



WASHOE COUNTY

Leave and Accommodations for Victims of Domestic Violence

Effective: 01/01/2018

I. POLICY

- A. Eligibility
- B. Definitions
- C. Types of Reasonable Accommodations and Leave Provided
- D. Domestic Violence Leave to be used only for Certain Services
- E. Domestic Violence Leave may be designated as FMLA
- F. Intermittent or Consecutive Leave

II. RIGHTS AND RESPONSIBILITIES

- A. Notice
- B. Certification
- C. Privacy of Information
- D. No Discrimination or Retaliation

III. CONTRACTS AND RELATED POLICIES AND FORMS

I. POLICY

Washoe County will provide up to 160 hours of leave in a 12 month period and/or reasonable accommodations to an eligible employee who is the victim of an act which constitutes domestic violence or whose family or household member is a victim of an act which constitutes domestic violence.¹

A. Eligibility – To be eligible, an employee must:

1. *Work for 90 days* – An employee must have worked at least 90 days for Washoe County. The 90 days need not be continuous or consecutive – all time worked for Washoe County is counted.
2. *Be a victim or have a family or household member who is a victim of domestic violence* – An employee or family or household member must be the victim of an act which constitutes domestic violence.
3. *NOT be the alleged perpetrator* – An employee who is an alleged perpetrator of an act which constitutes domestic violence is not entitled to accommodations or leave under this policy.

B. Definitions

1. *Domestic violence* occurs when a perpetrator commits certain acts against or upon:
 - a. The perpetrator's spouse or former spouse,
 - b. Any other person to whom the perpetrator is related by blood or marriage,
 - c. Any other person with whom the perpetrator has had or is having a dating relationship. Dating relationship means intimate association and does not include an informal relationship or an ordinary association between persons in a business or social context,
 - d. Any other person with whom the perpetrator has a child in common,
 - e. The minor child of any of those persons listed in Section a - d,
 - f. The perpetrator's minor child,

¹ This policy is based on SB 361, which amends NRS Chapter 608. Washoe County shall provide leave in accordance with the law. This policy is not meant to be an exhaustive statement of the County's or its employees' rights and duties.

- g. Any other person who has been appointed the custodian/legal guardian for the perpetrator's minor child.
2. *Acts* which may constitute domestic violence:
 - a. Battery.
 - b. Assault.
 - c. Sexual assault.
 - d. Compelling a victim by force or threats to perform an act from which the victim has the right to refrain or to refrain from an act which the victim has the right to perform.
 - e. An intentional course of conduct intended to harass the victim. Such conduct may include, but is not limited to, stalking, trespassing, destruction of private property, injuring or killing an animal.
 - f. Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonably foreseeable risk of harm to the other person from the entry.
 3. *Family or household member* means a spouse, domestic partner, minor child, parent or other person who was actually residing with the employee at the time of the act which constitutes domestic violence.

C. Types of Reasonable Accommodations and Leave Provided

1. *Reasonable Accommodations* – Washoe County will provide reasonable accommodations at the request of an eligible employee to ensure the safety of the employee, the workplace, the employer or other employees, unless doing so would create an undue hardship to Washoe County. Examples of an accommodation:
 - a. Relocating the employee, providing a different work area for the employee or changing the location to which the employee reports;
 - b. Modifying the schedule of the employee; or
 - c. Providing the employee a new telephone number for work.
2. *Annual Leave* – Washoe County will approve a request for annual leave from an eligible employee if:
 - a. The employee has accrued the amount of annual leave necessary to cover the time requested; and
 - b. The combination of all domestic violence leave taken by the employee, including sick leave, annual leave, compensatory time and leave without pay, does not exceed 160 hours in the 12-month period

immediately following the date on which the act which constitutes domestic violence occurred.

3. *Sick Leave* – Washoe County will approve a request for sick leave from an eligible employee if:
 - a. The employee has accrued the amount of sick leave necessary to cover the time requested; and
 - b. The combination of all domestic violence leave taken, including sick leave, annual leave, compensatory time and leave without pay, does not exceed 160 hours in the 12-month period immediately following the date on which the act which constitutes domestic violence occurred.

4. *Unpaid Leave* – Washoe County will approve a request for leave without pay to an eligible employee if:
 - a. The combination of all domestic violence leave taken, including sick leave, annual leave, compensatory time and leave without pay, does not exceed 160 hours in the 12-month period immediately following the date on which the act which constitutes domestic violence occurred; and
 - b. The employee will be required to use all but 10 days of any accrued annual, compensatory time, sick or personal leave, in lieu of unpaid Domestic Violence leave.
 - c. The Department Head may approve the use of unpaid leave after considering whether the leave would constitute undue hardship to Washoe County and notifying the Director of Human Resources.

D. Domestic Violence Leave to be used only for Certain Services – An eligible employee may use Domestic Violence leave only:

1. *For the diagnosis, care or treatment of a health condition* related to an act which constitutes domestic violence committed against the employee or family or household member of the employee;

2. *To obtain counseling* or assistance related to an act which constitutes domestic violence committed against the employee or family or household member of the employee;

3. *To participate in any court proceedings* related to an act which constitutes domestic violence committed against the employee or family or household member of the employee; or
4. *To establish a safety plan*, including, without limitation, any action to increase the safety of the employee or the family or household member of the employee from a future act which constitutes domestic violence.

E. Domestic Violence Leave may be designated as FMLA

If Domestic Violence leave meets the requirements for eligibility pursuant to the Family and Medical Leave Act (FMLA), any amount of time that the employee is absent from work during that period may be designated as FMLA leave.

F. Intermittent or Consecutive Leave

1. Domestic Violence leave may be taken on a consecutive or intermittent basis.
2. Intermittent leave is contingent upon necessity of events and approval by the Department Head.
3. Washoe County may place the employee in an alternative position that has equivalent pay and benefits which better accommodates intermittent leave.

II. RIGHTS AND RESPONSIBILITIES

A. Notice

1. By employee –
 - a. *Foreseeable Leave*:
 - (i) Employees must comply with their department’s usual and customary requirements for requesting leave.
 - (ii) A reasonable effort should be made to schedule leave so as to not unduly disrupt the department’s operations. The employee seeking leave may not be required to find a replacement worker as a condition of using leave.

- (iii) After the initial emergency act constituting domestic violence, the employee shall provide at least 48 hours of notice to the Department Head for any remaining leave requests.
 - b. *Emergency Leave*: If notice cannot be given, the employee is required to give as much notice as practicable. Emergency leave may be approved based on verbal or email communication with the department head, and the required documentation may be completed after the leave is granted.
 - c. *Failure to Provide Notice or Certification*: Leave may be denied if an employee fails to give notice for a foreseeable leave with no reasonable explanation for the delay or if the employee fails to provide certification when requested.
 - d. *Request for Accommodation*: An employee who needs an accommodation due to an act which constitutes domestic violence should inform the Human Resources or the Department HR Representative. Washoe County will explore potential accommodations with an eligible employee. The employee will be notified once a determination has been made.
- 2. By employer –
 - a. The Department HR Representative shall contact Human Resources immediately when an employee is seeking any period of extended leave.
 - b. When an employee is absent for 3 or more consecutive work days, the Department HR Representative shall notify Human Resources.
 - c. The employee will be required to use all but 10 days of any accrued annual, compensatory time, sick or personal leave, in lieu of unpaid Domestic Violence leave.
 - d. An employee may not refuse to have the County designate their qualified leave as FMLA time.
 - e. The Department Head may approve the use of unpaid leave, after considering whether the leave would constitute undue hardship to Washoe County and notifying the Director of Human Resources.
- B. Certification (Proof)** – Washoe County may require the employee to provide certification (proof) that confirms the reason for the requested leave or accommodation. Such documentation may include a police report, a copy of an application for an order for protection, an affidavit from an organization which provides services to victims of domestic violence or documentation from a physician.

C. Privacy of Information

1. *Records confidential.* Records and documents relating to Domestic Violence leave or accommodations will be maintained by the Human Resources Department as confidential records in separate files/records from the employee's personnel file.
2. The information may be accessed by the following persons:
 - a. Supervisors and managers may be informed of necessary restrictions on the work or duties of an employee and necessary accommodations;
 - b. First aid and safety personnel may be informed, when appropriate, if an employee's physical or medical condition might require emergency treatment; and
 - c. Government officials investigating compliance with the domestic violence leave law may be provided relevant information on request.

D. No Discrimination or Retaliation

Washoe County prohibits discrimination, harassment and retaliation against employees who seek accommodation or leave due to domestic violence. This means that Washoe County will not discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against, an employee because:

1. The employee requested to use Domestic Violence leave;
2. The employee participated as a witness or interested party in court proceedings related to an act which constitutes domestic violence which triggered the request for leave.
3. The employee requested an accommodation because of an act of domestic violence
4. An act which constitutes domestic violence was committed against the employee in the workplace of the employee

Please see **Washoe County Discrimination, Harassment and Retaliation Policy** for more information.

III. CONTRACTS AND RELATED POLICIES AND FORMS

Human Resources Department, Assistant Director of Human Resources/Labor Relations, Patricia Knight

Washoe County's Discrimination, Harassment and Retaliation Policy