

**To:** OCJP Subrecipients  
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**Date:** February 3, 2021

**Subject:** Policy Requirements for Sexual Misconduct, Domestic Violence, and Dating Violence

**[OVW Subrecipients] 2021-01**

To ensure grant-funded agencies are prepared to address workplace-related incidents, new federal regulations have enhanced the policy requirements for responses to sexual misconduct, domestic violence, and dating violence. The Office of Criminal Justice Programs (OCJP) expects agency policies to be compliant with the new regulations by **March 1, 2022**. After which, subrecipient agencies must make the policy available to OCJP upon request. OCJP will be updating the Grants Manual to reflect these changes. As always, OCJP will work closely with your agency to comply with the new federal regulations and answer any questions that you have.

The FY20 OVW awards contain the following Special Condition:

*Policy for response to workplace-related incidents of sexual misconduct, domestic violence, and dating violence.*

*The recipient, and any subrecipient at any tier, must have a policy, or issue a policy within 270 days of the award date, to address workplace-related incidents of sexual misconduct, domestic violence, and dating violence involving an employee, volunteer, consultant, or contractor. The details of this requirement are posted on the OVW web site at <https://www.justice.gov/ovw/award-conditions> (Award Condition: Policy for response to workplace-related sexual misconduct, domestic violence, and dating violence), and are incorporated by reference here.*

The policy must address the following: 1) allegations of workplace-related incidents of sexual misconduct, domestic violence, and dating violence by an employee, volunteer, consultant, or contractor; 2) workplace supports for employees, volunteers, consultants, or contractors who are victims of sexual misconduct, domestic violence, or dating violence; and 3) adjudications that will result in an employee, volunteer, contractor, or consultant being prohibited from occupying positions that could undermine the ability of the recipient or subrecipient to carry out the grant-funded project, such as positions working with victims and other vulnerable populations. A policy may provide that certain adjudications do not prohibit an individual from occupying such a position but must include standards for granting such an exemption for an individual.

When developing your policy, please consider your agency's organizational structure and type. OCJP recognizes that leave policies, staff resources, and staff procedures for how and where to route allegations may require approval outside your agency's department.

Definitions:

"Adjudication" includes a conviction, issuance of a final protection order, court-ordered diversion, or other judicial finding that the employee, volunteer, consultant, or contractor has engaged in domestic violence, dating violence, sexual assault, or stalking." The recipient may choose to include additional, related offenses, such as sex trafficking, as adjudications.

"Domestic violence," "dating violence," "sexual assault," or "stalking" have the meanings given in 34 U.S.C. § 12291(a).

"Sexual misconduct" means sexual assault, stalking, and sexual harassment.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment, whether such activity is carried out by a supervisor or by a co-worker, volunteer, or contractor.

An individual is considered to be in the "workplace" of the recipient or subrecipient while in, or using the resources of, the recipient's or subrecipient's offices or facilities, using its equipment or vehicles, engaging in approved telework, on work-related travel, or otherwise conducting business on behalf of the recipient or subrecipient. The availability and nature of the response to a workplace-related incident may depend on the location at issue.

"Workplace-related incidents" of sexual misconduct, domestic violence, and dating violence include acts, attempted acts, or threatened acts by or against employees, consultants, volunteers, or contractors, that occur in the workplace or that occur outside the workplace but have an impact on the workplace or otherwise undermine the ability of the recipient or subrecipient to carry out the grant-funded project.

Please direct any questions regarding this memo to [OCJP.Compliance@tn.gov](mailto:OCJP.Compliance@tn.gov).