



## EL PASO COUNTY DEPARTMENT OF HUMAN RESOURCES

### Family and Medical Leave

#### Revised Date:

El Paso County **shall** provide eligible employees up to 12 weeks of unpaid leave per year for certain family and medical reasons as set forth herein below, El Paso County **shall** return the employee to the same or equivalent position and employment benefits if the employee returns to work after the leave. El Paso County **shall** continue to pay for employee-only health care coverage during the leave.

#### I. Eligible Employees

A. Employees eligible to request family or medical leave are those who:

1. Have been employed by the County for at least 12 months.
2. Have at least 1,250 hours of service during the previous 12-month period.
3. Have **not** used 12 or more weeks of family or medical leave in the previous 12 months.

#### II. Eligible Events

A. El Paso County is required to grant up to 12 weeks of leave in any 12-month period because of the:

1. Birth of a son or daughter of the employee, and care after such birth.
2. Placement of a son or daughter with the employee for adoption or foster care.
3. In order to care for the spouse or son, daughter or parent of the employee, if such spouse, son, daughter or parent has a serious health condition.
4. A serious health condition that makes the employee unable to perform the functions of the position of such employee.

#### III. Serious Health Condition

A. The term "**serious health condition**" means an injury, illness, impairment or physical or mental condition that involves:

1. Continuing treatment by a health care provider.
2. Inpatient care in a hospital, hospice, or residential medical facility.

**IV. 12-Month Period** - Will be calculated by taking the 12 calendar months immediately preceding the request for leave.

**V. Health Care Provider**

- A. A "**health care provider**" is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or any other person determined by the Secretary of Labor to be capable of providing health care services.

**VI. Family Leave**

- A. Leave for the birth or placement for adoption/foster care must be taken:
1. The leave may begin before the birth of the child;
  2. Within 12 months of birth or placement;
  3. All at once; or
  4. **Unless** agreed otherwise, or intermittent or reduced schedule leave is medically required.

- VII. Certification** - El Paso County will require certification of the condition and may require a second opinion.

**VIII. Combined Leave Limits**

- A. If two or more employees wish to take leave to care for the same individual, then there is a combined leave limit of 12 weeks to care for a:
1. Parent
  2. Child
  3. Spouse

**IX. Reduced Schedule**

- A. Leave for a serious health condition may be taken intermittently or on a reduced schedule if medically necessary.
- B. An elected official or department head may temporarily transfer an employee to an alternative position to accommodate this leave.
- C. The employee must make the attempt to schedule medical care outside of his/her working hours, or with consideration to the needs of his/her department.

- X. Paid Leave**-El Paso County will require all accrued sick leave to be taken and run concurrently with FMLA leave.

**XI. Health Care Benefits**

- A. El Paso County will continue to pay for group health plan coverage for the employee for up to 12 weeks of family or medical leave.
- B. The employee is responsible for paying for dependent health care coverage.

- C. El Paso County may discontinue dependent health care coverage if an employee's dependent health care payment is more than 30 days late.
- D. In order to alleviate the financial strain on an employee of paying for benefits during an unpaid leave, the employee may choose to temporarily drop any coverage (such as dependent coverage, additional life insurance, etc.) during the leave, and have such coverage reinstated upon his or her return in accordance with the health care plan.

**XII. Recovery of Health Care Payment**

- A. **If** the employee does not return to work following family or medical leave- **Then** El Paso County is allowed to recover its share of health care payments paid during the unpaid portion of the leave.
- B. **Unless** the failure to return is due to a qualifying serious health condition or other circumstances beyond the employee's control.

**XIII. Reinstatement**

- A. El Paso County will reinstate an employee returning from family or medical leave to the same or an equivalent:
  - 1. Position
  - 2. Pay
  - 3. Benefits
  - 4. Shift
  - 5. Schedule

**XIV. Notification Requirement-El Paso County**

- A. At the time an employee requests family or medical leave, Department Head/Elected Official must inform the employee of the:
  - 1. Employee's rights under the Family and Medical Leave Act, as required by law.
  - 2. Specific expectations and obligations of the employee when requesting family or medical leave.
  - 3. Consequences to the employee if he or she fails to meet these obligations.
- B. The initial notification may take place verbally, but must be followed by written notification via a copy of:
  - 1. The Family and Medical Leave form.
  - 2. This policy.
  - 3. A memo or letter.

**XV. Notification Requirement for Employees**

- A. An employee expecting to take medical leave should make a reasonable effort to schedule the leave so as not to disrupt his/her department's operations, subject to the health care provider's approval.
- B. The employee must notify the elected official or department head of the need for family or medical leave:
  - 1. 30 days prior to the day the employee last expects to work.
  - 2. **IF** this is not possible then within 2 days of the day the employee becomes aware of the need for leave. Notice can be given verbally, but the employee must complete the associated request forms (available from the employee's department or the Human Resources Department) as soon as possible to ensure that continuation of medical benefits takes place.
- C. When the employee is unable to give notice personally, notice may be given on behalf of the employee by any other responsible party (spouse family member, medical staff of facility, etc.)

**XVI. Medical Certification**

- A. When the employee requests medical leave, El Paso County will require that the employee provide medical certification from a health care provider that a serious health condition exists. A form is available from the employee's department or the Human Resources Department.
- B. The medical certification must include:
  - 1. The date on which the serious health condition commenced.
  - 2. The probable duration of the condition.
  - 3. The name, address and telephone number of the health care provider.
  - 4. The name of the patient.
  - 5. Diagnosis
  - 6. A statement that the employee's absence from work is required.
- C. This certification must be furnished by the employee within 15 calendar days of the leave being requested.

**XVII. Additional Certifications**

- A. El Paso County may require a second opinion be obtained from a health care provider selected by El Paso County, and at the County's expense. Should the first and second opinions vary, the County may require the employee to obtain a third medical certification, at the County's expense, from a third health care provider designated or approved jointly by the County and the employee. The opinion of the third health care provider shall be final and binding.
- B. An elected official, department head, or Human Resources Department will require certification of continued need for leave:

1. Every 30 days.
2. When the employee request an extension of leave.
3. If the circumstances surrounding the leave change.
4. When El Paso County receives information that casts doubt upon the continuing validity of the certification.

**XVIII. Failure to Comply**

- A. Family and medical leave are granted by El Paso County in the expectation that the employee will comply with his/her obligations outlined in this policy.
- B. Failure to do so could result in leave being denied.

**XIX. Return to Work**

- A. **IF** the employee has been away on medical leave for her/his own serious health condition **THEN** an elected official or department head will require that a "**fitness for duty**" release from the health care provider be provided before allowing the employee to return to work.

**XX. Seniority**

- A. For the purposes of retirement, family or medical leave will not be considered a break in service.
- B. However, El Paso County is not required to grant accrual of seniority during the leave.

**XXI. Options**

- A. Employees and/or their supervisors seeking further information or help in arranging family or medical leave should contact the Human Resources Department for assistance.
- B. If an employee feels that his/her rights under the Family and Medical Leave Act have been violated, she/he may:
  1. Contact the Human Resources Department.
  2. File a complaint with the U.S. Department of Labor.
  3. Bring a civil action against the County for violation of this policy.

**QUESTIONS**

Questions regarding this policy and its accompanying procedures should be directed to the Human Resources Department at (915) 546-2218.