

# SEXUAL VIOLENCE & THE WORKPLACE

## Bulletin

*Sexual violence can have a significant impact on survivors<sup>1</sup> experiences in the workplace. Whether the violence occurred in the distant or recent past, within or outside the workplace, sexual violence can have an impact on victims' employment and economic resources. To many survivors, the connections between their experiences with sexual violence and their employment and economic security are not always obvious. Advocates can assist survivors in making these connections and navigating workplace options and assistance. This bulletin provides sexual assault counselors and advocates with information and tools to help survivors identify how their sexual violence experiences could impact their employment and how to respond to their workplace needs.*

### Connections between sexual violence and employment

Sexual assault advocates are essential in proactively identifying and responding to the needs of individuals experiencing workplace violence or whose victimizations are negatively impacting their employment. In the aftermath of sexual violence, survivors could lose time from work to obtain medical treatment, attend court hearings and meet with mental health professionals. In one study, 19.4% of adult female rape victims and 9.7% of adult male rape victims reported that their victimization caused them to lose time from work (Tjaden & Thoennes, 2006). Employers might fire victims who are absent from work as a result of coping with trauma or attending criminal proceedings. A survivor might quit his or her

job because of safety concerns or because of the mental or physical health consequences of sexual violence; or he or she might be fired due to reduction in productivity related to the traumatic event. Thus, it is essential for victims and survivors of sexual violence to have such workplace accommodations as schedule adjustments, relocation, and employee-assistance services. Having time off from work to attend to medical, legal, mental health, and child-care needs is necessary to a survivor's healing process and overall well-being. Stable wages are critical in enabling individuals to obtain life's basic needs, such as food, clothing, housing, transportation, health care, child care, and more. Advocates can support and guide victims and survivors in this process.

<sup>1</sup>Throughout this document, the terms "victim" and "survivor" are used interchangeably to be inclusive of the various ways people who have experienced sexual violence may identify.



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## Assessing for impacts on employment

When advocates proactively assess if and how sexual violence is affecting a survivor's employment, it becomes possible for a survivor to explore options to help alleviate stresses or difficulties they could be experiencing and enable them to focus on their healing. This can, in turn, allow them greater productivity in the workplace and in their personal lives.

### Possible assessment questions

- Sexual violence is any type of unwanted sexual contact. This can include words and actions of a sexual nature against a person's will. A person can use force, threats, manipulation, or coercion to commit sexual violence. An example is threats of losing your job. Is this something you have experienced?
- Sexual violence can happen at the workplace and can involve a coworker, supervisor, client, customer or acquaintance. Are you currently experiencing or have you ever experienced unwanted sexual contact, behavior, comments, jokes, or images at work or from someone you work with?
- Sometimes sexual violence can interfere with a person's concentration at school or at work. Is this something that you are experiencing?
- Sometimes, at school or at work, there are triggers – such as sights, smells, sounds, and other environmental characteristics – that can remind a survivor of the sexual violence they experienced in the past. Triggers can cause a survivor to relive or experience heightened emotions associated with their victimization(s), and can undermine their



### Helping survivors keep their jobs

It is the advocate's role to help the survivor determine his or her options. This could include discussing workplace flexibilities, finding out more about a workplace violence policy, and talking about the survivor's options for telling the employer about the sexual violence. There are pros and cons of telling a survivor's employer about the sexual violence they experienced. The employer might allow for workplace accommodations, or telling the employer could make the situation more public. Discuss with your client what might be the best option in their particular situation (Legal Momentum, 2007).

productivity at work. Is this something that you are experiencing?

- Sometimes, after a sexual assault, survivors miss work. Many people cannot take time off and sometimes their employers threaten to fire them because of missed work. Is this something that you are experiencing?



- There are certain legal and ethical obligations that employers have to employees who have experienced forms of violence. There are attorneys who can assist in making sure that your legal rights are being honored. Would you like to learn more about such attorneys and how to contact them?

- Sometimes survivors of sexual assault lose wages because of missed work. They find it difficult to pay for life's basic needs, such as housing, child care, health care, transportation, food, utilities, and more. Is this something that you are experiencing?

For additional sample questions, see *Workplaces Respond to Domestic and Sexual Violence's Guide for Advocates* (n.d.).

## **Working with Employers**

Advocates can assist employers with creating organizational support and prevention efforts that are grounded in an understanding of the impacts of sexual violence on the workplace and employees, and effective primary prevention strategies. Some examples of organizational support that advocates can promote to employers to assist survivors include:

- Providing violence prevention and bystander intervention training to employees.
- Updating policies and procedures that outline the response to sexual violence, including reporting procedures and agency prevention activities. New policies should



allow flexibility for survivors to take care of themselves, attend court proceedings, go to the doctor, and meet with support groups.

- Conducting risk assessments on employee safety.
- Participating in education and awareness activities, especially in April for Sexual Assault Awareness Month, to educate employees on sexual violence.
- Ensuring that employees comply with existing workplace violence prevention and response policies and holding accountable employees who do not.
- Providing reasonable accommodations for survivors and working with survivors to identify appropriate and manageable workload.

Not everyone who has experienced sexual violence will need accommodations. The resilience of survivors of sexual violence cannot be overstated. An accommodation or option that works for one person might not work for another. Flexibility is critical when considering workplace prevention and responses to sexual violence. For more information on how employers can help prevent violence in their workplaces, see *Sexual Violence & the Workplace: A Guide for Employers* (Benner, 2013).

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## Workplace accommodations and legal options

The following are workplace accommodations and legal remedies that might be available to survivors of sexual violence. Advocates are instrumental in advocating on behalf of all survivors, especially those working in low-income jobs.

- **Workplace flexibilities:** Telecommuting, flexible schedules, job sharing and part-time schedules are a few types of flexibilities survivors can attempt to utilize to balance their personal and professional lives.
- **Sick leave options:** Some states and local laws require employers to provide paid sick or “safe” time to their employees if they meet certain requirements (National Partnership for Women and Families, 2011).
- **Workers’ compensation:** Workers’ compensation could cover injuries resulting from sexual violence that occurs on the job. Companies could be liable for negligent hiring or retention of an employee who later injures someone in the course of the job (Legal Momentum, 2005a).
- **Unemployment compensation:** Survivors who have left their jobs as a result of workplace sexual violence could “be eligible for unemployment benefits in some states if they can prove that they quit for compelling reasons that constituted good cause” (NOW Legal Defense and Education Fund, 2002, p. 12).
- **The Americans with Disabilities Act (ADA):** Survivors of sexual violence might experience forms of mental and/or physical disabilities, which could qualify them for protection under the ADA (NOW Legal Defense and Education Fund, 2002).



- **Occupational Safety and Health Act (OSHA):** The Occupational Safety and Health Act (OSHA) requires employers to make sure the workplace is a safe environment for employees. “OSHA’s general duty clause may be interpreted to require employers to take reasonable steps to protect workers from violent attacks in the workplace” (NOW Legal Defense and Education Fund, 2002, p. 12).
- **The Family and Medical Leave Act (FMLA):** A survivor who has a serious health condition as a result of sexual violence could be covered under FMLA. FMLA entitles eligible employees to take up to 12 weeks of unpaid leave for family or medical reasons with the continuation of health insurance (Family and Medical Leave Act [FMLA] of 1993, § 102) and the guarantee of their position or equivalent position upon their return (FLMA, § 104).



- **Victim protection laws:** Some states have enacted laws encouraging or requiring employers to provide time off for employees to care for their legal and medical needs related to the violence they have experienced (NOW Legal Defense and Education Fund, 2002).

- **Immigration relief for victims of crimes:** If the survivor is undocumented, he or she could be especially concerned about reporting to law enforcement because of fear of deportation. Immigration legal protections are available to victims of human trafficking (T Visa) and other victims of crime (U Visa). These protections are crucial to secure survivors' economic and legal stability (U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services [USCIS], 2011).

- **Public assistance programs:** If the survivor is receiving public assistance and unable to comply with work requirements, he or she could be excused in some states under the *Family Violence Option*, which allows states to waive certain work-related requirements for survivors of family violence (Greco, 2013; Legal Momentum, 2004).

- **Other Legal Options:** If physically or mentally unable to work, the survivor might qualify for Supplemental Security Income (SSI) or Social Security Disability benefits, if they meet certain requirements (Legal Momentum, 2005b). Some states allow workplaces to obtain protection orders to protect employees from violence, stalking, or harassment (Harper, Mangum, & Runge, 2008).



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### Legal resources

- **Victim Right's Law Center**  
<http://www.victimrights.org>
  - **Legal Momentum**  
<http://www.legalmomentum.org>
  - **ASISTA**  
<http://www.asistahelp.org>
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### Conclusion

When sexual violence undermines education and employment, survivors might be at risk for both short- and long-term economic insecurity. Economic insecurity can create greater risks for sexual violence and larger barriers to seeking and accessing services. Advocates have historically excelled at systems advocacy and ensuring that the criminal justice, medical, and legal systems are responsive to the needs of survivors. Employment can be considered another system in which to advocate for the rights and needs of survivors. Advocates might

be the first and only persons to help survivors connect their trauma with their experiences in school or work. By proactively assessing the impacts of sexual violence on work, advocates can enable survivors to identify ways to heal without jeopardizing their employment and economic security.

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This bulletin is part of a ***Sexual Violence & the Workplace Information Packet***.

Contact the National Sexual Violence Resource Center for more information: 877-739-3895 or <http://www.nsvrc.org>.

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