

TRS Policy

Sick Leave Pool and Extended Sick Leave

Purpose

To provide TRS employees leave time for serious health conditions or catastrophic illness or injury.

Core Value

This policy ties to TRS' commitment to its core values, including collaboration, diversity, and respect.

Reference

- Texas Government Code §661.002 et seq.
- Texas Government Code §661.202(i).

Applies To

All TRS employees

General Statement

TRS provides employees with access to a sick leave pool and extended sick leave pool, if they meet eligibility requirements detailed in this policy.

Definitions

Catastrophic Illness or Injury

A severe condition or combination of conditions that:

- affects the mental or physical health of the employee or an immediate family member of the employee and is potentially life threatening;
- requires the services of a licensed medical practitioner for a prolonged period; and
- forces the employee to exhaust all earned leave time and lose state compensation.

Examples of catastrophic illness or injury include:

- stroke with residual paralysis or weakness
- severe heart attack
- major surgery (for example, heart bypass surgery)
- cancer-related surgery or treatments
- potentially fatal tumors
- amputations

Immediate Family Member

Immediate family includes the following:

- an individual who is related to the employee by kinship, adoption, or marriage and who resides in the employee's household;
- a foster child who is under the conservatorship of the Department of Family and Protective Services, who is in the employee's care, and who resides in the employee's household;
- a minor child of the employee, regardless of whether the child and employee reside in the same household; and
- an individual who is the employee's spouse, child, or parent and who requires care and assistance for a documented medical condition but who does not reside in the employee's household.

Licensed Medical Practitioner

A licensed medical practitioner is a practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of their license.

Serious Health Condition

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves:

- inpatient care in a hospital, hospice, or residential medical care facility; or
- continuing treatment by a health care provider.

Confidentiality of Medical Information

As required by law, the workplace accommodations coordinator maintains all employee medical records in confidential files separate from employee personnel files.

All medical documentation must be sent to the workplace accommodations coordinator. No medical documentation may be kept in department/division files. Medical documentation must be submitted in a confidential manner to the workplace accommodations coordinator.

Sick Leave Pool

Sick leave pool (SLP) is a bank of donated sick leave hours used to support employees who suffer a catastrophic illness or injury or who care for immediate family members who suffer a catastrophic illness or injury. Leave from the SLP allows eligible employees to continue receiving pay when all accrued leave balances are exhausted, and the employees would otherwise be placed on leave without pay.

Eligibility

With the exception of the executive director, an employee may apply for the SLP if the employee or the employee's immediate family member suffers a catastrophic illness or injury.

To be eligible for leave from the SLP, the employee must have:

- successfully completed their new employee probationary period;
- exhausted all available leave before SLP hours are granted;
- no documented evidence of abuse of leave within the past 12 months;
- no disciplinary actions (Written Notice, Final Written Warning) under the Corrective Action policy within the last 6 or 12 months; and
- provided acceptable medical documentation.

Maximum Number of Hours Awarded

The maximum number of SLP hours allowed for full-time employees per catastrophic event is 720 hours. When an employee's maximum benefit is calculated, hours previously awarded are deducted from the total hours available. Exceptions can be made at the executive director's discretion.

To determine the number of hours awarded, the workplace accommodations coordinator considers the:

- current balance of the SLP¹; and
- number of hours needed based on medical documentation provided.

Maximum Hours for Part-Time and Hourly Employees

Part-time and hourly employees can request leave from the SLP at a rate in proportion to full-time employees. For part-time employees, the rate is based on the percent of time worked. For hourly employees, the rate is based on the average hours worked each month over the previous six consecutive months.

Requesting Leave from the SLP

To request hours from the SLP, employees should submit a Special Leave Request form (TRS116) to their manager. Before OE can process the request, the signed TRS116 form and the following documentation must be sent to the Workplace Accommodations Coordinator in OE:

- Family and Medical Leave Act Certification of Health Care Provider form (obtained from the workplace accommodations coordinator)
- Supplemental Medical Certification form (PER40)

IMPORTANT: Employees must submit medical documentation *directly* to the workplace accommodations coordinator in OE.

The workplace accommodations coordinator will notify employees in writing whether their request was authorized or denied and, if authorized, the amount of hours granted. Unused hours are returned to the SLP.

¹ An employee may not receive sick leave in excess of one-third of the total time in the pool or 90 days, whichever is less.

Donations to the Sick Leave Pool

Any employee may donate an unlimited amount of accrued sick leave hours to the SLP in increments of eight hours, if the donation does not cause the employee's sick leave balance to fall below 80 hours. Donations to the sick leave pool (SLP) are strictly voluntary.

Employees interested in donating hours to the pool must submit the *Sick Leave Contribution* form (PER 35) to the workplace accommodations coordinator.

An employee who donates accrued sick leave to the SLP may reclaim the leave donated if the employee exhausts their sick leave balance because of a catastrophic illness or injury or because of a previous donation of time to the pool. The number of hours returned is limited to the number of hours donated during the same fiscal year. A written request must be made to the workplace accommodations coordinator prior to exhausting all accrued sick leave.

Employees may donate their entire sick leave balance to the SLP at the time of separation from state employment. Hours donated to the SLP at the time of separation are considered used and are not restored if the individual is subsequently re-employed by a state agency.

Avoiding Pay Loss

To avoid leave without pay, employees should submit requests to use leave from the SLP to the workplace accommodations coordinator at least five workdays before their accrued leave is exhausted.

Continuous or Intermittent Use

An employee may continuously or intermittently use leave from the SLP, based upon medical documentation.

Leave Accrual While on SLP Leave

Employees using leave from the SLP continue to earn vacation leave and sick leave. accrued leave is not credited to the employee's leave balances until the employee returns to duty. An employee who needs to use the SLP hours intermittently must use all currently accrued leave and all accrued leave before using the remainder of leave from the SLP.

Return of Unused SLP Leave

Unused SLP hours must be returned to the pool if the:

- employee or the employee's immediate family member is fully released by the practitioner;
- employee or the employee's immediate family member is deceased; or
- employee terminates employment.

Additional Requests

If an employee uses fewer than 720 hours, the employee may request additional hours from the pool for the same or a new catastrophic event.

To request additional hours, the employee must contact the workplace accommodations coordinator. If the employee is medically unable to request additional hours, an immediate family member may make the request. Supporting medical documentation from the treating practitioner may be required when re-evaluating the number of hours awarded for an existing condition. Medical documentation is required if the employee, or an employee’s immediate family member, suffers from a new qualifying catastrophic illness.

When possible, the request for additional hours should be made five workdays before the original SLP hours are exhausted. There is no automatic right or guarantee that a request for additional hours will be authorized.

Extended Sick Leave

Extended sick leave (ESL) is additional paid leave above and beyond the sick leave actually earned by an employee. ESL may be granted to an employee who has a serious health condition or who needs time away from work to care for an immediate family member who has a serious health condition.

When the situation qualifies, the employee should request ESL after having requested and exhausted leave from the SLP.

Eligibility

To be eligible for ESL, an employee must have:

- been employed with TRS for at least one year since their most recent hire date;
- a leave balance of 80 hours (based on any combination of leave types) on the date the event arose or on the diagnosis date of a new or recurring condition;
- exhausted all available leave, including any leave from the SLP, if applicable;
- no documented evidence of abuse of leave within the last 12 months;
- no disciplinary actions (Written Notice, Final Written Notice) within the last 6 or 12 months;
- provided acceptable medical documentation; and
- not exhausted their available ESL balance within the last three years.

Maximum Amount of ESL Hours Awarded

The maximum number of ESL hours allowed for full-time employees is based on years of continuous TRS service:

| Years of TRS Service | Maximum Benefit (in hours)* |
|-------------------------------------|-----------------------------|
| One year but less than two years | 80 |
| Two years but less than three years | 120 |

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|--------------------------------------|-----|
| Three years but less than four years | 240 |
| Four years or more | 480 |

*When an employee's maximum benefit is calculated, hours previously awarded are deducted from the total hours available based on length of continuous TRS service. Exceptions can be made at the executive director's discretion.

ESL awards for salaried part-time and hourly employees are prorated.

To determine the number of hours awarded, the workplace accommodations coordinator considers:

- the maximum number of hours for which an employee is eligible based on years of continuous TRS service;
- the number of hours needed based on medical documentation provided; and
- whether the employee has exhausted their available ESL balance within the last three years.

Requesting ESL

To request ESL hours, employees should submit a Special Leave Request form (TRS116) to their manager. Before OE can process the request, the signed TRS116 form and the Family and Medical Leave Act Certification of Health Care Provider form must be sent to the workplace accommodations coordinator in OE. The Certification of Health Care Provider form can be obtained from the workplace accommodations coordinator.

IMPORTANT: Employees must submit medical documentation *directly* to the workplace accommodations coordinator in OE.

The workplace accommodations coordinator will notify employees in writing whether their request was authorized or denied and, if authorized, the amount of hours granted. Unused ESL hours are removed from the employee's ESL balance.

Avoiding Pay Loss

To avoid leave without pay, employees should submit requests to use ESL leave to the workplace accommodations coordinator at least five workdays before their accrued leave or SLP hours are exhausted.

Approval Authority

ESL leave is granted at the discretion of the executive director or designee in consultation with the chief organizational excellence officer or designee.

Leave Accrual While on ESL

Employees on ESL continue to earn vacation leave and sick leave, but accrued leave is not credited to the employee's leave balances until the employee returns to duty.

Effective Date of SLP and ESL Awards

If awarded, SLP and ESL hours become effective on the date the employee enters leave without pay status. The workplace accommodations coordinator tracks employee use of SLP and ESL hours following the effective date of the award.

Unless the workplace accommodations coordinator determines that an administrative error has been made, awards will not be made retroactive by more than 30 days prior to the date the coordinator received the request.

Separation and SLP or ESL

Employees who separate from employment for any reason while using leave from the SLP or while on ESL are not entitled to have accrued or unused SLP or ESL hours paid or credited to them.

In the event of the death of an employee who is using SLP or ESL hours, no payment for unused SLP or ESL hours will be made to the estate of the deceased employee.

SLP or ESL and Family and Medical Leave Act (FMLA)

Use of SLP leave and ESL leave will run concurrently with approved FMLA leave.

SLP or ESL and Workers' Compensation

Employees cannot receive paid leave from the SLP or use ESL while receiving workers' compensation income benefits.

If an employee is awarded leave from the SLP or the ESL for an injury or illness covered by workers' compensation, the employee should consult the workplace accommodations coordinator.

Release to Return to Work

Before returning to work, an employee who has been granted leave from the SLP or ESL for their own health condition must provide the workplace accommodations coordinator with a release from the employee's treating physician or licensed medical practitioner authorizing the employee to return to work. The release must include sufficient information to allow the workplace accommodations coordinator to make a determination that the employee can perform the essential functions of the position. An employee taking leave to care for an immediate family member is not required to submit a release to return to work.

Violations

A violation of this policy may result in corrective action.

Cross Reference/Related Documents

- Leave Policy
- Parental Leave Policy
- Family Leave Pool
- FMLA

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This policy does not constitute a contract, a promise or guarantee of employment, or a guarantee of access to TRS premises or information resources, as applicable, and may be modified, superseded, or eliminated by TRS without notice to the employee.