

Effective Date: February 6, 2020

Workplace Violence

Workplace Violence

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Policy

It is the policy of North Carolina State government that all agencies shall provide a safe workplace for employees that is free from violence. Types of violent acts that are prohibited include, but are not limited to, threats, intimidation, bullying, stalking, domestic violence, physical attack or property damage by or against employees. Such actions, including the use of weapons, will subject the perpetrator to serious disciplinary action and possible criminal charges. Employees acting in good faith who report real or implied violent behavior will not be subject to retaliation or harassment based upon their report. All incident reports shall be confidential and released only as permitted by applicable law.

Purpose

The purpose of this policy is to establish preventative measures, hold perpetrators of violence accountable, and support victims of workplace violence. Committing violent acts, whether on-duty or off-duty, has the potential to impact an employee's ability to perform their job. The State is guided by the Federal Occupational Safety and Health Act of 1970 that requires employers to provide their employees with a safe and healthy work environment. It is intended that all useful management tools be employed to accomplish the dual purpose of reducing the effects of violence on victims and providing consequences to those who perpetrate violence. It is also intended that management utilize available resources such as an Employee Assistance Program (EAP), law enforcement, appropriate Human Resources divisions (Employee Relations, Equal Employment Opportunity, etc.), and applicable personnel policies and procedures.

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Definitions

Bullying is unwanted offensive and malicious behavior which undermines an individual or group through persistently negative attacks. There is typically an element of vindictiveness and the behavior is calculated to undermine, patronize, humiliate, intimidate, or demean the recipient. The behavior typically is severe or pervasive and persistent, creating a hostile work environment. Behaviors may be considered discriminatory if they are predicated on the targeted person's protected class (refer to the Unlawful Workplace Harassment Policy for additional information and procedures for discriminatory harassment).

Cyber-Bullying uses technology to intentionally harm others through hostile behavior, as well as threatening, disrespectful, demeaning, or intimidating messages. This is bullying that occurs via the Internet, cell phones, or other electronic devices (e-mails, IMs, text messages, blogs, pictures, videos, postings on social media, etc.). Refer to the Unlawful Workplace Harassment Policy for additional information and procedures for discriminatory harassment.

Domestic Violence is the use of abusive or violent behavior, including threats and intimidation, between people who have an ongoing or prior intimate relationship. This could include people who are married, divorced, separated, living or lived together, or currently or previously dated.

Intimidation is engaging in actions that include but are not limited to behavior intended to frighten, coerce, or induce duress.

Physical Attack is unwanted or hostile physical contact such as hitting, fighting, pushing, shoving, or throwing objects.

Property Damage is intentional damage to property and includes property owned by the State, employees, visitors, or vendors.

Reasonable Suspicion is a degree of knowledge enough to induce the belief that the circumstances being presented are more likely to be true than not. Reasonable Suspicion must be based on an articulable, specific and objective basis and may include direct observation and/or information received from a source believed to be reliable.

Stalking involves harassing or pestering an individual, whether in person, in writing, by telephone, or through an electronic format. Stalking also involves following an individual, spying on them, alarming the recipient, or causing them distress, and may involve violence or the fear of violence.

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Threat is the expression of intent to cause physical or mental harm. An expression constitutes a threat without regard to whether the party communicating the threat has the present ability to carry it out and without regard to whether the expression is contingent, conditional, or future.

Weapon is a device, instrument, material or substance used to or capable of causing death, bodily injury, or damage to property. Weapons include but are not limited to: an explosive; a device principally designed, made or adapted for delivering or shooting an explosive, chemical, biological, or radiological weapon; a firearm such as a machine gun, rifle, shotgun, or handgun; a firearm silencer; sharp object such as a knife or other blade; or any other device used for the infliction of or threat of bodily injury, damage to property, or death.

Workplace Violence includes, but is not limited to, intimidation, bullying, cyber-bullying, stalking, threats, physical attacks, domestic violence, or property damage and includes acts of violence committed by State employees, clients, customers, relatives, acquaintances, or strangers against State employees in the workplace.

Coverage

This policy applies to full-time and part-time employees with permanent, probationary, trainee, time-limited permanent, or temporary appointments. This policy applies to the conduct of an employee while functioning in the course and scope of employment as well as off-duty violent conduct that has a potential adverse impact on a State employee's ability to perform the assigned duties and responsibilities.

Prohibited Actions and Sanctions

It is a violation of this policy to:

- Engage in workplace violence as defined herein;
- Use, possess, or threaten to use an unauthorized weapon during a time covered by this policy; or
- Misuse authority vested to any employee of the State of North Carolina in such a way that violated this policy.

A violation of this policy shall be considered unacceptable personal conduct as provided in the Disciplinary Action, Suspension and Dismissal Policy. Acts of violence, as defined herein, may be grounds for disciplinary action, up to and including dismissal.

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An act of off-duty violent conduct may also be grounds for disciplinary action, up to and including dismissal. In these situations, the agency must demonstrate that the disciplinary action is supported by the existence of a rational nexus between the type of violent conduct committed and the potential adverse impact on a State employee's ability to perform the assigned duties and responsibilities.

Examples of prohibited conduct include, but are not limited to, the following:

- Physically assaulting an individual;
- Communicating a threat to an individual or his/her family, friends, associates, or their property;
- Intentionally destroying or threatening to destroy property owned, operated, or controlled by the State;
- Intimidating or attempting to coerce an employee to do wrongful acts, as defined by applicable law, administrative rule, policy, or work rule that would affect the business interests of the State;
- Stalking or intending to place another person in reasonable fear for his or her safety; or
- Possessing or using firearms, weapons, or any other dangerous devices on state property in an inappropriate manner or without authorization.

Employee Assistance Program

When a threat has been reported or management determines that a potential for violence exists, management may require an employee to undergo an assessment to determine the risk of danger. The Employee Assistance Program (EAP) can assist agencies by facilitating a referral to an appropriate resource for this assessment.

Management may also recommend EAP services to support employees who are the victim of workplace violence.

Authorized Exceptions to Policy

Some State employees may be required as a condition of their work assignment to possess firearms, weapons or other dangerous devices, or permitted to carry them as authorized by law.

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An employee may possess a weapon if possession is:

- In compliance with North Carolina law;
- Authorized by the agency/university head or designee;
- Used by an employee who is a certified law enforcement officer;
- Required as a part of the employee's job duties with the State of North Carolina; or
- Connected with the training received by the employee in order to perform the responsibilities of their job with the State of North Carolina.

Possession of weapons in federal, state, and local buildings may or may not be permitted depending on the applicable statutes covering such premises.

Support and Protections

The agency shall make efforts to protect victims of workplace violence by offering all available and reasonable security measures. Victims may also need special accommodations or adjustments to their work schedule, location, or working conditions in order to enhance their safety. The agency shall accommodate these requests and needs whenever possible and appropriate. The agency shall work closely with victims to ensure that both the needs of the victims and the agency are addressed.

Management is expected to work in collaboration with the Human Resources department to offer support to victims of workplace violence, which includes domestic violence, and ensure all appropriate consultative resources are available. This support should include encouragement of the victim to use the services of the Employee Assistance Program (EAP), if available.

In addition, management shall work with their Human Resources department and use their discretion to grant a victim leave time for medical, court, or counseling appointments related to trauma and/or victimization. The following options should be considered:

- Flex Scheduling
- Vacation Leave
- Sick Leave
- Leave without Pay
- Safe Days

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Retaliation

This policy prohibits retaliation against any employee who, in good faith, reports a violation of this policy. Every effort will be made to protect the safety and anonymity of anyone who comes forward with concerns about a threat or act of violence.

Reporting Responsibilities

Employees should immediately report any incident or potential incident of workplace violence, including new or existing protective orders, to their supervisor or their agency Human Resources department as soon as it is safe to do so. The incident will be discussed with the employee to assess the situation and evaluate threats of potential violence.

If an employee reports a workplace violence incident to the supervisor, the supervisor should then notify the Human Resources department, including the agency Employee Relations/EEO Manager and Safety Leader, or designee. If the incident presents a risk to the lives or safety of State employees, volunteers, interns, visitors or threatens property, the employee or supervisor shall call the State Capitol Police or the respective departmental, university, or local Law Enforcement Agency immediately.

Agency management will assess the situation/circumstances and direct immediate action as needed to defuse the situation. Possible actions may include:

- Coordination with law enforcement and emergency services personnel;
- Internal communications within the agency; or
- Communication with media and/or family members (via designated employees such as the Public Information Officer or Communications Department,).

The supervisor or the designated Human Resources employee should document the incident using the agency Workplace Violence Incident Report as soon as possible but no later than 15 calendar days after the alleged incident. Additional documentation may be necessary if there is a worker's compensation claim, OSHA recordable injury, or the incident qualifies as workplace harassment. A report of workplace violence is not equivalent to a formal grievance as defined by NCGS §126-34.01.

Agency management shall conduct an internal investigation as circumstances warrant. Agency management shall determine if disciplinary action is warranted and ensure that the action is consistent with agency Human Resources policy.

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Agency Responsibilities

The agency head or university chancellor shall create and maintain a workplace designed to prevent and manage workplace violence. This shall be done by developing a comprehensive workplace violence prevention and management program. Each workplace violence program shall, at a minimum, include:

- A statement establishing that workplace violence is prohibited.
- Designation of responsibility for the overall implementation of a workplace violence prevention and management program. The responsible individual may choose to establish a crisis management team approach or develop their own system that identifies and mobilizes appropriate consultative resources.
- A written workplace violence prevention and management plan including procedures for:
 - Disseminating the agency's workplace violence plan to new and existing employees;
 - Reporting of violations of the agency's workplace violence procedures by employees and supervisors;
 - Investigating a report of violation of this policy or agency procedures including a description of agency preparedness and precautionary measures to be taken in responding to acts or threats of violence;
 - Providing instruction to all employees regarding proper response to acts or threats of violence;
 - Reporting, collecting, and maintaining information regarding incidents of workplace violence; and
 - Facilitating critical incident stress debriefings for employees who have been affected by an event related to trauma and victimization.