

Board of County Commissioners

Leon County, Florida

Policy No. 13-2

Title:	Domestic Violence, Sexual Violence and Stalking in the Workplace
Date Adopted:	September 10, 2013
Effective Date:	September 10, 2013
Reference:	N/A
Policy Superseded:	N/A

It shall be the policy of the Board of County Commissioners of Leon County, Florida, that a new policy, Policy No. 13-2, “Domestic Violence, Sexual Violence and Stalking in the Workplace” (this “Policy”) is hereby adopted, to wit:

- 1. Purpose.** Leon County recognizes that Domestic Violence, Sexual Violence, and Stalking are common occurrences in our society and affect people in all walks of life. In addition to causing physical and psychological harm to the Victim, Domestic Violence, Sexual Violence, and Stalking often spill over into the workplace, compromising the safety of both Victims and co-workers. Domestic Violence, Sexual Violence, and Stalking also impact the workplace through lost productivity, increased healthcare costs, increased absenteeism, and increased Employee turnover. Leon County believes employers, including Leon County, can play a critical role in reducing Domestic Violence, Sexual Violence, and Stalking, and in avoiding or minimizing both the occurrence and effects of such acts of violence in the workplace.

Leon County will not tolerate acts of Domestic Violence, Sexual Violence, or Stalking in its Workplace, or the use of Leon County resources by Employees to perpetrate such acts. Leon County institutes this Policy as part of its commitment to a healthy, safe organizational climate and to the prevention and reduction of the incidences and effects of Domestic Violence, Sexual Violence, and Stalking which Leon County recognizes as workplace issues that impact the workplace, even if the incidents occur elsewhere.

The purposes of this Policy are to:

- a. Encourage Employees at risk to seek help and to offer a model of support and referral services when a situation of Domestic Violence, Sexual Violence, or Stalking is known to potentially cause risk in the workplace;
- b. Enhance workplace awareness and the capacity to create a supportive, safe work environment for Victims and Survivors of Violence and fellow Employees;
- c. Institutionalize responsive policies and procedures to assist Employees who are impacted by Violence, including the provision of training on this Policy to Employees;
- d. Provide immediate assistance to Victims, especially information and referrals to community resources; and
- e. Provide assistance and/or disciplinary action to Employees who are Perpetrators of Violence.

This Policy is intended to supplement existing Leon County policies, including:

- a. Human Resources Policies and Procedures
- b. Policy No. 03-12, “Violence Prevention and Intervention.”

2. Definitions

- a. “Batterer Intervention Program” means, in general, a program that addresses the perpetration of domestic violence by a partner, spouse, ex-spouse, or a person who shares a child in common or who is a cohabitant in an intimate relationship, for the purpose of exercising power and control by one over the other. Batterer Intervention Programs are generally at least 29 weeks in length and include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming.
- b. “Disciplinary Action” includes counseling for work performance, attendance or any other reason, with or without written follow-up, and the disciplinary actions identified in *Section X, HR Policies*, including oral warning, written warning, suspension, demotion, and termination from employment.
- c. “Domestic Violence” has the same meaning as in Section 741.28(2), Florida Statutes (2012, as may be amended) which, for ease of reference, has been copied as follows:

“Domestic violence” means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.”
- d. “Employee” means any person who, under the jurisdiction of the Leon County Board of County Commissioners, receives remuneration from Leon County for the performance of any work or service while engaged in any employment under any appointment or contract for hire. Such individual effectively becomes an Employee as of the first day and time for which they are owed compensation of income by Leon County, and such individual ceases being an Employee as of the effective date and time of their termination of their employment relationship with Leon County. Volunteers, interns and other workers not paid by Leon County, and persons who are temporarily assigned to work for Leon County on a contractual basis or as a Court-ordered community service worker, for example, are not considered to be Employees.
- e. “Employee Assistance Program” is an off-site counseling service offered by Leon County to Employees.
- f. “False Information” means false information included in any form of documentation that an Employee or an Employee’s designee presents to Leon County to justify a claim that such Employee is in need of leave from work with Leon County, a safety accommodation, an alternative to discipline, or other workplace assistance related to the Employee or the Employee’s Family member being a Victim or Survivor of Violence, or that such leave from work is for an allowed purpose.

- g. “Family or Household Member” has the same meaning as in Section 741.28(3), Florida Statutes (2012, as may be amended) which, for ease of reference, has been copied as follows:

“Family or household member” means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.”

- h. “Family Member” includes Family or Household Member(s) and Registered Domestic Partner, collectively.

- i. “Human Resources” means Leon County’s Division of Human Resources.

- j. “HR Director” means the Director of Human Resources.

- k. “HR Policies” means Leon County’s Human Resources Policies and Procedures.

- l. “HR Contact” means the Employee designated by the HR Director as the preferred point of contact for Employees with Violence-related issues, as identified in the handbook referenced in Section 10 of this Policy.

- m. “Injunction for Protection” means a court-ordered restriction placed on an individual who has, or who has allegedly, committed acts, or, in some cases, made threats of violence against another individual.

- n. “Law Enforcement Officer” has the same meaning as in Section 741.28(4), Florida Statutes (2012, as may be amended) which, for ease of reference, has been copied as follows:

“Law enforcement officer” means any person who is elected, appointed, or employed by any municipality or the state or any political subdivision thereof who meets the minimum qualifications established in s. 943.13 and is certified as a law enforcement officer under s. 943.1395.”

- o. “Leon County” or “County” means Leon County, Florida, a charter county and political subdivision of the State of Florida.

- p. “Nexus” means, in general, a rational connection.

- q. “Off-duty Conduct of Violence” means an Employee’s conduct of Violence or threat of Violence which occurs outside of such Employee’s Leon County Workplace and/or during such time that such Employee is off-duty from their Leon County job.

- r. “Period of Abeyance” means the period of time that an intended Disciplinary Action is temporarily made inactive or temporarily set aside.

- s. “Perpetrator,” “Batterer” or “Abuser” means the individual who commits, has committed, or threatens to commit an act of Violence.

- t. "Petitioner" means the person who is seeking or obtains an Injunction for Protection.
- u. "Point of Contact" means the one central contact for issues related to Domestic Violence, Sexual Violence, and Stalking that occurs within, or has or may impact, the Leon County Workplace. The HR Contact is the primary Point of Contact; however, the HR Director, the County Administrator, the HR Director's designee, and the County Administrator's designee may also serve as the Point of Contact.
- v. "Reasonable Safety Accommodation" means a reasonable accommodation made by Leon County for an Employee who is a Victim or Survivor of Violence, which allows the Employee to more safely continue to be employed by and work for Leon County, and does not impose an undue hardship on Leon County in the conduct of Leon County's business.
- w. "Registered Domestic Partner" has the same meaning as in Chapter 9, Article V entitled "Domestic Partnership Registry" of the Leon County Code of Laws. In general, the term refers to the parties to a domestic partnership, which has been registered with the Leon County Clerk of the Circuit Court and has not been terminated.
- x. "Respondent" means the person who is alleged to have engaged in an act or acts of domestic violence, or another form of violence, and whom an Injunction for Protection may be or is issued against.
- y. "Sexual Violence" means a range of behaviors, including but not limited to, sexual harassment, a completed nonconsensual sex act (i.e., rape), an attempted nonconsensual sex act, abusive sexual contact, and non-contact sexual abuse (e.g., threatened sexual violence, exhibitionism, verbal harassment), and sexual violence as defined in Section 784.046(c), Florida Statutes (2012, as may be amended). Many of these acts are also addressed in Section 2.01 of the HR Policies (Employee Conduct – Workplace Harassment) and in the Policy No. 03-12, "Violence Prevention and Intervention."
- z. "Stalking" has the same meaning as in Section 784.048, Florida Statutes (2012, as may be amended) portions of which, for ease of reference, have been copied as follows:
 - "Any person who willfully, maliciously, and repeatedly follows or harasses another person commits the offense of stalking."
 - "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose."
 - "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose."
- aa. "Victim" and "Survivor" mean an individual who is currently subject to, or has in the past been subjected to, Domestic Violence and/or Sexual Violence and/or Stalking.
- bb. "Violence" means any or all of the following, collectively: Domestic Violence, Sexual Violence, and Stalking.

cc. “Workplace” means any location where an Employee performs Leon County work related duties, including Leon County facilities, Leon County vehicles, Leon County premises, Leon County-sponsored events, parking lots and areas surrounding Leon County facilities and locations where Leon County work is performed, and areas of travel between job locations. Telecommuting work sites are not included in the definition of “Workplace” for purposes of this Policy.

3. Scope and Applicability. This Policy applies to all Leon County Employees.

4. General Policy Statements

- a. Leon County does not and will not tolerate Violence in the Workplace.
- b. Leon County will encourage an Employee who is a Victim of Violence, or whose Family Member is a Victim of Violence, to seek assistance.
- c. Leon County will make reasonable efforts, when circumstances of Violence are known to the Employee’s supervisor, division/department management, or Point of Contact, to provide the Victim referrals, as appropriate, required leave from work, and other reasonable workplace assistance as described in this Policy.
- d. Leon County requires Employees to report Violence in the Workplace and encourages Employees to contact the Point of Contact if they suspect a fellow Employee may be a Victim or Perpetrator of Violence.

5. Accountability for Employees Who Are Perpetrators, Who Assist Perpetrators, or Who Have Been Arrested, or Who Are Respondents to an Injunction for Protection.

- a. Employer Notification - Arrest. Consistent with Section 2.16, HR Policies, Employees arrested or notified they are the focus of a criminal investigation by a local, state or federal law enforcement agency, shall appropriately notify Leon County. This requirement includes, but is not limited to, an arrest or investigation related to an act of Violence. It is the Employee’s responsibility to notify his/her supervisor of the arrest/investigation as soon as possible, but no later than at the commencement of the Employee’s next scheduled work day. Upon being notified by the Employee of the occurrence of the actions described above, the supervisor will notify the HR Director or the Point of Contact. Failure on the part of an Employee to notify his/her supervisor of an arrest/investigation may result in Disciplinary Action up to and including termination of employment.
- b. Employer Notification – Injunction for Protection. An Employee who is a Respondent to an Injunction for Protection (“Employee/Respondent”) shall notify his/her supervisor of such Injunction for Protection as soon as possible, but no later than at the commencement of the Employee’s next scheduled work day, if any of the following applies:
 - i. If the Petitioner for such Injunction for Protection is an Employee with whom the Employee/Respondent may come in contact with during such Employee/Respondent’s Leon County work-related duties; or
 - ii. If the Petitioner for such Injunction for Protection is another person with whom the Employee/Respondent may come in contact with during such Employee/Respondent’s Leon County work-related duties; or
 - iii. If the Employee/Respondent used any Leon County resources in any of the conduct which gave rise to the Injunction for Protection, as contained in the court records for such Injunction for Protection.

As used in this section, Leon County “resources” includes, but is not limited to, work

time, Leon County vehicles, telephones, printers, copiers, FAX machines, mail, e-mail or other Leon County resources. As used in this section, “contact” includes, but is not limited to, phone, e-mail, text, in person, third-party conduit, Internet or social network, and any other contact proscribed by the court in the Injunction for Protection.

Upon receipt of notification, the supervisor will notify the Point of Contact, and the HR Director will subsequently contact the County Attorney’s office to discuss appropriate actions to be taken, if any.

- c. Acts and behaviors described in this Section 5 will be judged from a reasonable person standard.
- d. Leon County reserves the right to review any incident of a County Employee’s on duty Violence or Violence-related conduct and Off-Duty Conduct of Violence, and to take appropriate Disciplinary Action, up to and including termination from employment, and/or legal action to discourage future Violence and to protect the safety of Employees and the public.
- e. Leon County may take Disciplinary Action proportionate to an Employee’s Off-duty Conduct of Violence, up to and including termination from employment, **if there is a Nexus between the efficiency of the service, as described herein below, and the Employee’s Off-duty Conduct of Violence.**
 - i. An Employee’s Off-duty Conduct of Violence interferes with the efficiency of the service if such conduct may reasonably be expected to interfere with either of the following:
 - 1. The ability of the Employee to function in their position of employment with Leon County, performing their assigned duties; or
 - 2. Leon County’s ability to carry out its mission and purposes, discharging its responsibilities in an orderly, efficient, and safe manner.
 - ii. Factors Leon County may consider, in determining whether there is a Nexus between the Employee’s Off-duty Conduct of Violence and the efficiency of the service, include but are not limited to the following:
 - 1. Whether the conduct involves harm or threats to supervisors, co-workers, other Employees, customers or others with an actual or potential business relationship with Leon County;
 - 2. Whether the conduct could seriously harm Leon County’s public image, reputation or product;
 - 3. Whether the conduct renders an Employee unable to perform his or her duties or appear at work;
 - 4. Whether the conduct reasonably makes it difficult or impossible for co-workers, customers, or others with an actual or potential business relationship with Leon County to deal with the Employee, including but not limited to the reasonable refusal, reluctance, or inability of other Employees to work with him or her;
 - 5. Whether the conduct undermines the ability of Leon County to direct Leon County’s workforce;
 - 6. Whether the conduct had, or is reasonably expected to have, a detrimental effect on the Employee’s or his coworkers’ job performance;

7. Whether the conduct had a detrimental effect on management's trust and confidence in the Employee's job performance; or
 8. Whether the conduct interfered with or adversely affected the agency's mission.
- iii. Prior to taking Disciplinary Action for Off-duty Conduct of Violence, supervisors or division/department management are required to contact the Point of Contact for advice and guidance, and the Point of Contact is required to notify the County Attorney's Office in advance of making a determination as to the proposed Disciplinary Action. Disciplinary Action for Off-duty Conduct of Violence should only be taken with the prior concurrence of the Point of Contact, and only after the Point of Contact has conferred with the County Attorney's Office.
- f. Leon County will not tolerate nor excuse conduct that constitutes Violence in a Leon County Workplace. Further, Leon County will hold accountable any and all Employees who engage in any of the following behaviors:
 - i. Using Leon County resources to commit or threaten to commit an act of Violence;
 - ii. Committing an act of Violence from or at the Workplace or any other location while on official Leon County business; or
 - iii. Using their job-related authority and/or Leon County resources in order to negatively affect a Victim or Survivor and/or assist a Perpetrator in locating a Victim or Survivor and/or to assist a Perpetrator in perpetrating an act of Violence.
 - g. In cases in which Leon County has found that an Employee has committed or has threatened to commit an act of Violence from or at the Workplace, or any location while on official Leon County business, or any location using Leon County resources such as work time, Leon County vehicles, telephones, printers, copiers, FAX machines, mail, e-mail or other means, said Employee will be subject to corrective or disciplinary action, up to and including termination from employment.

Prior to taking such action, supervisors and division/department management are required to contact the Point of Contact for advice and guidance. If appropriate, law enforcement will be contacted through the HR Director, the County Administrator, or the County Attorney, which may result in arrest, criminal charges, and/or prosecution.

- h. In cases in which Leon County has verification that an Employee is responsible for a Violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of Violence perpetrated by the Employee, and said Employee has job functions that include the authority to take actions that directly impact Victims or Survivors of Violence and/or actions that may protect Perpetrators from appropriate consequences for their behavior, Leon County will determine if corrective action is warranted, and pursue such warranted corrective action.

Prior to taking such action, supervisors and division/department management are required to contact the HR Director or the Point of Contact for advice and guidance.

- i. In cases in which any Employee intentionally uses his or her Leon County job-related authority and/or intentionally uses Leon County resources in order to negatively impact a Victim or Survivor of Violence, assist a Perpetrator in locating a Victim or Survivor, assist a Perpetrator in perpetrating an act of Violence, or to protect a Perpetrator from appropriate consequences for his or her behavior, said Employee will be subject to corrective or disciplinary action, up to and including termination from employment.

Prior to taking such action, supervisors and division/department management are required to contact the Point of Contact for advice and guidance. If appropriate, law enforcement will be contacted through the HR Director, County Administrator, or County Attorney, which may result in arrest, criminal charges, and/or prosecution.

- j. In cases where an Employee has, or is reasonably suspected of having, perpetrated any of the Violence-related acts identified in this *Section 5*, said Employee may be immediately removed from the Workplace and suspended without pay, as quickly as safety permits, and in accordance with *HR Policies*. If suspended, the suspended Employee shall remain off Leon County property pending the outcome of an investigation to determine if further action is warranted. Such further action may include, but is not necessarily limited to, a fitness for duty referral through the Employee Assistance Program, mandatory counseling, reassignment of job duties, progressive discipline, suspension, termination from employment. Additionally, if appropriate, law enforcement will be contacted through the HR Director, County Administrator, or County Attorney, which may result in arrest, criminal charges, and/or prosecution.
- k. When a situation requires an investigation in order to determine an Employee's involvement in any of the acts described in this *Section 5*, said Employee(s) under formal investigation may be placed on Administrative Leave, with or without pay, in accordance with *Section 7.19, HR Policies*.
- l. Other acts of actual behaviors of Violence or violations of this Policy, and other related matters that are reported, will be fully evaluated by Human Resources in coordination with the affected department and other appropriate resources to determine the appropriate management response.
- m. Employees who are Perpetrators of Violence are encouraged to contact the Point of Contact for a referral to the Employee Assistance Program, or to make a self-referral to the program. They will be provided information regarding counseling and batterer intervention resources. Information regarding the Employee Assistance Program will be provided in the handbook referred to in *Section 10*. Employees who do not seek assistance through the Employee Assistance Program are encouraged to seek outside assistance, including self-referrals to community resources. Additionally, Leon County reserves the right to require a Perpetrator to participate in a Batterer Intervention Program and/or other appropriate programs or training, as part of a disciplinary action plan, with the prior concurrence of the Point of Contact.

6. Statement of Confidentiality

- a. Leon County recognizes and respects an Employee's right to privacy and the need for confidentiality and autonomy.

- b. Exemptions from inspection or copying of public records under Florida law, relevant to this Policy, include but may not be limited to the following:
 - i. As authorized by Section 741.313 Florida Statutes (2013, as may be amended) which, for ease of reference, the applicable sections are copied as follows:
 - 1. “Personal identifying information that is contained in records documenting an act of domestic violence or sexual violence submitted by an agency employee to an agency, as defined in chapter 119, under the requirements of this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.” (741.313(7)(a))
 - 2. “A written request for leave that is submitted by an agency employee under the requirements of this section and any agency time sheet that reflects such a request are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until 1 year after the leave has been taken.” (741.313(7)(b))
 - ii. As otherwise provided by Section 119.071, Florida Statutes (2012, as may be amended) which, for ease of reference, the applicable sections are copied as follows:

“...Any information not otherwise held confidential or exempt from s. 119.07(1) which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, upon written request by the victim, which must include official verification that an applicable crime has occurred. Such information shall cease to be exempt 5 years after the receipt of the written request. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency’s statutory duties, notwithstanding this section.” (119.071(2)(j)(1), *emphasis added*)
- c. As otherwise protected by federal and state privacy protection laws and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPPA).
- d. Unless it is found that an Employee or an Employee’s designee has provided False Information:
 - i. Leon County will maintain the confidentiality of an Employee’s disclosure regarding Violence to the extent permitted by law, unless to do so may result in physical harm to any person within the Workplace and/or jeopardize safety within the Workplace, or unless disclosure is requested or consented to in writing by the Employee, or unless disclosure is deemed necessary to evaluate potential threats and risk and threat response and risk management options, or to assess or plan for Employee’s leave from work, safety accommodation alternative(s), alternative to discipline, or other Workplace assistance under consideration or planning.

- ii. When information must be disclosed to protect the safety of individuals within the Workplace, to comply with the law, or for other reasons deemed appropriate, as described in *Subsection 6(d)(i)* above, Leon County will limit the breadth and content of such disclosure to information reasonably necessary for such purposes.
- iii. Leon County will make every reasonable effort to:
 1. Provide advance notice to the Employee who disclosed information, if the disclosure must be shared with other parties in order to maintain safety in the Workplace or elsewhere or for other reasons deemed appropriate,
 2. Provide the Employee with the name and title of the person to whom Leon County intends to share the Employee's statements, and
 3. Explain the necessity and purpose regarding said disclosure.

7. Nondiscrimination and Non-Retaliation

- a. Leon County will not discriminate in hiring, staffing, or other terms and conditions of employment against any Employee for disclosing his or her status as a Victim or Survivor of Violence or for submitting a complaint or disclosing concerns about Violence to Leon County in good faith.
- b. Leon County will not retaliate or take adverse employment actions against any Employee for submitting, in good faith, a complaint pursuant to this Policy, for disclosing his or her status as a Victim or Survivor, or for actions of Violence perpetrated by another against an Employee that occur in or otherwise impact the Workplace.
- c. Consistent with Section 741.313(5)(a), Florida Statutes (2012, as may be amended), Leon County will not interfere with, restrain, or deny the exercise of any attempt by an Employee to exercise any right provided under this Policy.
- d. Consistent with Section 741.313(5)(b), Florida Statutes (2012, as may be amended), Leon County will not discharge, demote, suspend, retaliate, or in any other manner discriminate against an Employee for exercising his or her rights under this Policy.

8. Leave from Work With Leon County and Other Workplace Assistance for Victims and Survivors of Violence

- a. Consistent with Policy No. 03-12, "Violence Prevention and Intervention", Employees who are a Victim of Violence with an Injunction for Protection or other court-ordered protective/restraining order issued and in effect against another person (the "Respondent"), which orders the Respondent to stay away from the Workplace, are encouraged, but not required, to notify their County supervisor or the Point of Contact. Upon receipt of such Employee's notification, the Employee's supervisor should contact the HR Director or Leon County's Employee Engagement & Performance Manager and, if requested by the Employee, Leon County may take reasonable steps to ensure that the Workplace is reasonably safe, secure, and free from threats, intimidation, abusive behavior and physical violence.

- b. Employees who are experiencing Violence that may impact their Workplace or their work performance are encouraged, but not required, to notify their supervisor or Point of Contact, so that Leon County may provide appropriate workplace assistance, referral to the Employee Assistance Program, referral to community resources, and enforce applicable exemptions from inspection or copying certain information that reveals information regarding the Employee, consistent with the provisions of Federal and State of Florida Law, as applicable.

Additionally, Employees who are a Victim or Survivor of Violence are encouraged, if they do not want Human Resources' assistance, to make a self-referral to the Employee Assistance Program. They will be provided information regarding counseling and intervention resources.

Information regarding the Employee Assistance Program will be provided in the handbook, referred to in *Section 10*.

- c. Leave from Work.

- i. Allowed Purposes for Leave from Work. At times, an Employee may need to be absent from their work with Leon County due to the Employee or an Employee's Family Member being a Victim or Survivor of Violence in order to:

1. Seek an Injunction for Protection to ensure the safety of the Employee or Employee's Family Member;
2. Obtain medical care or mental health counseling, or both, for the Employee or Employee's Family Member to address physical or psychological injuries resulting from the act of Violence;
3. Obtain services, for the Employee or Employee's Family Member, from a victim services organization, including but not limited to, a domestic violence shelter or program or a rape crisis center as a result of the act of Violence;
4. Make the Employee's or Employee's Family Member's home secure from the Perpetrator or to seek new housing for the Employee or Employee's Family Member to escape the Perpetrator;
5. Seek legal assistance, for the Employee or Employee's Family Member, in addressing issues arising from being the Victim or Survivor of the act of Violence, or to attend and prepare for court-related proceedings arising from the Employee or Employee's Family Member being the Victim or Survivor of the act of Violence; or
6. Participate in safety planning to increase the safety of the Employee or Employee's Family Member from future Violence or to ensure economic security.

- ii. Verification of the Need for Leave. Leon County may grant an Employee leave from the Employee's work with Leon County based on the Employee's statement that he or she is a Victim or Survivor of Violence, or Employee's Family Member is a Victim or Survivor of Violence, and that the requested leave relates to that Violence and is for one or more of the purposes described in *Subsection (8)(c)(i)* above; however, Leon County reserves the right to require, through the Point of Contact, an Employee to verify any or all of the following consistent with *Subsection 8(f)* below:

1. That the Employee or the Employee's Family Member is a Victim or Survivor

- of Violence.
2. The Employee's familial status with the claimed Family Member.
 3. That the leave is taken for one of the purposes described in *Subsection 8(c)(i)* above.
- iii. Term and Classification of Leave. Subject to *Subsections 8(c)(i) and 8(c)(ii) above, and 8(f)* below:
1. An Employee who is a Victim or Survivor of Violence, or who has a Family Member who is a Victim or Survivor of Violence, will be permitted to:
 - a. Request and take up to three working days of leave from their work with Leon County in any 12-month period for the purposes identified in *Subsection 8(c)(i)* above (the "Base Leave."). This leave may be taken intermittently or on a reduced work schedule.
 - b. Request and take working hours of leave, in addition to the Base Leave described above, for the purposes of attending court proceedings related to Employee or Employee's Family Member being a Victim or Survivor of Violence, including obtaining an Injunction for Protection and appearing as a witness in civil and criminal cases where either the Employee or Employee's Family Member is a Victim or Survivor of Violence (the "Additional Court Proceedings Leave").
 2. Family and Medical Leave Act (FMLA). In accordance with the provisions of the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) (FMLA), an Employee is entitled to up to 12 weeks of unpaid leave under FMLA if Violence results in a serious health condition for the Employee that makes the Employee unable to perform the essential functions of his or her position. FMLA leave can also be used to care for a spouse, son or daughter (under 18 or over 18 but incapable of self-care because of a mental or physical disability) or a parent of the Employee with a serious health condition as a result of Violence. Available, allowable paid leave may be substituted for unpaid leave under FMLA. Employees are encouraged to contact the Point of Contact for further information.
 3. Whether extended periods of leave from Employee's work with Leon County will be permitted for one or more of the purposes identified in *Subsection 8(c)(i)* above, beyond the Base Leave and Additional Court Proceedings Leave as described in *Subsection 8(c)(iii)(1)* above, will be determined through collaboration with: (a) the Employee, (b) supervisor and/or division/department management, and (c) the Point of Contact or other representative of Human Resources.
 4. All leave taken under this Policy may be with or without pay; however:
 - a. Employees must exhaust the use of available, accrued Personal Days, Annual Leave, Sick Leave if applicable, and Compensatory Leave, as defined in the *HR Policies*, before going into an unpaid leave status;

- b. Administrative Leave may be granted for certain court appearances, not involving personal litigation, in accordance with *Section 7.19, HR Policies*; and
 - c. When determining leave options, Employees, supervisors and division/department managers are encouraged to first explore whether paid options can be arranged that will help the Employee cope with a Violence situation without having to take a formal unpaid leave of absence, as provided for herein.
 - iv. Notice.
 1. An Employee seeking leave from work with Leon County under this *Section 8* must provide appropriate advance notice to Leon County of the leave as required by *HR Policies*, unless such Employee cannot provide advance notice because of an emergency or unforeseen circumstance related to Violence.
 2. When an Employee seeking leave from work with Leon County under this *Section 8* cannot provide advance notice, due to circumstances described in *Subsection 8(c)(iv)(1)* above, Leon County will not take action against the Employee if:
 - a. The Employee or the Employee's designee gives notice by the end of the first day the Employee takes leave; and
 - b. Upon the request of Leon County, and within a reasonable period after the absence, Employee or Employee's designee provides Leon County certification and/or verification as described in *Subsection 8(f)* below.
 - v. Other Limitations. The provisions contained herein do not create a right for an Employee to take unpaid leave that exceeds the unpaid leave time allowed under, or in addition to the unpaid leave time permitted by FMLA or as allowed by *HR Policies*.
- d. Reasonable Safety Accommodation.
- i. Reasonable Safety Accommodations. Leon County encourages Employees who are experiencing Violence or the threat of Violence to contact the Point of Contact to help identify Reasonable Safety Accommodations. The intent of Reasonable Safety Accommodations is to minimize the risk of harm to the individual Employee and others at the Workplace, and to better enable an Employee to more safely continue to be employed by and work for Leon County. The Point of Contact has full authority to assess, develop, implement, and modify Reasonable Safety Accommodations, utilizing whatever combination of County and/or external personnel they deem appropriate for a particular circumstance.

Subject to *Subsections 8(d)(ii)* (regarding verification) and *8(d)(iii)* (regarding undue hardship), Reasonable Safety Accommodations may include, but not be limited to:
 1. A temporary or permanent transfer, assignment or modified work schedule;
 2. Paid or unpaid leave from work;
 3. Change to work telephone number;
 4. Change of work station, or Workplace relocation;
 5. Installation of a lock, additional or heightened security, or any other adjustment

- to a Workplace;
 - 6. Change in office procedures or work requirements;
 - 7. Relocation of the Employee's parking location;
 - 8. Assistance with other Workplace safety measures, such as dealing with telephone, internet or mail harassment, and planning what to do if the Perpetrator comes to the Workplace; and
 - 9. Reasonable use of County-owned phones, County Computer Systems, and County e-mail and Internet systems for safety planning, to conduct research or seek assistance regarding the Violence that they are experiencing.
- ii. Verification of the Need for Reasonable Safety Accommodations. Leon County may grant an Employee a Reasonable Safety Accommodation based on the Employee's statement that he or she is a Victim or Survivor of Violence and in need of such accommodation; however, Leon County reserves the right to require, through the Point of Contact, that the Employee provide certification that the Employee is a Victim or Survivor of Violence, and to require the receipt of such certification prior to granting the Employee a Reasonable Safety Accommodation, consistent with *Subsection 8(f)* below.
- iii. Determination of Undue Hardship. Subject to *Subsections 8(d)(ii) above and 8(f) below*, Leon County will grant Employee's request for Reasonable Safety Accommodations unless it would impose an undue hardship on Leon County. An undue hardship is something that would cause significant difficulty or expense for Leon County. In determining whether something would cause a significant difficulty or expense, many factors may be considered, including but not limited to:
- 1. The nature and cost of the accommodation requested or being considered.
 - 2. The size of the division and office in which the Employee works.
 - 3. The overall financial resources of the division and office in which the Employee works; the number of persons employed at such division and office; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of such facility or division or upon other Leon County operations.
 - 4. The impact of such accommodation on the duties and responsibilities that the Employee performs.
 - 5. The availability of alternate facilities wherein the Employee may perform their work, the geographic separateness, and administrative and/or fiscal impact.
 - 6. The skills set of the Employee and the needs of the job.
 - 7. The availability of a vacant position.

If the request would impose an undue hardship on Leon County, Leon County need not provide the accommodation. In this case, Leon County may work with the Employee to determine if there are other less burdensome methods of achieving the Employee's safety goal. Leon County's focus with respect to Reasonable Safety Accommodations will, at all times, consider and strive to support Employee and Workplace safety.

- iv. Other safety measures an Employee may want to consider taking may include, but not be limited to, the Employee:
 - 1. Obtaining a cellular phone and keeping it with them at all times;
 - 2. Obtaining an Injunction for Protection and ensuring that such orders remain current and in their personal possession at all times;
 - 3. Providing Leon County a copy of the Injunction for Protection;
 - 4. Providing Leon County a picture of the Perpetrator, so that copies may be distributed within the Workplace and to security, if available, to aid in identifying the Perpetrator should he or she appear in the Workplace;
 - 5. Identifying an emergency contact person if Leon County is unable to contact the Employee;
 - 6. Preparing an emergency escape kit and keeping it in a safe location; and
 - 7. Registering with the Address Confidentiality Program, through the State of Florida's Office of the Attorney General, for a substitute mailing address for relocated Victims, to receive cost-free, secure mail forwarding.
- e. Alternative to Discipline – Disciplinary Action Held in Abeyance.
 - i. Leon County recognizes that Violence can adversely affect the well-being and productivity of Employees who are Victims or Survivors of Violence, and that the effects of Violence may include increased absenteeism and reduced productivity in the Workplace. Employees who are aware that Violence is negatively impacting their work performance, and supervisors and division/department management who suspect that Violence is negatively impacting an Employee's work performance, should promptly contact the Point of Contact.
 - ii. In cases in which it is identified that an Employee's work performance difficulties are a result of being a Victim of Violence:
 - 1. Said Employee will be afforded all of the proactive measures outlined in this Policy in an effort to facilitate the Employee's ability to be successful at work;
 - 2. If a disciplinary process is initiated against said Employee, special care will be taken to consider all aspects of the victimized Employee's situation, and available options in trying to resolve the performance problems will be considered and pursued if deemed reasonable, including making a referral to the Employee Assistance Program and consideration of holding an Employee's intended Disciplinary Action in abeyance; and
 - 3. Said Employee will be provided clear information about performance expectations, priorities, and performance appraisal.

The efforts outlined above will be coordinated through the Point of Contact.

- iii. Leon County may hold an Employee's intended Disciplinary Action in abeyance, for a period of time as agreed to by the Point of Contact, and the Employee's Division or Office Director, as applicable to the Employee's work location, with periodic review periods, when all of the following conditions are met:
 - 1. The Employee is not in a probationary or suspended status as described in the *HR Policies*;
 - 2. The Employee is a Victim or Survivor of Violence;
 - 3. There is a Nexus between the Employee's problem conduct, which is leading to

- the intended Disciplinary Action, and their being a Victim or Survivor of Violence; and
4. The Employee conveys their desire to improve their work performance.
- iv. An Employee, who is a Victim or Survivor of Violence, and not in a probationary or suspended status, may request the assistance of Human Resources by contacting the Point of Contact, at any time during disciplinary proceedings. Contact names and information will be included in the handbook referenced in *Section 10*.
 - v. When an Employee, who is not in a probationary or suspended status, is subject to Disciplinary Action, and such Employee confides to his or her supervisor or division/department management that he or she is a Victim or Survivor of Violence, the Employee's supervisor, or division/department management, will contact the Point of Contact.
 - vi. Upon the occurrence of *Subsection 8(e)(iv) or 8(e)(v)* above, the Employee's supervisor and/or division/department management and Point of Contact will meet together with the Employee to determine:
 1. Whether there is a Nexus between the problem conduct and the Violence, and
 2. Whether, subject to *Subsection 8(e)(iii) above*, Disciplinary Action may be held in a Period of Abeyance, for a period of time as agreed to by the Point of Contact, and the Employee's Division or Office Director, as applicable to the Employee's work location, with periodic review periods.
 - vii. During the Period of Abeyance, the identification of certain Reasonable Safety Accommodations may be developed with the intention of accommodating or mitigating the effects of the Violence at the Workplace (as described in *Subsection 8(d)* above).
 - viii. The matter will be periodically reviewed during the Period of Abeyance and a determination will be made as to whether there has been an improvement in the Employee's work performance, attendance or other problem, which came to the attention of the supervisor.
 - ix. If the problem conduct has satisfactorily improved prior to the end of the Period of Abeyance, all related disciplinary memoranda will be removed from the Employee's personnel file and retained in a separate file retained by Human Resources.
 - x. Subject to *Subsection 8(e)(x)(1) and 8(e)(x)(2)* below, if within the Period of Abeyance the Employee demonstrates a lack of improvement or deterioration in his or her work performance, attendance or other problem area, the supervisor and/or division/department management, will meet with the Employee and the Point of Contact before Leon County undertakes disciplinary action, however:

1. Disciplinary action may be taken prior to consulting the Point of Contact when there is an imminent safety concern within the Workplace related to an action of the Employee, including but not limited to the following: the exhibition of threatening behavior which places Employees or other citizens in fear for their safety, brandishing or use of a weapon to create fear or intimidation, or engagement in other violent behavior as described in Policy No. 03-12, “Violence Prevention and Intervention”; and
 2. If disciplinary action is taken without prior consultation with the Point of Contact, in accordance with *Subsection 8(e)(x)(1)* above, the supervisor or division/department management will notify the Point of Contact as soon as possible thereafter.
- xi. The Period of Abeyance may be adjusted or ended, at any time, with the Point of Contact’s concurrence.
 - xii. Leon County may hold a Disciplinary Action in abeyance based on the Employee’s statement that he or she is a Victim or Survivor of Violence and Employee’s description of the Nexus between the Violence the Employee is experiencing and the Employee’s problematic behavior at the Workplace; however, Leon County reserves the right to require, through the Point of Contact, the Employee provide certification that the Employee is a Victim or Survivor of Violence, and to require the receipt of such certification prior to granting a Period of Abeyance, consistent with *Subsection 8(f)* below.
 - xiii. Leon County has the right not to hold the Disciplinary Action in abeyance, for any reason or without reason.
- f. Certification of the Need for Leave, Reasonable Safety Accommodation, Alternative to Discipline, or Other Workplace Assistance.
- i. In general. Leon County may grant an Employee leave, Reasonable Safety Accommodation, alternative to discipline, or other workplace assistance, based on the Employee’s statements; however, Leon County reserves the right to require, through the Point of Contact, the Employee to:
 1. Provide certification to Leon County that the Employee or Employee’s Family Member is a Victim or Survivor of Violence; and
 2. Provide certification to Leon County that leave taken or requested, if applicable, is for one of the purposes enumerated in *Subsection 8(c)(i)* above; and
 3. Provide verification to Leon County of Employee’s Family Member’s familial status to the Employee, as described in *Subsection 8(f)(ii)* below, or by another type of documentation accepted by Leon County as sufficient for this purpose.

Upon Leon County’s request, made through the Point of Contact, Employee or Employee’s designee shall provide such certification and/or verification to Leon County in a timely manner.

- ii. Contents. An Employee may satisfy the certification and/or verification requirement of *Subsection 8(f)(i)* above by providing to Leon County one of the following which documents which supports such claim to the satisfaction of Leon County for this purpose:
 - 1. Documentation from a Law Enforcement Officer or the courts, such as a police report or an Injunction for Protection, a letter or other document from an attorney, counselor, domestic violence or sexual assault victim service provider, health care professional, or clergy member; or
 - 2. Corroborating evidence Leon County deems sufficient; or
 - 3. A written statement from the Employee.
 - g. Additional Limits on Leave, Reasonable Safety Accommodation, Alternative to Discipline, and Other Workplace Assistance. Consistent with Section 741.313(5)(c), Florida Statutes (2012, as may be amended):
 - i. An Employee entitled to or granted leave, Reasonable Safety Accommodation, alternative to discipline, or other workplace assistance under this Policy, has no greater rights to continued employment with Leon County or to other benefits and conditions of employment with Leon County than if the Employee was not entitled to or granted leave, Reasonable Safety Accommodation, or other workplace assistance under this Policy.
 - ii. This Policy does not limit Leon County's right to discipline or terminate any Employee for any reason, including but not limited to, reductions in work force or termination for cause or for no reason at all, other than exercising his or her rights under this Policy.
- 9. Employees in the Same Workplace.** If both the Victim or Survivor of Violence and the Perpetrator are Employees working in the same Workplace, they should be separated while at work. In such circumstance, both Employees are encouraged to contact the Point of Contact so that Leon County may evaluate options to maintain safety in the Workplace. Additionally, refer to Section 5 regarding notification requirements.
- With the concurrence of the Point of Contact, a directive to avoid contact in the form of a Memorandum of Instruction may be given to the Perpetrator by his or her supervisor or division/department management. The Memorandum of Instruction will outline the Perpetrator's obligation to avoid contact and communication with the Victim while at the Workplace, while still performing the functions of his or her position. The Victim shall be given a copy of the Memorandum of Instruction, so as to avoid contact and communication with the Perpetrator while at the Workplace. Further, both Employees may be reminded of their opportunity to use the services of the Employee Assistance Program.
- 10. Handbook.** General information to enforce and support this Policy, and to raise Employee awareness regarding Violence, how it affects the Workplace, how to plan for safety, and community resources, will be set forth in a handbook, developed and maintained by Human Resources in cooperation with other Leon County offices, and approved by the County Administrator. The Point of Contact and information regarding the Employee Assistance Program will be identified in the handbook.

11. Early Intervention and Education Prevention Strategies. It is the policy of Leon County to use early prevention strategies in order to avoid or minimize the occurrence and effects of Violence in the Workplace, and to assist Victims, Survivors and Perpetrators of Violence to identify resources that may be of assistance.

- a. Communication of Policy and Training. Human Resources will be responsible for developing a training and education plan for Leon County Employees. Each Leon County office will be responsible for ensuring that their Employees are made aware of these Policy provisions through the following means:
 - i. Access to and posting of the Policy, or reference to the Policy on the County's Internet, on common area bulletin boards, and in other locations of high visibility.
 - ii. Participation in formal training on the Policy.
 - iii. Informal managerial/supervisory work site orientations.
 - iv. Inclusion in new employee orientation materials.
 - v. Demonstrated office and departmental support and compliance with Policy provisions.
- b. Referrals to Community Resources. Human Resource will be responsible for developing and maintaining, in cooperation with other Leon County offices, a list of resources available within the local area for Victims and Survivors of Violence, as well as for Perpetrators of Violence, and for disseminating that information to Employees through means that include, but that are not necessarily limited to, the Leon County Intranet. The process for making referrals to such resources will be included in the handbook referenced in *Section 10*.

12. Reporting.

- a. All Leon County Employees are responsible for immediately notifying their supervisors, division or department management, following the chain of command, of any actual, potential, or suspected behaviors of Violence which occur in the Workplace that they have witnessed, been the Victim of, or have knowledge of.
 - i. Factual information on behaviors observed, the nature and type of behaviors of Violence, any observed or potential weapons, person(s) involved, time, locations, witness information, and any other relevant information should be reported through the Employee's chain of command and in accordance with Policy No. 03-12, "Violence Prevention and Intervention" and related procedures. Employees should report the threat to their immediate supervisor or another member of management.
 - ii. Upon being notified of actual or potential acts of behaviors of Violence, supervisors and managers will immediately notify Human Resources to ensure that the matter is evaluated, appropriate disciplinary action is initiated, and any potential Victim(s) receive appropriate assistance regarding their safety, security, referral to counseling and if necessary, other referrals.
- b. All Leon County Employees are encouraged to contact the Point of Contact if they suspect a fellow Employee may be a Victim or Perpetrator of Violence.
- c. All occurrences of Violence that involve Employees will be taken seriously, and situations of imminent danger should be reported directly to law enforcement.

13. False Reporting. Any Employee who knowingly provides False Information, or

information which falsely accuses another Employee, vendor/contractor, or job applicant of a behavior of Violence, or provides information which is non-factual in an investigation or inquiry involving a behavior of Violence, or maliciously spreads or conveys false information to others regarding such incidents, is subject to disciplinary action up to and including termination from employment.

14. Situations Involving Perpetrators in the Workplace Who Are Not Employees – Including Contractor’s Employees.

- a. When any individual in a County Workplace or other County property, who is not a County Employee, exhibits threatening behavior which places Employees or other citizens in fear for their safety, brandishes or utilizes a weapon to create fear or intimidation, or engages in a behavior of Violence, the appropriate law enforcement agency will immediately be notified. Leon County may take whatever legal action is appropriate and necessary to prosecute such person(s) and ensure that they are not permitted back in the facility or other County property where the violation occurred. Perpetrators may be removed from the Workplace or other County property and may be subject to arrest and/or criminal prosecution.
- b. The Workplace may also include contractor employees of vendors. Such personnel are not Leon County Employees. An Employee’s concerns regarding the conduct of contractor employees should promptly be brought to the attention of the Point of Contact. The Point of Contact will then contact the relevant contracting officer, or a member of the contracting officer’s chain of command, for an assessment of the appropriate response measures and corrective actions to take. Leon County may request that the relevant contractor take corrective action proportionate to a contractor’s Employee’s offense of Violence or threat of Violence. Leon County may take additional corrective actions proportionate to the contractor’s Employee’s offense, and Contractor’s corrective actions. Prior to taking any action that may impact an existing contract, the contracting officer is strongly encouraged to contact, through their chain of command as appropriate, the County Attorney’s Office and the Leon County Purchasing Director for advice and guidance.

15. Reasonable Effort.

- a. Leon County shall make every reasonable effort to exercise reasonable diligence and care by utilizing available services related to meeting the needs of the Victims and Survivors of Violence. In determining reasonable efforts to be made and in making such reasonable efforts, the Victims and Survivors of Violence present and ongoing safety shall be given the utmost consideration. However, the needs of the Victims and Survivors of Violence cannot outweigh the needs of the County, the Workplace, the safety of other County Employees, or public safety.
- b. The adoption of this policy does not create a contractual relationship between the County and any Employee, or any other person. This policy is for procedural and reference purposes only and is not intended to give legal or professional advice.

- c. Additionally, while the County will make all reasonable efforts to enforce this policy, the County shall not be liable for failing to meet all the needs and Safety Accommodations of Victims and Survivors of Violence, or other employees in the Workplace.

Adopted 9/10/2013