.ma.us](mailto:Lisa.Pace@state.ma.us)
- **Domestic Violence/ SA/S Coordinators:** [Click here for a complete list](#)
- **Domestic Violence/Sexual Assault/ Stalking Consultation Team:** [Click here for a complete list](#)
- **Safety Administrators:** [Click here for a complete list](#)

## **Agency Personnel who assist with implementing the Zero Tolerance Policy and Protocols**

A description of the roles of key personnel who may be involved in the enforcement of the Zero Tolerance Policy is provided below.

All the personnel named in this plan will maintain the confidentiality of the employee and will only be involved on a need-to-know basis. Thus, not all personnel listed will be involved in every situation. The need-to-know basis can be determined in coordination with the Agency DV/SA/S Coordinator, Agency Safety Administrator, and/or the Secretariat EOHHS DV/SA/S Administrator. The only staff member who will retain records related to the employee's DV/SA/S is the Secretariat EOHHS DV/SA/S Administrator.

### **Agency DV/SA/S Coordinators**

The DV/SA/S Coordinator will provide support, resources and guidance to the employee, informing them of their rights, the Agency policies and procedures, resources and leave benefits for victims. The DV/SA/S Coordinator may support the employee in submitting documentation and/or any other pertinent information to the EOHHS DV/SA/S Administrator. They will provide guidance and technical assistance to the Agency Staff, including Managers and Supervisors, on development of safety protocols, support of staff, and enforcement of the Zero Tolerance Policy. In cases where workplace safety is a concern, the DV/SA/S Coordinator will work with the Agency Safety Administrator to develop plans for safety at the Agency. In addition to approval of time by the EOHHS DV/SA/S Administrator, the only other time the Office Manager or Worksite Director will be informed by the Agency DV/SA/S Coordinator, the Safety Administrator or the DV/SA/S Administrator is if the safety of the workplace and/or the safety of the victim in the workplace is of concern.

### **Agency Safety Administrators**

The Safety Administrator serves as a key communication link between the Safety Committees, Agency Senior Management as well as the EOHHS Secretariat Safety Administrator on Agency employee safety plans. Additionally, the Agency DV/SA/S Coordinator, the Safety Administrator, and the DV/SA/S Consultation Team will be available to Supervisors and Managers regarding safety strategies.

### **Role of DV/SA/S Consultation Team**

The Domestic Violence/Sexual Assault/Stalking (DV/SA/S) Consultation Team consists of Commonwealth Managers with extensive experience in the area of domestic violence, sexual assault and stalking.

This Team is a resource for Supervisors, Managers, Agency DV/SA/S Coordinators and Agency Safety Administrators in the administration of the Zero Tolerance Policy. The DV/SA/S Consultation Team can consult regarding safety strategies, understanding available resources and the rights and benefits under EO#491, in executing Agency protocols and providing support and guidance.

### **Role of Supervisor and/or Manager**

When informed by the employee, the Supervisor/Manager will provide support, resources, and guidance to the employee, informing them of their rights and the Agency policies and procedures, and at all times confidentiality will be maintained. With the employee's consent, the Supervisor/Manager connects the employee with the Agency DV/SA/S Coordinator to seek additional assistance. The Supervisor/Manager may seek assistance and coordinate with the DV/SA/S Coordinator, Safety Administrator and the Secretariat EOHHS DV/SA/S Administrator

on the development of safety plans, if applicable, and enforcement of the Zero Tolerance Policy. Please remember, the employee is to be consulted & informed before each step in the process.

### **Role of Secretariat EOHHS DV/SA/S Administrator**

The Secretariat EOHHS DV/SA/S Administrator (Lisa Pace) is responsible for reviewing and approving **ALL** leave time requests across all EOHHS agencies. The EOHHS DV/SA/S Administrator will work with the employee on securing documentation, if applicable, and will maintain confidentiality of employee records. Documentation on DV/SA/S will be kept separate from the employee personnel file. The EOHHS DV/SA/S Administrator will work with the employee, the employee's Supervisor and/or Manager, Agency DV/SA/S Coordinator and the Safety Administrator on the DV/SA/S leave and share information only on a need-to-know basis.

### **The Commonwealth's Definition of Domestic Violence, Sexual Assault and Stalking**

#### **Definition of Domestic Violence**

Domestic violence is a multi-layered pattern of abuse based upon power and control over an intimate partner or household member through the use of a variety of tactics: physical and sexual violence; verbal and emotional forms of assault and control; stalking; economic forms of control; social and cultural isolation; use of children; use of systems; use of other family members or friends to support or participate in controlling the victim; and more. Perpetrators use interpersonal and familial tactics, and awareness/manipulation of a victim's social positioning (by race, ethnicity, socioeconomic and immigration status, gender identity, cultural affiliations, and more), to establish and maintain power over their partner.

#### **Intimate Partner 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 have ever married or lived together; or
- Are or have been in a substantive dating or engagement relationship.

#### **Definition of Sexual Assault**

Sexual assault includes any type of sexual contact or behavior that occurs without the explicit consent of the recipient. This includes sexual harassment, sexual threat or intimidation, rape, attempted rape, incest, sexual assault by an intimate partner, child sexual abuse, sexual exploitation, sexual trafficking, forced viewing of sexually explicit materials, and can include stalking, sexual bullying, sexting, and any other form of unwelcome or coerced sexualized activity. Physical violence or contact itself may or may not be present and are not necessary elements of sexual assault. Sexual assault is commonly based upon power and control of the victim through the use of sexual means. Though there may be legal distinctions in other contexts, for the purposes of the Zero Tolerance Policy, sexual assault encompasses a broad definition.

#### **Definition of Stalking**

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.

The Commonwealth's view of sexual assault, domestic violence, and stalking reflects, but is not limited to, 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.

## **Process for DV/SA/S Support, Guidance and/or DV/SA/S Time Leave Authorization**

For support, guidance or more information on the Zero Tolerance Policy and Protocol, the following are options:

- The Agency's Domestic Violence, Sexual Assault and Stalking (DV/SA/S) Coordinator
- Secretariat EOHHS Domestic Violence, Sexual Assault and Stalking (DV/SA/S) Administrator.

For DV/SA/S Time Leave Authorization call the Administrator at the DV/SA/S number 617-875-6072

### **Additional Steps:**

The DV/SA/S Coordinator and/or the EOHHS DV/SA/S Administrator will only inform and/or involve the Supervisor/Manager with employee approval. If DV/SA/S leave time is approved by the EOHHS DV/SA/S Administrator, the Supervisor/Manager is informed that the employee will be taking "leave with pay." No additional information need be provided to the Supervisor/Manager.

The employee's specific disclosures may not need to be shared, but aspects of a disclosure, ie an abuser threatened to go to the workplace with intent to harm/harass or disrupt the workplace or its systems in some other way would need to be disclosed for safety/security/operations planning even if the employee is fearful of having that information shared or wanted to limit those involved. Agency DV/SA/S Coordinators who are approached by an employee regarding use of domestic violence, sexual assault or stalking leave should make the employee aware that the leave request, once approved by the Administrator, will be communicated, with employee approval to their Supervisor or Manager. If they prefer not to inform the Supervisor or Manager, the Agency DV/SA/S Coordinator should inform the Administrator and provide any documentation received. The employee, however, must follow the Agency protocol for requesting time off (i.e. calling in, request for time off submissions etc) to ensure that agency operations are not hindered. Every effort will be made to notify the employee prior to the disclosure of their domestic violence and disclosure will be made on a need to know basis.

### **For Supervisors/ Managers**

**Step 1:** Support and/or guide the employee and inform them of their rights and the Agency policy and refer them to the Agency DV/SA/S Coordinator.

**Step 2:** Supervisors should contact the Agency DV/SA/S Coordinator for guidance on confidentiality, safety strategies, and enforcement of the zero tolerance policy. If workplace safety is a concern, the Supervisor should also contact the Agency Safety Administrator.

**Step 3:** Supervisors should respect the confidentiality of the employee; other personnel should only be informed or involved on a need-to-know basis. The need-to-know basis can be determined in coordination with the Agency DV/SA/S Coordinator and Agency Safety Administrator or Secretariat EOHHS DV/SA/S Administrator

## **Process for Requesting DV/SA/S Leave Time**

An employee who requests domestic violence, sexual assault or stalking leave should make the request following the section referenced above. The employee may contact the DV/SA/S Secretariat EOHHS Administrator at 617-875-6072 or by email. The Administrator will have an



in-depth conversation with the employee, and will request any supporting documentation prior to making a determination. The Administrator will maintain confidentiality unless the safety of the employee/workplace is an issue. The employee and Administrator can also discuss strategies for communicating with their Supervisor, with a focus on assisting the employee with safety and confidentiality. **Paid leave time is not considered approved until the employee has received written confirmation from the Administrator.** Approval notification will also be sent to Directors, Area Directors or Supervisors. The Administrator will then input and approve time into SSTA. No additional information need be provided.

### **Process of Approving DV/SA/S Time**

Throughout the process, **confidentiality and privacy** must be honored to every extent possible. Only those who need to be informed of the request and its approval should be made aware of it. In keeping with this principle, **ALL DV/SA/S time requests will be approved and processed by The Administrator as LWP (Leave with Pay) and will not be identified as DV/SA/S leave.**

Having received written approval for use of the paid Domestic Violence, Sexual Assault and Stalking leave, the employee should leave the requested hours blank on the electronic timesheet, and send an email to the Administrator with the specific date(s), reason, documentation, if applicable, and hours that are being requested as "leave with pay" along with the total number of hours they are scheduled to work on that day. The Administrator will send an approval email to the employee and the Supervisor/Manager of the approved amount of time only.

At all stages, the Agency DV/SA/S Coordinator or the DV/SA/S Consultation Team will be available to the victim/employee, Supervisor or Manager for guidance related to this policy.

Again, the determination as to whether or not to grant the leave will be handled by the Administrator.

### **Documentation for DV/SA/S Leave Time Request**

In order to take paid domestic violence, sexual assault or stalking leave, an employee *will be asked to produce written documentation* by the Administrator to the extent documentation is available. Documentation may include:

- a statement from a counselor or victim advocate
- copy of a 209A or 258E
- a police report
- signed affidavit from a friend or family member
- signed report from a health care provider

*Please note documentation may not exist for all circumstances and friends and relatives may be reluctant to sign affidavits. Therefore, documentation is not a requirement to access leave, but will be requested.*

Documentation that is produced by the employee *should be forwarded to the Secretariat EOHHS DV/SA/S Administrator* to be retained in a secure location separate from any other employee records. Any DV/SA/S documentation produced by the employee is able to be exempt from Freedom of Information Act (FOIA) requests by the perpetrator or their representative. To have this information redacted from requests, the DV/SA/S Coordinator and the Administrator will ensure the employee is aware of the ability to request a Public Records Exemption, in which case the employee would be advised to complete a [Public Records Exemption Form](#). If completed, the form should be returned to Lisa Pace at 600 Washington Street, Boston, MA 02111 for processing.

Again, the determination as to whether or not to grant the leave will be handled by the Administrator.

## **Use of DV/SA/S Leave**

It is important that the intent of the Zero Tolerance Policy and Executive Order 491 be preserved as it relates to support for the victim, therefore, 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:

- Legal proceedings for employees and/or children
- Counseling and/or medical needs for employee and/or children
- Moving, getting locks changed, etc.
- Other activities that address issues resulting from the domestic violence, sexual assault, or stalking that address the safety and/or wellbeing of the employee and their family

The paid time may be used intermittently throughout the calendar year to balance the needs of the employee while maintaining the Agency operational needs. Requests for the 6 month unpaid leave must be taken in one month increments and cannot be utilized intermittently or in conjunction with any paid time.

Since all situations are unique, questions about appropriate use of the time may be directed to the Agency DV/SA/S Coordinator, Secretariat EOHHS DV/SA/S Administrator or the DV/SA/S Consultation Team.

## **Usage and Tracking of DV/SA/S Leave time**

Use of paid Leave Time will be tracked by the Administrator. Employees, along with the Supervisor/Manager of the employee's choice, will be notified by the Administrator when they are approved for the time and/or if they have exhausted or are close to exhausting their leave time.

## **Roles and Responsibilities for Employer and Employee**

Employers shall:

- Ensure that the policy of Zero Tolerance for Sexual Assault and Domestic Violence is adopted and implemented.
- Designate an employee to coordinate the policy dissemination, training, and benefits provided through this policy.
- Ensure that each employee receives:
  - Notification of the Commonwealth's policy and Executive Order No. 491.
  - Notification of any changes to the policy as soon as administratively possible.
- Foster a climate in which victims can be comfortable disclosing domestic violence, sexual assault, or stalking, including posting resource information where victims and abusers can go for assistance.
- Strongly encourage employees to report behavior which occurs in the workplace which they believe to be domestic violence, sexual assault or stalking.
- When appropriate, ensure written workplace safety plans are completed in response to reports of domestic violence, sexual assault, and stalking.
- When appropriate, while maintaining confidentiality to the extent practicable, work with victims in consultation with Agency DV/SA/S Coordinator(s), DV/SA/S Administrator, Safety Administrators and/or DV/SA/S Consultation Team in addressing workplace safety and security plans that may impact victims and/or co-workers.
- Determine if intervention or disciplinary action is indicated and if so, what the nature of the action is to be taken with the employee abusers.
- Respect the privacy of victims and preserve confidentiality at all times, to the extent possible, in dealing with situations involving sexual assault, domestic violence or stalking.
- When notified of a restraining order in effect, utilize all reasonable efforts to address the employee's concerns about safety and report any workplace violations of such order to the police.



Employees shall:

- Ensure that they do not perpetrate any form of domestic violence, sexual assault, or stalking either within or outside the workplace.
- Report behavior in the workplace which they believe to be sexual assault, domestic violence, or stalking to their Supervisor, or the police when appropriate.

### **Protection to Domestic Violence, Sexual Assault, and Stalking Victims**

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 provide victims of domestic violence, sexual assault, and stalking the ability to protect themselves and their families, and to ensure the safety of all employees, the Commonwealth has established the following policies:

- 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 will not be charged to sick, vacation or personal leave accrual.
- 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. This time is approved on a monthly basis and cannot be utilized intermittently or in conjunction with any paid leave. 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 their position in the interim due to a reduction in force.
- A victim of domestic violence, sexual assault or stalking is strongly encouraged to notify his or her Agency DV/SA/S Coordinator, Secretariat DV/SA/S Administrator or DV/SA/S Consultation Team 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 may include:
  - Notifying security personnel of the identity of the person against whom the order is issued (defendant);
  - Providing security personnel with a photograph or other identifying information, such as motor vehicle information;
  - After notification by the employee, having the employee's calls screened;
  - Moving the employee's workstation away from an unsecured entrance.
- If an Agency becomes aware that an active restraining order protects an employee, the Agency may offer that employee a reassignment to a different geographical location. Where the victim has requested reassignment, the Agency shall give the request top priority.
- Agencies shall immediately notify the police if a violation of a restraining order occurs at the workplace.
- Agencies should provide a list of "domestic violence/sexual assault assistance programs", including the state-wide Safe-Link Hotline emergency hotline number to employees who are victims of domestic violence, sexual assault and/or stalking to assist them in finding available services.

**References:**

Executive Order 491

<http://www.mass.gov/courts/docs/lawlib/eo400-499/eo491.pdf>

Mass General Laws Chapter 209A

<http://www.malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A>

Mass General Laws Chapter 265

<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265>

Payroll Public Record Exemption Policy Memo

<http://www.mass.gov/comptroller/docs/policies-procedures/payroll-lcm/po-pr-exemption.doc>

Payroll Public Records Exemption Form

<http://www.mass.gov/comptroller/docs/forms/payroll-lcm/pr-exemp frm.doc>

Jane Doe – The Massachusetts Coalition against Sexual Assault and Domestic Violence

[www.janedoe.org/](http://www.janedoe.org/)

SafeLink – 1-877-785-2020

<http://www.casamyrna.org/safelink-home/>

Massachusetts Office of Victim Assistance

[www.mass.gov/mova](http://www.mass.gov/mova)

Massachusetts Department of Public Health - Certified Batterer Intervention Programs

<http://www.mass.gov/eohhs/provider/licensing/programs/batter-intervention-services/certified-batterer-intervention-programs-in.html>

EOHHS HrConnects Us: [EOHHS DV/SA/S Information](#)



# *The Commonwealth of Massachusetts*

Executive Office of Health and Human Services

## **Department of Youth Services**

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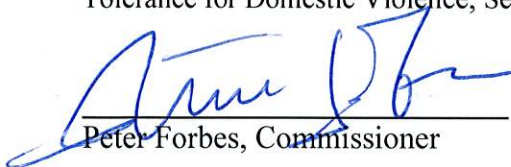
**PETER J. FORBES**  
Commissioner

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### **Order Repealing DYS Policies**

Pursuant to DYS Policy 01.01.03, Repeal of Policies, I, Peter Forbes, Commissioner for the Department of Youth Services (DYS), hereby repeal DYS Policy 01.7.01(a), Zero Tolerance for Sexual Assault, Domestic Violence and Stalking.

This policy is replaced with the Executive Office of Health and Human Services (EOHHS) Policy on Zero Tolerance for Domestic Violence, Sexual Assault and Stalking, Implementation Protocols, October 2018.

  
Peter Forbes, Commissioner

1.15.2019  
Date