



Guidance Title: Domestic Violence Leave Guidance

Guidance Number: HR-INTERNAL-04

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Brief Description: Establishes the guidance for implementation of the MA Domestic Violence Leave Law

Responsible Office: Office of Human Resources

Last Reviewed/Updated: NEW GUIDANCE

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## **INTRODUCTION**

Under G.L. c. 149, s. 52E, “An Act Relative to Domestic Violence” (the “Act”), the University is required to provide up to fifteen (15) days of job-protected leave (paid or unpaid) each calendar year, to qualifying employees who are victims of domestic violence.

The Act was signed into law on August 8, 2014, and became effective immediately. The Act creates new employment protections for both employees and their family members who are victims of abusive behavior, including domestic violence.

## **DEFINITIONS**

**Employee.** An individual who performs services for and under the control and direction of an employer for wages or other remuneration.

**Family Member.** Defined in the statute as a parent, stepparent, child, step-child, sibling, grandparent or grandchild; a married spouse; 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; or persons in a guardianship relationship.

**Domestic Violence.** The Act defines “domestic violence” as abuse against an employer 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 cohabitated 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.** The Act’s definitions of “abuse” is broadly 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.

Abusive behavior. Any behavior constituting domestic violence, including stalking, sexual assault, or kidnapping under Massachusetts law.

## **APPLICABILITY**

An employee who is a victim, or an employee who has a family member who is a victim of abusive behavior, is eligible for leave. Covered family members include the employee's spouse, parent, stepparent, child, stepchild, sibling, grandparent, and grandchild. The Act specifically notes that perpetrators of domestic violence are not entitled to leave.

## **COMPENSATION**

All employees who are entitled to paid vacation time, sick days or personal days, will be paid for time taken under domestic violence leave, and must exhaust this paid time prior to taking unpaid leave. This guidance does not supersede or replace any benefits or privileges that are provided to employees under their respective collective bargaining agreements.

Time off under the Act may run concurrently with time off provided by the Family Medical Leave Act, the Massachusetts Parental Leave Act, the Massachusetts Earned Sick Leave Law, the Small Necessities Leave Act, and other leave laws that may allow employees to make concurrent use of leave. The University requires employees to use their accrued paid time off to receive pay when taking other statutorily authorized leave that would otherwise be unpaid, and leave granted pursuant to this guidance would run concurrently with any domestic violence leave currently allowed under an employee's collective bargaining agreement.

## **LEAVE AVAILABILITY**

If an employee has suffered abusive behavior, or has a family member who is the victim of abusive behavior, the employee may take leave from work for purposes related to the abuse, such as:

- obtaining medical attention or counseling;
- obtaining legal help;
- meeting with law enforcement or a district attorney;
- securing housing;
- securing an order of protection from a court;
- attending child custody proceedings;
- attending other court proceedings related to the abusive behavior, and
- obtaining other victim services.

## **UNIVERSITY NOTIFICATION**

The University must notify each employee of his or her rights and responsibilities under the Act. This guidance, along with the Domestic Violence and Abusive Situation Poster, shall satisfy notification requirements for the University.

## **EMPLOYEE NOTIFICATION**

Employees are required to give notice of leave taken pursuant to the Act, except where there is a threat of imminent danger to the health and safety of the employee or the employee's covered family member. Employees must provide appropriate notice to their immediate supervisor and/or the Assistant Director of Human Resources in advance of their need for leave. In cases of imminent danger to the employee's or their family member's health or safety, the employee

must provide notice within three (3) workdays that the leave was taken or being taken under the Act. This notice may be given to the applicable campus Human Resources Office by the employee, or the employee's family member, 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.

### **REQUIRED DOCUMENTATION**

Employees are required to provide documentation to support a leave request under the Act, unless there is a threat of imminent danger. Valid documentation that will support leave under the Act includes:

- a restraining order or other documentation of equitable relief issued by a court of competent jurisdiction;
- a police record documenting the abuse;
- documentation that the perpetrator of the abuse has been convicted of one or more of the offenses enumerated in M.G.L. c. 265 where the victim was a family or household member;
- medical documentation of the abuse;
- a statement provided by a counselor, social worker, health worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the employee in addressing the effects of the abuse on the employee or the employee's family; or
- a signed written statement from the employee attesting to the abuse.

If an unscheduled absence occurs, the employee must produce valid documentation of the reason for the absence within 30 days of the unauthorized absence. The University may not require the employee to produce evidence of an arrest or conviction, nor may the University require as a condition of granting, using, or verifying time off under the Act, documentation explaining the details of the domestic violence.

### **CONFIDENTIALITY REQUIREMENTS**

All documentation must be provided to the applicable campus Human Resources Office and will be kept confidential. Documentation shall not be disclosed unless requested by or consented to in writing by the employee; ordered to be released by a court; or otherwise required by applicable state or federal law. Additionally, the campus Human Resources Office will only retain this documentation for as long as it is required to determine the employee's eligibility for domestic violence leave.

### **EMPLOYMENT PROTECTIONS**

The University cannot discharge, or in any other manner, discriminate against an employee for exercising the employee's rights under the Act. Upon the employee's return from such leave, the employee is entitled to restoration to the employee's original job or to an equivalent position.

If an unscheduled absence occurs, the University shall not take any negative action against the employee if, within 30 days from the unauthorized absence or within 30 days from the last unauthorized absence in the instance of consecutive days of unauthorized absences, the employee provides any of the documentation required under the Act.