



## EL PASO COUNTY DEPARTMENT OF HUMAN RESOURCES

### Sick Leave Pool Policy

**Revised Date: December 13, 2021**

#### I. Policy

The Commissioners Court has established a program to allow employees to voluntarily contribute sick and/or vacation leave hours to a County-wide sick leave pool ("SLP"). The purpose of the Sick Leave Pool is to help alleviate the financial hardship caused when a catastrophic illness or injury forces an employee to exhaust all accrued paid leave and compensatory time and subsequently lose compensation from the County.

The El Paso County Sick Leave Pool policy has been established pursuant to the authority in Subchapter E, Section 157.071 et. al. of the Texas Local Government Code.

This policy is not intended, nor shall it be interpreted, to interfere with an employee's rights in accordance with the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), or the Workers Compensation Act.

#### II. Definitions

**Administrator**- The Chief Human Resources Officer, or designee, serves as the Administrator of this program.

**Catastrophic Illness or Injury**- A catastrophic illness or injury is a serious debilitating illness, injury, impairment, or physical or mental condition that affects the employee or the employee's immediate family member and is:

- A. Terminal and/or life-threatening; and
- B. present for a minimum of thirty (30) consecutive calendar days; and
- C. forces the employee to exhaust all of his/her accrued leave; and
- D. involves:
  - 1) A period of illness or injury or treatment connected with inpatient care (e.g. overnight stay) in a hospital, hospice, or residential medical care facility for ten (10) or more consecutive days; or
  - 2) A period of illness or injury requiring absence from work of ten (10) or more consecutive work days, and that also involves continuing treatment by (or under the supervision of) a licensed physician.

**Employee** - County or Juvenile Probation Department employee with twelve (12) or more months of continuous employment with the county or Juvenile Probation Department who is paid from the general fund of the County, from a special fund of the County, or from special grants paid through the County.

**Immediate Family Member**- Spouse, registered domestic partners, children, parents, grandparents, grandchildren, siblings, guardianship relationship, and in-laws and step/half relationships within the same degree.

**Sick Leave Pool Bank**- The system to track sick and vacation leave donated by employees for allocation to eligible employees.

### **III. Contributions**

- A. Contributions to the SLP are voluntary and are not required in order for eligible employees to participate in the SLP if qualified.
- B. The Administrator will publicize the period of donation to the sick leave pool at least once a year; however the frequency and method of publicizing will depend on the balance of the SLP and the current and/or projected usage.
- C. Employees wishing to contribute sick and/or vacation hours during the donation period must contribute a minimum of one (1) day (8 hours) of accrued sick or vacation time but no more than five (5) days (40 hours) and have at least five (5) days (40 hours) of accrued sick or vacation leave time remaining after their contribution.
- D. An employee who separates employment may donate not more than ten (10) days (80 hours) of accrued sick and/or vacation leave time earned by the employee to take effect immediately before the effective date of separation.
- E. Once an employee contributes hours to the SLP, the hours become the property of the SLP, and the donating employee has no further claim to these hours.

### **IV. Eligibility**

In order to use the SLP, eligible employees must meet the definition of employee and the following criteria:

- A. Must have exhausted all the accrued paid leave and compensatory time to which the employee is otherwise entitled before being eligible to request time from the SLP.
- B. Must not have a written record of disciplinary and/or corrective action for leave abuse or misuse of leave within the past twelve (12) months from the date of the SLP request.

### **V. Exclusions**

The following describe situations which exclude employees from participating in the SLP program:

- A. Employees who are receiving Worker's Compensation benefits from the County or any other employment held by the employee.
- B. Employees receiving Short and Long Term Disability and/or Supplemental Benefits to include social security disability benefits.
- C. Employees who have committed fraud or misrepresentation in the request or use of catastrophic leave.
- D. Employees on active Duty in the US Armed Forces or have been recalled to duty to receive treatment.

## **VI. Requests to Use SLP**

- A. Employees must apply to the SLP using the designated SLP Request Forms: *SLP Request Form* and *SLP Certification Form*. If the employee has FMLA documents on file, the Administrator may use these forms in lieu of the *SLP Certification Form* provided the FMLA documents include information for the Administrator to make a determination. If the employee's FMLA documents on file are not sufficient information to make a determination, the employee will be required to complete the *SLP Certification Form*.
- B. The *SLP Request Form* must be completed in its entirety, signed by the Department Head and forwarded to the Administrator.
- C. The *SLP Certification Form* must be completed in its entirety by the employee and the medical provider.
- D. The SLP forms must be submitted no later than 30 calendar days from the date all accruals were exhausted.
- E. If an employee's Short- or Long-Term Disability and/or Supplemental Benefits, to include social security disability benefits, ends the SLP forms must be submitted no later than 30 calendar days from the date the benefits cease.
- F. Failure to submit a completed *SLP Request Form* or the *SLP Certification Form* may cause a delay and possible denial of the request.
- G. If the initial information supplied is inadequate and/or incomplete, the employee may be asked to provide further medical information. Failure to comply with the request for additional medical information, may result in delay or denial of the application.
- H. If an employee is physically unable to complete the SLP forms, the employee's family member or his/her Department Head may submit the form(s) on the employee's behalf.

## **VII. Withdrawals and Award from the SLP**

- A. The Administrator will review the *SLP Request* and *SLP Certification* Forms and determine eligibility. If the employee is eligible and meets the requirements, the Administrator will determine the amount of SLP hours awarded as per this policy which will be allocated on a per pay period basis.
- B. SLP hours cannot be granted beyond the date the employee, or immediate family member, will exhaust FMLA unless leave under the ADA and/or personal leave have been approved.
- C. The maximum amount of sick leave hours awarded cannot exceed the lesser of one-third of the total amount of time in the SLP or 180 days (1440 hours). However, the Administrator shall determine the exact amount that an eligible recipient may draw from the pool based on the SLP balance at the time the request is approved.
- D. All hours used from the SLP will count towards the employee's FMLA entitlement.
- E. The SLP will be administered on a first-come, first-serve basis, determined by the date or time when all necessary information, certifications, and releases have been

provided. An employee's request to use the SLP hours is not a guarantee that SLP hours will be granted.

- F. An employee may not engage in secondary employment on the same calendar day(s) that the employee is paid with hours from the SLP.

## **VIII. Procedure**

### **A. Donations**

- 1) The Administrator shall provide the County Auditor's a report of employees donating sick and/or vacation hours to the SLP, and the County Auditor's shall credit the SLP with the amount of time contributed by the employees and shall deduct the corresponding amount of sick and/or vacation leave from the employees accrued balances.

### **B. Withdrawals**

- 1) An SLP request along with the SLP forms will be reviewed by the Administrator and any approved leave shall commence at the beginning of the following pay period after the leave has been approved.
- 2) Once a request has been approved by the Administrator, the Administrator will provide the County Auditor's with the pertinent information for the Auditor's to credit the approved amount of time to the employee from the SLP bank.
- 3) An employee using hours from the SLP is treated for all intents and purposes as if the employee were absent on sick leave earned in the course and scope of employment.
- 4) Employees on approved SLP must provide the Administrator with updates from the treating physician at least every 30 calendar days. Failure to do so may result in the use of the SLP program being forfeited.
- 5) Denial of SLP hours is not grounds for filing a grievance and is excluded from the civil service grievance appeal process. SLP is not a right and is awarded based on availability of SLP leave in the SLP Bank, and the eligibility of the employee as determined by the Administrator.

## **IX. Unused SLP Hours**

All unused SLP hours disbursed to the employee will revert to the SLP bank under any of the following conditions:

- A. The employee returns to work in a full-duty, light-duty or modified duty status;
- B. The employee's immediate family member is given a full release by his/her physician;
- C. The employee voluntarily returns to work after caring for the immediate family member;
- D. The employee resigns or is terminated with the County;
- E. The employee voluntarily cancels his/her participation in the SLP;
- F. The employee violates this policy and/or commits fraud or misrepresentation in the request or use of SLP;
- G. The employee exhausted the maximum approved SLP hours awarded; and
- H. The employee or immediate family member is deceased.

**X. Confidentiality**

All information received under this policy shall be kept confidential as required by law.

**XI. Compliance with Other Policies**

All SLP usage, including return to work, shall be in compliance with all applicable County and Departmental policies and procedures.

**XII. Violations of Policy**

Employees who violate the provisions of this policy or attempt to use the SLP for any reason other than its intended purpose, will not be allowed to participate in the SLP and may be responsible to repay any money received for use of SLP hours. Such violation of policy may also result in disciplinary action, up to and including termination of employment.

**XIII. Conformance with the Law**

If changes to the law or applicable regulations require changes to the provisions of this policy, this policy shall be deemed amended as of the effective date of the law or regulation to be in conformance thereof.