

HELPING A UNION MEMBER ADDRESS JOB ISSUES DUE TO DOMESTIC VIOLENCE

Abuse can jeopardize employment in various ways.

- *Days missed*, in whole or in part—to obtain a protective order, attend court, find a new place to live, or recover from violence—may lead to what the employer regards as excessive absences.
- *Distraction*, loss of focus and concentration, can compromise performance.
- *Danger or discomfort to coworkers*, if the abuser appears at the job, may lead to firing.
- *Discrimination* plain and simple may motivate the dismissal of someone known to be a victim of domestic violence.

When trying to help, bear in mind a few general guidelines.

- *Remember your role*. Focus on job-related consequences and helping the member keep her* job.
- *Remain non-judgmental*.
- *Respect confidentiality*. Even with other union staff, share information only on a need-to-know basis and with the member's permission.
- *Record*. Keep records of all requests, responses, incidents, etc. Encourage the member to do the same.
- *Research resources*.

For general information, <http://www.safeatworkcoalition.org/workplacepolicy/roleoftheunion.htm>

On filing a lawsuit or Human Rights complaint, call Legal Momentum at (212)925-6635.

Concerning unemployment eligibility and how to apply, visit www.lawhelp.org and/or

http://www.labor.state.ny.us/ui/how_to_file_claim.shtm and/or

<http://www.legalmomentum.org/issues/work/UIwin.shtml>.

Help your member consider the pros and cons of disclosure and what steps to take.

- *Detour*. Especially if you are the first person to whom the member has disclosed her domestic violence situation, it may be helpful for her to speak to a counselor or advocate.
- *Delineate and describe* your member's rights to her. The laws give her a number of employment rights and protections, and she may have others under the collective bargaining agreement and/or the employer's policies.
- *Decide*. Help your member go through the pros and cons of disclosure. Disclosure will likely be necessary, if she is to invoke rights and seek accommodations, and it may explain and excuse possible performance problems. These factors should be weighed against the danger of triggering employer discrimination or attempts by the boss to pressure the member on personal choices. There may also be other reasons your member will not be ready to tell her employer about the domestic violence.
- *Disclose*. If your member decides to tell the employer, help her plan how to do so.
- *Document*. As proof, you could offer, for example, a letter from a community based service provider, a protective order, a police report, or medical records. Legal Momentum can help you identify other sources of documentation, as well.
- *Demand* the rights and accommodations to which your member is entitled.
 - *If your member is still on the job*. The Human Rights Law (sections 8-101 and 8-107.1, NYC Administrative Code) protects a survivor of domestic violence, sexual assault, or stalking, if she works in NYC for an employer with four or more employees. The employer may not fire the employee just for being a survivor. The employer must give "reasonable accommodations" which do not impose "undue hardship" on the employer. These might include changing her extension or hours, security screening, or time off. Disclosure is required, and the employer may ask for proof, but the employer must keep the information confidential.
 - *If your member has been fired*. Use the collective bargaining agreement procedures. Your member can also file a complaint with the NYC Human Rights Commission within one year, and/or a lawsuit state court within three years. If reinstatement is not possible, or not desired, negotiate a severance agreement. Also, have the member apply for unemployment benefits. Even if a firing for misconduct is found, benefits may still be granted if it is also found that the "misconduct" (e.g. poor attendance) was related to the domestic violence.
 - *If your member has decided to quit*. New York state law says she is still entitled to benefits if she quits because of "circumstances directly resulting from" being a victim of domestic violence.

*This pamphlet uses feminine pronouns, but we serve, and the law protects, male and female victims.