# Attachment 5: RAM Chapter 3078.1

## Guidelines for Addressing Threatening or Harassing Behavior by Applicants or Consumers

The DOR employees, vendors, partners, applicants, consumers, and members of the public are entitled to interact in a secure and safe environment, free from threatening or harassing behavior, and to be treated with dignity and respect in the provision of VR services. These guidelines describe threatening or harassing behavior by applicants or consumers and provide the DOR staff with a consistent procedure for documenting and reporting threats and potential threats.

The DOR staff must take into consideration the disability of the applicant or consumer when assessing a behavior to determine whether it is threatening or harassing. A disabling condition or medication problem could result in a behavior appearing to be, but that is not, threatening or harassing.

## **Examples of Threatening or Harassing Behavior**

Examples of threatening or harassing behavior directed at a DOR employee, vendor, partner, applicant, consumer, or other related individual, which may cause a reasonable person to be fearful or have the intention or effect of alarming or intimidating, include, but are not limited to, the following:

* Hitting, throwing, or shoving an individual or an object
* Raising one’s voice in a loud disruptive manner, this may include profanity, obscenities, or discriminatory language
* Telling an individual that she or he may be harmed
* Following or stalking an individual
* Suggesting that violence against an individual or damage to property is appropriate
* Touching an individual in a sexual manner or engaging in lewd, indecent, or obscene conduct
* Carrying firearms or weapons during the provision of VR services

Threats and/or harassment may be direct or indirect, in person, by telephone, by mail, email, via an electronic device, or an alternate form of communication.

## **Responding to Reports of Threatening or Harassing Behavior**

Any emergency situation that involves a credible threat of imminent serious violence or physical harm that would cause a reasonable person to fear for his or her safety should be reported to local law enforcement by dialing the 9-911 emergency number or 911 from an outside phone. Any employee who feels that he or she is at risk of harm may dial 911 with or without a supervisor’s approval. If an employee does not consider himself or herself to be in immediate danger, he or she should notify his or her supervisor for the supervisor to determine the appropriate action.

The DOR should seek assistance from law enforcement (e.g., police, sheriff, or California Highway Patrol) when an applicant or consumer commits or threatens to commit a crime on the premises of the DOR or against DOR personnel. When an applicant or consumer threatens to commit a crime of violence against a person other than a DOR employee, the DOR should also contact law enforcement and report. If law enforcement conducts an investigation, or an applicant or consumer is prosecuted for a threat on DOR premises or against a DOR employee, the DOR is authorized to share information in an applicant or consumer’s record of services (CCR 7143(a)(7) and 7143.5(a)). If there is no investigation or prosecution, however, the DOR may not share information from an applicant or consumer’s record of services with law enforcement.

If there is reasonable concern that an applicant or consumer is a danger to himself or herself, DOR professional staff (e.g., Rehabilitation Counselor, Team Manager, Rehabilitation Supervisor, District Administrator, Medical Consultant, and Consulting Psychologist) should immediately contact law enforcement and report the behavior. In accordance with federal regulations, the DOR may release confidential information from an applicant or consumer’s record of services in order to protect the individual or others, if the individual poses a threat to his or her safety or the safety of others (34 CFR 361.38(e)(5)).

If the incident does not involve an imminent threat of serious violence or physical harm, the supervisor will inform the next supervisory level of the occurrence. The California Highway Patrol, rather than local law enforcement, should be contacted to investigate.

Whether there is an imminent threat or a less serious but repeated threat or harassment, an applicant or a consumer’s conduct may be the basis for closing the record of services (CCR 7179(b)(1), 7179.1(c)(1), or 7179.3(a)(6)), or for obtaining a temporary or permanent restraining order. The next supervisory level may seek advice from the Health and Safety Officer (HSO) in the DOR Business Services or the DOR Office of Legal Affairs and Regulations. The HSO may have some additional information that is helpful to reduce the risk, and the Legal Affairs Office will assess the facts to determine if the state and federal regulations support closing the case and if the DOR should contact the Attorney General’s Office for assistance in obtaining a restraining order.

[Go to CCR.](http://www.dor.ca.gov/executive/regulations.html)

## **Reporting Threatening or Harassing Behavior**

All DOR employees who observe or experience threatening or harassing behavior in the workplace are responsible to report it immediately to their direct supervisor or the person acting in that capacity. The immediate supervisor will document the incident on a DR 160 Incident Report, located on the DOR intranet.

Department of Rehabilitation employees who observe indicators that an applicant or consumer may be having difficulties that could result in threatening or harassing behavior will notify their supervisor and the Rehabilitation Counselor of record of these observations. The District Administrator, Team Manager, or Rehabilitation Counselor of record may consult with a DOR Medical Consultant or Consulting Psychologist, as appropriate. The applicant or consumer’s psychiatrist, psychologist, medical doctor, family member, or case manager may also be consulted if proper release forms have been obtained. Indicators of potential for threatening or harassing behavior include, but are not limited to, mood swings, changes in appearance (disheveled), aggressive speech or behavior, or indicators that the individual may be under the influence of alcohol or illegal drugs.

## **Documenting Threatening or Harassing Behavior in the Record of Services**

All reports of threatening or harassing behavior by applicants or consumers must be documented in a case note in AWARE and reported to the immediate supervisor to determine the course of action, including record of services closure and possibly obtaining a restraining order. In addition, a DR 160 must be completed, reviewed, signed by the supervisor, and sent to the HSO in the DOR Business Services Section, with a copy to the District Administrator within three days.

The DOR must, as soon as practical, report all crimes on state property to the California Highway Patrol, State Police Division (Government Code section14613.7). If a crime is committed on state property and a law enforcement entity other than the California Highway Patrol responds, the supervisor must complete an [STD 99 Report of Crime on State Property](https://www.chp.ca.gov/notify-chp/crime-incident-reporting-system). This report is provided to the local California Highway Patrol office, with copies forwarded to the Health and Safety Specialist in Business Services and the District Administrator.

A Rehabilitation Counselor, with the Team Manager, in consultation with a District Administrator, will determine the need for subsequent action. For applicants and consumers, depending on the severity of the violation, this may include closure of the record of services. This determination will be made by a Rehabilitation Counselor in accordance with the facts of the incident(s), the consumer’s record of services, current case status and the applicable regulations, most likely either CCR 7179(b)(1), 7179.1(c)(1), or 7179.3(a)(6). The DOR district staff may wish to seek advice from the DOR Legal Affairs and Regulations Office, as the office can, as noted above, assess the facts to determine if the state and federal regulations support closing the record of services.

An applicant or consumer who disagrees with the action taken by the DOR has the right to contact CAP or request an administrative review, mediation, and/or a fair hearing. Refer to DR 1000 Rights and Remedies.

Refer to the DOR’s Workplace Violence and Bullying Prevention Program on the DOR intranet for more information on policies and procedures.

Refer to the RAM Chapter 30 Toolbox for sample warning letters.

Refer to Section 3070 for information on record of services closure.  
[Go to CCR.](http://www.dor.ca.gov/executive/regulations.html)