



# DOMESTIC VIOLENCE LEAVE POLICY

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## **I. PURPOSE OF POLICY**

To define the circumstances under which eligible City of Somerville employees may be granted a leave of absence under the Domestic Violence Leave Law.

## **II. SCOPE**

### **A. DESCRIPTION**

This policy applies to all employees of The City of Somerville.

### **B. DOMESTIC VIOLENCE LEAVE ELIGIBILITY**

(*MGL, c149, §52E*), an employee is eligible for up to 15 days of unpaid leave in a 12 month period if:

- a) the employee, or a family member of the employee, is a victim of abusive behavior and
- b) the employee is using the leave from work to get: medical attention, counseling, victim services or legal assistance; secure housing; obtain a court protective order; appear in court or before a grand jury; meet with law enforcement officials; attend child custody proceedings; or address other issues directly related to the abusive behavior.

To take these leaves, employees must first exhaust all annual or vacation leave, personal leave and sick leave, unless the employer waives that requirement\*.

\*Please note that The City of Somerville has elected to allow use of all accrued time off before entering in to an unpaid status while on an approved Domestic Violence Leave.

## **III. HEALTH AND WELFARE BENEFITS (Medical, Dental and Life insurance)**

The City of Somerville will continue the employee's health benefits coverage during leave. If the employee is in a paid status during all or part of the Domestic Violence Leave period, employee contributions for continued medical benefits at the regular employee rate will be deducted while the employee is in a paid status. The City of Somerville will maintain health care benefits for an employee on Domestic Violence Leave in an unpaid leave status on the same terms as if the employee continued to work provided that the employee pays the employee contribution portion of their benefit premium

### **A. CONTINUATION OF HEALTH AND WELFARE BENEFITS WHILE ON DOMESTIC VIOLENCE LEAVE**

Health and Welfare benefits cease if:

1. the employee informs the City of Somerville of an intent to not return to work at the end of Domestic Violence Leave; or
2. the employee fails to return after Domestic Violence Leave is exhausted; or
3. the employee falls behind in employee payments for health care benefits (after advance notification from the City that coverage will cease if payment is not received).

### **B. PAYMENTS WHILE ON DOMESTIC VIOLENCE LEAVE**

For any period of Domestic Violence Leave where the employee is in an unpaid status, the employee can continue medical insurance coverage by making timely payments at the employee contribution rate. Effective the first day of the pay period in which the employee is in a "no pay" status, the employee must pay the employee portion of the premium for that calendar month within 30 days of the date of the invoice. If payment is not received within 60 days, the employee may be declared ineligible to receive any further benefits and their insurance cancelled retrospectively to the last paid period.

#### IV. HOLIDAY, VACATION, SICK TIME AND SENIORITY

The employee will continue to accrue holiday, vacation and sick leave credits during paid and unpaid Domestic Violence leave. Holidays will be included in the accounting of the 15 days. ***An employee will not be eligible to access any time accrued while on said leave until their return to duty unless otherwise approved by the employee's department head and the Mayor.*** Seniority, however, will accrue during the term of the leave. An employee taking such leave is entitled to be restored to the same or an equivalent position as held by the employee when the leave commenced, the same status, pay, and length of service credit, unless changed business circumstances make that return impossible. Employees returning from Domestic Violence Leave will also be entitled to any other benefits the employee would have accrued had he/she not taken leave.

An employee on Domestic Violence Leave (regardless of pay status) will be eligible to receive holiday pay for the recognized holidays observed by the City of Somerville. Holidays will be included in the accounting of Domestic Violence Leave time taken if the Domestic Violence Leave is for a full week during which the holiday occurs. "Snow Days", as declared by the Mayor, will have no impact as to an employee's paid or unpaid status.

##### A. HOW ACCRUED TIME MUST BE USED

Employees on Domestic Violence Leave will use their accrued time in the following order:

1. Sick leave, if any;
2. Personal leave, if any;
3. Vacation leave, if any.

Employees must exhaust all accrued paid time before entering an unpaid status.

#### V. DEFINITIONS

##### A. Eligible Family Member

An eligible family member includes a spouse, parents, and natural, adopted, or foster children.

##### B. Child

Child is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person who has day-to-day responsibilities to care for and financially support that child. The child must be either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability.

##### C. Spouse

Spouse is a husband or wife as defined or recognized under Federal or State law for purposes of marriage.

##### D. Parent

Parent is a biological parent or an individual who had day-to-day responsibilities to care for and financially support the employee when the employee was a child. This term does not include parents "in-law".

#### VI. HOW TO APPLY FOR DOMESTIC VIOLENCE LEAVE

Employees are required to notify their Supervisor or Personnel within **three workdays** that the leave *was* or *is being* taken under the protection of the Domestic Violence Leave Law. The notice may be communicated by the employee, or by another person who is helping out, such as a family member or a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional

If an unscheduled absence occurs, the employee must provide one of the following documentation: a protective order, a document printed on court or other official letterhead; a police report; official adjudication documents showing the perpetrator's involvement in the criminal justice system; a sworn statement from a professional advocate; or a written sworn statement from the employee, executed under penalty of perjury **within 30 days** from the unauthorized absence or within 30 days from the last unauthorized absence (in the case of consecutive days of unauthorized absences).

## **VII. REQUIREMENT TO TAKE PAID LEAVE**

The City of Somerville requires that employees use all of their available sick, personal and vacation days as part of their 15 day leave under the Domestic Violence Leave. The remainder of the 15 day period, after the exhaustion of vacation, sick and personal days, will be considered unpaid leave.

## **VIII. ADDITIONAL EMPLOYER RESPONSIBILITIES**

The City of Somerville will also comply with the Domestic Violence Leave Law by not:

- Interfering with, restraining, or denying the exercise of any right provided under Domestic Violence Leave Law;
- Discharging or discriminating against any person for opposing any practice made unlawful by the Domestic Violence Leave Law or for involvement in any proceeding under or relating to the Domestic Violence Leave Law.

## **IX. DOMESTIC VIOLENCE LEAVE LAW QUESTIONS AND CONCERNS**

If you have any questions about your Domestic Violence Leave Law rights or responsibilities or if you disagree with a decision made regarding Domestic Violence Leave Law leave entitlement, please contact the Personnel Department to resolve your concerns as soon as possible,

To enforce rights under the Domestic Violence Leave Law, an employee may file a complaint with The Massachusetts Attorney General will enforce the new law, and aggrieved employees may also bring private lawsuits.

The Domestic Violence Leave Law does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement that provides greater leave rights.

## **X. PROTOCOL**

When Personnel is notified of the need for Domestic Violence Leave, they will compile the necessary information. The Personnel Office Designee may share certain information with an employee's supervisor and/or other agency official(s) as necessary. Under these circumstances, the Personnel Office Designee will inform the recipients about these confidentiality requirements. The information disclosed will be no more than is necessary to process the request.

Tracking for payroll purposes will be done by the payroll clerk.

***Nothing in this policy shall be construed to conflict with the Massachusetts Domestic Violence Leave Law (MGL, c149, §52E).***