

EMPLOYEE OCCUPATIONAL HEALTH SERVICE

1. **REASON FOR ISSUE:** To reissue Department of Veterans Affairs (VA) policy regarding the Employee Occupational Health Service.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook sets forth human resources policies regarding the Employee Occupational Health Service. The pages in this handbook replace the corresponding page numbers in VA Handbook 5019, dated March 27, 2015. Revised text is contained in [brackets]. These changes will be incorporated into the electronic version of VA Handbook 5019 that is maintained on the [Office of the Chief Human Capital Officer website](#) and the [VA Publications website](#). Significant changes include:
 - a. Employee Health and Wellness.
 - b. Medical Testing Program.
 - c. Domestic Violence Policy.
3. **RESPONSIBLE OFFICE:** The Worklife and Benefits Service (058), Office of the Chief Human Capital Officer.
4. **RELATED HANDBOOK/DIRECTIVE:** VA Directive 5019, Employee Occupational Health Service.
5. **RESCISSIONS:** None

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EMPLOYEE OCCUPATIONAL HEALTH SERVICE

PART I. GENERAL

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through an inter-agency agreement. Such arrangements are authorized by the Economy Act, 31 U.S.C. 1535. Note that physical activities may be offered without special facilities. In addition to providing programs and fitness facilities, facilities may encourage an active lifestyle by issuing policies that support flexible work schedules and/or create environments that encourage active and healthy lifestyles such as providing showers, locker rooms, bike racks, running maps and healthy vending machine choices. Other exercise facilities may be provided through use of therapeutic pools or gyms initially constructed for patient care. Service agreements with Physical Medicine and Rehabilitation for use of gyms or therapeutic pools are necessary.

(b) Individual Level Considerations. Building exercise into each employee's daily pattern of living will provide the most robust approach to long-term exercise. Identifying willingness or interest in change represents a critical first step. The subsequent actions may involve purchasing small hand weights, providing stretching or yoga guidance and access and identifying aerobic opportunities. Common solutions are walking, bicycling, or running to work; creating an exercise group at home (walking, bicycling, etc.); or creating such group activities in the workplace at lunch. Facilities may support activities such as bicycling by providing bicycle lockers or racks.

[(2)] Health and Wellness Activities.

(a) Use of flexible work schedules (FWS) and credit hours to permit recurring participation in self-care and other wellness activities. Approval of a FWS is an alternative to employee requesting leave for time off during duty hours to work out or other physical fitness activities. VA policy, as outlined in VA Handbook 5011, Part II, Chapter 2, paragraph 12 (for Title 5 employees) and Part II, Chapter 3, Paragraph 6 (for Title 38 employees), currently allows flexible schedules (flexitour, modified flexitour and gliding) with the option to earn credit hours with supervisory approval. For example, an employee may use credit hours, subject to supervisory approval, in conjunction with their lunch break to work out in a gym or perform other fitness activities. Gliding schedules may also allow for flexible hours at midday (during the lunch break) for fitness activities.

(b) Excusing employees for agency sponsored self-care and wellness events, such as health fairs, wellness fairs, the VA2K, webinars, or other activities. Employees may be excused from duty (on official duty status) for brief periods to participate in self-care or wellness activities sponsored or sanctioned by Veterans Affairs, VA Administrations, Staff Offices, or field facility heads. Excused absence is not an employee entitlement and requires prior supervisory approval. Employees may be authorized to participate in wellness events to support the health and well-being of the workforce to the extent possible while maintaining staffing levels necessary for the proper care and treatment of patients and other essential activities.]

[(3)] Diet and Nutrition

(a) Facility Level. Working with food and nutrition services to ensure posted calories, low-fat and healthy foods and other local resources such as diet counseling may be useful.

(b) Individual Level. Building diet assessment and changes in eating habits into each employee's daily pattern of living will provide the most successful approach to long-term control. Identifying willingness/interest in change represents a critical first step.

[(4)] Tobacco Cessation. Tobacco cessation programs are considered preventive in nature and are authorized under 5 U.S.C. 7901(c) (4), which provides Federal agencies with the authority to use appropriated funds to pay the costs of tobacco cessation programs. Tobacco cessation programs should include individual and group counseling and a form of pharmacologic therapy such as nicotine replacement therapy.

[(5)] Stress Management. This should be addressed at an organizational and individual level. Stress management at an individual level can involve a stress assessment tool that can be part of a health risk appraisal or a standalone tool. Many facilities have developed other local initiatives including meditation rooms, group yoga sessions and mindfulness-based stress reduction classes. In general, meditation techniques have shown some benefit in reducing stress levels among employees at work. Employees presenting with psychosocial problems should be referred to facility Employee Assistance Program or their private provider.

7. DEFINITIONS.

a. **Employee.** For the purposes of this handbook, any individual duly appointed into a Federal position in the Department of Veterans Affairs either in the excepted or competitive Service, or individuals identified as defined in Appendix I-A of this part.

EMPLOYEE OCCUPATIONAL HEALTH SERVICE

PART IV. HEALTH MAINTENANCE PROGRAMS,
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(b) Some categories of patients, such as Homeless Program (Outreach) employees may require annual tuberculosis screening and tuberculosis surveillance even if the hospital as a whole is deemed to be at low risk.

(c) The EOH provider shall review all available tests and where applicable order a chest x-ray and review the results prior to commencement of duty.

(d) Pre-placement employees suspected of or found to have active tuberculosis will have their commencement of duty postponed until it is determined they are no longer infectious according to current CDC/ATS guidelines.

(e) Periodic tuberculosis surveillance will be conducted in accordance with current CDC recommendations.

(4) Exposure to Tuberculosis. Employees exposed to patients or other employees with active tuberculosis will undergo screening according to current CDC guidelines.

(a) If an employee develops a positive skin test or positive blood assay test or a change in his/her clinical condition suggestive of tuberculosis, current CDC guidelines shall be followed to rule out infectious tuberculosis.

(b) If any employee is identified with a change in their tuberculosis status, further planning shall be conducted in collaboration with infection control, infectious disease, hospital epidemiology and local Public Health agencies.

(c) Such cases of conversion are to be included on the OSHA log.

(5) Records. All employee records pertaining to tuberculosis, including all chest x-rays, shall be retained with the employee's EMF for the duration of the employment plus 30 years following the OSHA mandates on medical record retention.

[b. Pandemic Infectious Disease Program

(1) Coverage/Scope. This program applies to all VA employees.

(a) Facilities will conduct a risk assessment to determine the level of risk for the pandemic illness. They will implement the appropriate level of infectious disease surveillance with appropriate screening frequencies based on CDC guidance.

(2) Screening. Facilities will establish a screening program appropriate to the circumstances prior to employees' presence on-site.

(a) Periodic surveillance of an infectious disease will be conducted in accordance with current CDC recommendations.

(3) Exposure to Infectious Disease. Employees exposed to patients or other employees with a confirmed case of the pandemic illness will undergo screening according to current CDC guidelines.

(a) If an employee develops a positive test or a change in his/her clinical condition suggestive of the pandemic illness, current CDC guidelines shall be followed to rule out the infectious illness.

(b) If any employee is identified with a change in their infectious disease status, further planning shall be conducted in collaboration with infection control, infectious disease, hospital epidemiology and local Public Health agencies.

(4) Records. All employee records pertaining to infectious illness, including any tests ordered, shall be retained in the employee's EMF for the duration of employment plus 30 years following any OSHA mandates on medical record retention.]

4. MEDICAL SURVEILLANCE

a. All employees with potential exposure to hazardous conditions based on a risk assessment identified by the facility industrial hygienist/safety officers shall be included in a medical surveillance program. Those designations will trigger medical surveillance requirements, as defined in the OSHA standards, the National Institute of Occupational Safety and Health (NIOSH) standards, professional practice guidelines and other professional societies, such as American National Standards Institute.

b. The frequency and content of the medical surveillance evaluations depend on the specific agent.

c. Occupational Health Registered Nurses (RN) as other licensed healthcare professionals under the Respiratory Standard (29 CFR 1910.134b.10) may conduct respirator evaluations if it is within their scope of practice. They may clear workers for respirator fit testing if there are no positive responses on the questionnaire. If there are positive responses to questions 1-8 of the questionnaire and when there is sufficient information to reach a reasonable and prudent nursing judgment related to the worker's ability to safely use a respirator without health limitations, RNs may clear workers for respirator fit testing for filtering face piece respirators (such as the N-95). If there is not sufficient information to reach the necessary judgement of the worker's ability to safely use a respirator without limitations, the worker must be referred to a licensed independent practitioner (LIP) for further evaluation.

OCCUPATIONAL HEALTH SERVICES

PART VII. DOMESTIC VIOLENCE, SEXUAL ASSAULT AND
STALKING IN THE WORKPLACE

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PART VII. DOMESTIC VIOLENCE, SEXUAL ASSAULT AND STALKING IN THE WORKPLACE

1. PURPOSE. [The purpose is to provide] procedures to address employees [experiencing] domestic violence/intimate partner violence (DV/IPV), sexual assault (SA) and stalking in the workplace.

2. BACKGROUND.

a. DV/IPV, SA and stalking are serious problems that can affect individuals, families, communities and workplaces. These problems affect people of all backgrounds, regardless of race, income, religion, sexual orientation, gender identity, age, disability, etc. Domestic violence (DV) refers broadly to any violence that occurs in [and outside] the home. The term “intimate partner violence” (IPV) describes physical, sexual, or psychological harm or stalking behavior by a current or former partner that occurs on a continuum of frequency and severity ranging from emotional abuse to chronic severe battering or even death. It can occur in heterosexual or same-sex relationships and does not require sexual intimacy or cohabitation. Sexual assault includes any sexual act or behavior that is perpetrated when someone does not or cannot consent. Stalking occurs when a person frequently or continuously contacts, follows, talks to, or sends things to another person when the recipient wishes the behavior to stop.

b. This handbook approaches DV/IPV with a recognition that [while violence is not tolerated or acceptable,] the use or experience of violence does not define the individual. As such, VA has adopted person-first language using terms such as “individuals who use violence” rather than “abuser” or “batterer” and “individuals who experience violence” rather than “victim” or “survivor.”

c. DV/IPV, SA and stalking may cause emotional trauma and physical injury. In addition, the social stigma associated with these problems and the reality that many individuals experiencing these problems often have an on-going relationship with the offender can make it more difficult for individuals who are experiencing these problems to report. Individuals often continue to be in danger after reaching out for help, reporting the crime, during the investigation process and during prosecution of the cases. As a result, appropriate responses in these cases can save lives, prevent future violence and promote recovery.

d. The effects of DV/IPV, SA and stalking may affect the workplace in numerous ways, introducing significant costs and safety concerns in the workplace. VA will promote the health and safety of its employees by acting to prevent DV/IPV, SA and stalking within the workplace and by providing support and assistance to employees whose working lives are affected by such violence

3. DEFINITIONS.

[a.] **Domestic Violence (DV).** A pattern of coercive behavior, including acts or threatened acts, that are used to gain power and control over a current or former spouse, family member, current or former intimate partner, current or former dating partner, or person with whom the individual who uses violence shares a child in common. [] Domestic violence can occur in any relationship, regardless of socio-economic status, education level, cultural background, age, gender, race, ethnicity, sexual orientation, gender identity, or religion. Domestic violence can occur in heterosexual and same-sex intimate relationships, including marital, cohabiting, or dating relationships that are not dependent on the existence of a sexual relationship. [The definition of DV covers other subsets of violence, defined below, including physical violence, psychological/emotional violence, sexual assault, sexual violence, stalking and threats.]

[b.] **Domestic Violence/Intimate Partner Violence, Sexual Assault and Stalking Incident Response Team.** A facility-level interdisciplinary committee whose primary charge is to develop an effective, confidential and accessible way for employees to report DV/IPV, SA, or stalking incidents or concerns.

[c.] **Employee.** For the purposes of this part, an employee is defined as any person appointed by VA. This does not include employees of private contractors hired by VA. For the purposes of this policy, the term employee includes detailees and volunteers working at the VA. []

[d.] **Employer.** For the purposes of this part, VA is the employer.

[e.] **Individual Who Experiences Domestic Violence.** An individual who is the recipient of violent behavior, either in the present or past. Violent behavior can include intimate partner violence, sexual assault and/or stalking behavior. Traditionally referred to as victim or survivor.

[f.] **Individual Who Uses Domestic Violence.** An individual who uses or threatens to use violence, either in the present or past tense. Traditionally referred to as batterer, abuser, or perpetrator.

[g.] **Interpersonal Violence.** The intentional use of violence, threatened or actual, that results in or has a high likelihood of resulting in death, injury, or psychological harm, maldevelopment, or deprivation.

[h.] **Intimate Partner Violence (IPV).** Physical, sexual, or psychological harm or stalking behavior by a current or former partner that occurs on a continuum of frequency and severity ranging from emotional abuse to chronic, severe battering or even death. It can occur in heterosexual or same-sex relationships and does not require sexual intimacy or cohabitation. [This is a form of domestic violence.]

[i.] **Physical Violence.** The intentional use of physical force with the potential for causing death, disability, injury, or harm. Physical violence includes, but is not limited to, scratching; pushing; shoving; throwing; grabbing, biting choking; shaking; slapping; punching; burning; use of weapon; and use of restraints or one's body, size, or strength against another person.

[j.] **Protective or Restraining Order.** Individuals who have experienced violence may obtain a protective order, sometimes called a restraining order, a stay-away order, a no-abuse order, or a peace order, from a court to protect them from a perpetrator. Such an order also may establish custody and visitation guidelines and provide for forms of economic security, like rent or mortgage payments, which last for the duration of the order. Protective orders may also be issued in criminal cases as a condition of probation or condition of release, particularly in a domestic violence, sexual assault or stalking related crime.

[k.] **Psychological/Emotional Violence.** Involves trauma to one's partner caused by acts, threats of acts, or coercive tactics. Psychological/emotional aggression can include, but is not limited to, humiliating one's partner, controlling what one's partner can and cannot do, withholding information from one's partner, deliberately doing something to make one's partner feel diminished or embarrassed, isolating one's partner from friends and family, denying one's partner access to money or basic resources.

[l.] **Sexual Assault (SA).** Various behaviors, including but not limited to, a completed nonconsensual sex act (e.g., rape, sodomy, child molestation), an attempted nonconsensual sex act, abusive sexual contact ([e.g.], unwanted touching) and non-contact sexual abuse (e.g., threatened sexual violence, exhibitionism, verbal harassment). Sexual assault includes any sexual act or behavior that is perpetrated when someone does not or cannot consent. Sexual assault may occur between people who know each other, such as co-workers or supervisors; individuals who are dating or married to each other, or parties that are unknown to each other. Lack of consent should be inferred when an individual uses force, harassment, threat of force, threat of adverse personnel or disciplinary action, or other coercion to engage in sexual behavior, or when the [intended party] is asleep, incapacitated, unconscious, or physically or legally incapable of consent.

[m.] **Sexual Violence.** There are three categories of sexual violence: 1) use of physical force to compel a person to engage in sexual acts against his or her will, whether or not the act is completed; 2) attempted or completed sex[ual] act involving a person who is unable to understand the nature or condition of the act, to decline participation, or to communicate unwillingness to engage in the sexual act, e.g., because of illness, disability, or the influence of alcohol or other drugs, or because of intimidation or pressure; and 3) abusive sexual contact.

[n.] **Stalking.** Refers to repeated, unsolicited and unwanted contact or monitoring either in person or via communication media such as phone, internet, email, social media, camera, or video. It may also include harassing or threatening behavior that an individual engages in repeatedly, such as following a person, appearing at a person's home or place of business, making harassing phone calls, leaving written messages or objects, or vandalizing a person's property.

[o.] **Threats.** The use of words, gestures, weapons, or other means to communicate the intent to cause harm.

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[p.] **Workplace.** An employee's official duty station or alternative work location that is associated with the employee's established tour of duty (working hours). The employee is considered to be in the workplace while in or utilizing the resources of the employer, including but not limited to, facilities, work sites, equipment, or vehicles, or while on work related travel.

[q.] **Workplace Related Incidents.** Acts, attempted acts, or threatened acts of domestic violence, sexual assault and[/or] stalking by or against employees and/or against employees' families or property, that occur in the workplace or that occur outside the workplace but have an impact on the workplace.

[r.] **Workplace Safety Plan.** A strategy developed in collaboration with a[n individual who experiences DV in the workplace] to implement workplace safety options, including but not limited to, handling of court protection orders, procedures for alerting [law enforcement or] security personnel, temporary or permanent adjustments to work schedules and locations, changes in parking spots and requests for escorts to and from workplace facilities. [Refer to Appendix A, Components of a Workplace Safety Plan.]

[s.] **Workplace Violence.** Workplace violence ranges from offensive or threatening language to homicide. The National Institute for Occupational Safety and Health (NIOSH) defines workplace violence as violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty. Examples of violence include the following: threats (expressions of intent to cause harm, including verbal threats, threatening body language and written threats); physical assaults (attacks ranging from slapping and beating to rape, homicide and the use of weapons such as firearms, bombs, or knives); and muggings (aggravated assaults, usually conducted by

surprise and with intent to rob).

4. POLICY. It is the policy of VA:

a. To enhance workplace awareness and capacity to create a supportive, safe work environment for individuals who [experience] violence and [for] their fellow employees.

b. To institutionalize responsive policies and procedures to assist [an individual who experiences DV] including the provision of training on this policy to employees and management.

c. To provide immediate assistance to individuals who are experiencing violence, especially information on referrals to community resources. The VA is committed to making supportive resources available to employees who disclose incidents of DV/IPV, SA and stalking through supervisors, designated persons in human resources offices, or other persons designated by the Department, building safety/security and the Employee Assistance Program (EAP).

d. To provide assistance to and/or take disciplinary [or criminal] action[, as appropriate,] against employees who have committed acts of [domestic violence] in the workplace.

5. RESPONSIBILITIES. Preventing and responding to actual or potential incidents of DV/IPV, SA, or stalking in the workplace is a responsibility of every VA employee.

NOTE: 38 CFR 1.204 requires any serious crime (e.g. homicide, armed robbery, rape and aggravated assault) committed against a person on VA premises to be reported to the Office of the Inspector General (OIG).

a. **Under Secretaries, Assistant Secretaries, Other Key Officials, Deputy Assistant Secretaries and field facility Directors.** Under Secretaries, Assistant Secretaries, Other Key Officials, Deputy Assistant Secretaries and field facility Directors are responsible for the implementation of this policy within the organizations over which they have jurisdiction. These officials will:

(1) Assign responsibility to a primary point of contact (POC) within their Administration, Staff Office or facility for policy implementation, monitoring, evaluating and reporting on progress. []

(2) Establish a local DV/IPV, SA and Stalking Incident Response Team to develop reporting procedures that provide an effective, confidential and accessible way for employees to report incidents and concerns. Team members will be trained on addressing the needs of individuals experiencing domestic violence. At a minimum, the team should

include representatives from VA Police, human resources, occupational health, [and] labor partners []. Facilities shall develop plans that specify who should respond to incidents depending on the nature of the offense. []

b. **Managers and Supervisors.** Managers and supervisors will:

(1) Participate in training on DV/IPV, SA and stalking. The “Domestic Violence/Intimate Partner Violence (DV/IPV), Sexual Assault (SA), Stalking in the Workplace” TMS course# 3940800, offered in the Talent Management System (TMS) satisfies this requirement.

(2) Maintain confidentiality and be responsive when an employee who is experiencing domestic violence asks for help. Immediately contact the human resources staff, [VA Police and/or appropriate security office] for assistance;

(3) Be aware of physical or behavioral changes in employees and consult the human resources staff, [VA Police and/or appropriate security office] and/or EAP for advice. [Additionally, supervisors can refer employees to EAP.] Do not attempt to diagnose the employee;

(4) Work with the employee, human resources staff, [] EAP, [VA Police and/or security office and Stalking Incident Response Team], as appropriate, to assess the need for and to assist with developing a workplace safety plan, [determining if employees, or the workplace are at risk and taking appropriate measures to secure the workplace and providing protection as appropriate.]

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[(5)] In consultation with human resources staff, adjust employee’s work schedule and/or grant leave if the employee needs to take time off for medical [and/or] legal assistance, court appearances, counseling, relocation, or to make other necessary arrangements to create a safe situation;

[(6)] At the employee’s request, maintain communication with the employee during the employee’s absence; and maintain confidentiality regarding the employee’s whereabouts;

[(7)] After consultation with human resources staff, take any appropriate corrective disciplinary [or criminal] action against employees who: misuse VA resources to perpetrate DV/IPV, SA and/or stalking in the workplace or while conducting VA business; or are arrested, convicted or issued a permanent injunction as a result of DV/IPV, SA and/or stalking [in the workplace] where the employee’s actions prevent, or impact the employee’s ability to perform the duties of his/her position;

[(8)] In consultation with VA Police and/or appropriate security and law enforcement, honor all civil protection or restraining orders on behalf of VA.

[(9)] [Report incidents of DV/IPV, SA and/or stalking in the workplace. These incidents should be reported to VA police unless otherwise directed at the local facility level.]

c. Office of [the Chief Human Capital Officer (OCHCO)] Worklife and Benefits Service. The Worklife and Benefits Service will:

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[(1)] Provide advice and guidance to [human resources officials regarding [the DV/IPV, SA and stalking in the workplace policy].

[(2)] In collaboration with appropriate Staff and Administrative offices, review and provide necessary updates to the DV/IPV, SA and stalking in the workplace policy, including evaluating program effectiveness.

[(3)] Work with the VA Learning Officer, or appropriate official(s), to ensure DV/IPV, SA and stalking training is available.]

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d. Human Resources Officers. Local Human Resources Offices will:

(1) Participate in DV/IPV, SA and stalking training for VA supervisors and employees;

(2) Participate on the local DV/IPV, SA and Stalking Incident Response Team;

(3) Provide technical expertise and consultation to help supervisors determine what course of administrative action is most appropriate in a specific DV/IPV, SA and/or stalking incident [in the workplace];

(4) Be a resource to employees, managers and supervisors in addressing DV/IPV, SA and/or stalking situations. This includes working with employees, the [VA Police and/or appropriate security office], the Office of General Counsel (OGC), EAP, local law enforcement and community domestic violence programs, if necessary, [] to minimize the risk to the individual experiencing violence, other employees and VA customers;

(5) Work with supervisors and managers to grant leave, adjust work schedules, [authorize telework], or attempt to find continued employment for employees who [experience domestic violence in the workplace, [to the greatest extent] possible];

(6) Maintain the confidentiality of incident circumstances and other referrals under this part to the extent permitted by law;

(7) When appropriate, help supervisors determine appropriate workplace flexibilities; and

(8) Determine whether sufficient evidence exists to support taking a disciplinary action once the investigation of any misconduct is complete for VA employees who are perpetrating DV/IPV, SA and/or stalking [in the workplace, or determine if disciplinary action should be deferred pending criminal investigation].

e. Building Safety and Security. Maintaining a secure and physically safe workplace is part of any good strategy for preventing workplace violence of any kind. VA uses a variety of security measures to help ensure safety. Qualified [VA police officers or] security [] personnel can provide a valuable first line of defense for employees who are pursued or stalked. Locations with no security forces on site are encouraged to establish contact with their EAP representative, local law enforcement and local domestic violence programs to develop an appropriate security response plan. In coordination with the individual experiencing violence, qualified [VA police officers and/or] security personnel [should]:

(1) Develop a workplace safety plan that includes and respects the affected employee;

(2) [When known,] maintain copies of restraining orders and photos of the perpetrator in all appropriate locations in accordance with the laws of the state or jurisdiction and in the court that issued the order; [and]

(3) Refer [individuals who experience DV/IPV, SA or stalking] to appropriate state and local law enforcement and other appropriate resources.

f. Collective Bargaining. VA management will comply with national collective bargaining agreements.

g. Employee Assistance Program. EAPs can be strategic partners and valuable resources in addressing DV/IPV, SA and stalking as a workplace issue. The EAP should support facility supervisors in their response to the needs of employees affected by DV/IPV, SA and stalking [in the workplace]. To the extent possible, the EAP should work in conjunction with supervisors and/or VA Police/[] security [personnel], with the employee's permission, to plan for the safety of the workgroup when incidents of DV/IPV, SA, or stalking affect the workplace. Locations with no EAP representative on site are encouraged to work with the local DV/IPV, SA and Stalking Incident Response Team to develop an appropriate response plan.

(1) An EAP referral can be a simple tool to encourage [individuals who experience] DV/IPV, SA, or stalking to seek out help or assistance. A list of resources for [individuals who experience] DV/IPV, SA, [or] stalking should be maintained to provide employees with information regarding crisis hotlines and local and national service providers, including EAPs when available, that can assist these individuals [(also found on the [Worklife and Benefits Service website](#)).]

(2) EAP professionals play a key role in training staff on how to identify warning signs of potential violence and on how to intervene most effectively. EAPs play the following key roles:

(a) Maintain up-to-date referral resources on domestic violence hotlines, advocacy groups, shelters, counseling services and legal services (pro bono legal assistance and domestic violence/family court information) as well as resources for individuals using violence, including certified batterer's intervention programs. As these resources change frequently, it will be important to verify the referral information often.

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[(b)] When appropriate and with the written permission of the individual experiencing [DV/IPV, SA, or stalking in the workplace], provide advice and consultation to the supervisor[, human resources and/or any other individual/entity with a need to know. Consultation will be related] to issues of DV/IPV, SA, or stalking in the workplace in order to achieve workplace cooperation regarding leave of absence, fair consideration of any performance or conduct problem directly related to the violence, safety needs, disciplinary actions against an individual who [uses violence against] a co-worker or employee in the workplace and access to any other needed services.

[(c)] Discuss with human resources staff any human resources policy which may negatively impact individuals who are experiencing [DV/IPV, SA, or stalking in the workplace].

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6. WORKPLACE FLEXIBILITIES.

a. Various types of workplace flexibilities are available to an employee when the employee and/or the employee's family member(s) are experiencing DV/IPV, SA, and[/or] stalking. To the greatest extent possible, supervisors should work in collaboration with the employee to provide leave and/or other workplace flexibilities to help the employee remain safe and maintain his or her work performance. All possible leave options should be considered for an employee in this situation. When the need for time off is foreseeable, an employee must provide reasonable advance[d] notice to the supervisor.

b. Employees are not required to provide personal details in their requests for leave. However, employees are required to provide enough information in their leave requests so that supervisors know which type of leave is appropriate (e.g., sick leave, annual leave, leave without pay, etc.). Available flexibilities regarding leave from the workplace can be found in VA Handbook 5011, Part III. Flexibilities may vary depending on whether the employee is covered by the Title 5 or Title 38 employment system. It is important to note that these options may be applied to situations in which DV/IPV, SA and/or stalking is currently taking place or to situations in which the trauma is related to a past incident(s).

c. Individuals experiencing DV/IPV, SA and/or stalking may need time off to secure medical assistance, legal assistance, counseling, or to attend to other matters related to the violence, such as court proceedings, relocation, or safety planning for him or herself. Every reasonable effort will be made to assist an employee to maintain employment when the employee is experiencing or has experienced violence in or outside the workplace. The supervisor will work in collaboration with the employee to provide reasonable and flexible leave options when an employee is experiencing DV/IPV, SA and/or stalking. The supervisor will also work with an employee to determine if other non-leave related assistance will facilitate the employee's ability to remain safe and maintain his or her work performance [(e.g., modifying work schedules, changing employee's location within the workplace or location of a parking spot, changing phone numbers, arranging telecommuting options, etc.)] Refer to VA Handbook 5011 [Parts II and III] for specific information regarding leave and hours of duty.

7. STATEMENT OF CONFIDENTIALITY

a. VA recognizes and respects an employee's right to privacy and the need for confidentiality and individual consideration. Confidentiality of an employee's disclosure regarding violence will be maintained to the extent permitted by law and unless the disclosure would result in physical harm to any person and/or jeopardize safety within the workplace. When information must be disclosed to protect the safety of individuals within the workplace, the breadth and content of such disclosure shall be limited to information reasonably necessary to protect the safety of the disclosing employee and others to comply with the law.

Every effort will be made to provide advance[d] notice to the employee who disclosed information if the disclosure must be shared with other parties in order to maintain safety in the workplace. The employee shall be provided with the name and title of the person to whom the employee's statements will be shared with an explanation of the necessity and purpose regarding said disclosure.

b. Supervisors should be aware that the confidentiality of employee information and records related to DV/IPV, SA and stalking is critical. [If it's determined that written information must be retained, it] must be protected and kept separate from other records maintained on the employee. Any type of monitoring or evaluation depends, in part, on written or electronic records. It is crucial that any records relevant to DV/IPV, SA and stalking incidents be kept in a confidential place and only shared, as necessary, with appropriate personnel, such as those involved in security or management roles. See [The Office of Personnel Management Guidance for Agency-Specific Domestic Violence, Sexual Assault and Stalking Policies](#) for further discussion on confidentiality.

8. RESPONSES TO [INDIVIDUALS WHO EXPERIENCE DV/IPV, SA OR STALKING]

a. **Nondiscrimination and Non-Retaliation.** VA shall not discriminate in hiring, staffing, or other terms and conditions of employment against any employee for disclosing his or her status as a[n individual who experiences domestic violence] or for submitting a complaint or disclosing concerns about violence to VA. VA shall not retaliate or take adverse employment actions against any employee for submitting a complaint pursuant to this policy, for disclosing his or her status as a[n individual who experiences domestic violence] or for actions of violence perpetrated by another against an employee that occur in or have an impact on the workplace.

b. **Work Performance.** Employees who are experiencing violence may experience temporary difficulty fulfilling job responsibilities. If a supervisor becomes aware that an employee's work performance or conduct has been impacted by DV/IPV, SA and/or stalking, the supervisor will offer support to the employee and work in collaboration with the employee to address the issues, in accordance with established policies within the workplace. The supervisor will consider the impact of DV/IPV, SA and/or stalking as a mitigating factor in determining administrative actions against individuals experiencing violence for workplace performance, as described in OPM guidance. The supervisor will take appropriate measures to ensure an employee's status as someone experiencing DV/IPV, SA and/or stalking does not negatively impact/ compromise his or her rights and privileges of employment with VA.

c. **Protection and Restraining Orders.** An individual experiencing domestic violence may seek an order of protection, or may receive a restraining order from the appropriate court or law enforcement body, as part of his or her efforts to become safe and as part of his or her workplace safety plan. VA recognizes that the workplace may or may not be included on an order as a location from which a[n individual who uses violence] must remain away. If an employee chooses to disclose the existence of a protection or restraining order to his/her supervisor, VA will, wherever possible, assist the employee to enforce said order, shall archive said order in a confidential and

separate file from the employee's personnel file and, if applicable, will assist the employee to gather documentation from the workplace, such as email or voice messages, that could support the employee's efforts in the justice system or otherwise obtain or maintain safety from a perpetrator. [Supervisors and managers, in conjunction with local the Human Resources office, will grant leave, adjust work schedules, authorize telework, or attempt to find continued employment for employees who experience domestic violence in the workplace, to the greatest extent possible.]

9. RESPONSES TO EMPLOYEES CONCERNED ABOUT VIOLENCE. Co-workers, managers and other employees should only report incidences of DV/IPV, SA and/or stalking themselves if they have the full consent of the individual experiencing violence. Reporting without consent of the individual would only be appropriate in incidences of imminent and severe harm to employees or VA property. VA shall not retaliate against, terminate, or discipline any employee for reporting concerns about workplace related incidents of violence pursuant to this part, including an allegation that the act was perpetrated by a fellow employee or person in a management capacity. Prohibited acts of retaliation include, but are not limited to, demotion or withholding of earned pay, as well as acts of personal retaliation, such as those related to an employee's immigration status or sexual orientation. Any employee who believes he or she has been subjected to retaliation as a result of making a report pursuant to this policy [may] contact his or her local Human Resources Office. [Employees may also contact the Office of Accountability and Whistleblower Protection; Office of Special Counsel; or the Office of Resolution Management Diversity and Inclusion, Harassment Prevention Program.]

10. RESPONSES TO EMPLOYEES WHO COMMIT VIOLENCE. If an employee discloses that he or she has committed a workplace-related incident of violence, as defined in paragraph [3t], or if a supervisor becomes aware that an employee may have committed such incident, the supervisor shall refer the employee to VA security or local law enforcement to conduct appropriate investigations, interventions and referrals. 38 CFR 1.204 requires VA employees to report to the VA OIG all felony crimes impacting upon VA programs and operations. This would include all felony crimes which have actually occurred or appear likely to occur on VA property. VA will investigate immediately and may [refer for criminal charges or] take disciplinary/adverse action, up to and including removal/termination, against any employee who threatens to commit or who commits workplace-related incidents of DV/IPV, SA and/or stalking. The supervisor will be responsible for initiating the investigation with the appropriate parties. Employees are prohibited from utilizing any workplace resources, such as work time, phones, email, computers, fax machines or other means to threaten, harass, intimidate, embarrass or otherwise harm another person. An employee who is subject to a protection or restraining order, or a named defendant in a criminal action as a result of a threat or act of DV/IPV, SA and/or stalking must disclose the existence of such criminal or civil action if the conditions of such actions interfere with the employee's ability to perform his or her job, impact another employee at VA or specifically relate or name

VA in the civil or criminal action. Failure to disclose the existence of such criminal or civil actions in these circumstances may result in disciplinary/adverse action, up to and including removal/termination from employment.

11. REPORTING AND REFERRALS. Employees who use or experience DV/IPV, SA and/or stalking are encouraged to provide a report to their supervisor. The local facility POC, supervisor, or EAP representative will provide community referrals and resources to assist employees with their concerns or experiences regarding violence. An employee should also contact Human Resources/Employee Relations if he or she wishes to report a violation of this part. VA will not subject employees who report violence or report a threat of violence to work-related or personal retaliation. All locations [should] maintain, publish and post in locations of high visibility, such as bulletin boards and break rooms, health units, phone directories and online information databases, a list of resources for individuals experiencing DV/IPV, SA and/or stalking, including but not limited to the National Domestic Violence hotline number (800) 799-SAFE, security services appropriate to location, the EAP number, the phone number and [description of local domestic violence resources, information on how to obtain civil orders of protection and criminal justice options and a list of certified batterers' intervention programs]. It is particularly important that written resource and referral information be available in all the languages spoken by employees. Other appropriate assistance may need to be evaluated on an individual basis.

12. SAFETY PLANNING, BUILDING SAFETY AND SECURITY SERVICES. When a violent incident affects the workplace, it is important that employees and supervisors know what to do. In consultation with the individual experiencing violence and his or her supervisor, or other support personnel identified by the individual experiencing violence, security offices should assist these individuals in developing the workplace and telework component of their safety plans. This planning may involve temporary changes, such as moving the employee to a more secure location or instituting an adjustment to the employee's work schedule to make the employee less vulnerable to contact by the person using violence. Wherever possible, local security offices will also keep copies of restraining orders and photos of the perpetrator at all appropriate security locations in accordance with the laws of the state or jurisdiction and/or the court that issued the order. [VA Police service and/or appropriate] security personnel will also:

- a. Provide consultation and reasonable assistance to employees experiencing violence or who fear an attack may occur at work.
- b. Document violations of a restraining order.
- c. Respond and intervene, as needed, to calls concerning safety in the workplace.
- d. Accept transferred harassing telephone calls from the [individual who uses violence against the employee] and document the calls.

e. Work closely with appropriate law enforcement agencies to ensure workplace safety.

f. Keep a [] copy of any restraining orders provided by the employee in a confidential file. Access to orders and information contained in them should be limited on a need-to-know basis.

g. Review the safety of parking arrangements. Worksites may differ on regulations and procedures regarding parking.

h. In addition, [VA Police service and/or appropriate] security [] personnel can provide a valuable first line of defense for employees who [experience DV/IPV, SA, or stalking]. It is critical to involve the security office when both individuals work in the same physical location. Individuals who [use] violence [and/or engage in] stalking can be extremely resourceful in gaining access to buildings and sites, with even the best of security systems, often by simply talking their way in or getting someone on the inside to help. In reviewing site access and entry control systems and procedures, consider the following issues:

(1) How well trained are officers, including contract security officers, with respect to DV/IPV, SA and/or stalking as it impacts the workplace?

(2) Are VA policies and procedures easily accessible and distributed as appropriate?

(3) Could someone talk their way past a security officer by claiming, for example, that they are there to have lunch with their spouse or partner or that they were authorized to make a package delivery?

(4) Do employees inside the building open the door to strangers who have “forgotten their IDs”?

(5) Do employees receive annual security training that incorporates discussions of workplace violence concerns?

(6) Do employees have round-the-clock-security, or could someone gain access to the building after hours?

13. TRAINING. Training for all VA personnel is an important part of responding to DV/IPV, SA and stalking in the workplace. It is highly recommended every employee completes the training in the Talent Management System (TMS) titled “Domestic Violence/Intimate Partner Violence (DV/IPV), Sexual Assault (SA), Stalking in the Workplace” (TMS course #3940800). This training will emphasize identification of warning signs of potential violence in both the victim and perpetrator and how to intervene most effectively. Additionally, facilities are encouraged to offer site-specific training sessions. Training sessions conducted by local EAP, security and employee relations staff are particularly helpful, enabling employees to get to know experts within their facility or site who can help them when potentially violent

situations arise. Employees and supervisors seek assistance at a much earlier stage when they personally know who can provide assistance. Providing appropriate training assures employees that management will take threats seriously, encourages employees to report incidents and demonstrates management's commitment to dealing with reported incidents. []

14. ADDRESSING COMPUTER TECHNOLOGY CONCERNS. Information technology personnel will consult with the individual experiencing violence to address computer safety concerns. These concerns include the use of computer technology to harass or stalk an employee, as well as information on the VA's website that could potentially be used to harm the [individual who experiences domestic violence]. As appropriate, the safety plan will address these concerns, including the removal of identifying information, such as the individual's telephone number and office location, from VA's internal and external websites.

15. CONTRACTORS. The VA workplace also includes contractor employees of vendors. Such personnel are not VA employees. [Executive Order 11246](#) as amended, sets requirements for Federal contractors on non-discriminatory practices and prohibits contractors from discriminating against their employees on the basis of sex, including by engaging in or allowing their employees to engage in sexual harassment. Contractors are also required to comply with [Title VII of the Civil Rights Act of 1964](#), including its prohibition on sex discrimination. Prohibited behavior could occur in conjunction with DV/IPV, SA, or stalking. Concerns regarding the conduct of contractors should be promptly brought to the attention of the relevant contracting officer or contracting officer's [] representative and/or agency security personnel or law enforcement. If a contractor is experiencing or using violence in the workplace, the supervisor will consult [VA police and/or appropriate] security personnel as necessary to enhance the safety of the workplace.

16. RESOURCES LISTING. [A listing of resources is available on the [Worklife and Benefits Service website](#), including government and external organizations, training, advocacy programs and the national crisis intervention hotline.]

17. REFERENCES.

- a. a. 5 U.S.C. 105.
- b. b. 38 CFR 1.204.
- c. [Executive Order 11246](#).
- d. Presidential Memorandum on Establishing Policies for Addressing Domestic Violence in the Federal Workplace, April 18, 2012
- e. Title VII of the Civil Rights Act of 1964.
- f. Title VII of the Civil Service Reform Act of 1978, PL 95-454.

- g. United States Office of Personnel Management Guidance for Agency –Specific Domestic Violence, Sexual Assault and Stalking Policies, February 2013.
- h. VA Handbook 5011.
- i. VA Handbook 5021.

APPENDIX [A]

COMPONENTS OF A WORKPLACE SAFETY PLAN

1. Consider obtaining a civil order for protection and make sure that it is current and on hand at all times. Include the workplace on the order. A copy should be provided to the police, your supervisor, Human Resources [(who may consult with General Counsel as needed)] and Security regardless of whether you believe that the abusive partner may come to the work site. Ask co-workers and/or supervisors to call the police if the perpetrator threatens, harasses you at work or violates the civil order for protection in any way.
2. Consider providing a picture of the individual who use[s] violence to reception areas and/or security.
3. Consider identifying an emergency contact person should your employer be unable to contact you.
4. Review the safety of your parking arrangements.
5. Consider having Security escort you to and from your car or public transportation and/or obtaining special parking access.
6. Consider requesting a change and/or unpredictable rotations of your work schedule, work site, or work assignment if such a change is possible and would enhance your safety at work.
7. Consider having your telephone calls screened at work.
8. Consider requesting additional security measures for your work site. It may be possible to relocate your workstation to a more secure area.
9. Review the safety of your childcare arrangements. If you have a protective order, make sure the provider has a copy.

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