

RESOLUTION NO. 20 - 52

**RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK
AUTHORIZING AND ADOPTING A DOMESTIC VIOLENCE AND CRIMINAL CONDUCT POLICY**

WHEREAS, the New Jersey Infrastructure Bank (“I-Bank”), pursuant to and in accordance with the New Jersey Infrastructure Trust Act, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (codified at N.J.S.A. 58:11B-1 et seq.), as the same may from time to time be amended and supplemented (“Act”) and pursuant to Section IX of its By-Laws is authorized to enact and amend policies; and

WHEREAS, N.J.S.A. §11A:1-6a directs the Civil Service Commission to develop a uniform domestic violence policy and requires all public employers in New Jersey to adopt a uniform domestic violence policy regardless of whether a public employer is subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes; and

WHEREAS, the Civil Service Commission developed such a uniform Statewide Domestic Violence Policy for public employers which, in accordance with N.J.S.A. §11A:1-6a, may be modified to suit any unique needs of the public employer; and

WHEREAS, the I-Bank deems the enactment of a domestic violence and criminal conduct policy as integral to its commitment to providing a safe and secure working environment; and

NOW THEREFORE BE IT RESOLVED, the I-Bank Board of Directors (“Board”) through this Resolution authorizes and approves (i) the adoption of I-Bank Policy No. 3.06 titled “Domestic Violence and Criminal Conduct Policy” through the Policy Statement attached to and incorporated with this Resolution as Exhibit A, with such immaterial modifications to the Policy Statement as the Executive Director of the I-Bank shall approve, following consultation with the Office of the Attorney General of the State, and (ii) the implementation of the Policy Statement pursuant to its terms; and

BE IT FURTHER RESOLVED, the Executive Director’s authority to amend the Domestic Violence and Criminal Conduct Policy is limited to immaterial modifications, clarification of ambiguous or inconsistent provisions, grammatical corrections, correction of obvious omissions and/or errors, and conformity of the Domestic Violence and Criminal Conduct Policy with State practices or long-standing I-Bank practices.

Adopted Date: August 13, 2020

Motion Made By: Ms. Kimberly Holmes

Motion Seconded By: Mr. Mark Longo

Ayes: 6

Nays: 0

Abstentions: 0

EXHIBIT A
DOMESTIC VIOLENCE AND CRIMINAL CONDUCT POLICY

POLICY HR-0001

SUBJECT: Domestic Violence and Criminal Conduct Policy

EFFECTIVE DATE: August XX, 2020

APPROVED BY: I-Bank Board

1.0 PURPOSE

The New Jersey Infrastructure Bank (“I-Bank”) has a duty to encourage staff members who are victims of domestic violence to seek help and support from outside agencies equipped with professionals trained to offer such assistance. This Policy lays out the responsibilities and procedures adopted by the I-Bank to provide such encouragement and aid.

In addition, all New Jersey State staff members have a right to work in a safe and secure environment. The I-Bank is committed to promoting a safe environment for its staff members, clients, customers and visitors, and to working with staff members to maintain a work atmosphere that is free from violence, harassment, intimidation, and other disruptive behavior. The I-Bank has zero-tolerance for current or prospective staff members committing criminal acts. This Policy also lays out the responsibilities and procedures adopted by the I-Bank to provide a non-violent environment.

2.0 SCOPE

Provide information for staff and procedures for Supervisors on how to respond to situations where staff members (or their relations) may be victims of abuse. Information includes the contact information and location of facilities in each county within the State that offer such help (*see Section 5-I*).

Establish the I-Bank’s policies and procedures and provide guidance to all staff, Consistent with Executive Order No. 49 (Murphy), for addressing and responding to violence in the workplace (*see Section 5-II*).

3.0 DEFINITIONS

Abuser/Perpetrator: An individual who commits or threatens to commit an act of domestic violence, including unwarranted violence against individuals and animals. Other abusive behaviors and forms of violence can include the following: bullying, humiliating, isolating, intimidating, harassing, stalking, or threatening the victim, disturbing someone's peace, or destroying someone's property.

Act of Violence: Any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior.

Domestic Violence: Acts or threatened acts, that are used by a perpetrator to gain power and control over a current or former spouse, family member, household member, intimate partner, someone the perpetrator dated, or person with whom the perpetrator shares a child in common or anticipates having a child in common if one of the parties is pregnant. Domestic violence includes, but is not limited to the following: physical violence; injury; intimidation; sexual violence or abuse; emotional and/or psychological intimidation; verbal abuse; threats; harassment; cyber harassment; stalking; economic abuse or control; damaging property to intimidate or attempt to control the behavior of a person in a relationship with the perpetrator; strangulation; or abuse of animals or pets owned by or associated with the victim.

Human Resources Officer (HRO): An I-Bank staff member with a human resources job title, or its equivalent,

who is responsible for orienting, training, counseling, and appraising staff. The HRO shall designate a back-up HRO, who shall have a background in human resources or have a legal position within the I-Bank, and who shall perform the duties of the HRO in the HRO's absence. The HRO is designated by the I-Bank as the primary contact to assist staff members in reporting domestic violence incidents.

Intimate Partner: Partners of any sexual orientation or preference who have been legally married or formerly married to one another, have a child or children in common, or anticipate having a child in common if one party is pregnant. Intimate partner also includes those who live together or have lived together, as well as persons who are dating or have dated in the past.

Temporary Restraining Order (TRO): A civil court order issued by a judge to protect the life, health or well-being of a victim. TROs can prohibit domestic violence offenders from having contact with victims, either in person or through any means of communication, including third parties. TROs also can prohibit offenders from a victim's home and workplace. A violation of a TRO may be a criminal offense. A TRO will last approximately 10 business days, or until a court holds a hearing to determine if a Final Restraining Order (FRO) is needed. In New Jersey, there is no expiration of a FRO.

Victim: A person who is 18 years of age or older, or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present household member or was at any time a household member. A victim of domestic violence is also any person, regardless of age, who has been subjected to domestic violence by one of the following actors: a person with whom the victim has a child in common; a person with whom the victim anticipates having a child in common, if one of the parties is pregnant; and a person with whom the victim has had a dating relationship.

Weapon - shall mean any instrument which will cause death or great bodily injury when used in the ordinary and usual manner contemplated by its design and construction and includes, but is not limited to: firearms, clubs, knives, stun guns, brass knuckles and martial arts weapons. It does not include an ordinary pocketknife or tool, which an employee uses in conjunction with work or is authorized by a supervisor for a legitimate work-related purpose.

Workplace: Any location, either permanent or temporary, where a staff member performs any work-related duty (any field location, off-site event, or any facility where State business is conducted). The workplace includes office buildings and surrounding perimeters, including parking lots, field locations, as well as traveling to and from work assignments.

Workplace-Related Incidents: Incidents of domestic violence, sexual violence, dating violence, and stalking, including acts, attempted acts, or threatened acts by or against staff members, the families of staff members, and/or their property, that imperil the safety, well-being, or productivity of any person associated with an I-Bank staff member, regardless of whether the act occurred in or outside the organization's physical workplace. A staff member is considered to be in the workplace while in or using the resources of the I-Bank. This includes, but is not limited to, facilities, work sites, equipment, vehicles, or while on work-related travel.

4.0 RESPONSIBILITY

Employees are responsible for:

- Reporting to their supervisor if they feel that someone presents a danger or demonstrates suspicious behavior
- Contacting emergency services in the event of an imminent danger to themselves and/or others

- Conducting themselves at work and in their personal lives in a manner that projects a positive image to the public
- Reporting to the I-Bank within 48 hours in the event they are arrested, charged, or convicted with a crime

Supervisors/Managers are responsible for:

- Responding to situations reported by employees
- Notifying the HRO in the event an employee reports an arrest, charge or conviction
- Taking appropriate action in accordance with the New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1 et seq.

Human Resource Officer (HRO) is responsible for:

- Maintaining the confidentiality of any staff member making a report of, witnessing, or experiencing domestic violence, to the extent practical and appropriate under the circumstances and allowed by law
- Ensuring confidentiality of staff members' records
- Taking appropriate action in accordance with the New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1 et seq.
- See Section 5-I(a)

5.0 POLICY

I. **DOMESTIC VIOLENCE RESPONSE**

In adopting the I-Bank Domestic Violence Response Policy modeled on the State of New Jersey Domestic Violence Policy for Public Employers, the I-Bank has formalized its response to reports of domestic violence.

a. **Domestic Violence Reporting Procedures**

Staff members who are victims of domestic violence are encouraged to seek immediate assistance from their HRO. Staff members who have information about or witness an act of domestic violence against a staff member, are encouraged to report that information to the designated HRO, unless the staff member is required to report the domestic violence pursuant to applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines that impose a duty to report, in which case the staff member must so report to the appropriate authority in addition to reporting to the HRO. Nothing in this policy shall preclude a staff member from contacting 911 in emergency situations. Indeed, the HRO shall remind staff members to contact 911 if they feel they are in immediate danger.

The HRO shall:

- (i) Receive training on responding to and assisting staff members who are domestic violence victims. A secondary HRO shall be designated and appropriately trained to respond to and assist domestic violence victims in the event the primary HRO is unavailable.
- (ii) Immediately respond to a staff member upon request and provide a safe and confidential location to allow the staff member to discuss the circumstances surrounding the domestic violence incident and the request for assistance.
- (iii) Determine whether there is an imminent and emergent need to contact 911 and/or local law enforcement.
- (iv) Provide the staff member with resource information and a confidential telephone line to make necessary calls for services for emergent intervention and supportive services, when appropriate.

The HRO or the staff member can contact the appropriate Employee Assistance Program to assist with securing resources and confidential services.

- (v) Refer the staff member to the provisions and protections of the New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1 et seq. (NJ SAFE Act).
- (vi) In cases where domestic violence involved a sexual touching or sexual assault between staff members, the HRO is also required to report the incident to the I-Bank's EEO Officer or Title IX Officer, as appropriate.
- (vii) If there is a report of sexual assault or abuse, the victim should be offered the services of the Sexual Assault Response Team.
- (viii) Maintain the confidentiality of the staff member and all parties involved, to the extent practical and appropriate under the circumstances, pursuant to this policy. (See Section 5-I(a)(vii)).
- (ix) Upon the staff member's consent, the staff member may provide the HRO with copies of any TROs, FROs, and/or civil restraint agreements that pertain to restraints in the work place and ensure that security personnel are aware of the names of individuals who are prohibited from appearing at the work location while the staff member who sought the restraining order is present. All copies of TROs and FROs must be kept in a separate confidential personnel file.

b. Confidentiality Policy

In responding to reports of domestic violence, the HRO shall seek to maintain confidentiality to protect a staff member making a report of, witnessing, or experiencing domestic violence, to the extent practical and appropriate under the circumstances and allowed by law.

This confidentiality policy shall not prevent disclosure where to do so would result in physical harm to any person or jeopardize safety within the workplace. When information must be disclosed to protect the safety of individuals in the workplace, the HRO shall limit the breadth and content of such disclosure to information reasonably necessary to protect the safety of the disclosing staff member and others and comply with the law. The HRO shall provide advance notice to the staff member who disclosed information, to the extent possible, if the disclosure must be shared with other parties in order to maintain safety in the workplace or elsewhere. The HRO shall also provide the staff member with the name and title of the person to whom they intend to provide the staff member's statement and shall explain the necessity and purpose regarding the disclosure. For example, if the substance of the disclosure presents a threat to staff members, then law enforcement will be alerted immediately.

This policy does not supersede applicable laws, guidelines, standard operating procedures, internal affairs policies, or New Jersey Attorney General directives and guidelines where mandatory reporting is required by the I-Bank or a specific class of employees.

c. Confidentiality of Staff Member Records

To ensure confidentiality and accuracy of information, this policy requires the HRO to keep all documents and reports of domestic violence in a confidential personnel file separate from the staff member's other personnel records. These records shall be considered personnel records and shall not be government records available for public access under the Open Public Records Act. See N.J.S.A. 47:1A-10.

d. New Jersey Security and Financial Empowerment Act

The New Jersey Security and Financial Empowerment Act, N.J.S.A. 34:11C-1, et seq. (NJ SAFE Act), is a law that provides employment protection for victims of domestic or sexual violence.

The NJ SAFE Act allows a maximum of 20 days of unpaid leave in one 12-month period, to be used within 12 months following any act of domestic or sexual violence. To be eligible, the employee must have worked at least 1,000 hours during the 12-month period immediately before the act of domestic or sexual violence. Further, the employee must have worked for an employer in the State that employs 25 or more employees for each working day during 20 or more calendar weeks in the current or immediately preceding calendar year. This leave can be taken intermittently in days, but not hours.

Leave under the NJ SAFE Act may be taken by an employee who is a victim of domestic violence, as that term is defined in N.J.S.A. 2C:25-19 and N.J.S.A. 30:4-27.6, respectively. Leave may also be taken by an employee whose child, parent, spouse, domestic partner, civil union partner, or other relationships as defined in applicable statutes is a victim of domestic or sexual violence.

Leave under the NJ SAFE Act may be taken for the purpose of engaging in any of the following activities, for themselves, or a child, parent, spouse, domestic partner, or civil union partner, as they relate to an incident of domestic or sexual violence:

1. Seeking medical attention;
2. Obtaining services from a victim services organization;
3. Obtaining psychological or other counseling;
4. Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase safety;
5. Seeking legal assistance or remedies to ensure health and safety of the victim; or
6. Attending, participating in, or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

The full text of the New Jersey SAFE Act is provided in the Appendix to this policy.

e. Resources

This policy provides an Appendix listing resources and program information readily available to assist victims of domestic violence. These resources shall be provided by the designated HRO to any victim of domestic violence at the time of reporting.

f. Commission of an Act of Domestic Violence

A criminal conviction resulting from the commission of an act of domestic violence or a final restraining order enforced against a current or prospective I-Bank staff member stemming from an act of domestic violence are examples of actionable evidence that an incident of domestic violence occurred.

Appropriate disciplinary, administrative, or criminal action shall be taken against any staff member who commits an act of domestic violence. Administrative or disciplinary action can take many forms depending on the circumstances, up to and including immediate suspension, removal, and/or forfeiture of employment.

II. VIOLENCE IN THE WORKPLACE

I-Bank staff members are expected to, both at work and in their personal lives, conduct themselves in a manner that projects a positive image to the public. Any conduct that diminishes the public's trust in the integrity of I-Bank staff members is intolerable. Appropriate disciplinary and administrative action shall be taken against any person who commits an act of violence or otherwise and the appropriate law enforcement agencies will be notified.

Administrative and disciplinary action can take many forms depending on the circumstances, up to and including immediate suspension, removal, and/or forfeiture of employment. This policy applies to all locations where staff members work or represent the I-Bank, and includes I-Bank office(s), customer and vendor premises, and offsite events and activities.

The I-Bank will not tolerate any behavior of any staff member, visitor, or any other person that reasonably poses a threat to the safety and security of, or that harms any I-Bank staff member or I-Bank property. In furtherance of this policy, all staff members have a responsibility to adhere to work practices designed to make the workplace more safe and secure.

a. Protective or Restraining Orders

I-Bank staff members who have been granted court-ordered protection, which extends to the workplace, must notify his/her supervisor and the HRO who will work together to develop a plan to ensure compliance with the order and maintain the safety of the staff members and others at the workplace.

b. Weapons in the Workplace

Under no circumstances may a staff member or member of the public (other than an appropriately licensed law enforcement or security officer) possess any form of weapon such as a firearm, knife (with a blade longer than 3 inches), or explosive device on their person or in state vehicles. If an individual has a permit to carry such type of weapon, this policy shall supersede that permit. In addition, use of or intent to use any other object as a weapon is also a violation of this policy. If the above situation exists, such individuals will be asked to remove any form of weapon from the worksite. Staff members who become aware of the presence of a weapon should immediately report it to management. If management is unsuccessful in obtaining voluntary consent to this request, law enforcement assistance shall be sought.

c. Imminent or Actual Violence Situations

Actual threats should always be taken seriously and responded to immediately. If a staff member feels that someone presents a danger or demonstrates suspicious behavior, he or she should take proper precaution, and promptly report such behavior to his or her supervisor or manager.

Moreover, if circumstances indicate imminent or actual danger involving weapons or personal injury, employees should take the necessary precautions to assure their own safety and the safety of others by dialing 9-911 from state phone lines (911 from cell phones) for immediate law enforcement and medical assistance.

d. Removal from the Workplace

Any person who engages in any act of violence at the I-Bank office may be removed from the workplace as quickly as safety permits and may be banned from entering the I-Bank office until an investigation is completed.

In the event an I-Bank staff member engages in an act of violence outside of the I-Bank office, that staff member may be banned from entering the I-Bank office until an investigation into the incident is completed.

III. CRIMINAL CONDUCT OUTSIDE THE WORKPLACE

If an I-Bank staff member is arrested, charged with, or convicted of a crime resulting from conduct outside the workplace, his or her actions may result in disciplinary action, up to and including termination of employment. The I-Bank will follow all procedures pursuant to N.J.A.C. 4A:2-2.1 et seq. in determining if discipline is appropriate.

Any I-Bank staff member convicted of a crime of the third degree or above shall forfeit his or her employment. N.J.S.A. 2C:51-2.

IV. DUTY TO ADVISE OF ARRESTS, CHARGES, AND CONVICTIONS

In the event an I-Bank staff member is arrested, charged, or convicted with a crime, he/she must notify the I-Bank as soon as the incident occurs, but no later than 48 hours of the occurrence. Staff members are responsible for informing their immediate supervisor verbally or in writing within the specified 48-hour time period. The supervisor is responsible to notify the HRO within one (1) business day upon receipt of any notification, written or verbal, received from a staff member pursuant to this policy.

Upon the HRO's request, staff members are further responsible to follow up immediately with a written statement to the HRO. The written statement shall contain the nature and circumstances of the incident, date and location of the offense, law enforcement agency involved, date of court appearance, and decision of the court, if any. Staff members are responsible to immediately provide a copy to the HRO of a summons, police report, conviction or certificate of disposition upon receipt.

Failure to report any arrest, charge, or conviction in accordance with this policy may result in disciplinary action, up to and including termination of employment.

V. PROSPECTIVE HIRES

All offers of employment at the I-Bank are contingent upon a review of the results of a criminal background check. The I-Bank reserves the right to not hire any candidate whose background check reveals a criminal conviction, or a final restraining order stemming from an act of violence, domestic or otherwise.

Prospective hires who have a temporary restraining order active against them may be extended an offer of employment with the understanding that employment will be rescinded in the event the temporary restraining order becomes a final restraining order.

6.0 RELATED DOCUMENTS

7.0 REVISION HISTORY

Date	Description	Requestor