

**City of Greenfield, Massachusetts
Human Resources Department**

DOMESTIC VIOLENCE LEAVE LAW

POLICY

This policy describes the eligibility and procedural requirements relating to the administration of leave taken pursuant to Massachusetts Domestic Violence Leave Act, G.L. c.149 s. 52E (“DVLA” or “the Act”) which mandates that employers grant time away from work for victims of domestic violence and/or their families.

The City is committed to complying with the DVLA and this policy is adopted under the requirements of Chapter 260 of the Acts of 2014. In the event of any conflict between the City’s DVLA policy and state law and any applicable regulations, state law or regulations applicable to the City and its employees shall prevail.

SCOPE

This policy applies to all employees of the City of Greenfield, excluding elected officials and those employees under the supervision and control of the School Committee.

PURPOSE

This policy is meant to outline the situations where an employee is eligible to take this leave and how paid time shall be utilized. This policy, along with our Employee Assistance Program (EAP) can be utilized if the need arises.

DEFINITIONS

Employee: An individual who performs services for and under the control and direction of an employer for wages or other remuneration. There are no minimum hours one must work nor length of time one needs to be employed before one is eligible for benefits defined in this policy.

Family member: An employee’s family member includes:

- a current or former spouse of the employee or employee’s family member
- persons in a substantial dating or engagement relationship with the employee or employee’s family member
- persons who reside with (cohabitate) or who has resided with (cohabitated) with the employee or employee’s family member
- persons with whom the employee or employee’s family member shares a child in common
- persons related by blood or marriage to the employee - i.e., parent, step-parent, child, step-child, sibling, grandparent or grandchild
- any persons in a guardian relationship.

When is a Leave Triggered? An employee is entitled to leave if:

- The employee, or a family member of the employee, is a victim of abusive behavior as defined by the Act, including domestic violence and certain forms of sexual assault, stalking and kidnapping;
- The employee is requesting time away from work to address issues directly related to such abusive behavior against the employee or family member of the employee; **and**
- The employee is not the perpetrator of the abusive behavior against such employee's family member.

What constitutes Domestic Violence: Abuse against an employee or the employee's family member.

What is Abuse: "Abuse" includes:

- attempting to cause or causing physical harm;
- placing another in fear of imminent serious physical harm;
- causing another to engage involuntarily in sexual relations by force, threat or duress, or engaging or threatening to engage in sexual activity with a dependent child;
- engaging in mental abuse, which includes threats, intimidation or acts designed to induce terror;
- depriving another of medical care, housing, food or other necessities of life; or
- restraining the liberty of another.

What Qualifies for a Leave Request: Leave may be used for the following:

- To seek or obtain medical attention, counseling, victim services or legal assistance;
- Secure housing;
- Obtain a protective order from a court;
- Appear in court or before a grand jury;
- Meet with a district attorney or other law enforcement official;
- Attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or family member of the employee; or
- Time away from work to address issues directly related to the abusive behavior

Will the Leave be Confidential? All information related to the leave under this section shall be kept confidential by the employer and shall not be disclosed, except to the extent that disclosure is:

- requested or consented to, in writing, by the employee;
- ordered to be released by a court of competent jurisdiction;
- otherwise required by applicable federal or state law;
- required in the course of an investigation authorized by law enforcement, including, but not limited to, an investigation by the attorney general; or
- necessary to protect the safety of the employee or others employed at the workplace.

Eligibility and Amount of Leave: An employee seeking leave under this policy shall be required to exhaust all annual or vacation leave, personal leave, compensatory time and sick leave available to the employee, prior to requesting or taking leave under this section, unless the City waives this requirement. All leave under this policy shall be unpaid.

The employees must not have used more than fifteen (15) days in any twelve (12) calendar month rolling period, beginning the date an employee commences leave. If a leave under this policy would also qualify under the Family Medical Leave Act, then the leaves will run concurrently.

NOTIFICATION

Except in cases of imminent danger to the health and safety of an employee or member of the employee's family, an employee seeking leave from work under this section must provide appropriate advance notice of the leave.

In the case of an unscheduled or imminent leave, an employee must notify their supervisor or Human Resources within three work days that the leave was taken or is being taken. As an employer, we cannot take any negative action against the employee for an unscheduled absence if, within thirty days of the last unauthorized absence or within 30 days of the last unauthorized absence in the instance of consecutive days of unauthorized absences, the employee provides sufficient documentation evidencing the need for the leave. Notification may be communicated by the employee, a family member of the employee or the employee's counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee in addressing the effects of the abusive behavior on the employee or the employee's family member. Notification may be made by telephone, in person, in writing or by any other reasonable means to communicate notice.

Human Resources may require the employee requesting the leave to provide documentation evidencing that the employee or the employee's family member has been a victim of domestic violence.

In the case of a scheduled leave, the employee should complete the leave request paperwork as far in advance as practicable, but at least two weeks before the leave if the leave can be anticipated (e.g. scheduled court date).

Employees are encouraged to inform their department head and/or the Director of Human Resources, or designee if they have a restraining order against another person. An employee in this situation may also request that their department head initiate the process to have a Notice of Trespass form issued.

DOCUMENTATION

Employees taking leave under this policy are required to submit to their supervisor or to the Human Resources Department documentation supporting the need for leave. Acceptable forms

of documentation include but are limited to those as outlined in Appendix A. These may be amended from time to time to be consistent with the Act and any of its amendments.

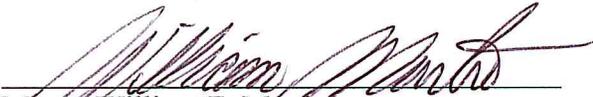
EMPLOYMENT PROTECTIONS

An employee shall not be discharged or discriminated against for exercising his or her rights under the law and this policy. Employees should immediately any concerns relating to his policy to Human Resources.

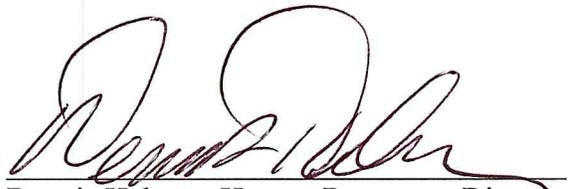
Upon returning from leave under this policy, an employee will be returned to the same position that he or she held when leave began, or to an equivalent position. The employee will be reinstated without loss of employment rights or benefits that the employee had earned or accrued prior to the beginning of the leave, except to the extent such benefits were used or paid during the leave. If the leave is paid, the employee's portion of insurance premiums will continue to be deducted from the employee's pay. If the leave is unpaid, the employee will remain responsible for his or her share of insurance premiums and will be billed accordingly.

If an unscheduled absence occurs, the Town will not take any negative action if within thirty (30) days from the unauthorized absence the employee provides any of the indicated forms of documentation of the need for the leave.

Dated: 28 FEBRUARY 2016



Mayor William F. Martin



Dennis Helmus, Human Resources Director

Appendix A

An employee shall satisfy this documentation requirement by providing any one (1) of the following documents to the employer.

- (1) A protective order, order of equitable relief or other documentation issued by a court of competent jurisdiction as a result of abusive behavior against the employee or employee's family member.
- (2) A document under the letterhead of the court, provider or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior against the employee or the employee's family member.
- (3) A police report or statement of a victim or witness provided to police, including a police incident report, documenting the abusive behavior complained of by the employee or the employee's family member.
- (4) Documentation that the perpetrator of the abusive behavior against the employee or family member of the employee has: admitted to sufficient facts to support a finding of guilt of abusive behavior; or has been convicted of, or has been adjudicated a juvenile delinquent by reason of, any offense constituting abusive behavior and which is related to the abusive behavior that necessitated the leave under this section.
- (5) Medical documentation of treatment as a result of the abusive behavior complained of by the employee or employee's family member.
- (6) A sworn statement, signed under the penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee or the employee's family member in addressing the effects of the abusive behavior.
- (7) A sworn statement, signed under the penalties of perjury, from the employee attesting that the employee has been the victim of abusive behavior or is the family member of a victim of abusive behavior. Any documentation provided to an employer under this section may be maintained by the employer in the employee's employment record but only for as long as required for the employer to make a determination as to whether the employee is eligible for leave under this section.

Town of Greenfield
Acknowledgment of Receipt of
Domestic Violence Leave Policy

Name: _____

Department: _____

With your signature below you represent you have received and read this acknowledgment of the city's Domestic Violence Leave Policy and that you agree to abide by it.

Signature

Date: _____

DOMESTIC VIOLENCE LEAVE OF ABSENCE REQUEST FORM

Employees requesting a Domestic Violence Leave of Absence should complete this form and submit it Human Resources for approval.

Name: _____ Department: _____

Position Held: _____ Date: _____

Requested start of Leave : _____ End date: _____

Have you used all Vacation, Personal, Compensatory and Sick Leave Available to you: _____

If No, please note this policy requires you to have used all available paid leave before you may request an unpaid domestic violence leave. If you have used all available paid time off available to you, please continue.

_____ I am the victim of domestic violence resulting in this request.

_____ Family member _____ (list relationship not name) was the victim of domestic violence.

.....
As the Human Resources Director, I have reviewed the above employee's unpaid Domestic Violence Leave Request and make the following decision:

_____ Approved as submitted.

_____ Disapproved: _____

HR Director

Date: _____