



Approved by: Juan Williams, Commissioner	Policy Number: 12-060 (Rev. 01/10/20)
Signature: 	Supersedes: 12-060
Application: Executive Branch Agencies, All Executive Branch Employees	Effective Date: August 1, 2013
Authority: 29 U.S.C. § 651 et seq.; T.C.A. § 39-17-1350; T.C.A. § 50-3-101 et seq.; T.C.A. § 8-30-104	Rule: N/A

Violence in the Workplace

The State of Tennessee is firmly committed to the safety and well-being of its employees and visitors. To this end, the State seeks to provide and maintain a safe, healthy and secure work environment that is free from workplace violence. In addition, employees are expected to maintain a high level of productivity and efficiency. The presence of weapons, unless lawfully carried by law enforcement or other commissioned officers pursuant to Tenn. Code Ann. § 39-17-1350, and violence in the workplace, whether threatened, actual, or perceived, is inconsistent with these objectives and is not permitted.

All employees not exempted above are expected to report to work without possessing weapons and to perform their duties in a safe and productive manner without violence or threats of violence toward any other individual. Violence, threats, or intimidation toward any other individual will not be tolerated.

Definitions

A. Workplace violence

Workplace violence is any physical assault or threatening behavior in the workplace. This includes, but is not limited to, any act or threat of aggression, whether physical, verbal or written, which reasonably results in fear of bodily harm; causes or is capable of causing death or bodily injury; threatens the safety of a co-worker, visitor, client or member of the general public; or damages property.

Workplace violence can include but is not limited to physical actions (including but not limited to hitting, pushing, shoving, kicking, touching and assault); certain verbal actions (including but not limited to threats, harassment, abuse and intimidation); certain nonverbal actions (including but not limited to threatening gestures and intimidation); certain written communications (including but not limited to threatening notes, e-mail and social media postings); and other actions (including but not limited to arson, sabotage, vandalism and stalking).

B. Weapon

Weapon shall mean 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 weapon, a machine gun, a rifle or shotgun, a handgun, a firearm silencer, brass knuckles, or any other device used for the infliction of bodily injury, damage to property, or death which has no common lawful purpose. Pocket knives or knives used solely for eating or food preparation, are not considered weapons for purposes of this policy unless used to inflict bodily injury or damage to property.

C. Workplace

Workplace shall mean any location, either permanent or temporary, where an employee performs any work-related duty. This includes, but is not limited to, state-owned or leased buildings.

D. Possession, Possessing

Possession or possessing shall mean the presence of a weapon at any location in or on the workplace. This includes but is not limited to on the employee, in the employee's desk, lunch box or container, bag, purse, cabinet, office, etc.

E. Reasonable Suspicion

Reasonable Suspicion shall mean a degree of knowledge sufficient to induce an ordinarily prudent and cautious person to believe 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.

F. Retaliation, Materially Adverse Action, and Protected Activity

Retaliation occurs when any materially adverse action is taken against an individual because he or she has engaged in protected activity under this policy.

A materially adverse action is any action that may deter a reasonable person from engaging in protected activity under this policy.

Protected activity includes: filing or threatening to file complaint(s) or report(s) of workplace violence; participating in any investigation concerning workplace violence; or being associated or perceived to be associated with a person who initiates a complaint or participates in the investigation of a complaint.

G. Interference

Investigation interference is strictly prohibited under this policy. Interference is any action that would impact or compromise the integrity of a workplace violence investigation. Prohibited actions include, but

are not limited to, actual or attempted threats, coercion, intimidation, and manipulation of witnesses or potential witnesses in an investigation.

Prohibited Conduct

The State of Tennessee strictly prohibits and will not tolerate the non-authorized use, possession, or sale of any weapon in the workplace; storage of any weapon in the workplace; refusing to submit to an inspection for the presence of a weapon based on reasonable suspicion; conviction under any criminal statute for the illegal use or possession of a weapon or for committing a violent act against the person or property of another; engaging in workplace violence, threats of workplace violence, or intimidation; refusing to cooperate in an investigation into allegations or suspicion that workplace violence or threats of workplace violence have or is likely to occur, or an investigation about the possession of a weapon by the employee or another employee.

The State of Tennessee strictly forbids and will not tolerate any form of retaliation or interference directed against an employee, applicant for employment, or third party who engages in protected activity under this policy.

How to Report Incidents of Workplace Violence

If an individual believes he/she has been subjected to workplace violence that violates this policy, or observes conduct that violates this policy, he or she is encouraged to report those incidents as soon as possible after the event occurs.

Employees may file a complaint with their department's human resources director, the department head, their supervisor(s), or any individual designated by the department to receive such reports. Under no circumstances is the individual alleging workplace violence required to file a complaint with the alleged offender. The individual may also contact the Department of Human Resources, Office of General Counsel, EEO Division, at Workplace.Harassment@tn.gov. If the situation involves a threat or violent incident that would constitute an emergency or immediate danger to the workplace, individuals should follow agency protocol for handling an emergency prior to reporting the incident.

If possible, and in the absence of an emergency, individuals who wish to file a complaint are encouraged, but are not required, to submit the complaint in writing and to include a description of the incident(s) as well as the date(s), time(s), place(s) and any witnesses. Individuals may also use the attached Intake/Referral Form to file complaints.

If a complaint involves an executive director, assistant commissioner, deputy commissioner, or the commissioner, an employee or applicant for employment shall file the complaint directly with the Department of Human Resources, Office of General Counsel, EEO Division.

How to Report Retaliation and Interference Incidents

If an employee, applicant for employment, or third party believes he/she has been subjected to retaliation or interference for engaging in protected conduct under this policy, or observes retaliation or interference, he/she is encouraged to report those incidents as soon as possible after the event occurs.

Any employee, applicant for employment, or third party who makes complaints of workplace violence or provides information related to such complaints will be protected against retaliation and interference. If retaliation or interference occurs, the employee, applicant for employment, or third party is encouraged to report the conduct in the same manner as he or she would report a workplace violence complaint.

Reports can be made using the attached Intake/Referral Form.

How Reports are Investigated and Resolved

It is the State's policy to promptly investigate allegations of workplace violence as defined by this policy. The affected department shall conduct a review of all reported complaints of workplace violence or retaliation/interference as soon as practicable. If possible, this review shall include an interview with the complainant to determine if the conduct at issue violates this policy. If the department determines that the conduct falls within the terms of this policy, the department shall conduct a thorough and neutral investigation, which includes an interview with the alleged offender (if possible) and any other witness(es) who have direct knowledge of the circumstances of the allegations. If the department determines that the conduct best falls within the terms of another policy, the department will review the complaint following the procedures established in that policy.

The department retains the sole discretion to determine whether a violation of this policy has occurred and to determine what level, if any, of disciplinary action is warranted.

If a complaint involves an executive level employee (such as an executive director, assistant commissioner, deputy commissioner, or commissioner), the Department of Human Resources, Office of General Counsel, EEO Division will investigate the complaint on behalf of the department and report the results to the appropriate agency or authority. The EEO Division may also investigate workplace violence complaints involving non-executive level employees, pursuant to an agreement between the department and the Department of Human Resources.

Violations of this Policy

Any employee who engages in conduct that violates this policy or who encourages such conduct by others will be subject to appropriate corrective or disciplinary action, up to and including termination of employment.

Supervisory personnel who receive a complaint alleging workplace violence or learn by any means of conduct that may violate this policy must immediately report any such event to the department's human resources director, EEO officer or to the person designated by the agency to receive the information.

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Supervisory personnel who fail to take appropriate action upon learning of such conduct will be subject to corrective action or disciplinary action, up to and including termination of employment.

Miscellaneous

ParTNers Employee Assistance Program (EAP) provides confidential financial, legal and emotional counseling at no cost to members and their dependents. EAP should be considered a resource for employees dealing with potential workplace violence. EAP services are offered to all full-time state and higher education employees and their eligible family members. Optum is the vendor providing EAP, mental health and substance abuse services. All services are strictly confidential and can be accessed by calling 1.855.HERE.4.TN (1.855.437.3486), seven (7) days a week, twenty-four (24) hours a day. More information about your ParTNers EAP may be accessed at <https://www.tn.gov/partnersforhealth/other-benefits/eap.html>.

If an employee is injured while participating in a fight or after instigating a fight, then entitlement to workers' compensation benefits may be denied, consistent with state law. More information regarding workers' compensation may be accessed at <https://treasury.tn.gov/Services/Claims-and-Risk-Management/Workers-Compensation>.

All employees shall review and acknowledge this policy on an annual basis. Questions regarding this policy should be directed to your agency's human resources office or the Office of the General Counsel.

Attachment 1 – Employee Acknowledgement Form

Violence in the Workplace Policy

Employee Acknowledgement

I, _____, hereby certify that I have received a copy of the Violence in the Workplace Policy. I understand that violation of this policy may subject me to discipline, up to and including termination.

Employee Signature*

Date

Human Resources Office Signature

Date

* By acknowledging this policy via the Edison system, I agree that my acknowledgement is the equivalent to my handwritten signature.

Attachment 2 - Intake/Referral Form

Statement Concerning Confidentiality

Pursuant to Tennessee Code Annotated § 10-7-503(a)(2)(A), "all state . . . records . . . shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law." Accordingly, the State cannot and does not guarantee the confidentiality of this document or any notes, files, reports, or other documents, whether created by the State or received from the complainant, accused, or witnesses.

NAME OF COMPLAINANT OR PERSON REPORTING EVENT:

EMAIL/TELEPHONE NUMBERS OF COMPLAINANT OR PERSON REPORTING EVENT:

EMAIL: _____

WORK: _____

PREFERRED: _____

NAME OF AGENCY AND DIVISION INVOLVED:

NAME OF ACCUSED PERSON(S):

RELATIONSHIP OF ALLEGED ACCUSED TO YOU (I.E. DIRECT SUPERVISOR, CO-WORKER):

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EXPLAIN WHY YOU BELIEVE THESE EVENTS OCCURRED:

WERE OTHER EMPLOYEES TREATED DIFFERENTLY THAN YOU? IF YES, DESCRIBE HOW:

IF YOU ANSWERED YES TO THE PREVIOUS QUESTION, PLEASE PROVIDE THE NAMES OF THE EMPLOYEES WHO WERE TREATED DIFFERENTLY:

PLEASE LIST BELOW ANY PERSONS (WITNESSES, FELLOW EMPLOYEES, SUPERVISORS, OTHERS) WHO MAY HAVE ADDITIONAL INFORMATION TO SUPPORT OR CLARIFY THIS COMPLAINT. EXPLAIN WHAT INFORMATION EACH CAN PROVIDE.

WHAT EXPLANATION DO YOU THINK THE AGENCY OR ACCUSED WILL GIVE AS TO WHY YOU WERE TREATED IN THIS MANNER?

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PLEASE IDENTIFY ANY OTHER INFORMATION (INCLUDING DOCUMENTARY EVIDENCE SUCH AS DIARIES, JOURNALS, RECORDINGS, EMAILS, VOICEMAILS, CORRESPONDENCE, ETC.) THAT YOU THINK IS RELEVANT TO THIS MATTER.

WHAT DO YOU WANT TO HAPPEN AS A RESULT OF THIS COMPLAINT?

WOULD YOU BE OPEN TO PARTICIPATING IN MEDIATION WITH THE ACCUSED ABOUT THE INCIDENT(S)?

SIGNATURE OF COMPLAINANT: _____

DATE: _____

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IF COMPLETED BY SUPERVISOR OR AGENT OF STATE AS A RESULT OF INTERVIEWING A COMPLAINANT, PLEASE PROVIDE THE FOLLOWING INFORMATION:

PRINTED NAME: _____

SIGNATURE: _____

TITLE: _____

AGENCY AND/OR DIVISION: _____

WORK TELEPHONE NUMBER: _____

DATE COMPLAINT RECEIVED: _____

DATE FORM COMPLETED: _____

REASON FOR DELAY, IF ANY, BETWEEN THE DATE THE COMPLAINT WAS RECEIVED AND THE DATE THE FORM WAS COMPLETED:

NAME AND TITLE OF PERSON TO WHOM THE FORM WAS FORWARDED FOR ACTION:

DATE ON WHICH THE FORM WAS FORWARDED:
