

DOMESTIC VIOLENCE LEAVE POLICY

It shall be the policy of the school district to permit an employee to take up to 15 days of domestic violence leave from work in any 12 month period to address issues directly related to the domestic violence. In order to be eligible for said leave:

- (i) the employee, or a family member of the employee must be a victim of abusive behavior;
- (ii) the employee must be using the leave from work to seek or obtain medical attention, counseling, victim services or legal assistance; secure housing; obtain a protective order from court; appear before a grand jury; meet with a district attorney or other law enforcement official; or attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or family member of the employee; and
- (iii) the employee must not be the perpetrator of the abusive behavior against such employee's family member.

Domestic violence is defined as abuse against an employee or the 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 the employee's family member shares a child in common;
- a person who is cohabitating with or has cohabited with the employee or the employee's family member;
- a person who is related by blood or marriage to the employee; or
- a person with whom the employee or employee's family member has or had a dating or engagement relationship.

Abuse includes the following:

- 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.

An employee's family member includes:

- persons who are married to one another;
- 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;
- a parent, step-parent, child, step-child, sibling, grandparent or grandchild; or
- persons in a guardianship relationship.

The employee must first exhaust all annual or vacation leave, personal leave and sick leave already available to the employee prior to requesting or taking leave. If an employee has exhausted all of his/her time off, any time taken under the Domestic Violence Leave Act will be taken without pay. An employee seeking such leave shall exhaust all annual or vacation leave, personal leave and sick leave available to the employee, prior to requesting or taking domestic violence leave, unless the employer waives this requirement.

Except in cases of imminent danger to the health or safety of an employee, an employee seeking leave from work shall provide appropriate advance notice of the leave to the employer. 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 employer within 3 workdays that the leave was taken or is being taken under this section. The notification may be communicated to the employer 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.

If an unscheduled absence occurs, an employer shall not take any 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 any of the documentation found in (1) to (7) below.

An employer may require documentation that the employee or employee's family member has been a victim of abusive behavior and that the leave is consistent with clauses (i) to (iii) as above referenced; provided, however, that an employer shall not require an employee to show evidence of an arrest, conviction or other law enforcement documentation for such abusive behavior. The documentation shall be provided to the employer within a reasonable period after the employer requests it.

An employee shall satisfy this documentation requirement by providing anyone 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 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;
- (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 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 a 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.

All information related to the employee's leave shall be kept confidential and shall not be disclosed, except to the extent that disclosure is:

- (i) requested or consented to, in writing, by the employee;
- (ii) ordered to be released by a court of competent jurisdiction;
- (iii) otherwise required by applicable federal or state law;
- (iv) required in the course of an investigation authorized by law enforcement, including, but not limited to, an investigation by the Attorney General; or
- (v) necessary to protect the safety of the employee or others employed at the workplace.

The Superintendent shall ensure that notice is provided to all employees in the next school year and beyond by appropriately amending the district's employee handbooks, by whatever title they may be known, or by direct notice about the Domestic Violence Law and securing the employees signature acknowledging receipt of the handbook/notice. The Superintendent shall be responsible for notifying all current employees, unless they have been notified through the handbook, of this policy in a manner that he/she deems appropriate.

No employer shall coerce, interfere with, restrain or deny the exercise of, or any attempt to exercise, any rights provided herein or to make leave requested or taken contingent upon whether or not the victim maintains contact with the alleged abuser. No employer shall discharge or in any other manner discriminate against an employee for exercising the employee's rights under law. The taking of domestic violence leave shall not result in the loss of any employment benefit accrued prior to the date of such leave. Upon the employee's return from such leave, he/she shall be entitled to restoration to the employee's original job or to an equivalent position.

LEGAL REFERENCE: M.G.L. 149:52E; Section 10 Chapter 260 of the Acts of 2014

ADOPTED: February 11, 2015

WAREHAM PUBLIC SCHOOLS, WAREHAM, MASSACHUSETTS