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**Town of Wellesley**  
**Personnel Policy**

## **DOMESTIC VIOLENCE LEAVE POLICY**



**Date HR Board approved:**

**Effective Date:**

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### **PURPOSE**

The Town of Wellesley is committed to the health and safety of its employees and their families. Any employee who is a victim of domestic violence or abusive behavior, or whose family member is such a victim, can take protected work leave for qualifying reasons associated with domestic violence. The employee is also encouraged to contact Human Resources to confidentially discuss the situation.

### **APPLICABILITY**

Massachusetts General Law c. 149, § 52E entitles Town employees to take up to fifteen (15) days of leave from work in any twelve (12) month period if the employee, or family member of the employee, is a victim of domestic violence or abusive behavior.

The Town defines the twelve-month period as a rolling twelve-month period, beginning on the date an employee commences leave.

In the event of any conflict between this policy and Massachusetts law, the law shall prevail.

### **DEFINITIONS**

**Abuse** – 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.
- Restraining the liberty of another.

**Abusive behavior**—Defined as:

- Any behavior constituting domestic violence.
- Stalking
- Sexual assault
- Kidnapping

**Domestic violence** - Defined as abuse against an employee or an employee's family member by:

- A current or former spouse of the employee or the employee's family member.
- A person with whom the employee or family member shares a child in common.
- A person with whom the employee or family member is or was cohabitating.
- A person with whom the employee or family member is related by blood or marriage.
- A person with whom the employee or family member has or had a dating or engagement relationship.

**Family members** – Defined as:

- People who are married to one another.
- People in a substantive dating or engagement relationship who reside together.
- People having a child together; or
- Parents, stepparents, children, stepchildren, siblings, grandparents, grandchildren, and people in a guardian relationship.

**Leave** - May be taken for any of the following reasons related to being a victim of domestic violence/ abusive behavior, or caring for a family member who is a victim. The employee must be using the leave from work to:

- Seek or obtain medical attention, counseling, victim services, or legal services.
- Secure housing.
- Obtain a protective order from a court.
- Appear in court or before a grand jury.
- Attend child custody proceedings.
- Meet with a district attorney or other law enforcement official.
- Address other issues directly related to the abusive behavior against the employee or a family member of employee.
- In the case of abuse of a family member, the employee is not entitled to leave if they are the alleged perpetrator.

**NOTICE REQUIREMENT**

Except in cases of imminent danger to the health or safety of an employee (or employee's family member), whenever possible, employees are requested to provide Human Resources with at least one-week advance notice, in writing, of the employee's intent to take domestic violence leave.

In cases of imminent danger, the employee must notify Human Resources within three (3) workdays after the leave begins. This notice may be communicated by a family member, counselor, social worker, advocate, member of the clergy, or other professional assisting the employee in addressing the effects of the abusive behavior. Notice may be provided by telephone, in person, in writing, or by other reasonable means of communication.

If an unscheduled absence occurs, the Town will not take any negative action against the employee if the employee, within thirty (30) days from the unauthorized absence provides any of the documentation described below.

**REQUIRED DOCUMENTATION**

The Town requires documentation confirming that an employee or employee's family member is a victim of domestic violence or abusive behavior, and that the employee is taking leave consistent with the law and this policy. An employee may satisfy this request by producing any of the following documents within a reasonable period, not to exceed thirty (30) days from the leave. Any documentation provided to the Town may be maintained by the Town in the employee's personnel file only for as long as required by the Town to decide whether the employee is eligible for leave under this policy.

- A protective order, order of equitable relief, or other documentation issued by a court because of the abusive behavior against the employee or family member.

- A document under the letterhead of a 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.
- A police report or statement of a victim or witness provided to the police, including a police incident report, documenting the abusive behavior complained of by the employee or the employee's family member.
- Documentation that the perpetrator of the abusive behavior has admitted to sufficient facts to be found guilty of, or been convicted of, or adjudicated a juvenile delinquent by reason of, any offense constituting abusive behavior, and which is related to the abusive behavior that necessitated the leave.
- Medical documentation of treatment because of abusive behavior.
- A sworn statement, signed under the pains and penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other similar professional who has assisted the employee or the employee's family member in addressing the effects of the abusive behavior.
- A sworn statement from the employee, signed under the penalties of perjury, attesting that the employee or the employee's family member is a victim of abusive behavior.

#### **PAYMENT OF WAGES DURING LEAVE**

An employee may use any accrued vacation leave, personal leave, and sick leave available to them during this leave. If all paid leave has been exhausted, unpaid leave may be taken.

#### **CONFIDENTIALITY**

All information provided by the employee concerning domestic violence shall be kept confidential. The Town shall not disclose any information related to an employee's request for leave, except to the extent that disclosure is:

- Requested or consented to, in writing, by the employee.
- Ordered to be released by a court.
- Required during an investigation authorized by law enforcement.
- Necessary to protect the safety of anyone employed at the workplace.
- Otherwise required by applicable federal or state law.

#### **RETURN TO WORK**

Employees who take leave pursuant to this policy 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.

#### **NO RETALIATION**

The Town shall not discharge or in any other way discriminate or retaliate against an employee for exercising their rights under this policy.

#### **RESOURCES**

For details on the Massachusetts Domestic Violence Leave Act employees are encouraged to consult: [details/massachusetts-law-about-employment-leave-for-domesticviolence](https://www.mass.gov/info-details/massachusetts-law-about-employment-leave-for-domesticviolence) or contact Human Resources for more information.