

Domestic Violence Q&A: What to Do When the Alleged Perpetrator is Your Employee

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By [Luther Wright, Jr.](#)



A significant number of employees are impacted by domestic violence—most frequently as victims and as relatives or friends of victims. According to recent studies and polls, 1 in 5 women in the United States is or has been involved in an abusive relationship, 44 percent of Americans say they know of someone in an abusive relationship, and 21 percent of surveyed employees report that they have been victims of domestic violence.

A significant number of employees are impacted by domestic violence—most frequently as victims and as relatives or friends of victims. According to recent studies and polls, 1 in 5 women in the United States is or has been involved in an abusive relationship, 44 percent of Americans say they know of someone in an abusive relationship, and 21 percent of surveyed employees report that they have been victims of domestic violence. In order to protect employees and the company, employers may want to have policies and protocols in place that [create a culture where victims of domestic violence feel empowered to come forward](#) and potential perpetrators of violence can access resources designed to help them before they act out. Employers may also want to consider the ways in which they may learn of domestic violence, what actions they can take upon learning of domestic violence, the potential risk of lawsuits resulting

from adverse employment actions taken based on domestic violence, and how they can protect employees from those who might be the perpetrators of domestic violence.

How does HR learn of allegations that an employee is engaging in domestic violence?

In my experience, the employer typically discovers domestic violence by contact from the authorities or court system, the victim, or other employees who are aware of the allegations.

Does the source of the domestic violence allegations make a difference?

The source typically makes a difference when the alleged victim is also an employee. In such instances, employers may have to take steps to comply with any court orders and statutes regarding the fair treatment of domestic violence victims (e.g., allowing time off from work, not allowing retaliation by those who support the alleged perpetrator). All other instances are usually handled on a case-by-case basis and tend to be dependent on the nature of the allegations, the employee's job duties, and the employee's candor rather than the method of discovery.

What are the some actions that an employer might consider taking if an employee has allegedly engaged in domestic abuse?

Some actions employers may want to consider include (1) a leave of absence until the issues are resolved (this may be appropriate when the allegations are hotly contested in a divorce or custody battle), (2) referral to an employment assistance program (EAP) to address emotional or anger issues (this may be appropriate when the employee acknowledges his or her behavior and is willing to take corrective action), and (3) discharge (this may be appropriate when the employee is dishonest about the circumstances surrounding the domestic violence allegations and is not proactive about reaching a resolution).

How can employers protect against lawsuits from individuals who claim they were discharged due to false domestic violence accusations?

In such a case, the employer may want to focus on demonstrating that the discharge was for a legitimate nondiscriminatory reason, that it was not pretextual, and that it occurred after a robust investigation. Employers may want to take caution to ensure that they are consistent with the actions taken in similar situations with people of different protected classes.

Is there any risk of slander on the employer's part, and how can employers protect against that risk?

There is little risk of slander unless an employer discusses the reasons for the perpetrator's discharge with a third party. Communications within the organization are typically protected. Employers may want to implement neutral reference policies that require HR representatives to only disclose the dates of an individual's employment and his or her job title.

How can employers react when the victim of the domestic violence is also an employee, and how can employers address workplace safety concerns arising from allegations of domestic violence in general?

Workplace safety would be the biggest concern when the alleged victim is also an employee. In that case, the employer may want to focus on ensuring that it adheres to any restraining orders in place, makes sure the alleged victim feels safe and is not retaliated against, and makes sure that other employees are not threatened with violence or subjected to it because they support the victim.

Additionally, perpetrators of domestic violence frequently act out in ways that violate anti-harassment, anti-bullying, and professionalism policies in the workplace. For that reason, employers may want to be proactive about disciplining employees who violate these types of policies so that they can reduce the risk of violent incidents in the workplace. They may also want to create and implement strong workplace violence policies as well as a crisis management teams that evaluate safety concerns on a case-by-case basis.

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