

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Dir. of Human Resources **DATE:** December 16, 2003
(Name)

RECOMMENDATION FROM: _____ **FILE REF:** _____
(Board or Department)

NATURE OF ACTION:

- Ordinance
- Resolution
- Motion
- Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt "A RESOLUTION AMENDING THE EMPLOYEE ADMINISTRATIVE RULES AND REGULATIONS OF THE VILLAGE OF DOWNERS GROVE, ILLINOIS", as presented.



SUMMARY OF ITEM:

Adoption of the attached resolution will authorize adoption of administrative rules and regulations concerning the Victims' Economic Security and Safety Act of 2003.

RECORD OF ACTION TAKEN:

RESOLUTION NO. _____

A RESOLUTION AMENDING THE EMPLOYEE ADMINISTRATIVE RULES AND REGULATIONS OF THE VILLAGE OF DOWNERS GROVE, ILLINOIS

WHEREAS, the Village Manager has heretofore issued Employee Administrative Rules and Regulations; and

WHEREAS, the Village Council of the Village of Downers Grove, has heretofore approved these Employee Administrative Rules and Regulations; and

WHEREAS, it has been recommended by the Village Manager that the Administrative Leave requirements of these Employee Administrative Rules and Regulations be amended by adding a provision establishing guidelines for Administrative Leave.

NOW, THEREFORE, BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois as follows:

1. That the existing Employee Administrative Rules and Regulations be and are hereby amended by adding Section 5.5 to the Village of Downers Grove Personnel Manual, dated December 16, 2003, a copy of which is attached hereto as Exhibit 1.
2. That all resolution or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.
3. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____
Village Clerk

5.5 Victims' Economic Security and Safety Act of 2003 ("VESSA")

It is the policy of the Village of Downers Grove to comply with the provisions of the Victims' Economic Security and Safety Act of 2003 ("VESSA"). Accordingly, all eligible Village employees shall be entitled to VESSA leave, on a gender neutral basis, provided the leave is taken in accordance with Sections 5.5 through of this Manual. Eligible employees shall be allowed VESSA leave for one or more of the following:

- a. to seek medical attention for, or recovery from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's family or household member;
- b. to obtain services from a victim services organization for the employee or employee's family or household member;
- c. to obtain psychological or other counseling for the employee or the employee's family or household member;
- d. to participate in safety planning, temporarily or permanently relocating, or to take other action to increase the employee's safety.
- e. to seek legal assistance or remedies to ensure health and safety of the employee or employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from the domestic or sexual violence.

5.5.1 VESSA Leave-Eligible Employee

"Eligible employee" for purposes of VESSA shall mean: A part-time or full-time employee, who is a victim of domestic or sexual abuse or who has a family or household member who is a victim of domestic or sexual abuse (provided the employee is not the perpetrator). Eligible employees shall be entitled to twelve (12) weeks unpaid leave in a twelve (12) month period. The twelve (12) months during which the twelve (12) weeks of leave entitlement occurs shall be calculated based upon the twelve (12) months starting with the first day of the employee's previous leave under either the FMLA or this policy.

5.5.2 VESSA Leave- Term of Leave

Eligible employees shall be entitled to a total of twelve (12) workweeks of unpaid leave during the twelve (12) month period, as set forth in Section 5.5.1, subject to the following:

- a. the employee must state a qualifying reason for the leave to allow the Village to determine whether the purpose for the leave is one permitted under the Act and this policy;
- b. the entitlement to leave under the Act and this policy is not in addition to the 12 week leave period provided for under the Family Medical Leave Act ("FMLA") or the Village's FMLA policy;
- c. leave taken under this policy which also qualifies as FMLA leave shall run concurrently under both VESSA and FMLA, and shall be counted against the twelve week entitlement under both VESSA and FMLA;
- d. leave may be taken on an intermittent basis (in separate blocks of time) or on a reduced schedule (reducing the usual number of hours per week or per day); and

5.5.3 VESSA Leave-Notification of Leave and Certification Requirements

When the leave is foreseeable, the employee is required to notify the Village of the intention to take leave pursuant to this policy not less than 48 hours before the date the leave is to begin. If the circumstances require the leave to begin in less than 48 hours, the employee shall notify the Village as soon as practicable. The Village may deny an employee's leave request should the employee fail to provide timely advance notice for foreseeable leave. The Village may require that employees seeking leave under this policy submit a certification stating that:

- a. the employee or a member of the employee's family or household is a victim of domestic or sexual violence; and
- b. the leave is for one of the purposes enumerated in section 5.5.

For foreseeable leaves the certification shall be provided to the Village within seven (7) calendar days from the date the Village requests such certification or as soon thereafter as practicable. For unforeseeable leaves, the employee is required to provide certification as soon as is practicable, under the particular circumstances, after the date the Village requests such certification. The certification shall contain a sworn statement of the employee, and upon receiving such documents, the employee shall provide the employer copies of:

- a. documentation from a representative of the victim services organization, an attorney, clergy member, physician or other professional from which assistance was sought in addressing domestic or sexual violence and its effects;
- b. a police or court record; or
- c. other corroborating evidence

5.5.4 VESSA Leave-Substitution of Paid Leave.

An eligible employee may elect to substitute all or any part of accrued paid leave for an equivalent portion of the unpaid twelve (12) weeks of leave granted pursuant to this policy under the following circumstances:

- a. the employee has earned and unused paid leave which the employee is otherwise eligible to take.
- b. the Board determines that the reason for the leave is one applicable under this policy.
- c. the amount of paid accrued leave utilized by the employee shall count against the twelve (12) weeks of leave granted under this policy.

5.5.5 VESSA Leave-Confidentiality

All information provided to the Village under this policy, including any certifications or any other documentation, record or corroborating evidence, and the fact that the employee has requested or obtained leave pursuant to this policy, shall be maintained as confidential, except to the extent that disclosure is:

- a. requested or consented to in writing by the employee; or
- b. otherwise required by applicable law.

5.5.6 VESSA Leave-Maintenance of Health Benefits

The Village shall maintain the employee's group health plan coverage for the duration of leave taken pursuant to this policy on the same basis, at the same level and under the same conditions coverage would have been provided had the employee not taken the leave. The Village and the employee shall continue to pay their respective applicable shares of the health care premiums during the duration of the leave as if the leave had not been taken. The Village may recover its share of premium payments made on behalf of the employee during the period of leave if the employee fails to return to work after the leave entitlement has been exhausted; provided that the employee fails to return to work for reasons other than the continuation, recurrence or onset of domestic or sexual violence that entitles the employee to leave pursuant to this policy; or because of other circumstances beyond the control of the employee. Certification as described in Section 5.5.3 may be required for employees unable to return to work for the above-noted reasons. If the employee substitutes paid leave for unpaid leave under this policy, his/her share of the health care premiums shall be paid by the method the Village normally utilizes during any employee's paid leave. If the leave is

unpaid, the employee shall pay his/her share of the premium, at the same time it would be made if it were made by payroll deduction.

5.5.7 VESSA Leave-Return to Employment

At the end of the leave period taken pursuant to this policy, the employee shall be returned to the position held immediately prior to taking the leave. If that position is unavailable, the Village shall return the employee to an available position the employee is qualified to hold with equivalent pay and benefits and other terms and conditions of employment. The right to reinstatement ceases and the employment relationship between the employee and the Board will be deemed terminated if the employee unequivocally informs the Board of his/her intent not to return to his/her employment at the end of the leave period.

5.5.8 VESSA Leave-Requests for Accommodation

The Village will provide reasonable accommodations to the known limitations resulting from circumstances relating to an employee being a victim of domestic or sexual abuse or an employee's family or household member being a victim of domestic or sexual abuse so long as that individual is an otherwise qualified individual as defined in Section 30(b)(2) of VESSA, and who is a) an applicant or employee of the Village; and b) a victim of domestic or sexual abuse, or with a family or household member who is a victim of domestic or sexual abuse (provided the employee is not the perpetrator). The Village is not required to provide such accommodations if it would impose an undue hardship on the operation of the Village.

5.5.9 VESSA Leave-Non-discrimination

The Village will not fail to hire, refuse to hire, discharge or harass, retaliate against or otherwise discriminate against any individual in any form or manner, because:

- a. the individual:
 - 1) is or is perceived to be a victim of domestic or sexual violence;
 - 2) attended, participated in, prepared for, or requested leave to attend, participate in or prepare for a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the individual or a family or household member of the individual was a victim; or
 - 3) requested an accommodation in the workplace in response to actual or threatened domestic or sexual violence, regardless of whether the request was granted;
 - 4) exercised any rights provided for in the Act or this policy, or opposed any practice made unlawful by the Act (including filing charges or proceedings

under the Act, providing information in connection with any proceeding under the Act, or testifying - or is about to testify - in any proceeding under the Act).

or

- b. the workplace is disrupted or threatened by the action of a person whom the individual states has committed or threatened to commit domestic or sexual violence against the individual or the individual's family or household member.

Reference: Victims' Economic Security and Safety Act, Public Act 93-0591 (2003).