

# Supervising in State Government Level 1: The Essentials

## Special HR Topics



In this section of Supervising in State Government Level 1: The Essentials, we will cover several HR topics. These will help supervisors bring additional awareness, sensitivity, and resources to our employees in times of need or crisis.

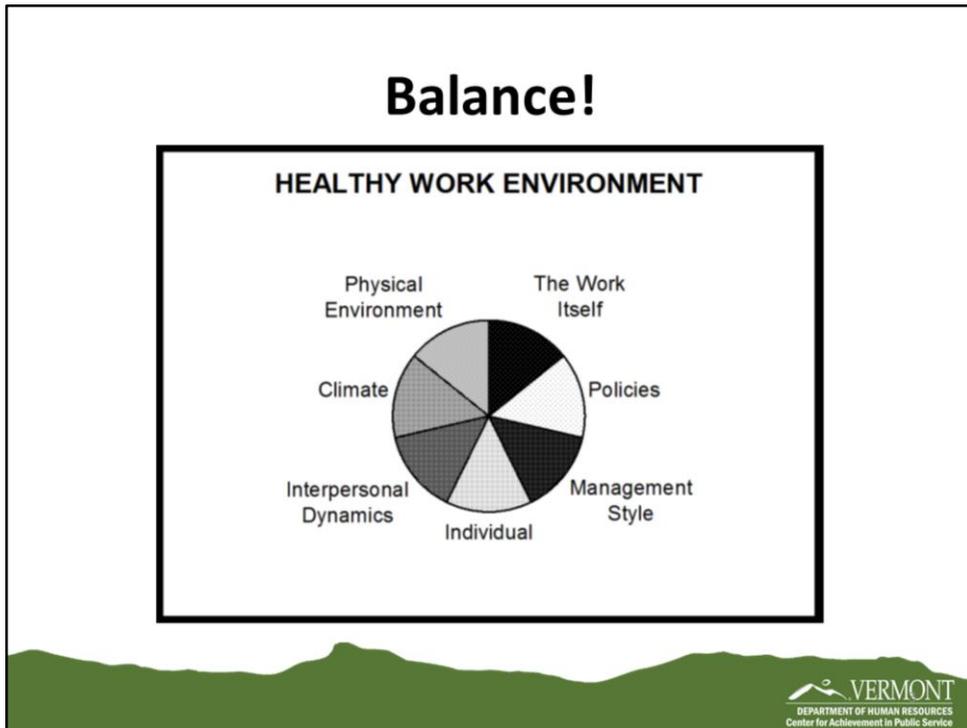
# Agenda

- **Family Medical Leave Act (FMLA)**
- **Workers' Compensation**
- **Domestic Violence**
- **Preventing Sexual Harassment**
- **The Americans With Disabilities Act (ADA)**
- **Employee Assistance Program (EAP)**



This training covers basic information on six HR topics important for all supervisors: the Family Medical Leave Act, commonly referred to as FMLA, Workers' Compensation, domestic violence in the workplace, preventing sexual harassment, The Americans with Disabilities Act (otherwise known as ADA), and the Employee Assistance Program, or EAP. In the afternoon of your day 4 class, you will have an opportunity to talk with a HR representative who will respond to your questions about these topics.

# Balance!



Many factors contribute to a healthy work environment. The physical environment, policies and the nature and amount of the work itself are factors that we, as supervisors, have little control over. There are, however, many areas that fall within our scope. The office climate and interpersonal dynamics are factors we can influence. The personality and style of the manager usual has an effect on morale and environment. The dynamics between the members of the team and of other teams with whom they interact are important influences. Our jobs as supervisors is to keep an eye on this mix, noticing the needs of individuals, between individuals, and of the group as a whole. It's a big responsibility, and we hope these five topics will help to equip you as you progress in your role.

## Family Medical Leave Act (FMLA)

Allows eligible employees to take leave for qualifying events while maintaining certain job protections and benefits.

- Paid or unpaid
- Amount of leave granted may vary depending on the qualifying event



The Family Medical Leave Act (or FMLA) and Vermont's Parental and Family Leave Act allow an eligible employee to take protected leave for certain qualifying events. Leave may be paid or unpaid, and different amounts of leave may be granted depending on the qualifying event. Qualifying events for FMLA are: the birth of a child, placement with employee of a child for adoption or foster care, serious health conditions that prevent the employee from performing functions of the job, or care for a member of employee's immediate family who has a serious health condition. An employee may also qualify for FMLA due to a situation of need relating to the military service of a spouse, child or parent on active duty or being notified of an impending order to active duty.

FMLA is not optional, once we know that an employee absence from work qualifies for FMLA, that leave must be designated as FMLA.

## **VERMONT's Parental and Family Leave Act (PFLA)**

- Allows eligible employees to utilize paid leave at their discretion for up to 6 weeks
- Expands the definition of immediate family



The State Law must be read in conjunction with Federal FMLA and the Collective Bargaining Agreements (when applicable), to provide eligible employees with the best benefit available. In sum, FMLA sets the floor, not the ceiling.

## VT Policy on FMLA

- The State's Family and Parental Leave policy can be found at:
  - [vermont.gov](http://vermont.gov) › Human Resources › Labor Relations and Policies › Number 14.2
- Labor Contracts provide additional benefits for Classified employees



The Department of Human Resources family and parental leave policy can be found on the DHR website in the policies section. It is policy number 14.2. The State's bargaining agreements expand on the benefits provided in the DHR Family and Parental Leave Policy.

## Who is Eligible?

All employees, regardless of status, are eligible once they have been working for SOV for 12 months, for an average of 30 hrs/week or at least 1,250 hours in the 12 months preceding commencement of leave.

Classified employees may be eligible sooner:

- When original probation is completed
- or**
- Have been working for SOV for 12 months or more
- and**
- Work an average of 20 hours per week



Employees are eligible for FMLA if they meet the following criteria:

1. They have completed original probation; or
2. They have been working for the state for at least 12 months, which need not be consecutive, and

For Classified employees - they work on average 20 hours a week

For all other employees – they work and average of 30 hours per week or at least 1,250 hours in the 12 month period preceding the leave.

This means that employees may be eligible for FMLA even if they are in original probation, are temporary or exempt.

## Types of FMLA Leave

- Continuous or “block” leave
- Reduced schedule
- Intermittent

Considerations for:

- FMLA Military
- Parental



There are several types of FMLA leave.

- Continuous leave is taken all at once or in large blocks.
- Reduced schedule leave is taken on a pre-set schedule with reduced hours or numbers of days in a week.
- Intermittent leave is taken in separate, ad hoc blocks of time or days.

Parental leave may be granted up to 16 weeks, and must begin within the 12 month period beginning on the date of birth or placement for adoption or foster. Parental leave may be reduced, intermittent or continuous at the discretion of the appointing authority. It may extend past 16 weeks as “unpaid administrative leave.”

- Military FMLA leave falls into two categories:
  - Exigency leave is for a qualifying need and may be continuous or intermittent.
  - Caregiver leave is normally continuous.

Depending on circumstances, military caregiver leave can be taken for up to 26 weeks per injury, per service member.

## Supervisor Responsibilities

- Understand DHR policy and department procedures, types of leave, how to use
- Point employees to forms and assistance
- Know steps for an employee returning to work from FMLA
- Inform HR Representative before leave and return.
- Employee may work directly with HR Representative.
  
- You can find the SOV policy at: Labor Relations, Policies and EEO > Equal Employment Opportunity > Family Medical Leave



The supervisor's responsibility is to understand the DHR policy and any department procedures regarding FMLA. This includes:

- a base knowledge of the types of leave and how to use FMLA
- where to find the FMLA forms
- whom to contact for assistance. Supervisors should direct employees to the HR representative to assist when there is a question that can't be answered by the supervisor.
- An employee may work directly with the HR Representative regarding FMLA leave.

At the end of leave, the employee must be returned to the same position held when leave began, or to an equivalent position with equivalent benefits, pay, and status. Also, your HR Representative **MUST** be notified before a employee begins FMLA and when they return to work.

You can find detailed information about FMLA and the Vermont Parental and Family Leave Act in the Labor Relations and EEO tab, in the Equal Employment Opportunity Plan section, on the Family and Medical Leave page of the DHR website.

## **Workers' Compensation**

A “no fault” insurance program that provides medical and disability benefits for certain work related injury and illness.



Now we will change gears a little and discuss Workers' Compensation and your role as a supervisor.

Workers' Compensation is defined as a “No fault” insurance program that provides medical and disability benefits for work related injury and illness.

## PMA

- PMA is the State of Vermont's administrator for the Workers Compensation program.
- Information on how to report an injury and other helpful information can be found on their website:

<http://www.pmacompanies.com/index.html>



Workers' compensation claims are administered by the PMA Management Company of New England Inc. The contract with PMA is managed by the Agency of Administration's Office of Risk Management. PMA adjusters manage all worker's compensation claims from the beginning to the end of the process. In the instance of when an employee misses work time because of a work-related injury or illness, a PMA adjuster will at various stages of the process work directly with the injured employee, the employee's supervisor, and a DHR Field Operations representative.

PMA assists State agencies and departments in promoting safe work environments through training, program reviews and on-site consultations. PMA works with the Office of Risk Management to improve safety in our workplace by conducting injury prevention analysis of reported incidents. PMA also monitors and evaluates statewide injury trends and exposures to determine if they are being properly addressed and makes recommendations to mitigate workplace injuries.

## Injury Report

- Any injury or illness of an employee that occurs on the job must result in the submission of a *First Report of Injury* form within 72 hours of the occurrence of the injury.
- The supervisor, with the assistance of a DHR Field Operations rep. must complete and submit the form.
- The claim form is found here:  
[http://www.pmacompanies.com/generic\\_report\\_aclaim.html](http://www.pmacompanies.com/generic_report_aclaim.html)



Any time a employee is injured while on the job, regardless of the nature of the injury or illness, an injury report must be completed. Supervisors, with the assistance of a DHR Field Operations representative, must complete and submit the First Report of Injury (FROI). If a supervisor has previously submitted a FROI and is comfortable doing so without assistance from a DHR Field Operations rep., he/she may do so without assistance. In all instances, the supervisor must list the email address of their assigned DHR Field Operations rep. in the "notify others" e-mail section at the bottom of the FROI claim for.

This form can be found on the PMA website, or by following the link on the screen. Submitting the first report of injury does not mean the employer is responsible for the injury. The best way to determine who is responsible for covering the injury is by reporting the injury in a timely manner, within 72 hours of the incident.

Supervisors, with the assistance of a DHR Field Operations rep. must complete and submit the FROI form. If a supervisor has previously submitted a FROI and is comfortable doing so without assistance from a DHR Field Operations rep., he/she may

do so without assistance. In all instances, the supervisor must list the email address of their assigned DHR Field Operations rep. in the "notify others" e-mail section at the bottom of the FROI.

The DHR Field Operations rep. will contact the employee when a report has been submitted and no medical treatment has been sought or time missed from work resulting. The DHR Field Operations rep. will provide the employee with their claim # and provide direction on what to do if medical treatment does end up being sought.

The PMA adjuster will contact the injured employee directly when the injured employee has sought medical treatment and/or missed work due to the injury. The adjuster will work with the supervisor and the DHR Field Operations rep. on the employee's return to work process.

# Injury Prevention

- Provide proper safety equipment and training
  - Online Training Resources:  
<http://www.pmacompanies.com/>
- Make site safety a top priority
- Report, report, report
- In the event of an injury on the job, stay in regular contact with employee



Supervisors play a major role in preventing injury on the job. It is important that supervisors attempt to make the workplace as safe as possible. To that end, and since worksite safety is the best way to prevent injury on the job, we encourage you to be aware of the kinds of safety equipment available relevant to the type of work your employees do, and to advocate for the appropriate equipment. In addition, consider utilizing the extensive online safety training resources available on the PMA website.

A safe worksite is a productive worksite. Injuries on the job can slow the whole team down, so make safety a priority. Repair and improve where possible. Supervisors can work with a PMA safety consultant when addressing and making recommendations to mitigate workplace injuries. This can occur in the form of evaluating injury trends, conducting injury analysis, and/or through providing in-person or online training.

Report incidents promptly. Reporting hazards, problems, and injuries immediately results in better outcomes than when reports are delayed. In addition to submitting the FROI, a supervisor may be required to complete an “Accident Assessment Form”. The PMA adjuster will notify the supervisor if this is required.

If there is a question, consult with your HR Representative to determine the correct course of action.

It is common for an employee to feel “forgotten” if they are not contacted while

recuperating from an injury. Set up a weekly or bi-weekly check in to see how they are doing. This does not need to be formal, but maintaining regular contact with them shows the employee that they matter and may help them return with engagement. Statistics overwhelmingly demonstrate that an injured employee out on workers' compensation leave often will return to work sooner when the supervisor maintains regular contact with the employee during his/her period of absence.

## Additional Resources

- <http://labor.vermont.gov/workers-compensation/>
- <http://aoa.vermont.gov/secretary/divisions/workers-comp>
- <http://www.pmacompanies.com/index.html>

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This slide contains some additional resources. The first link is for the Department of Labor's Workers' Compensation website, and the second link connects to the Agency of Administration Workers Compensation information page where you will find contact information for PMA and a guide to assist in submitting the first report of injury. The final link on this slide is for the PMA organization.

## **Domestic Violence in the Workplace**

Domestic Violence is: A pattern of assault and coercive behaviors perpetrated by someone who is, or was involved in an intimate or dating relationship with the victim.



Now we will discuss Domestic Violence in the workplace and the supervisor's role.

Domestic violence is a pattern of assault and coercive behaviors perpetrated by someone who is, or was involved in an intimate or dating relationship with the victim.

## What is Domestic Violence?

Domestic Violence in the workplace may include:

- actual or threatened physical injury
- sexual assault
- psychological abuse
- economic or other coercion
- other tactics



Domestic violence includes, but is not limited to: actual or threatened physical injury, sexual assault, psychological abuse, economic or other coercion, or other tactics.

The supervisor's first priority in situations involving domestic violence is to notice and report any incident. This report should be made to the HR Representative who works with your unit. Speaking with employees about possible domestic violence issues can be delicate and requires sensitivity. It is important, however to check in with an employee who has identified a problem or acknowledged that they may be experiencing violence at home or in an intimate relationship.

## What's In It for Me?

- Affects the workplace of victim and offender
  - Causes loss of work time, productivity
  - Creates safety hazards for employees
  - Negatively impacts workplace morale and culture
- It is SOV policy



Domestic violence can affect every employee, whether directly involved or not. Whether the affected employee is an offender or a victim, both the workplace and the individuals are likely to experience negative effects. Domestic violence causes loss of work time and productivity, may create safety hazards for all employees, and can negatively impact workplace morale and culture.

# Vermont Policy

## DHR policy 17.7

- Highlights of policy purpose
  - Achievement of a workplace free of any form of discrimination, intimidation or harassment
  - State will not discriminate against any victim/survivor of DV/SV
- [vermont.gov](#) › Human Resources › Labor Relations, Policies and EEO › Personnel Policy & Procedure Manual › number 17.7



The domestic violence policy for Vermont State Government employees can be found at the labor relations and policy section of the DHR website. It is policy number 17.7. This policy has the goal of achieving a workplace free of any form of discrimination, intimidation, or harassment. You can also view the policy by following the link on the slide. Remember, your HR representative will have a copy of this policy and should be used as a resource as needed.

## Data: Offender Survey

- 73% had no history of trouble with employer (drugs, alcohol, violence at work)
- 29% contacted partner while at work to intimidate or scare
- 40% of supervisors were aware this occurred at work
- 25% were late to work or left early to be abusive
- Partners of abusers lost an average of 20 work days
- 80% of abusers state their job performance was affected by abuse
- Level of violence intensifies over time

A PDF of this report is available at  
[http://www.uvm.edu/crs/reports/2012/VTDV\\_WorkplaceStudy2012.pdf](http://www.uvm.edu/crs/reports/2012/VTDV_WorkplaceStudy2012.pdf)



The Vermont Council on Domestic Violence conducted a study of people incarcerated for committing domestic violence. This study was in collaboration with the Center for Rural Studies at the University of Vermont and Spectrum Youth & Family Services Violence Intervention and Prevention Programs. The study found that:

- 73% of respondents had no previous history of trouble with the employer.
- 29% of offenders contacted their partner while at work to intimidate or scare them.
- 40% of supervisors were aware this behavior was occurring.
- 25% say they were late to work or left early to be abusive.
- The partners of offenders lost an average of 20 days of work because they were being abused

and

- 80% of abusers stated that their job performance was negatively affected because they were abusive.

## Supervisor Responsibilities

- Treat all reports of domestic or sexual violence (DV/SV) seriously
- Be proactive and observant
- Monitor staff for signs of DV/SV (perpetrator or victim)
- Know what to do if someone reports for themselves or others (victim or perpetrator)
- Understand SOV policy on DV/SV and how to apply it

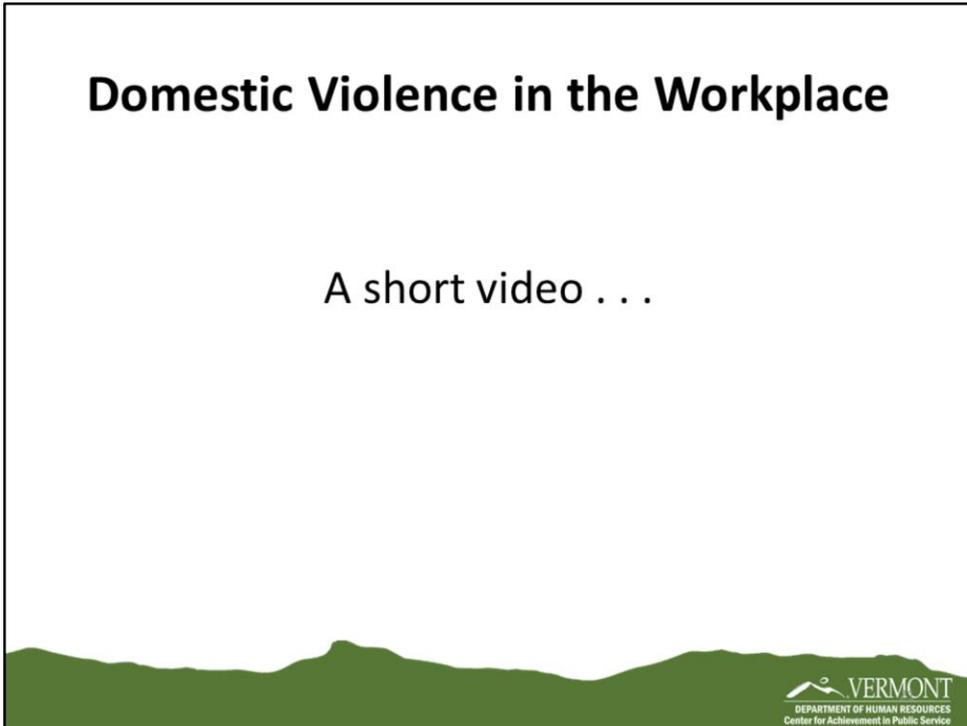


It is a supervisor's responsibility to treat all reports of domestic or sexual violence seriously. Supervisors also must be proactive, and more importantly, observant. Observation of staff and monitoring for signs of domestic or sexual violence will help your staff be safe. You don't have to wait until someone reports it to you. You can check in and make sure someone is safe.

Supervisors must also know what to do if someone makes a report for themselves or someone else. Supervisors must understand the State policy on domestic and sexual violence, how to apply it, and when to contact their HR representatives.

# Domestic Violence in the Workplace

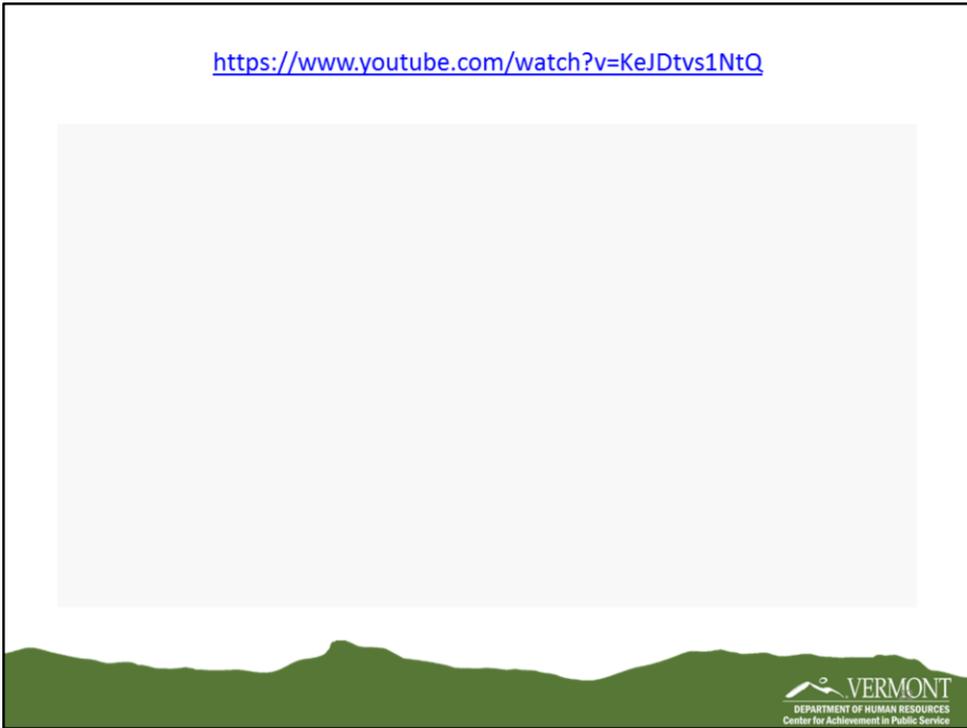
A short video . . .



The following video gives an example of a conversation that a supervisor may have with an employee who is the victim of domestic violence. During this video, notice the change and softening of the supervisor’s communication style, the greater use of open-ended inquiry in the second scenario, and that the supervisor refers the employee to resources and shows a willingness to help.

Please note, we do not recommend labeling what may be going on as “domestic violence” as the supervisor does in the second version. The person experiencing the violence may have a strong negative reaction to the term, and the use of the label is not necessary to provide effective support.

<https://www.youtube.com/watch?v=KeJDtvs1NtQ>



<https://www.youtube.com/watch?v=KeJDtvs1NtQ>

1:49 Seconds

## Possible Signs to Watch For:\*

- Fear of spouse/partner, or always tries to please them
- When someone ...
  - often talks about their partner's jealousy or protectiveness
  - becomes anxious, depressed, or loses confidence
  - is unusually quiet
  - is reluctant to leave their children/pets with their partner

\* domestic Violence Center of Victoria, British Columbia, CA



A study conducted by the Domestic Violence Center of Victoria, British Columbia, Canada, revealed some behaviors that employees and supervisors can watch for that may be signs or suggestions that domestic violence may be present. Expressions of fear of their spouse or partner; or appearing often to go out of their way to try to please them, may be indicators. Reluctance to leave the children or pets with the partner, or often talking about a partner's jealousy or protectiveness may be causes for concern. Some behaviors may suggest domestic violence, but they may also be related to a different issue. These may include becoming anxious, depressed, or losing confidence; or becoming unusually quiet.

Although possible signs of domestic or sexual violence, they are also signs that we should be looking for in all staff for depression and just to make sure their overall mental health is doing ok. You don't have to know exactly what is wrong to notice that SOMETHING is wrong. It is not our job to diagnose, but it is our job to notice and offer help if we can.

## Resources for Supervisors to Use or Provide to Staff

- DHR Representative
- Vermont Network against Domestic and Sexual Violence <http://www.vtnetwork.org>
- VT DV hotline 1-800-228-7395
- VT SV hotline 1-800-498-7273
- InvestEAP (Employee Assistance Program)  
888-834-2830 or [www.investeap.org](http://www.investeap.org)  
(password: vteap)



Vermont has many resources for supervisors to use in the event there is a suspicion or report of domestic or sexual violence. The HR Representative should be contacted any time there is a question. They are a GREAT place to start! HR representatives will be able to offer suggestions about how to proceed. They are also a great sounding board to discuss whether further supervisory action is appropriate.

The Vermont Network Against Domestic and Sexual Violence is great source of information. The link provided connects to the Network's homepage. The domestic violence and sexual violence hotlines are good for recent abuse cases.

Certainly, if there is active abuse, 911 is the ONLY solution.

In addition, the Employee Assistance Program is available to employees. Later in this training we will discuss EAP, and talk about ways we can maximize the benefit it provides.

## Resources

- Family Violence Prevention Fund video: "Domestic Violence: The Workplace Responds" (15 min) <http://www.youtube.com/watch?v=9-17JXM4c84>
- AHS website: <http://humanservices.vermont.gov/domestic-violence>
- State of Vermont Online Domestic Violence Training: <http://humanservices.vermont.gov/domestic-violence>
- AHS Policy on Response to Domestic Violence <http://humanservices.vermont.gov/policy-legislation/policies/01-general-operations-policies/1-03-ahs-response-to-domestic-violence/view>
- VT Network Against Domestic and Sexual Violence <http://www.vt.network.org>
- "Interrupting the Cycle of Violence: Addressing Domestic Violence Through the Workplace" Ramsey County Initiative for Violence-Free Families and Communities. (1995). <http://www.mincava.umn.edu/documents/interrupt/interrupt.html#idp107376>
- Virtual Employee: Review of Resources Available through Workplaces Respond <http://www.workplacesrespond.org/implement/education-and-training/interact>
- Workplaces Respond to Domestic and Sexual Violence: <http://www.workplacesrespond.org/>

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This slide contains many links that a supervisor can access or pass to employees in need.

# Preventing Sexual Harassment

What supervisors need to know



Next we will discuss preventing sexual harassment in the workplace.

## The Data

### Association of Women for Action and Research:

- 54% of 500 respondents experienced some form of workplace sexual harassment.
- 27% of 272 respondents experienced harassment by a colleague. 17% were harassed by a superior.
- 79% of victims were women; 21% were men.
- 12% received threats of termination if they did not comply with the requests of the perpetrators.



The Association of Women for Action and Research conducted a study of 500 individuals on the topic of sexual harassment.

- 54% of respondents reported experiencing sexual harassment at their workplace.
- Of those reporting harassment,
  - 27% were harassed by a colleague and 17% by a superior.
  - 79% of the victims were women, and 21% were men.
  - 12% of the victims received threats of losing their jobs if they did not comply with the requests of the perpetrators.

## Sexual Harassment is . . .

- A behavior
- A form of sexual discrimination
- Unwelcomed and usually repeated behavior of a sexual nature
  - Quid Pro Quo
  - Hostile Environment



Sexual harassment is a form of sexual discrimination. Sexual harassment behaviors are unwelcomed, usually repeated, and of a sexual nature. Sexual harassment may take two forms. The first is “Quid Pro Quo” and the second is called Hostile Environment. Quid Pro Quo translates directly as “this for that.” An example may be a supervisor telling an employee: “Go out with me and I will give you a promotion.”

Hostile Environment includes verbal, non-verbal and physical harassment. It involves repeated actions, or objects displayed around the work place that create an “intimidating, hostile, or offensive” work environment and unreasonably interfere with a person’s ability to do their work. Hostile Environment is also speech and/or conduct of a sexually discriminatory nature, which is neither welcomed nor encouraged. These behaviors or displays would be so offensive and/or pervasive to both the individual and a reasonable person as to create an abusive work environment or to impair job performance.

## Types of Harassment: Verbal



- Off color jokes or stories
- Sexual comments/innuendo or profanity
- Overt reactions to physical appearance (whistling, “cat calls”)
- Applying terms of endearment to co-workers (honey, babe, dear, etc.)
- Asking personal questions about a co-worker’s social or sexual life
- Repeatedly asking a person out who is not interested



Verbal harassment is any voiced word, comment or statement of a sexual nature, or comments about a person’s sex, that are offensive. There are many examples, including off-color jokes or stories, sexual comments, overt reactions to physical appearance such as whistling or “cat calls,” applying terms of endearment to co-workers such as honey, babe or dear, asking personal questions about a co-worker’s social or sex life, or repeatedly asking a person out who is not interested.

## Types of Harassment: Non-Verbal

- Giving or displaying sexually suggestive objects
- Sexually suggestive gestures or poses
- Leering
- Licking lips
- Blowing kisses
- Intimidating behavior:
  - blocking path
  - following someone



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Center for Achievement in Public Service

Non-verbal sexual harassment includes giving or displaying sexually suggestive objects in the office, or engaging in sexually suggestive gestures or poses like leering, licking lips, or blowing kisses. Non-verbal harassment may include actions that block the path of the victim, or following someone when not invited or welcomed to do so.

## Types of Harassment: Physical

- Touching someone who does not want to be touched
  - hugs
  - kisses
  - unsolicited back or neck rubs
- Touching oneself in a sexually suggestive way around another person



Physical harassment occurs when an employee touches someone who does not want to be touched. This may be hugging or kissing, or unsolicited back or neck rubs, or may involve other forms of touch. Touching oneself in a sexually suggestive way around another person is also a form of physical harassment.

## Key Points and Legal Concerns

- Supervisor unique role
- Impact vs. intent
- Third party harassment



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In addition to what we've discussed so far, there are some key points and legal concerns to consider when addressing sexual harassment.

Employees are often especially sensitive to the actions of supervisors. This gives special importance to the supervisor's role in modeling professionalism, discouraging harassing behaviors, and checking in with employees on the impact of organizational culture, and in being knowledgeable and supportive when complaints arise.

Since the employer may be liable for sexual harassment between co-workers if the employer knew or should have known it was happening, it is especially important that the supervisor take swift, appropriate action. If a supervisor or manager engages in harassing behavior, the employer is generally liable whether a superior was aware or not.

We sometimes believe that good intentions can explain or excuse a transgression. In situations of sexual harassment, the impact or effect of an individual's behavior on others is the important factor when determining if sexual harassment is occurring. Good intentions or lack of bad intentions is not relevant. Such thoughts as, "I meant it as a compliment," or "I didn't mean anything by that," will not excuse behaviors that amount to sexual harassment.

Third party harassment occurs when sexual harassment is observable to others who are not the direct target of the behavior. In such cases, one may claim a hostile and offensive work environment even if the harassment is not directed at them. An example would be a worker who must regularly endure off color jokes or offensive language that can be overheard, or who witnesses repeated harassing behaviors toward a coworker.

## What Can I Do?

... if I experience unwanted sexual activity or aggression?

- Make feelings known
- Keep a record
- Make a complaint

... to help prevent sexual harassment in my workplace?

- Know and follow state policy
- Examine your own behaviors, actions and assumptions
- Don't go along with it, and intervene when observed
- Work with your HR Representative
- Remember, "No Means No"



If you experience unwanted sexual action or aggression at work, it is important to make your feelings known. If the behavior is recurring, you keep a record of occurrences that you can use to support a complaint you may make.

Generally speaking, management has a responsibility to look into claims of discrimination, including sexual harassment. In your role as a supervisor, it is vital that you inform your HR representative as soon as an allegation of sexual harassment comes to your attention. DHR will work with appointing authorities to determine the type of investigation required, and ensure all parties receive appropriate rights notices.

As a supervisor, there are things you can and are expected to do to help prevent sexual harassment in your workplace. First and foremost it is important to know and follow the state policy on preventing sexual harassment. It is also important to examine your own behaviors, actions and assumptions to make sure you are modeling behaviors that create a respectful workplace free of discrimination and harassment. If you notice harassment happening, do not go along with it, and take swift action to

interrupt problematic behaviors. When a potential harassment situation is brought to your attention, talk with your HR representative about next steps. And above all, remember that no means no.

## Supervisor DO's

- Work with your HR Representative
- Keep charging party updated
- Take timely and appropriate action



As a supervisor there are some specific do's and do not's to keep in mind when fielding a complaint of sexual harassment.

Make sure you involve your HR representative as early as possible. They have valuable tools and knowledge to help navigate through the complaint process. Be mindful that sexual harassment is a sensitive subject that requires confidentiality. And, always take timely and appropriate action if someone comes to you with a complaint.

## Supervisor DO NOT's



- Do not wait for a complaint
- Do not suggest a complaint be kept between you and the complainant
- Do not give the person complaining the impression he or she must put up with the behavior
- Do not suggest the parties work things out themselves

Once you are aware of a problem, do not wait for someone to complain. It is the responsibility of a supervisor to be on the lookout for potential issues. Never suggest that a complaint be kept between the supervisor and the individual experiencing harassment. Complaints of sexual harassment must be taken seriously and reported as such. Do not give the person complaining the impression that he or she must put up with the behavior, and never suggest that the parties involved work the issue out themselves.

## Resources

vermont.gov › Human Resources › Labor  
Relations and Policies › Number 3.1

Preventing Sexual Harassment Training at CAPS



Additional resources are available on the DHR website, and a half-day Preventing Sexual Harassment class is offered as an elective through the Center for Achievement in Public Service.

# The Americans With Disabilities Act (ADA)

What supervisors need to know.



Now we will discuss the Americans with Disabilities Act and the role supervisors play.

# What is a Disability?



- The term "disability" refers to a physical or mental impairment
- Affects 56.7 million people in the United States
- Not all disabilities can be seen with the naked eye



The term "disability" means: a physical or mental impairment that substantially limits one or more of the major life activities, for example, walking, thinking, seeing, speaking or hearing.

According to the U.S. Census Bureau, about 56.7 million people, or about 19% of the population, has a disability.

Whether a disability comes about from birth or by accident not all disabilities can be seen with the naked eye.

Invisible Disabilities are certain kinds of disabilities that are not immediately apparent to others. It is estimated that 10% of people in the U.S. have a medical condition which could be considered a type of invisible disability. Individuals with invisible disabilities face the same issues in function, quality of life and discrimination as individuals with obvious physical disabilities.

## Examples:

Mental conditions such as depression, anxiety, or schizophrenia

Cognitive impairments related to stroke,

brain injury, or Alzheimer's disease  
Chronic pain conditions and autoimmune diseases  
such as fibromyalgia syndrome, rheumatoid arthritis,  
and many others.

# The Law



- The Americans with Disabilities Act (ADA) prohibits discrimination
- SOV ADA policy:  
<http://humanresources.vermont.gov/labor-relations/equal-opportunity/individuals-with-disabilities>

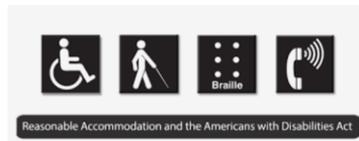


The Americans with Disabilities Act (otherwise known as ADA) and the Americans with Disabilities Amendments Act is a federal civil rights law that protects individuals from employment discrimination (as well as other forms of discrimination) based upon disability in much the same way that other federal laws protect individuals from employment discrimination on the basis of race, color, sex, national origin, age, and religion.

The ADA covers a wide range of individuals with disabilities. An individual is considered to have a disability if s/he has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. The ADA and ADAA also prohibits discrimination against employees based on their relation to or association with individuals with known disabilities.

# Reasonable Accommodation Policy

- The SOV Reasonable Accommodation Policy can be found at: Labor Relations, Policies and EEO > Equal Employment Opportunity Plan > Individuals with Disabilities



As a supervisor it's important that you understand how you can support employees with disabilities. The Reasonable Accommodation Policy can be found under the Labor Relations, Policy and EEO tab, in the equal employment opportunity section, on the individuals with disabilities page, on the DHR website. This is policy 3.2.

## Reasonable Accommodation (Cont.)

- Employers must make reasonable accommodations to allow qualified applicants and employees with disabilities to perform essential job functions.

ADA Reasonable  
Accommodation Requests



Consistent with the Americans with Disabilities Act and Vermont's Fair Employment Practices Act, it is the policy of the State of Vermont, upon request, to provide reasonable accommodation to the known physical or mental limitations of an otherwise qualified employee or applicant with a disability, unless such accommodation would cause an undue hardship. The policy regarding requests for reasonable accommodation applies to all aspects of employment, including the application process.

Examples of Reasonable Accommodations include:

- Adjustments to the application process
- Changes in the work environment
- Modifications on how a job is performed
- Modifications that allow access to the same employment benefits and privileges as nondisabled employees

Consult with your HR Field Representative if you receive a reasonable accommodation request or are unsure how to support an accommodation already in place.

## Supervisor Responsibilities

- To understand what ADA is, and how it effects your employees
- To act in good faith in an attempt to reasonably accommodate an individual with a disability
- To know if you have an employee or applicant that has a reasonable accommodation, what the accommodation is, and how to implement it
- To maintain confidentiality



As a supervisor, it is important to have at the very minimum, a basic understanding of what the ADA is, and how it works.

You should know if you have a staff member that has a ADA reasonable accommodation, how that accommodation is implemented, and what you have to do to maintain a safe, effective work environment for that person. Another important thing to remember is that you, as a supervisor will be in a place to know a lot about your employees and you must be able to maintain confidentiality. Confidentiality is important for a multitude of reasons, including, but not limited to: keeping the confidence of your staff, legal issues and maintaining morale.

## **Employee Assistance Program (EAP)**

The Employee Assistance Program (EAP) offers state employees the opportunity to speak privately and confidentially about issues and stresses that can make it difficult to balance home life and work life.



Now we will discuss The Employee Assistance Program, or EAP. EAP offers state employees the opportunity to speak privately and confidentially with a professional about issues and stresses that can make it difficult to balance life at home and at work.

## Where to Find EAP

### Telephone:

- Quick Access for managers: 1-844-ASAP-EAP (272-7327)
- Clinical Account Manager: 1-888-392-0050 (toll free) or 802-951-5156
- State of Vermont Employee counseling number: 1-888-834-2830

Web: [www.investeap.org](http://www.investeap.org) password: vteap

Email: [staff@investeap.org](mailto:staff@investeap.org) (general)/ [myrah@investeap.org](mailto:myrah@investeap.org)  
(clinical account manager)

Fax: 1-815-301-6540 (confidential)



There are four ways to contact EAP. They can be reached by telephone, through the website, by confidential email, and by confidential fax.

## Types of Referrals

- Staff Member Self-Referral
- Supervisor referrals for employees:
  - Informal Referral
  - Supervisory Referral
  - Safety Sensitive
- Supervisor self-referrals:
  - Communication strategies for providing feedback
  - Addressing time and safety-sensitive issues



Employees may refer themselves to EAP simply by contacting EAP directly. The supervisor's role is to ensure all employees are aware of EAP's availability, by posting signs and making EAP's business cards and brochures obvious. There are three additional types of referrals to EAP that supervisors can make with employees.

1. A supervisor may make an **informal referral** by simply and privately suggesting that EAP may be helpful in addressing the concern at hand.
2. A **supervisory referral** is a more formal referral that is usually a part of a supervisory or corrective action process. Supervisory referrals are best made after consulting with the HR Representative.
3. A **safety sensitive referral** is usually time-sensitive and occurs in response to an immediate situation in which an employee's safety, or the safety of others, may be at risk.

Supervisors may contact EAP directly. Common themes are:

- Self-referral, as any employee would use EAP
- To discuss communication strategies when providing feedback to employees
- To consult regarding time and safety-sensitive issues
- For follow-up at worksites to debrief critical incidents

## Using EAP

- Permanent employees and their families
- No cost
- Up to five sessions (then may switch to insurance-based service)
- 24/7
- Screening and information tools on website



EAP services are available to all permanent employees and their families, at no cost. The many screening and information tools on the website can be accessed any time, using the State Employee password. Individuals may have up to five personal sessions. The EAP counselor can then help an employee transition to insurance-covered service if needed.

## Supervisor Responsibilities

- Don't diagnose. Notice.
- Suggest a check-in with EAP or the HR Representative early.
- Be flexible.

Every situation is different, and some are more personal/sensitive than others.



Supervisors must remember that it is not within their role to diagnose an employee issue. It is the supervisor's job to notice when a problem has surfaced and know whom to go to for assistance. Supervisors should suggest EAP or an HR field representative as early in the process as possible. It is also important that supervisors are flexible and understand that every situation is different, and each requires a unique approach.

Some examples of things to be on the look out for are if an employee has a decrease in productivity, absenteeism, reclusion, is acting out of character, or being excessively irritable. These are times when a supervisor can notice that something is amiss, and would want to enlist the help of EAP or the HR Representative.

## Additional Resources

- [www.investeap.org](http://www.investeap.org) (password: vteap)
- <https://www.investeap.org/solution-focused-counseling>



The first link is to the EAP website. Within that site, in the HR/Managers section, there is a lot of information about referrals and other services offered. The second link is for the EAP orientation video, which is an eight minute video for any employee or staff member that describes services offered by EAP.

This is the end of the Supervising in State Government: Level 1 “The essentials” Human resources special topics training. We will see you in class!