



City of Holyoke MA - *Domestic Violence Leave Policy* - December 2015

I. PURPOSE

This Policy describes the eligibility and procedural requirements relating to the administration of leave taken pursuant to the Massachusetts Domestic Violence Leave Act, G.L. c. 149, §52E ("DVLA").

II. APPLICATION

This Policy applies to all employees of the City of Holyoke, excluding those employees under the supervision and control of the School Committee. Employees whose employment is governed by a collective bargaining agreement are subject only to those provisions of this Policy not specifically regulated by law or agreement.

III. POLICY

The City is committed to complying with the DVLA. In the event of any conflict between the City's DVLA policy and the state law and any applicable regulations, the state law/regulations applicable to the City and its employees shall prevail.

IV. PROCEDURES

A. Eligibility

To qualify for domestic violence leave under the DVLA, an employee or a covered family member must be the victim of "abusive behavior," which includes domestic violence, stalking, sexual assault, or kidnapping.

Domestic violence is abuse against an employee or a covered family member 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 in the past, a relative by blood or marriage, or a person with whom the employee or family member has or had a substantial dating or engagement relationship.

A Covered family member includes a spouse, parent, stepparent, child, stepchild, sibling, grandparent, grandchild, persons in a substantive dating relationship and who reside together, persons having a child in common, or persons in a guardian relationship. In the case of abuse of a family member, the employee is not entitled to leave if he or she is the alleged perpetrator.

B. Duration of Leave

If an employee or a covered family member of the employee is a victim of abusive behavior, he/she may take up to fifteen (15) days of unpaid leave in any 12-month period. Unless otherwise specified in collective bargaining agreement, employees are required to use personal or vacation leave before taking unpaid leave under the DVLA. Accrued sick leave may only be applied if medically documented as described below and according to contract or departmental sick leave rules.

C. Reasons for Requesting Leave

Employees may request leave to address issues directly related to the abusive behavior. This includes seeking medical attention, secure housing, counseling, or victim services, or to address other issues directly related to the abusive behavior against the employee or family member of the



employee. Leave may also be taken to obtain legal assistance, to attend or appear in court proceedings, or to meet with a district attorney or law enforcement personnel. It is not a requirement of the Act that the employee maintain contact with the alleged abuser before being eligible for leave.

D. Notice

Employees must provide sufficient advance notice of the decision to use domestic violence leave unless there is a threat of imminent danger to the health or safety of the employee or a member of the employee's family. An employee who does not give advance notice must notify the employer within three (3) workdays that leave is being taken pursuant to the DVLA. The notice may be provided by certain specified individuals other than the employee.

If an unscheduled absence occurs, the employee has 30 calendar days to produce documentation of the need for leave, in accordance with paragraph E, below before negative action is taken.

E. Documentation

Employees taking leave pursuant to the DVLA may be required to provide documentation evidencing that the employee or employee's family member has been a victim of abusive behavior. If requested, an employee is required to provide such documentation within a reasonable period after the request be made. An employee can satisfy this requirement by providing any one of the following documents:

- A protective order issued by a court because of abusive behavior against the employee or family member;
- 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;
- A police report or statement of a victim or witness provided to police, including a police incident report, documenting the abusive behavior;
- Documentation that the perpetrator of the abusive behavior has admitted to sufficient facts in court, or has been convicted of an offense constituting abusive behavior;
- Medical documentation of treatment as a result of the abusive behavior;
- A sworn statement provided by a counselor, social worker, or health care worker who has assisted the employee or the employee's family member; or
- A sworn statement 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.

F. Return to Work

Employees who take leave pursuant to the DVLA will be restored to their original or equivalent position upon return from leave unless circumstances unrelated to the employee's use of leave would have caused a change in employment status. The City shall not retaliate against an employee for exercising his/her rights under the DVLA.

G. Confidentiality

With limited exceptions set forth by law, information related to the employee's leave shall remain confidential.



DOMESTIC VIOLENCE LEAVE ACT POLICY

I acknowledge that I have received and read the City of Holyoke Domestic Violence Leave Policy.

By signing this form, I agree to abide by the City of Holyoke Domestic Violence Leave Policy.

I understand that the City's Domestic Violence Leave Policy is subject to change at any time.

I understand, hereby agree, and acknowledge that receipt of the City's Domestic Violence Leave Policy, in conjunction with employment with the City, shall serve as acknowledgment and acceptance of its terms.

DATE

EMPLOYEE NAME (Print/Type)

EMPLOYEE SIGNATURE

To be included in employee's personnel file.