



TOWN OF NEEDHAM
DOMESTIC VIOLENCE LEAVE
PERSONNEL POLICY #306

I. POLICY

It is the policy of the TOWN OF NEEDHAM (the “Town”) to grant Domestic Violence Leave in accordance with M.G.L.c.149 § 52E (the “Domestic Violence Leave Act”).

II. PURPOSE

The purpose of this Policy is to ensure that all employees of the Town are aware of the requirements and procedures for requesting leave under the Domestic Violence Leave Act (“Domestic Violence Leave”).

III. REQUIREMENTS

As provided for under Massachusetts law, employees are eligible to receive up to fifteen (15) days of Domestic Violence Leave in any 12-month period, under the following conditions:

1. The employee, or a family member of the employee, is a victim of abusive behavior, as defined below; and
2. The employee is using the leave from work 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; and
3. The employee is not the perpetrator of the abusive behavior against such employee’s family member.

IV. DEFINITIONS

1. **Abuse** under the Domestic Violence Leave Act is defined as 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.

2. **Domestic Violence** under the Domestic Violence Leave Act is defined as abuse by a current or former spouse; a person with whom the victim shares a child; a person cohabitating with or who has cohabitated with the victim, a relative, or a person with whom the employee or family member has or had a dating relationship.

3. **Abusive Behavior** as defined under the Domestic Violence Leave Act includes any behavior constituting domestic violence, stalking, sexual assault or kidnapping.

4. **Family Member** for purposes of this Policy is defined as spouse, parent, step-parent, child, step-child, sibling, grandparent and grandchild; persons in a substantive dating or engagement relationship and who reside together, persons having a child in common regardless of whether they have ever married or resided together, and persons in a guardianship relationship.

V. PROCEDURE

1. Employees will be permitted to take up to fifteen (15) days of unpaid leave from work in any twelve (12) month period if each of the following conditions is met:

- (a) The employee, or a family member of the employee, is a victim of abusive behavior;
- (b) The employee is using the leave from work to:
 - i. Seek or obtain medical attention, counseling, victim services or legal assistance;
 - ii. Secure housing;
 - iii. Obtain a protective order from a court;
 - iv. Appear in court or before a grand jury;
 - v. Meet with a District attorney or other law enforcement official;
 - vi. Attend child custody proceedings; or
 - vii. Address other issues directly related to the abusive behavior against the employee or family member of the employee.
- (c) The employee is not the perpetrator of the abusive behavior against such employee's family member.

2. Except in cases of imminent danger to the health or safety of an employee, an employee seeking leave from work under this Policy shall provide appropriate advance notice of leave.

- (a) If there is a threat of imminent danger to the health or safety of an employee or the employee's family member, the employee shall not be required to provide advance notice of leave; provided, however, that the employee shall notify the Town within three (3) workdays that the leave was taken or is being taken pursuant to this Policy.

- i. Notification may be communicated to the Human Resources Department by 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.
- ii. The employee or individual authorized to communicate to the employer that leave was taken or is being taken under this Policy may do so by telephone, in person, in writing, or by any other reasonable means to communicate actual notice.

3. In response to a notice of leave under this Policy, the Town may request documentation evidencing the need for the leave consistent with this Policy. The Town shall not require, however, evidence of an arrest, conviction, or other law enforcement documentation in response to such notice. An employee shall provide such documentation within a reasonable period of time after the request.

- (a) An employee satisfies a request for documentation under this Policy by providing any one of the following:¹
 - i. 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;
 - ii. A document under the letterhead of the court, provider or public Town which the employee attended for the purpose of acquiring assistance as it relates to the abusive behavior against the employee or the employee's family member;
 - iii. 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;
 - iv. 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 Policy;

¹ Any documentation evidencing the need for domestic violence leave provided by an employee will be maintained in the employee's record by Human Resources only for as long as required to make a determination as to whether the employee is eligible for leave.

- v. Medical documentation of treatment as a result of the abusive behavior complained of by the employee or employee's family member;
- vi. 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; or
- vii. 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.

- (b) All information related to the employee's leave shall be kept ***Confidential*** and shall not be disclosed, except to the extent that disclosure is allowed under the Domestic Violence Leave Act.²

4. Domestic Violence Leave under this Policy is generally unpaid, however the employee may choose utilize accrued but unused vacation, personal, and sick leave during leave approved under this policy.

5. While on Domestic Violence Leave, the employee will be responsible for his/her share of the following withholdings (where applicable): medical, dental, life insurance, and other voluntary withholdings.

6. If an unscheduled absence occurs, the Town will not take a negative action against the employee if the employee, within 30 days from the unauthorized absence or within 30 days from the employee's last unauthorized absence in the instance of consecutive days of unauthorized absences, provides to the Human Resources Manager any one of the documents listed immediately above in Section V (3) (a) above.

7. The Town will not retaliate against an employee for exercising his/her rights under this Policy or the Domestic Violence Leave Act.

8. The employee, upon returning from leave, will be restored to the same or an equivalent position, in accordance with the conditions provided for such reinstatement under applicable law.

² Disclosure may be allowed if (1) requested or consented to, in writing, by the employee; (2) ordered to be released by a court; (3) otherwise required by applicable federal or state law; (4) required in the course of an investigation authorized by law enforcement; or (5) necessary to protect the safety of anyone employed at the workplace.

ACKNOWLEDGMENT OF RECEIPT OF POLICY

I acknowledge receipt of this DOMESTIC VIOLENCE LEAVE POLICY from the Town of Needham, and I have read its contents.

Name (Print)

Signature

Date

Witness