1.0 Purpose and Benefits

Domestic violence permeates the lives and compromises the safety of thousands of New York State employees each day, with tragic, destructive, and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past.

Domestic violence is defined as a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim. In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover.

The purpose of this Policy is to identify and prescribe agency practices that will promote safety in the workplace and respond effectively to the needs of victims of domestic violence.
2.0 Authority

Section 1 of Executive Order No. 117, issued January 2002, charges the State Chief Information Officer with overseeing and supervising the management and operations of ITS. Section 102(2) of the State Technology Law gives the Director of ITS responsibility for the administration of ITS. Details regarding this authority can be found in New York State (NYS) ITS Policy, NYS-P08-002 Authority to Establish State Enterprise Information Technology (IT) Policy, Standards and Guidelines.

3.0 Scope

This Policy applies to ITS and its employees, contractors, and consultants. This Policy also applies to OGS Human Resources Management (HR) employees to the extent necessary to carry out those roles and responsibilities delegated by ITS to OGS HR related to this Policy and the provision of human resource services to ITS.

4.0 Information Statement

ITS has partnered with OGS for the provision of Human Resource services. Accordingly, throughout this policy are references to roles and responsibilities assigned to OGS HR.

4.1 Employee Awareness

ITS shall increase awareness of domestic violence and inform employees of available sources of assistance.

1. ITS shall post information on domestic violence and available resources in the work site in places where employees can obtain it without having to request it or be seen removing it, such as Inside Edge, rest rooms and lounge areas. Such information shall include available sources of assistance such as Employee Assistance Program, local domestic violence service providers, the NYS Domestic & Sexual Violence Hotline, and/or human resources personnel who are trained and available to serve as confidential sources of information, support, and referral.

2. Referrals shall be made to domestic violence programs located on the NYS Office for the Prevention of Domestic Violence (OPDV) website. Additional referrals may be made to best meet the needs of the employee. Information shall be made available on employee bulletin boards and included in employee newsletters, as appropriate.

\[\text{All references to Executive Order 117 refer to that which was originally issued by Governor George E. Pataki on January 28, 2002 and continued by Executive Order 5 issued by Governor Eliot Spitzer on January 1, 2007, Executive Order 9 issued by Governor David A. Patterson on June 18, 2008, Executive Order 2 issued by Governor Andrew M. Cuomo on January 1, 2011, and Executive Order 6 issued by Governor Kathy Hochul on October 8, 2021.}\]
3. ITS through OGS shall include information on domestic violence awareness and services in written materials provided to new employees and as part of new employee orientation.

4. ITS shall inform employees that New York State law prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims. The law prohibits designation of domestic violence as a pre-existing condition. An insurance company cannot deny or cancel an insurance policy or require a higher premium or payment because the insured is or has been a domestic violence victim [§2612 of the Insurance Law].

5. ITS with the assistance of OGS shall integrate information on domestic violence and this Policy into existing materials and literature, policies, protocols, and procedures, including Public Employer Workplace Violence Prevention Programs as appropriate.

6. ITS shall consider conducting domestic violence awareness activities such as "brown bag" lunch programs and other health and wellness programs.

4.2 Non-Discriminatory and Responsive Personnel Policies for Victimized Employees

ITS and OGS will ensure that ITS personnel policies and procedures do not discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

1. New York State law makes it a crime for employers to penalize an employee who, as a victim or witness of a criminal offense, is appearing as a witness, consulting with a district attorney, or exercising their rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law. This law requires employers, with prior day notification, to allow time off for victims or subpoenaed witnesses to exercise their rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law [Penal Law §215.14]. If there are any questions or concerns regarding the leave that must be granted to victims or subpoenaed witnesses, contact OGS HR at human.resources.its@ogs.ny.gov or the Attendance and Leave Unit at the Department of Civil Service.

2. ITS with assistance from OGS, upon request, will assist the employee in determining the best use of their attendance and leave benefits when an employee needs to be absent as a result of being a victim of domestic violence. If an employee requests time off to care for and/or assist a family member who has been a victim of domestic violence, ITS will evaluate the employee’s request for leave for eligibility under existing law and collective bargaining agreements applicable to the employee and the attendance rules.

3. ITS is aware that victims of domestic violence may lack the required documentation or have difficulty obtaining the required documentation to justify absences without compromising their safety. Therefore, the ITS Domestic Violence Liaison and OGS HR staff shall consult with the employee to identify what documentation they might have, or be able to obtain, that will not compromise their safety-related needs and will satisfactorily meet the
documentation requirement of the employer. Because there are confidentiality issues associated with the submission of documentation in these instances, ITS may consult with the Attendance and Leave Unit at the Department of Civil Service.

4. Employees who are victims of domestic violence and who separate from a spouse (or terminate a relationship with a domestic partner, if covered), shall be allowed to make reasonable changes in benefits at any time during the calendar year where possible, in accordance with statute, regulation, contract and policy.

5. NYS has established that victims of domestic violence are now a protected class in the employment provisions of NYS Human Rights Law. This law prevents an employer from firing or refusing to hire any individual based on their status as a victim of domestic violence and prevents discrimination in compensation or in the terms, conditions or privileges of employment. ITS will prohibit inquiries about a job applicant’s current or past domestic violence victimization and prohibit employment decisions to be based on any assumptions about or knowledge of such exposure.

6. In cases in which it is identified that an employee’s work performance difficulties are a result of being a victim of domestic violence, said employee shall be afforded all of the proactive measures outlined in this Policy, and shall be provided clear information about performance expectations, priorities, and performance evaluation. If a disciplinary process is initiated, special care should be taken to consider all aspects of the victimized employee’s situation, and all available options in trying to resolve the performance problems should be exhausted, including making a referral to the Employee Assistance Program, consistent with existing collective bargaining unit agreements, statute, regulations, and agency policy.

7. If reasonable measures have been taken to resolve domestic violence-related performance problems of victimized employees, but the performance problems persist and the employee is terminated or voluntarily separates from employment, inform the employee of their potential eligibility for unemployment insurance, and respond quickly to any requests for information that may be needed in the claims process. New York State law provides that a victim of domestic violence who voluntarily separates from employment may, under certain circumstances, be eligible for unemployment insurance benefits. [§593 of NYS Labor Law.]

4.3 Workplace Safety Plans

ITS shall have domestic violence workplace safety response plans in place and provide reasonable means to assist victimized employees in developing and implementing individualized domestic violence workplace safety plans, consistent with existing collective bargaining agreements, statutes, and regulations.

1. ITS has a designated Domestic Violence Liaison, who can be reached by using the contact information in Section 7.0 of this policy and available on the ITS Inside Edge website. This Domestic Violence Liaison, in conjunction with ITS
Office of Administration will ensure agency-wide implementation of this Policy and serve as the primary liaison with OPDV regarding this Policy.

2. ITS has designated personnel available to support those in need of assistance around the issue of domestic violence. Designated support personnel’s contact information, including name, agency phone number and location will be included in agency materials and clearly posted.

3. ITS shall comply and assist with enforcement of all known court orders of protection, particularly orders in which abusers have been ordered to stay away from the work site. If requested by the victim of domestic violence or law enforcement, ITS shall provide information in its possession concerning an alleged violation of an order of protection.

Employees are encouraged to bring their orders of protection (OP) to the attention of the Domestic Violence Liaison, Chief General Counsel, OGS Director of Human Resources Management or the Director of Labor Relations. Once the OP has been brought forward, the OP and related document(s) will be kept in a confidential and secure electronic storage location managed by the ITS Division of Legal Affairs (DLA), accessible only to those ITS DLA employees whose access is necessary to carry out the roles and responsibilities required to support the employee and comply with all applicable laws and policies. Access to the electronic storage location will also be provisioned to the OGS HR employees necessary to assist ITS in carrying out the roles and responsibilities required to support the employee and comply with all applicable laws and policies.

The ITS Domestic Violence Liaison, with the assistance of OGS HR, will discuss with the employee a plan on how to best proceed to ensure the safest possible work environment for the employee and the rest of the staff. With the permission of the employee, this may include: providing a copy of the OP and/or photo of perpetrator to security or front desk personnel; discussion of who should be told if there is no security or front desk staff, such as identifying supervisor/colleagues who would be able to assist with the identification of the perpetrator; blocking the subject, perpetrator, of the OP from being entered into the Visitor Management System (VMS); and creating a personal workplace safety plan (see Section 4.3.6, below)

The employee is responsible to notify Domestic Violence Liaison if there are any changes to the OP.

4. ITS shall have an emergency security response plan in place, including procedures for contacting the appropriate law enforcement agency, and provide employees with clear instructions about what to do and who to contact if they observe anyone engaging in threatening behavior. Such a plan will allow appropriate actions to be taken if an abuser gains unauthorized access to the work site, or if an abuser engages in any acts that threaten the safety of employees or clients.
5. ITS shall discuss with the victim of domestic violence the agency’s confidentiality policy and the limitations thereto. (See Section 4.6 NYS Agencies Responsibility 4 – 7).

6. ITS, with the assistance of OGS HR, shall consult with victimized employees to develop and implement individualized workplace safety plans, which may include, when appropriate, advising co-workers and, upon request, the employee’s bargaining representative, of the situation; setting up procedures for alerting security and/or the police; temporary relocation of the victim to a secure area; options for voluntary transfer or permanent relocation to a new work site; change of work schedule; reassignment of parking space; escort for entry to and exit from the building; responding to telephone, fax, e-mail or mail harassment; and keeping a photograph of the abuser and/or a copy of any existing court orders of protection in a confidential on-site location and providing copies to security personnel. Plans must address additional concerns if the victim and the offender are both employed by the same agency.

7. ITS shall review this Policy annually.

4.4 Accountability for Employees Who Are Offenders

1 ITS shall hold accountable employees who engage in the following behavior: (1) using state resources to commit an act of domestic violence; (2) committing an act of domestic violence from or at the workplace or from any other location while on official state business; or (3) using their job-related authority and/or state resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence.

2 In cases in which ITS has found that an employee has threatened, harassed, or abused an intimate partner at the workplace using state resources such as work time, workplace telephones, FAX machines, mail, e-mail, or other means, said employee shall be subject to corrective or disciplinary action in accordance with existing collective bargaining unit agreements, statutes, and regulations.

3 In cases in which ITS has verification that an employee is responsible for a domestic violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, and said employee has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, ITS shall determine if corrective action is warranted, in accordance with existing collective bargaining unit agreements, statutes and regulations.

4 In cases in which any employee intentionally uses their job-related authority and/or intentionally uses state resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for their behavior, said employee shall be subject to corrective or disciplinary action, in accordance with existing collective bargaining unit agreements, statutes and regulations.
4.5 Training

ITS through OGS will make training available to all staff on domestic violence. The training requirements are outlined below.

1. The Domestic Violence Liaison and all personnel designated to provide support for those in need of assistance should complete OPDV’s one-day training on Domestic Violence and the Workplace subject to availability from OPDV. Training will prepare support personnel to identify possible signs and indicators of victimization, make appropriate referrals to domestic violence service providers, work with professionals to assist identified victims with safety planning, and develop individualized responses in recognition of the physical, social, and cultural realities that may affect an individual victim’s situation. Training will also include information on the ways in which domestic violence impacts the workplace, including the potential impact on worker productivity and the safety risks to on-site personnel and visitors.

2. All appropriate managers, supervisors, employee assistance professionals, human resources personnel, union and labor representatives and security staff shall be encouraged to attend OPDV’s training on Domestic Violence and the Workplace, subject to availability from OPDV.

3. Training on domestic violence and its impact on the workplace will be made available on a regular basis for all ITS employees, subject to availability from OPDV. Training will include information on the physical, social, and cultural realities that may affect victims of domestic violence, the ways in which domestic violence impacts the workplace, including the potential impact on worker productivity and safety risks. When possible, OPDV-approved training materials can be integrated into existing union and management training programs, agency training programs, EAP training, Public Employer Workplace Violence Prevention Programs training, etc. Training may also be provided by OPDV or a local domestic violence service provider when scheduling permits.

4.6 NYS Agencies Responsibility

1. ITS shall set a tone communicating that domestic violence is behavior that will not be tolerated and that ITS will actively provide information and support to employees who are victims of such abuse.

2. ITS shall disseminate copies of this Policy to all employees upon implementation and to all new employees upon hiring or appointment.

3. All ITS employees shall review and follow this Policy and procedures set forth in this Policy.

4. ITS shall, consistent with applicable law and agency policy, document all incidents of domestic violence that happen in the workplace. Such documents should be provided to the Domestic Violence Liaison as soon as practicable. Such documents shall be kept confidential to the extent permitted by law and agency policy and the provisions of Section 7 detailed below.

5. All ITS employees providing domestic violence information and support services shall document, consistent with applicable law and agency policy, the number of
employees who report domestic violence, the number of employees that request information/services, and the number of referrals made to domestic violence service providers. All information about employees who seek assistance shall be kept confidential to the extent permitted by law and ITS policy and the provisions of Section 7 detailed below, and documentation should not include any personal information. The number of employees seeking assistance as outlined above shall be reported to the Domestic Violence Liaison.

6. All Domestic Violence Liaisons shall, consistent with applicable law and ITS policy, provide information about the number and general nature of domestic violence incidents that happen in the workplace, the number of employees who report domestic violence, the number of employees that request information/services, and the number of referrals made to domestic violence service providers, with no personally identifying information, to OPDV at the time and in a manner determined by OPDV.

7. Information related to an employee being a victim of domestic violence shall be kept confidential, to the extent permitted by law and ITS policy and shall not be divulged without the written consent of the victimized employee, unless ITS determines that maintaining said confidentiality puts the victim or other employees at risk of physical harm, is required by law, or is deemed necessary to enforce an order of protection. In such circumstances where a determination has been made that maintaining confidentiality puts the victim or other employees at risk of physical harm, only those individuals (ITS employees and/or safety and security personnel and/or rescue and first aid personnel) as deemed necessary by the ITS to protect the safety of the victim and/or other employees or to enforce an order of protection shall be given such information. ITS shall disclose only the minimum amount of information necessary to protect the safety of the victim and/or other employees or enforce an order of protection. Where possible, ITS will provide to the victim of domestic violence notice of the intent to provide information to other employees and/or safety personnel. It is important for ITS to inform a victim of domestic violence of ITS's policy of confidentiality toward domestic violence information and the limitations of that policy. Nothing herein shall prevent ITS from investigating an act or acts of domestic violence that happen within the workplace. ITS shall provide examples of situations where confidentiality cannot be maintained such as the following:

   a. Supervisors/managers may be informed about a domestic violence incident that happens in the workplace, or a report of domestic violence, if it is necessary to protect the safety of the employee or the employee’s coworkers.

   b. First aid and safety personnel may be informed about a domestic violence incident that happens in the workplace or a report of domestic violence, if it is necessary to protect the safety of the employee or the employee’s coworkers.
c. Government officials investigating a domestic violence incident that happens in the workplace, or a report of domestic violence, shall be provided relevant information on request.

8. ITS will establish a clear statement informing staff providing services and victims of applicable confidentiality limitations that exist.

### 4.7 Employee Responsibilities

ITS employees shall familiarize themselves with this Policy, its procedures, and its requirements; and all domestic violence awareness resources provided to the ITS workforce.

1. ITS employees are encouraged to act as allies of other ITS employees who they learn are victims of domestic violence. An ITS employee acts as an ally of a victimized employee by saying that they believe the victimized employee’s story, expressing empathy, offering to help in whatever way they can, and by informing the victimized employee of the ITS and statewide resources available to them pursuant to the Policy.

2. However, an ITS employee who learns that another ITS employee is a victim of domestic violence does not have an affirmative duty to disclose their co-worker’s status as a domestic violence victim. As discussed in Section 4.6.7 above, information related to an employee’s status as a victim of domestic violence must be kept confidential, to the extent permitted by law and ITS policy. Information learned by an ITS employee about a co-worker’s domestic violence victim status should not be disclosed without the consent of the victimized employee except where necessary to protect the victim, and/or other ITS employees, from physical harm in the workplace.

### 5.0 Compliance

This Policy shall take effect upon publication. Compliance is required with all enterprise policies and standards. ITS may amend its policies and standards at any time; compliance with amended policies and standards is required.

### 6.0 Definitions of Key Terms

Except for terms defined in this policy, all terms shall have the meanings found in [http://www.its.ny.gov/glossary](http://www.its.ny.gov/glossary).
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic Violence</td>
<td>A pattern of coercive tactics, which can include physical, psychological, sexual, economic, and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.</td>
</tr>
<tr>
<td>Intimate Partner</td>
<td>Includes persons legally married to one another; persons formerly married to one another; persons who have a child in common, regardless of whether such persons are married or have lived together at any time, couples who are in an “intimate relationship” including but not limited to couples who live together or have lived together, or persons who are dating or who have dated in the past, including same sex couples.</td>
</tr>
<tr>
<td>Abuser</td>
<td>A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.</td>
</tr>
<tr>
<td>Victim</td>
<td>The person against whom an abuser directs coercive and/or violent acts.</td>
</tr>
</tbody>
</table>

### 7.0 Contact Information

Submit all inquiries and requests for future enhancements to the policy owner at:

**Division of Legal Affairs**  
**NYS Office of Information Technology Services**  
**Swan Street Bldg., Core 4, Floor 2**  
**Albany, NY 12220**  
**Telephone: (518) 402-5082**  
**Email: its.sm.dla@its.ny.gov**

ITS policies, standards, and guidelines may be found on the Inside Edge at:  
[https://nysemail.sharepoint.com/sites/myITS/InsideEdge/Pages/Policies.aspx](https://nysemail.sharepoint.com/sites/myITS/InsideEdge/Pages/Policies.aspx)

For confidential assistance with a domestic violence matter, please contact the ITS Domestic Violence Liaison:

**518-419-2888**  
**EmployeeSupport@its.ny.gov**
8.0 Revision History

This policy shall be reviewed at least once every two years to ensure relevancy.

<table>
<thead>
<tr>
<th>Date</th>
<th>Description of Change</th>
<th>Reviewer</th>
</tr>
</thead>
<tbody>
<tr>
<td>08/01/2008</td>
<td>Issued policy</td>
<td>CIO/OFT</td>
</tr>
<tr>
<td>09/28/2010</td>
<td>Revised to include updates to the NYS Human Rights Law, the definition of Intimate Partner, and identify mandatory training.</td>
<td>CIO/OFT</td>
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<tr>
<td>09/28/2011</td>
<td>Scheduled Review Date</td>
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<tr>
<td>09/19/2012</td>
<td>Revised – format/logo only</td>
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<td>09/13/2013</td>
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<td>09/13/2014</td>
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<tr>
<td>02/12/2020</td>
<td>Updated links and HR contact information</td>
<td>OGS HR</td>
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<tr>
<td>03/29/2022</td>
<td>Updated to be consistent with OPDV Domestic Violence policy, changed policy owner from Human Resource Services to Administration</td>
<td>Administration</td>
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<tr>
<td>04/28/2022</td>
<td>Updated to reflect shift in Domestic Violence liaison role from OGS to ITS; updated policy owner</td>
<td>DLA</td>
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9.0 Related Documents