



DEPARTMENT OF ADMINISTRATIVE SERVICES

450 Columbus Boulevard, Suite 1501, Hartford, CT 06103

TO: Agency Heads and Agency HR Directors

DATE: March 8, 2019

RE: General Letter No. 34 – Family Violence Leave Policy (revised)

PURPOSE

The purpose of this General Letter is to describe the leave rights available to employees who are victims of family violence (also referred to herein as domestic violence) and establishes the procedures relating to such leave. It also serves to demonstrate the commitment of state agencies in supporting victims of family violence, including stalking. This policy supersedes the General Letter on this same topic dated December 2, 2010.

AUTHORITY

C.G.S. § 54-85b provides: “An employer shall not deprive an employee of employment, penalize or threaten or otherwise coerce an employee with respect to employment, because . . . the employee is a victim of family violence.” Additionally, C.G.S. § 31-51ss requires employers to allow family violence victims to take paid or unpaid leave for specified reasons if such leave is reasonably necessary.

DEFINITIONS

Family Violence or Domestic Violence: Family or domestic violence is a pattern of coercive behavior, including acts or threatened acts, that is used by a perpetrator to gain power and control over a current or former spouse, family member, intimate partner, or person with whom the perpetrator shares a child in common. Family or domestic violence includes, but is not limited to: physical violence, injury, or intimidation, sexual violence or abuse, emotional and/or psychological intimidation, harassment, stalking or economic abuse and control

Perpetrator: An individual who commits or threatens to commit an act of domestic violence or stalking to include unwarranted violence against animals.

Protection or Restraining Order: Protection orders, sometimes called restraining orders, protective orders, or stay-away orders, allow a victim to petition the court for protection from a perpetrator, as well as establish custody and visitation guidelines and provide for other forms of support, like financial, which last for the duration of the order.

Protection orders may also be issued in criminal cases as a condition of probation or condition of release particularly in domestic violence, dating violence and stalking related crimes.

Stalking: Stalking refers to harassing, intimidating or threatening conduct that causes the victim to fear for his or her safety or the safety of a family member, or would cause, a reasonable person in a similar situation to fear for his or her safety. Stalking conduct includes, but is not limited to; following or spying on a person; appearing at a person's home or work; engaging in unwanted, harassing, or threatening phone calling, emailing, texting, etc.; waiting at places in order to make unwanted contact with the victim or to monitor the victim; leaving unwanted items for the victim; posting information or spreading rumors about the victim through social media, in public place or by word of mouth. Stalking may occur through the use of technology, including, but not limited to; email, voicemail, text messaging, and use of geolocation technology and social networking sites.

Survivor or victim: An individual who is currently subject to, or has in the past been subjected to, domestic violence, stalking or other forms of violence.

POLICY

If an employee is a victim of family violence, an employer shall permit the employee to take paid or unpaid leave during any calendar year in which such leave is reasonably necessary for the following reasons:

- To seek medical care or psychological or other counseling for physical or psychological injury or disability for the victim,
- To obtain services from a victim services organization on behalf of the victim,
- To relocate due to such family violence, or
- To participate in any civil or criminal proceeding related to or resulting from such family violence.

Paid Leave:

An employee may use earned accruals, personal leave or compensatory time in order to continue to receive wages while on family violence leave. If the employee needs the leave in connection with his or her own medical care or counseling, the time off shall be charged to the employee's accrued sick leave. If the employee has exhausted his or her sick leave, or if the employee needs time off for one of the non-medical reasons listed above, the employee has the option to choose to use personal leave, vacation accruals and/or compensatory time balances or to choose unpaid leave.

Unpaid Leave:

Unpaid leave available to an employee under this policy is limited to twelve (12) days during any calendar year. Nothing in this policy or the underlying statute alters existing laws, regulations and policies regarding the effects of being off the state payroll for more than three (3) or five (5) days in a month.

Family and Medical Leave:

If an employee who is a victim of family violence is eligible for state and/or federal family and medical leave and needs leave because he or she has a serious health condition or serious illness, then the time shall be processed and coded as family and medical leave, regardless of the fact that the serious health condition or illness is related to family violence. The time the employee spends on state and/or federal family and medical leave shall not count toward the employee's family violence leave entitlement.

If an employee who is a victim of family violence has been approved to take state and/or federal family and medical leave in connection with his or her serious health condition or serious illness also needs time off from work for one of the non-medical reasons listed above, such as to attend a court proceeding, the employee may use family violence leave for that purpose.

Other Leave:

Nothing in this policy or the underlying statute requires an employee to use family violence leave. If an employee is eligible for leave under a different policy, regulation or statute, the employee has the discretion to choose whether or not to request leave under this policy.

Leave under this policy shall not affect any other leave provided under state or federal law.

PROCEDURE

An employee who wishes to exercise his or her right to family violence leave – paid or unpaid – under this policy, must provide the Human Resources Office of his or her agency with a signed written statement certifying that the leave is for one of the four reasons listed above at the time he or she requests the leave.

Also, at the time the employee requests family violence leave, the employee must provide Human Resources with documentation verifying that the employee is a victim of family violence. This documentation shall consist of either:

- A police or court record related to the family violence; or
- A written statement that the employee is a victim of family violence, signed by one of the following people:
 - an employee or agent of a victim services organization,
 - an attorney, an employee of the Judicial Branch's Office of Victim Services or the Office of the Victim Advocate, or
 - a licensed medical professional or other licensed professional from whom the employee has sought assistance with respect to the family violence.

If the leave is approved:

- Human Resources shall notify the employee and the employee's manager of the approved leave and will specify the duration and/or time frame of the leave.

- The employee shall follow the agency's existing call-in procedure when requesting time off from work due to family violence leave.
 - The employee is responsible for notifying the agency that he or she is taking time under the preapproved family violence leave when reporting an absence. The manager shall contact Human Resources if there are any questions about whether the leave is approved.
 - If an employee's need to use leave under this section is foreseeable, the employee shall provide his or her employer with notice of his or her intention to use such leave seven (7) days prior to the date such leave is to begin. (By statute, the agency cannot require the employee to provide more than seven (7) days' notice.)
 - If an employee's need for such leave is not foreseeable, the employee shall give notice of his or her intention to take family violence leave as soon as practicable.
- If the employee is using earned accruals, personal leave or compensatory time while on family violence leave, the standard Core-CT codes for such leave shall be used.
- State agencies shall maintain the confidentiality of an employee's disclosure regarding the violence/stalking to the extent allowed by federal or state law unless to do so would result in physical harm to any person and/or jeopardize safety within the workplace.
 - Medical documentation related to the employee's need for family violence leave shall be kept in the employee's medical file.
 - The agency's Human Resources Office shall maintain a separate and confidential record of the employee's status as a victim of domestic violence and/or stalking. This confidential record is established to include any written statement(s) or police or court record(s) provided by the employee. The record also documents any paid leave taken under this policy to ensure employees are not penalized for taking family violence leave.
 - The employee must be given notice prior to the disclosure of any records relating to the employee's use of family violence leave.
- If the employee is taking unpaid leave, the time shall be coded as ULDOM. As stated above, a maximum of 12 unpaid leave days per calendar year may be taken under the statute. Coding is necessary in order to track only unpaid leave time for family violence leave.
 - **Note:** unpaid leaves of absence longer than five consecutive workdays and due to family violence must be recorded in Job Data as 'Leave of Absence – General Letter No. 34'.

RESOURCES

The following resources should be made available to an employee who is a victim of domestic violence:

- Connecticut Coalition Against Domestic Violence and the state's 18 designated domestic violence organizations: 24/7 Help is available at 1-866-774-2900; and
- Agency's Employee Assistance Program (EAP) provider.

OTHER CONSIDERATIONS

State agencies recognize that employees who are victims of domestic violence and/or stalking may experience temporary difficulty fulfilling job responsibilities. If a state agency becomes aware that an employee is a victim of domestic violence and/or stalking, the agency will offer support to the employee and work in collaboration with the employee and the DAS Statewide Security Unit to address the issues, in accordance with established policies within the workplace. A state agency may develop a work plan with the employee, provide leave and other schedule modifications as circumstances and operations permit, provide referrals to a community-based domestic violence organization, advise the employee of his or her rights regarding unemployment insurance in accordance with established policies and laws within the workplace, and maintain a separate and confidential record of employee's status as a victim of domestic violence and/or stalking to ensure the employee that his or her rights and privileges of employment are not impacted or compromised as a result of the violence.

OTHER

The Connecticut Coalition Against Domestic Violence is available for training and technical assistance to human resources professionals. For more information, contact the Coalition at (860) 282-7899. For additional guidance around policy in the workplace in response to domestic violence and stalking go to: <https://www.workplacesrespond.org/> and/or <https://vawnet.org/>.

AGENCY RESPONSIBILITIES

Appointing authorities are responsible for the following concerning family violence leave under this policy:

- Responding to any administrative and/or legal challenges.
- Maintaining the security and confidentiality of all materials related to the request for and approval of family violence leave.
- Meeting all document retention requirements.
- Responding to requests for information involving family violence leave.

Please contact the assigned DAS HR Consultant for questions regarding this policy.