

**Town of Mashpee Board of Selectmen  
Policy 075**

**Domestic Violence Leave Policy**

**I. PURPOSE**

This policy describes the eligibility and procedural requirements relating to the administration of leave taken pursuant to the Massachusetts Domestic Violence Leave Act, G.L. c. 149, §52E (“DVLA” or “the Act”).

**II. POLICY**

The Town of Mashpee is committed to complying with the DVLA, as it may be amended from time to time. In the event of any conflict between the Town’s DVLA policy and the state law and any applicable regulations, the state law/regulations applicable to the Town and its employees shall prevail.

**III. APPLICATION**

This Policy applies to all employees of the Town of Mashpee. Employees whose employment is governed by a collective bargaining agreement are subject only to those provisions of the Policy not specifically regulated by law or agreement.

**IV. PROCEDURES**

A. Eligibility

To qualify for domestic violence leave under the DVLA, an employee or a covered family member must be the victim of “abusive behavior.” “Abusive behavior” includes any of the following behaviors: domestic violence, stalking, sexual assault or kidnapping.

Domestic violence is abuse against an employee or a covered family member by a current or former spouse, a person with whom the victim shares a child, a person cohabitating with or who has cohabitated with the victim in the past, a relative by blood or marriage, or a person with whom the employee or family member has or had a dating or engagement relationship.

Covered family members include a spouse, parent, step-parent, child, step-child, sibling, grandparent, grandchild, persons in a substantive dating relationship or who reside together, persons having a child in common, or persons in a guardian relationship. In the case of abuse of a family member, the employee is not entitled to leave if he or she is the alleged perpetrator.

## B. Duration of Leave

If an employee or a covered family member of the employee is a victim of abusive behavior, he/she may take up to fifteen (15) days of unpaid leave in any 12-month period. An employee seeking leave under this policy shall be required to exhaust all vacation leave, personal leave, compensatory time and sick leave available to the employee, prior to requesting or taking leave under this section, unless the Town waives this requirement.

If a leave under this policy would also qualify under the Family Medical Leave Act, then the leaves will run concurrently.

## C. Reasons for Requesting Leave

Employees may request leave to address issues directly related to the abusive behavior. This includes seeking medical attention, counseling, victim services or legal assistance; securing housing; obtaining a protective order from a court; appearing in court or before a grand jury; meeting with a district attorney or other law enforcement official; or attending child custody proceedings or addressing other issues directly related to the abusive behavior against the employee or family member of the employee. It is not a requirement of the Act that the employee maintain contact with the alleged abuser before being eligible for leave.

## D. Notice

Employees must provide the Department Head and Human Resources Director sufficient advance notice of the decision to use domestic violence 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 advance notice must notify the employer within three (3) work days that leave is being taken pursuant to the DVLA. The notice may be provided by certain specified individuals other than the employee.

If an unscheduled absence occurs, the employee has 30 calendar days to produce documentation of the need for leave, in accordance with paragraph E, below.

## E. Documentation

Employees taking leave pursuant to the DVLA may be required to provide documentation evidencing that the employee or employee's family member has been a victim of abusive behavior. If requested, an employee is required to provide the Human Resources Director such documentation within a reasonable period after the request is made. An employee can satisfy this requirement by providing any one of the following documents:

- 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.

- 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.
- 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.
- 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.
- Medical documentation of treatment as a result of the abusive behavior complained of by the employee or the employee's family member.
- 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.
- 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.

#### F. Return to Work

Employees who take leave pursuant to the DVLA 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.

#### G. Confidentiality

With limited exceptions set forth by law, information related to the employee's leave shall remain confidential.

***Adopted by the  
Mashpee Board of Selectmen  
February 26, 2018  
Pages: 3***