

MODEL ABUSIVE CONDUCT PREVENTION POLICY pursuant to Public Chapter 997, the Healthy Workplace Act²⁹

[**Note:** This optional policy has been developed to serve as a guideline for Tennessee’s cities, counties and state government agencies including higher education systems, local education agencies, and quasi-governmental entities. **Individual governmental entities may need to modify the language within it to make it consistent with their particular charters, ordinances, organizational structures and processes.** Individual governmental entities that choose to adopt an abusive conduct prevention policy may adopt any policy or set of policies that conform to the requirements of Tennessee Code Annotated, Section 50-1-503(b). Employers adopting an abusive conduct prevention policy are encouraged to provide appropriate training to supervisors and employees.]

Statement of Commitment, Values, and Purpose

***COMMENT:** This section should provide an overall statement of intent for workplace behavior, describe the processes for addressing complaints, and state explicitly that retaliation will not be tolerated. It may define who will be covered by the policy in accordance with existing policy.*

The [Insert Entity Name] is firmly committed to a workplace free from abusive conduct as defined herein. We strive to provide high quality products and services in an atmosphere of respect, collaboration, openness, safety and equality. All employees have the right to be treated with dignity and respect. All complaints of negative and inappropriate workplace behaviors will be taken seriously and followed through to resolution. Employees who file complaints will not suffer negative consequences for reporting others for inappropriate behavior.

This policy applies to all full-time and part-time employees of [Insert Entity Name] including interns. It does not apply to independent contractors, but other contract employees are included. This policy applies to any sponsored program, event or activity including, but not limited to, sponsored recreation programs and activities; and the performance by officers and employees of their employment related duties. The policy includes electronic communications by any employee.

Definition of Abusive Conduct

***COMMENT:** This section defines "abusive conduct." The language comes from Public Chapter 997. The list of items that abusive conduct does not include is provided for illustration.*

²⁹ The workgroup that developed this model policy used materials from various sources including The Workplace Bullying Institute; Civility Partners, LLC; Fulton County, Georgia; Pima County, Arizona; Ridgefield, New Jersey; and Jackson, Tennessee.

Abusive conduct includes acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, which can include but is not limited to

- Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
- Verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or
- The sabotage or undermining of an employee's work performance in the workplace.

A single act generally will not constitute abusive conduct, unless such conduct is determined to be severe and egregious.

Abusive conduct does **not** include

- Disciplinary procedures in accordance with adopted policies of [Insert Entity Name]
- Routine coaching and counseling, including feedback about and correction of work performance
- Reasonable work assignments, including shift, post, and overtime assignments
- Individual differences in styles of personal expression
- Passionate, loud expression with no intent to harm others
- Differences of opinion on work-related concerns
- The non-abusive exercise of managerial prerogative

Employer Responsibility

COMMENT: *This section specifies responsibilities of the employer including expectations for supervisors and that employees will be informed of the abusive conduct prevention policy.*

Supervisors and others in positions of authority have a particular responsibility to ensure that healthy and appropriate behaviors are exhibited at all times and that complaints to the contrary are addressed in a timely manner. Supervisors will

- provide a working environment as safe as possible by having preventative measures in place and by dealing immediately with threatening or potentially violent situations;
- provide good examples by treating all with courtesy and respect;

- ensure that all employees have access to and are aware of the abusive conduct prevention policy and explain the procedures to be followed if a complaint of inappropriate behavior at work is made;
- be vigilant for signs of inappropriate behaviors at work through observation and information seeking, and take action to resolve the behavior before it escalates;
- respond promptly, sensitively and confidentially to all situations where abusive behavior is observed or alleged to have occurred.

Employee Responsibility (including witnesses)

COMMENT: *This section states general expectations for employees including people who witness incidents of abusive conduct.*

Employees shall treat all other employees with dignity and respect. No employee shall engage in threatening, violent, intimidating or other abusive conduct or behaviors. Employees are expected to assume personal responsibility to promote fairness and equity in the workplace and report any incidents of abusive conduct in accordance with this policy.

Employees should co-operate with preventative measures introduced by supervisors and recognize that a finding of unacceptable behaviors at work will be dealt with through appropriate disciplinary procedures.

Retaliation

COMMENT: *This section defines retaliation and indicates that it will not be tolerated.*

Retaliation is a violation of this policy. Retaliation is *any* act of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or individuals exercising rights under this policy.

Training for Supervisors and Employees

COMMENT: *This section encourages all supervisors and employees to participate in training and provides general guidelines for training content.*

All supervisors and employees are encouraged to undergo training on abusive conduct prevention conduct as directed by [Insert Entity Name]. Training should identify factors that contribute to a respectful workplace, familiarize participants with responsibilities under this policy, and provide steps to address an abusive conduct incident.

Complaint Process

COMMENT: *The next several subsections address the actual process for filing complaints, the procedures for investigation, and the resulting actions for the various parties involved. To avoid confusion, this section needs to mirror existing disciplinary processes.*

Reporting

Employees: Any employee who feels he or she has been subjected to abusive conduct is encouraged to report the matter orally or in writing to a supervisor including his or her supervisor, manager, appointing authority, elected official, or to the human resources office. Employees should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the representatives identified above.

Any employee seeking to file a complaint should ensure the complaint consists of precise details of each incident of abusive conduct including dates, times, locations and any witnesses. Formal complaints should be documented in writing, but are not required to be in writing.

Witnesses: An employee who witnesses or is made aware of behavior that may satisfy the definition of abusive conduct (as defined herein) should report any and all incidents as set forth herein.

Supervisors: Supervisors must timely report known incidents involving workplace abuse, intimidation, or violence to the [HR, appointing authority or investigator]. Supervisors and appointing authorities are required to take reasonable steps to protect the complainant, including, but not limited to, separation of employees involved.

The person complained against will be notified that an allegation has been made against him or her and informed of the investigative procedure.

Investigation

Investigations of abusive conduct shall be conducted as soon as practicable and in accordance with the policies and practices of [Insert Entity Name]. The objective of the investigation is to ascertain whether the behaviors complained of occurred, and therefore will include interviewing the complainant, accused, and witnesses with direct knowledge of the alleged behaviors. All interviews will be appropriately documented. The investigation will be conducted thoroughly, objectively, with sensitivity, and with due respect for all parties. The investigator will provide a copy of the investigative report to the appointing authority for further action. All affected parties will be informed of the investigation's outcome.

Corrective Action

In the event of a finding of abusive conduct, the employer will take immediate and appropriate corrective action. Remedies may be determined by weighing the severity and frequency of the

incidences of abusive conduct and in accordance with existing disciplinary policies of [Insert Entity Name].

Any employee who engages in conduct that violates this policy or who encourages such conduct by others will be subject to corrective action. Such corrective action may include but is not limited to participation in counseling, training, and disciplinary action up to and including termination, or changes in job duties or location.

Supervisory personnel who allow abusive conduct to continue or fail to take appropriate action upon learning of such conduct will be subject to corrective action. Such corrective action may include but is not limited to participation in counseling, training, or disciplinary action up to and including termination, or changes in job duties or location.

While the [Insert Entity Name] encourages all employees to raise any concern(s) under this policy and procedure, the [Insert Entity Name] recognizes that intentional or malicious false allegations can have a serious effect on innocent people. Individuals falsely accusing another of violations of this policy will be disciplined in accordance with the disciplinary policy of [Insert Entity Name].

Any employees exhibiting continuing emotional or physical effects from the incident in question should be informed of established employee assistance programs or other available resources.

When abusive conduct has been confirmed, the employer will continue to keep the situation under review and may take additional corrective actions if necessary. Preventative measures may also be taken to reduce the reoccurrence of similar behavior or action.

Confidentiality

COMMENT: *This section expresses intent to maintain confidentiality but notes that, because of the Tennessee Open Records Act, government entities cannot guarantee that complaints will be kept completely confidential.*

To the extent permitted by law, the [Insert Entity Name] will maintain the confidentiality of each party involved in an abusive conduct investigation, complaint or charge, provided it does not interfere with the ability to investigate the allegations or to take corrective action. However, state law may prevent the employer from maintaining confidentiality of public records. Therefore, the [Insert Entity Name] cannot guarantee confidentiality.