



City of Everett Policy Statement

Human Resources – Domestic Violence Leave Massachusetts

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SOURCE: Human Resources Department
PREPARED BY: Michael Vetrano – Director – Human Resources
Policy: Y
Procedure: Y

Purpose:

To provide policy guidelines for employees working in the state of Massachusetts who are victims of, or have a family member who is a victim of, an act relative to domestic violence or abusive behavior as defined under Massachusetts state law.

Under this policy, the following definitions apply:

1. "Family member" refers to: (a) persons who are married to one another; (b) persons in a substantive dating or engagement relationship and who reside together; (c) persons having a child in common regardless of whether they have ever married or resided together; (c) a parent, step-parent, child, step-child, sibling, grandparent or grandchild; or (e) persons in a guardianship relationship.
2. "Domestic violence" is defined as: abuse against an employee or the employee's family member by: (a) a current or former spouse of the employee or the employee's family member; (b) a person with whom the employee or the employee's family member shares a child in common; (c) a person who is cohabitating with or has cohabitated with the employee or the employee's family member; (d) a person who is related by blood or marriage to the employee; or (e) a person with whom the employee or employee's family member has or had a dating or engagement relationship.
3. "Abusive Behavior" is defined as any behavior constituting domestic violence abuse, including (a) attempting to cause or causing physical harm; (b) placing another in fear of imminent serious physical harm; (c) 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; (d) engaging in mental abuse, which includes threats, intimidation or acts designed to induce terror; (e) depriving another of medical care, housing, food or other necessities of life; or (f) restraining the liberty of another; (g) stalking in violation of Massachusetts criminal law; (h) sexual assault; and (i) kidnapping in violation of Massachusetts criminal law.



Person(s) Responsible:

Massachusetts: Employee, Supervisors, Managers, Human Resources Manager or HR Designees

Scope of Employees Covered:

All employees working in the state of Massachusetts regardless of the number of hours worked per week or length of time worked.

References:

FMLA Policy
Reasonable Accommodation Policy
30 Day Medical Policy
MASS Act Relative to Domestic Violence Leave (Mass ARDV)

Policy Statement:

City of Everett ("The Company") is committed to compliance with applicable state and federal laws governing the treatment of employees who are victims of domestic violence. City of Everett is further committed to compliance with applicable legal requirements concerning notifying covered employees of the rights and responsibilities provided by the law, including those related to notification requirements and confidentiality.

The Company will grant up to 15 days of unpaid leave in any 12-month rolling period to employees working and/or living in the state of Massachusetts if:

- the employee or a covered family member of the employee is a victim of abusive behavior (as defined above) and
- the employee is using the leave from work for purposes directly related to the abusive behavior, such as seeking or obtaining medical attention, counselling, victim services, or legal assistance; judicial proceedings involving employee or family member; obtaining a protective order from a court; meeting with a district attorney or other law enforcement official; or attending a child custody proceeding.

**Domestic violence leave is an unpaid leave; however, eligible employees seeking leave may use accrued vacation, personal time or sick time to offset unpaid time due to domestic violence leave. Time off from work on domestic violence leave shall run concurrent with any other approved leave time for which the employee is eligible, such as FMLA or reasonable accommodation leave.

An employee requesting leave is required to provide documentation evidencing that he or she, or the employee's family member, has been a victim of abusive behavior even if the employee provides advance notice of the leave.

Domestic violence leave may be taken intermittently. The minimum interval for a day of leave must equal the number of hours the employee is scheduled to work that day to a maximum of 15 days within the rolling 12-month period following the qualifying incident.



Perpetrators of abuse are not entitled to Mass ARDV leave.

Employee's Responsibility:

Notify your Manager or Director, Human Resources, (617) 394-2280, of the need for domestic violence leave.

Employees must provide employers with advance notice of the decision to use the 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 notice must notify the employer within three workdays that the leave was being taken under the Act's leave provisions.

The employee must provide documentation evidencing that the employee, or the employee's family member, has been a victim of abusive behavior even if the employee provides advance notice of the leave. An employee shall satisfy this documentation requirement by providing any one 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.



Benefit Co-Pay:

If the employee is enrolled in any insurance plans through City of Everett and has premium deductions from his or her paychecks, the employee will be responsible for any such premium deductions that may be missed due to being on a 15-day Mass ARDV leave of absence. These missed deductions will be taken from the employee's next paycheck or paychecks upon the employee's return to work.

If the employee's leave under domestic violence runs concurrently with another approved leave of absence for which the employee is eligible, such as a 30-day leave or FMLA, and will extend beyond the 15 days allotted under the Mass ARDV act, the employee will be expected to make regular payments to the Company for any missed benefit deductions. The employee will receive information from the Company on how to make those payments.

Failure to make payment will result in loss of benefits and COBRA will be offered.

Procedural Guidelines for Supervisors & Managers Regarding the Company's Domestic Leave Policy:

In the event of a requested domestic violence leave under Massachusetts MASS-ARDV, City of Everett has prepared the following guidelines and considerations. These guidelines will help direct the conversation and ensure that the process has been interactive and comprehensive.

When evaluating the possibility of providing domestic violence leave, you should not make the decision on your own. In that regard, please communicate with your Manager, Region Human Resources, and/or the Corporate Human Resources Department to obtain guidance and instruction.

When an employee is placed on domestic violence leave, the Manager, Human Resources should notify the Benefits Specialist in the Corporate Benefits Department.

Employees will maintain and continue to earn seniority as applicable during domestic violence leave; however, employees will not accrue vacation hours during the leave period.

Employees are entitled to return to the same or an equivalent position and pay rate once his or her leave has ended.

Procedures:

If the employee is off work for domestic violence leave, the Manager will:

- For Hourly & Exempt employees submit a "Change of Status" (COS) in writing to the HR Designee to notify of the employee's need to be placed on domestic violence Leave of Absence (LOA).

When the HR Designee receives notification from the Manager that an employee is out of work due to a qualified domestic violence event, the following functions will be performed:



1. When the employee is off work due to domestic violence leave, follow the normal process to record the employee's absence:

Update Status Info:

- Effective date: 1st day employee is off work
- Status: Leave of Absence
- Reason: Leave - Domestic Violence

Return to Work

When available to return to work, the Company shall place the employee either in his or her same position or an equivalent position and pay rate.

1. Upon an employee's return to work from domestic violence leave, he or she is entitled to:
 - The restoration of their original jobs or an equivalent position.
 - Begin accruing vacation as provided under his or her assigned vacation benefit plan and appropriate seniority level (i.e., the seniority level the employee would have obtained had he/she not taken leave). The employee may also be entitled to a prorated vacation benefit for the subsequent vacation period based on hours worked in the previous vacation period.
2. Follow the normal district process to return the employee to work and update Status Info:
 - Effective date: Date employee returns to work
 - Status: Active
 - Reason: Standard Active Reason
3. If the employee is unable to return to work upon expiration of the 15 days allotted for domestic violence leave and the employee does not qualify for additional leave under the provisions of FMLA or 30 Day Medical leave, contact the Manager of Human Resources to discuss the employee's status prior to submitting a "Termination COS" with eligibility for rehire.

Managers are not permitted to take negative or disciplinary actions against employees for unauthorized absences if, within 30 days of the last day of absence, the employee provides documentation that the absence was due to an act relative to domestic violence. Moreover, managers are not allowed to condition any benefit or disciplinary action under this Policy on whether the employee maintains contact with the alleged harasser.

Important: Prior to sending any termination notification to an employee, the employee should be contacted and questioned regarding his or her ability to return to work. Upon receipt of any information regarding the employee's return to work, please update your Manager, Human Resources and seek instruction.

In the event of any additional questions regarding any portion of these Guidelines, please contact your Director of Human Resources at (617) 394-2280.



Leave Documentation:

All documents related to an employee's leave must be kept confidential and maintained in the employee "Confidential File". Exempt and Support Non-Exempt leave files are maintained at the Executive offices by the Human Resources department.

If an employee separates employment with City of Everett, any leave documents on file must be archived in the Confidential File in accordance with the company's retention policy on personnel files.