



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

TITLE: Employment Protections and Reasonable Accommodations for Employee Safety at Work Related to Domestic Violence, Sexual Assault or Stalking

NUMBER: BUL-6585.1

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Office of the General Counsel

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POLICY: This policy provides information and guidance regarding California Labor Code Sections 230 and 230.1; which prohibits the discharge, discrimination or retaliation against an employee who is a victim of domestic violence, sexual assault or stalking. This policy protects employees who take time off work to obtain legal or medical assistance; including, but not limited to a temporary restraining order, restraining order or other injunctive relief to help ensure the health, safety or welfare of the victim or his or her child.

MAJOR CHANGES: This Bulletin replaces BUL-6585.0 of the same title, dated September 17, 2015.

The State of California Labor Commissioner’s Office has developed the “Rights of Victims of Domestic Violence, Sexual Assault and Stalking notice. Effective July 1, 2017, California employers must provide all new hires and any current employee who so requests a written notice of rights of victims of domestic violence, sexual assault and stalking.

PURPOSE: The purpose of this Bulletin is to outline administrative procedures for responding to employee requests for protections and reasonable accommodations for the safety of employees who are victims of domestic violence, sexual assault or stalking.

DEFINITIONS: **Domestic Violence**
Abuse perpetrated against any of the following (i) a spouse or former spouse; (ii) a cohabitant or former cohabitant; (iii) a person with whom the employee is having or has had a dating or engagement relationship; (iv) a person with whom the employee has had a child; (v) a child of either the employee or abuser; or (vi) an employee’s relative of second degree.

ROUTING
All Employees
All Locations



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Stalking

Willful, malicious and repeated following; willful and malicious harassing of another person; or, a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family.

Sexual Assault

Any unwelcome sexual contact including, but not limited to, rape, statutory rape, sodomy, sexual penetration, oral copulation or child molestation. The California Penal Code provides a more comprehensive definition set forth in sections 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 288, 288a, 288.5, 289, or 311.4, as amended.

Undue Hardship

An action which creates significant difficulty or expense when considered in light of factors, including, nature and cost of the accommodation, financial resources of the District and type of operation. Undue hardship also includes an action that would violate the District's duty to furnish and maintain a place of employment that is safe and healthful as required by the Labor Code.

GUIDELINES:

UNDERSTANDING CA LABOR CODE SECTIONS 230 AND 230.1

CA Labor Code Sections 230 and 230.1 prohibit discharge, discrimination or retaliation against an employee who is a victim of domestic violence, sexual assault or stalking for taking time off work to obtain relief, including, but not limited to a temporary restraining order, restraining order or other injunctive relief to help ensure the health, safety or welfare of the victim or his or her child. The Labor Code provides that an employee may use vacation, personal leave or compensatory time off, if available.

An employee who is a victim of domestic violence, sexual assault or stalking may take time off from work to attend to any of the following:

1. To seek medical attention for injuries caused by domestic violence, sexual assault or stalking.
2. To obtain services from a domestic violence shelter, program or rape crisis center as a result of domestic violence, sexual assault or stalking.
3. To obtain mental health support or psychological counseling related to an experience of domestic violence, sexual assault or stalking.
4. To participate in services related to safety planning or take other actions to increase safety from future domestic violence, sexual assault or stalking, including temporary or permanent relocation.

An employee may have separate rights to leave under the Family and Medical Leave Act, California Family Rights Act, other state statutes and/or bargaining unit agreements. However, this statute is not intended to create a right for an



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employee to take additional unpaid leave that exceeds the time allowed under the Family and Medical Leave Act (FMLA).

CONFIDENTIALITY

All personnel matters are confidential and may not be shared, except only with those persons who need to know. Information sharing should be within the confines of the District's reporting procedures and investigative process.

Any verbal or written statement, police or court record, or other documentation provided by the employee regarding their status as a victim of domestic violence, sexual assault or stalking shall be maintained as confidential and not disclosed, except as required by law or as necessary to protect the employee's safety in the workplace. State law requires that an employee shall be given notice before any authorized disclosure of this information.

REASONABLE ACCOMMODATIONS FOR SAFETY

State law mandates that the employer provide reasonable accommodations for a victim of domestic violence, sexual assault or stalking who requests an accommodation for the safety of the victim at work.

In determining reasonable accommodations, the employer shall consider urgent circumstances or danger facing the employee.

State statute mandates that the employer engage the employee in an interactive process to determine effective reasonable accommodations anytime the employee requests a reasonable accommodation or if the safety concern is known and the employer becomes aware of a potential need for safety accommodations.

The employer is not required to provide a reasonable accommodation if the employee has not disclosed their status as a victim of domestic violence, sexual assault or stalking, or if the accommodation is an undue hardship.

State law declares that reasonable accommodations for victims of domestic violence, sexual assault or stalking consist of the implementation of safety measures that may include the following:

1. Transfer, reassignment or modified schedule;
2. Changed work telephone number or work station location;
3. Installed lock(s);
4. Assistance in documenting domestic violence, sexual assault or stalking that occurs in the workplace;
5. Implementation of safety procedures or other adjustments to the job structure, workplace facility or work environment; or,
6. Referral to a victim assistance organization.



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REASONABLE ACCOMMODATION PROCESS

The reasonable accommodations process requires the cooperation of all involved to ensure that individuals who have been the target of domestic violence, sexual assault or stalking are provided with the necessary accommodations.

The site administrator/designee shall engage in a timely, good faith, interactive process with the employee to determine effective reasonable accommodations for safety.

The reasonable accommodations process shall begin as soon as an employee makes a request for safety accommodations to the site administrator/designee, or as soon as the site administrator/designee becomes aware of the possible need for a safety accommodation.

Pursuant to relevant regulations, the request for reasonable accommodations does not have to be in writing, nor does the employee have to use special language such as “reasonable accommodation” or “safety”. A verbal request should be documented in writing by the site administrator/designee. The site administrator/designee may request that the employee provide a signed written statement certifying that the accommodation is for purposes authorized pursuant to this Bulletin.

Responsibilities of District Employees:

1. The employee, or a person acting on their behalf, shall complete a statement certifying that the requested accommodations are for a purpose covered by this Bulletin. See the certification section on page 5.
2. The employee shall give reasonable advance notice of the employee’s intention to take time off work, unless advance notice is not feasible.
3. If the employee no longer needs an accommodation for safety at work, the employee shall notify the site administrator/designee that the accommodation is no longer needed.

Responsibilities of the Site Administrator/Designee:

1. Notify employees of their rights under the law by providing the Victims of Domestic Violence Leave Notice to new employees upon hire and to all employees upon request.
2. Respond promptly to any verbal or written request for reasonable accommodations for safety at work due to an employee’s status as a victim of domestic violence, sexual assault or stalking.
3. For assistance and consultation, contact the Local District, School Police (213) 625-6631, the School Mental Health Crisis Counseling and Intervention Services (213) 241-3841 or other offices, as appropriate.



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4. Engage in a timely, good faith interactive process by meeting with the employee to determine the safety concerns and identify possible accommodations.
5. Consider urgent circumstances or danger facing the employee, in determining whether an accommodation is reasonable.
6. Ensure that the reasonable accommodation policy is implemented, as appropriate, to ensure the safety of the workplace.
7. Document the interactive process and the accommodations using Attachment A, Record of Interactive Process.
8. Request certification or recertification of the employee's status as a victim of domestic violence, sexual assault or stalking. (See sections on certification and recertification below.)
9. Monitor and follow up to ensure that the safety accommodation is effective and still necessary. Follow-up must be documented.
10. Consider removing the employee's name from the school or office website.
11. Refer requests that are not able to be implemented to your Local District Office. The Reasonable Accommodation Committee does not address requests made regarding employee safety.

Provide Resources:

As part of the accommodations process, the site administrator/designee may take the following steps:

1. Recommend the employee see their health care provider for mental/physical health services.
2. If the employee does not have a health care provider, refer the employee to the Employee Assistance Program (800) 285-7717 for limited clinical support services.
3. Provide the employee with Attachment B or Attachment C, Victims of Domestic Violence Leave Notice. Attachment C is in Spanish.
4. Provide the employee supportive resources, specifically for person's identified as victims of domestic violence, sexual assault and stalking, including community agency referrals listed in the related resources section of this bulletin

Certification:

If an unscheduled absence occurs, the site administrator/designee shall not take any adverse actions against the employee if the employee, within a reasonable time after the absence, provides certification. Certification shall be any of the following:



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1. The face sheet of a police report indicating that the employee was a victim of domestic violence, sexual assault or stalking with all suspect and witness information redacted.
2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence, sexual assault or stalking; or, other evidence from the court or prosecuting attorney that the employee appeared in court.
3. Documentation from a licensed medical professional, domestic violence counselor, a sexual assault counselor, licensed health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault or stalking.

Recertification:

The site administrator/designee may request recertification of an employee's status as a victim of domestic violence, sexual assault or stalking every six months after the date of the previous certification.

AUTHORITY:

This is a policy of the Superintendent of Schools. The following legal authority is applied in this policy:

California Labor Code sections 230 and 230.1

NON- RETALIATION PROTECTIONS:

The District will not tolerate retaliation against anyone for filing a complaint or participating in the complaint investigation process.

Applicable State law prohibits the discharge, discrimination or retaliation against an employee, including an employee who is a victim of a crime, for taking time off to appear in court, to comply with a subpoena or other court order as a witness in any judicial proceeding.

RELATED RESOURCES:

NON-DISCRIMINATION AND ANTIHARASSMENT (INCLUDING SEXUAL HARASSMENT) POLICY AND COMPLAINT PROCEDURE, BUL-6612.0, dated November 10, 2015

Incident System Tracking Accountability Report, BUL--5269.2, dated July 10, 2013.

Legally-Mandated Paid Sick Leave for Eligible Employees, BUL-6529.1, dated August 3, 2015.



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Workplace Violence, Bullying and Threats (Adult to Adult), BUL-5798.0, dated July 16, 2012.

ASSISTANCE:

Employee Assistance Program (800) 285-7717 for clinical support services for active LAUSD employees who do not have a medical plan through LAUSD. Employees with a medical plan through LAUSD should be directed to their medical provider.

Employee Health Services (213) 241-6326 for assistance and consultation regarding medical aspects that may be present.

Staff Relations (213) 241-6056.

Equal Opportunity Section (213) 241-7685 for assistance with alleged discrimination and sexual harassment complaints.

Los Angeles School Police Department (213) 625-6631 for assistance with any law enforcement matters.

Office of General Counsel (213) 241-7600 for assistance/counseling regarding legal issues.

School Operations Division (213) 241-5337 for assistance in school operations concerning employees.

School Mental Health, Crisis Counseling and Intervention Service (213) 241-2174 or (213) 241-3841 for assistance with threat assessments, suicide prevention and mental health issues.

Los Angeles County Domestic Violence Hotline for Los Angeles County residents (800) 978-3600 operates 24 hours a day.

The National Domestic Violence Hotline (800) 799-SAFE (7233) operates 24 hours a day.

Los Angeles County District Attorney's Victim-Witness Assistance Program (626) 927-2500 or (800) 380-3811.

California Victim Compensation Program (800) 777-9229.

RAINN (Rape, Abuse and Incest National Network) (800) 656-HOPE (4073) a national victim assistance organization that will connect you with a rape crisis center in your area.



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ATTACHMENTS: Attachment A – Record of Interactive Process

Attachment B – Victims of Domestic Violence Leave Notice (May 2017, Effective July 2017) – English

Attachment C – Victims of Domestic Violence Leave Notice (May 2017, Effective July 2017) – Spanish

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RECORD OF INTERACTIVE PROCESS**

ATTACHMENT A

Directions: To be completed by site administrator/designee in discussion with employee.

Employee Information		
Employee/Applicant Name	Employee Number	
Job Title	Worksite	Work Number

Documentation of Interactive Process (attach additional sheet(s) if necessary)
Date(s) of meeting with employee/applicant (in person):
What accommodations were requested/discussed?
Possible accommodation(s) identified?

Outcome of Interactive Process (attach additional sheet(s) if necessary)
Accommodation(s) implemented:
Requests referred to Local District:

Print Name	Signature	Title	Date

Original to be retained at the work location.

The Labor Commissioner's Office

**EMPLOYERS MUST PROVIDE THIS INFORMATION TO NEW WORKERS
WHEN HIRED AND TO OTHER WORKERS WHO ASK FOR IT****RIGHTS OF VICTIMS OF DOMESTIC VIOLENCE,
SEXUAL ASSAULT AND STALKING*****Your Right to Take Time Off:***

- You have the right to take time off from work to get help to protect you and your children's health, safety or welfare. You can take time off to get a restraining order or other court order.
- If your company has 25 or more workers, you can take time off from work to get medical attention or services from a domestic violence shelter, program or rape crisis center, psychological counseling, or receive safety planning related to domestic violence, sexual assault, or stalking.
- You may use available vacation, personal leave, accrued paid sick leave or compensatory time off for your leave unless you are covered by a union agreement that says something different. Even if you don't have paid leave, you still have the right to time off.
- In general, you don't have to give your employer proof to use leave for these reasons.
- If you can, you should tell your employer before you take time off. Even if you cannot tell your employer before, your employer cannot discipline you if you give proof explaining the reason for your absence within a reasonable time. Proof can be a police report, court order or doctor's or counselor's note or similar document.

Your Right to Reasonable Accommodation:

- You have the right to ask your employer for help or changes in your workplace to make sure you are safe at work. Your employer must work with you to see what changes can be made. Changes in the workplace may include putting in locks, changing your shift or phone number, transferring or reassigning you, or help with keeping a record of what happened to you. Your employer can ask you for a signed statement certifying that your request is for a proper purpose, and may also request proof showing your need for an accommodation. Your employer cannot tell your coworkers or anyone else about your request.

Your Right to Be Free from Retaliation and Discrimination:

Your employer cannot treat you differently or fire you because:

- You are a victim of domestic violence, sexual assault, or stalking.
- You asked for leave time to get help.
- You asked your employer for help or changes in the workplace to make sure you are safe at work.

You can file a complaint with the Labor Commissioner's Office against your employer if he/she retaliates or discriminates against you.

For more information, contact the California Labor Commissioner's Office. We can help you by phone at 213-897-6595, or you can find a local office on our website: www.dir.ca.gov/dlse/DistrictOffices.htm. If you do not speak English, we will provide an interpreter in your language at no cost to you. This Notice explains rights contained in California Labor Code sections 230 and 230.1. Employers may use this Notice or one substantially similar in content and clarity.

La Oficina del Comisionado Laboral

LOS EMPLEADORES DEBEN DAR ESTA INFORMACIÓN A LOS TRABAJADORES NUEVOS CUANDO SON CONTRATADOS Y A AQUELLOS TRABAJADORES QUE LO SOLICITEN

DERECHOS DE LAS VÍCTIMAS DE VIOLENCIA DOMÉSTICA, AGRESIÓN SEXUAL Y ACOSO

Su derecho a ausentarse por un tiempo:

- Tiene derecho a pedir y obtener permiso para ausentarse del trabajo para buscar ayuda para proteger la salud, la seguridad o el bienestar suyo y de sus hijos. Puede ausentarse para solicitar una orden de alejamiento u otra orden judicial.
- Si su compañía tiene 25 trabajadores o más, usted puede obtener un permiso laboral para recibir atención médica o hacer uso de los servicios de un refugio contra la violencia doméstica o de un centro de atención para víctimas de violación, recibir asesoría psicológica o recibir planificación de seguridad relacionada con la violencia doméstica, la agresión sexual o el acoso.
- Puede usar sus días de vacaciones disponibles, licencia personal, licencia médica acumulada o tiempo libre compensatorio para ausentarse, a menos que esté bajo un acuerdo sindical que indique algo diferente. Incluso si no tiene licencia pagada, tiene derecho a ausentarse del trabajo.
- Por regla general, no tiene que entregarle prueba alguna a su empleador para ausentarse por estas razones.
- Si puede, debería avisarle a su empleador antes de ausentarse del trabajo. Incluso si no puede avisarle con anticipo, su empleador no puede disciplinarlo si usted justifica su ausencia en un plazo razonable. La prueba puede consistir en un informe policial, una orden del tribunal, un reporte médico o de un asesor, o cualquier documento similar.

Su derecho a un ajuste razonable:

- Tiene derecho a solicitar ayuda a su empleador o a hacer cambios en su lugar de trabajo para garantizar su seguridad en el trabajo. Su empleador debe colaborar con usted para ver qué cambios se pueden hacer. Dichas modificaciones pueden incluir que se instalen cerraduras, que cambien su turno o número de teléfono, que lo transfieran de sede o que le asignen otras responsabilidades laborales o colaborar a mantener un registro sobre lo que le ocurrió. Su empleador puede solicitarle una declaración firmada para certificar que el motivo de su solicitud es justo, y puede solicitar evidencia que justifique su necesidad de hacer modificaciones. Su empleador no puede compartir su solicitud con sus colegas ni con nadie más.

Su derecho a la protección contra la represalia y discriminación:

Su empleador no puede tratarlo diferente ni despedirlo porque:

- Usted es víctima de violencia doméstica, agresión sexual o acoso.
- Solicitó un permiso para obtener asistencia por estos motivos.
- Pidió ayuda o cambios a su empleador para garantizar su seguridad en el lugar de trabajo.

Puede presentar un reclamo contra su empleador ante la Oficina del Comisionado Laboral si él/ella toma represalias o lo discrimina.

Para más información, comuníquese con la Oficina del Comisionado Laboral de California. Podemos ayudarle al número telefónico 213-897-6595 o puede buscar una oficina local en nuestra página web: www.dir.ca.gov/dlse/DistrictOffices.htm. Le facilitaremos un intérprete en su idioma sin costo alguno en caso de que no hable inglés. Este aviso explica los derechos contenidos en las Secciones 230 y 230.1 del Código Laboral de California. Los empleadores pueden utilizar este aviso o alguno que se le parezca mucho en contenido y claridad.