



# Department of Human Resources

**MAYOR**  
Oscar Leeser

**TO:** Daniel Cordero, Firefighter

**FROM:** Mary Wiggins, Chief Human Resources Officer *MW*

**DATE:** November 7, 2024

**CITY COUNCIL**

**District 1**  
Brian Kennedy

**SUBJECT:** Discussion and Action on the Hearing Officer's Report and Recommendation on the Termination of Daniel Cordero with the Fire Department from Hearing Officer, Patricia Palafox

**District 2**  
Dr. Josh Acevedo

**District 3**  
Cassandra Hernandez

Your appeal has been placed on the Civil Service Commission Agenda as Item #9 for their meeting to be held on **Thursday evening, November 14 2024**. The meeting will be at **6:00 P.M.**, in the **Main Conference Room, 2<sup>nd</sup> Floor, City Hall (300 N. Campbell)**. Please attend the meeting to answer any questions the Commission may have regarding this matter. Failure to attend the meeting to address the Commission may result in your appeal being deemed withdrawn.

**District 4**  
Joe Molinar

**District 5**  
Isabel Salcido

Please call Claudia Cancellare, Employee Relations Officer, at (915) 212-1498 or Cecy Mungaray, Employee Relations Officer at (915) 212-1430 if you have any questions.

**District 6**  
Art Fierro

**District 7**  
Henry Rivera

If you have any questions, please call Symone Menchaca at (915) 212-1242.

**District 8**  
Chris Canales

**CITY MANAGER**  
Dionne Mack

Mary Wiggins PHR, SHRM-CP – Chief Human Resources Officer  
Department of Human Resources | 300 N. Campbell | El Paso, TX 79901  
O: (915) 212-0045 | Email: WigginsML@elpasotexas.gov



DELIVERING EXCEPTIONAL SERVICES

BEFORE THE CIVIL SERVICE COMMISSION  
FOR THE CITY OF EL PASO, TEXAS

Hem #9A  
HO'S  
exhibits  
Daniel Cordero

IN THE MATTER OF  
DANIEL CORDERO, APPELLANT  
AND  
THE CITY OF EL PASO

§  
§  
§  
§  
§  
§

DOCKET NO. 24-FD-03-PP

all Exhibits  
Admitted  
per [signature]

CITY OF EL PASO'S EXHIBIT LIST

#	DESCRIPTION	DATE
	<i>City of El Paso Employee Investigation</i>	
C-1	Proposed Notice of Separation	July 18, 2024
C-2	Notice of Separation	July 29, 2024
C-3	City of El Paso FMLA Leave of Absence Policy	
C-4	City of El Paso Non-FMLA Leave of Absence Policy	
C-5	El Paso Fire Department Disciplinary Guidelines	
C-6	City of El Paso Employee Handbook excerpt and evidence of receipt thereof.	
C-7	Letter and Email to Daniel Cordero regarding approved FMLA leave	June 14, 2023 and June 29, 2023
C-8	Email thread with Mr. Cordero regarding Non-FMLA leave of absence	August 22, 2023
C-9	Email to Mr. Cordero regarding amendment of approved FMLA and potential early expiration	October 10, 2023
C-10	Email thread between Mr. Cordero and EPFD Human Resources regarding Mr. Cordero's prolonged absence and required application for LOA.	April 15, 2024 – April 22, 2024
C-11	Internal email thread regarding Mr. Cordero's unapproved leave of absence and administrative investigation	April 23, 2024 April 24, 2024 April 26, 2024
C-12	Email regarding meeting at PSO, Incident Report and Cordero letter to Chief Killings	April 26, 2024 May 7, 2024

#	DESCRIPTION	DATE
C-13	Email thread regarding Cordero's FMLA coding	May 1, 2024 May 6, 2024
C-14	Email tread with Mr. Cordero regarding application for reentry	May 9, 2024
C-15	EPPD Formal Investigation Report – Case File 24-034	April 24, 2024
C-16	Letter regarding final opportunity to provide medical documentation.	June 20, 2024

✓  
✓  
✓  
✓



# El Paso Fire Department

**MAYOR**  
Oscar Leoser

Date July 18, 2024

**CITY COUNCIL**

**District 1**  
Brian Kennedy

Name Daniel Cordero  
Rank Firefighter  
El Paso Fire Department

**District 2**  
Dr. Josh Acevedo

Dear Firefighter Cordero,

**District 3**  
Cassandra Hernandez

Please be informed that a Separation Hearing is hereby set for you on Monday, July 29, 2024, at 1500 hours. The Hearing will be held in the Fire Chief's Office, 416 North Stanton, Suite 200, El Paso, TX 79901. Attached is a Proposed Notice of Separation, addressed to you. The Notice contains Charges and Specifications against you

**District 4**  
Joe Molinar

**District 5**  
Isabel Salcido

The Hearing is not a formal proceeding. You will receive an explanation of the evidence against you. You will be permitted to present any explanation you may wish concerning the charges against you. You may present evidence on your behalf and a representative may accompany you if you so desire.

**District 6**  
Art Fierro


**District 7**  
Henry Rivera

Everything that you present at the Hearing will be considered before a final determination on your Separation is made.

**District 8**  
Chris Canales

I hereby acknowledge receipt of the Separation Hearing

**INTERIM CITY  
MANAGER**  
Cary Westin

  
Employee Signature (Acknowledgement of Receipt)

7/18/24  
Date

  
Standards Officer

7/18/24  
Date



**Jonathan P. Killings - Fire Chief**  
Fire Department | 416 N. Stanton - 2nd Floor | El Paso, TX 79901  
PH: (915) 212-5600 | [www.elpasotexas.gov/fire](http://www.elpasotexas.gov/fire)



DELIVERS EXCEPTIONAL SERVICES



CITY OF EL PASO, TEXAS  
**PROPOSED NOTICE OF SEPARATION**



Name: Daniel Cordero	Last 4 #'s of SS #: [REDACTED]	Date: 07/18/2024
Position: Firefighter	Employee ID #: [REDACTED]	

Address: [REDACTED]

From: City of El Paso Fire Department  
Subject: Termination of Employment Case File # 24-034

THIS IS TO NOTIFY YOU THAT YOUR EMPLOYMENT WITH THE CITY OF EL PASO IS HEREBY TERMINATED FOR EFFECTIVE: 07/29/2024

THE FOLLOWING ARE THE STATUTORY REASONS OR GROUNDS AND SPECIFICATIONS OF FACTS WHICH HAVE NECESSITATED THIS ACTION:

**CHARGES:**

YOU HAVE VIOLATED THE FOLLOWING CITY OF EL PASO CIVIL SERVICE COMMISSION CHARTER PROVISIONS, ORDINANCES, RULES AND REGULATIONS:

**CITY CHARTER – ARTICLE VI – Civil Service**

**SECTION 6.13-2, DISCIPLINARY ACTION; REDUCTION**

A regular employee may be discharged, suspended or reduced in rank or position as provided in the Charter or further defined in the Rules.

**SECTION 6.13-3, CAUSES OF SUSPENSION, REDUCTION OR DISCHARGE**

The following, which may be further defined in the Rules, may constitute causes for discharge, suspension or reduction in grade of regular employees:

- F. Incompetency or negligence in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner;
- H. Abandonment of position, repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification or the provision of a valid or acceptable reason for absence;
- P. For just cause

I HAVE RECEIVED A COPY OF THIS NOTICE

  
\_\_\_\_\_  
Employee's Signature

Date: 7/18/24

BY CERTIFIED MAIL NUMBER: \_\_\_\_\_

\_\_\_\_\_  
DEPARTMENT HEAD

**COPY RECEIVED AND FILED**

**HUMAN RESOURCES**

BY: \_\_\_\_\_  
DIRECTOR

**DISTRIBUTION: Original – Human Resources Department; Copy – Department**



CITY OF EL PASO, TEXAS  
**PROPOSED NOTICE OF SEPARATION**



Name: Daniel Cordero  
 Position: Firefighter

Last 4 #'s of SS #: [REDACTED]  
 Employee ID #: [REDACTED]

Date: 07/18/2024

**CIVIL SERVICE COMMISSION RULES AND REGULATIONS**

**RULE 8. SUSPENSION, REDUCTION, DISCHARGE**

**Section 1. Causes of Suspension, Reduction or Discharge**

The following may constitute causes for discharge, suspension or reduction of regular employees: That an officer or employee in the Civil Service:

- f. Is incompetent or negligent in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner; or (Amended 8/25/09, 9/17/13)
- h. Abandons his position, has repeated unexcused absences or tardies, abuses leave privileges, or is absent without notification or without the provision of a valid or acceptable reason for the absence; or (Amended 9/17/13)
- p. For just cause; or (Added 7/21/07)

**Section 2. Disciplinary Notice**

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him fairly upon his defense. The specifications of fact shall be of sufficient specificity so as to preclude the possibility of disciplinary action for the same act or omission in the future. Nothing contained herein shall prohibit the Department Head from using an employee's prior acts or omissions resulting in discipline in determining future disciplinary action against the employee. An employee may be disciplined for other acts or omissions not specified in the notice even if such acts arise from the same incident or event. A Department Head may not unilaterally reduce the discipline given once notice of discipline has been provided to the employee, without the employee's consent. A copy of such notice of discipline, together with the employee's explanation, if any, will be filed with the Human Resources Director. (Amended 06/24/03, 7/31/07, 8/25/09)

**Section 3. Notice of Proposed Disciplinary Action, Procedure and Limitation of Action**

- a. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 and Section 3 (b) of this Rule. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. (Amended 8/25/09)
- b. Within ten (10) days of receipt of the notice of proposed disciplinary action, the employee may request a conference with the Department Head. Within five (5) working days of receipt of the employee's response, the Department Head shall meet with the employee, provided further that this period may be extended with the mutual consent of the Department Head and the employee. No witnesses may be called to testify as part of the employee's explanation or response. During the conference, the employee, their representative, and the Department Head shall engage in discussions with a view toward reaching a consensus and agreement relative to the proposed disciplinary action. No part of the discussions that take place during the conference may be offered into evidence at any subsequent hearing, except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "f" and for impeachment purposes. In the event such a consensus is reached, the execution by the employee of documents finalizing the settlement agreement shall constitute a waiver of the employee's right to appeal to the Commission, and the employee shall be so advised in plain language. (Amended 09/09/03, 01/06/04, 8/25/09; 1/20/15)

EMPLOYEE'S INITIALS

*[Handwritten initials]*



CITY OF EL PASO, TEXAS  
**PROPOSED NOTICE OF SEPARATION**



Name: Daniel Cordero	Last 4 #'s of SS #: [REDACTED]	Date: 07/18/2024
Position: Firefighter	Employee ID #: [REDACTED]	

- c. Respecting discharge, those departments currently using a pre-termination hearing shall not be required to have a conference as contemplated hereinabove provided that the time between notification and hearing shall be at least five (5) days and further provided that there shall be no change to current practices regarding violations of applicable federal laws. (Amended 09/09/03, 01/06/04, 08/25/09)
- d. The employee is entitled to have a representative of their choice assist them in the preparation and presentation of their response, provided further that in the event the representative is an employee of the City, he shall use vacation leave or personal days for such time as may be required for the representative to attend the conference. If the employee does not have any accrued vacation or personal days, the employee will be placed on unpaid administrative leave for such time as may be required for the representative to attend the conference. The employee must provide his Department Head with two days notice of the request to take the above leave. The Department Head may disapprove the request if the leave significantly interferes with the operational needs of the department. (Amended 09/09/03, 01/06/04, 08/25/09)
- e. A proposed written notice of disciplinary action must be served on an employee within 120 calendar days from the date Human Resources is made aware of the occurrence of the incident giving rise to the discipline, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident. Once a Department Head receives notice from the employee that charges have been preferred, through an indictment or information, or that the criminal investigation has been concluded without the referral of charges, then the time period will resume running. (Amended 09/09/03, 01/06/04, 8/25/09, 09/19/17)
- f. Any issue of non-compliance with these provisions will be considered by the hearing officer and/ or Commission upon the appeal of the disciplinary action. (Amended 01/06/04)
- g. Excluding Section 3 (e), in computing any time periods set forth in this Rule, Saturdays, Sundays, and City Holidays shall not be included. (Amended 01/06/04, 09/19/17)
- h. Nothing in the Rule shall prevent suspension of the employee from service without pay in appropriate circumstances. (Amended 01/06/04)
- i. A copy of this rule shall be attached to each notice of proposed disciplinary action. (Passed 1/6/04)

**Section 4. Resignation Before Appeal Decision**

The acceptance by Department Head of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges and the separation of the employee concerned will be recorded as a resignation and the preceding will be dismissed without judgment. (Amended 7/31/07)

**Section 5. Disqualification for Reappointment**

Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking a Civil Service examination for two years thereafter. His name will be removed from all eligible lists, unless, in the judgment of the Commission the cause of his dismissal or resignation under charges will not affect the possibility of his or her usefulness in some other position. (Amended 8/25/09)

**Section 6. Non-Certification of Suspended Persons**

The names of persons suspended will not be certified from eligible lists during the period of suspension.

**Section 7. Election to Forfeit Annual Leave**

Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to approval of the Department Head. The election provided for herein, shall work a waiver of the employee's right to appeal the disciplinary action to the Commission,

EMPLOYEE'S INITIALS

*[Handwritten Signature]*



CITY OF EL PASO, TEXAS  
**PROPOSED NOTICE OF SEPARATION**



Name: Daniel Cordero  
Position: Firefighter

Last 4 #'s of SS #: [REDACTED]  
Employee ID #: [REDACTED]

Date: 07/18/2024

and the employee shall be so advised in plain English on a suitable form upon which the election shall be made, as developed by the Human Resources Director and appended to the notice of suspension. The Department Head shall not unreasonably withhold approval of the employee's election. (Added 05/11/04, Amended 7/31/07)

**Section 8. Formal Counseling**

Formal Counseling is not within the type of disciplinary action specified in Section 6.13-2 of the Charter which may be appealed to the Civil Service Commission. A formal counseling is issued by the Department Head and considered a written counseling to address employee workplace conduct. Employees receiving a formal counseling shall have the right to place responses to the formal counseling into their personnel files which shall remain in the file so long as the formal counseling to which the response relates remains in the file.

Included in, or in conjunction with, the formal counseling document, the Department Head must provide the employee with written notice of the reasons for the formal counseling, with sufficient explanation to place the employee fairly upon his defense.

Upon an employee's request, formal counselings shall be removed from an employee's personnel file after the expiration of twelve (12) months from the date of the last formal counseling, provided the employee has not received any disciplinary action during the twelve (12) month time period between the request and the last-received formal counseling. Formal counselings meeting the criteria above shall not be considered against the employee for purposes of determining progressive discipline or performance evaluations, regardless of whether or not the employee requested removal of the formal counselings. (Added 8/25/09) (Amended 11/2/10, 3/6/12, 1/20/15, 11/15/16)

**RULE 11, DEPARTMENTAL RULES**

**Section 1.** Any department head shall have the right to promulgate rules and regulations regarding the operation of his department, and the conduct of the employee therein, subject to the consent and approval of the City Manager, provided that such rules do not conflict with the Civil Service Charter or the Rules promulgated thereunder. (Amended 07/11/06)

**Section 2.** Large departments having various sub departments may, in their rules, have rules and regulations pertaining to said sub departments in addition to general rules and regulations regarding the department. (Amended 7/31/07)

**Section 3.** The Human Resources Director may promulgate, rules, regulations and policies and procedures, that apply to all or some city departments, as may be specified by the Director, regarding any requirements applicable to the employees of such departments, subject to the consent and approval of the City Manager, provided that such rules, regulations, or policies and procedures do not conflict with the Civil Service Charter or the Rules promulgated hereunder. (Added 3/6/12)

**Section 4.** Any Department Head may, as provided in the Charter, suspend, discharge or demote any employee for insubordination, for failure to comply with departmental rules and regulations, for failure to comply with the Rules of the Commission or for failure to obey any lawful order of a superior officer. (Amended 07/11/06)

**Section 5.** The Human Resources Director is authorized to maintain a comprehensive manual of safety procedures and driver safety standards of all employees. Each employee shall receive a link to a copy of the manual. (Added 3/6/12)

**DEPARTMENT RULES**

**Volume 1: Administrative Policies. Section 1: Organizational Standards:**

**General Conduct**

1. The purpose of the following rules is to promote an atmosphere of goodwill, cooperation and harmony in the relationships among employees and the public. The intention is that such an attitude will produce a highly efficient performance by each employee, thereby increasing the effectiveness of the department.

EMPLOYEE'S INITIALS





CITY OF EL PASO, TEXAS  
**PROPOSED NOTICE OF SEPARATION**



Name: Daniel Cordero  
 Position: Firefighter

Last 4 #'s of SS #: [REDACTED]  
 Employee ID #: [REDACTED]

Date: 07/18/2024

2. Employees will be governed by the ordinary reasonable rules of good conduct and behavior of law-abiding citizens whether they are on or off-duty. Conduct or behavior that adversely affects the morale or efficiency of operations of the department may be deemed conduct unbecoming. Conduct or behavior that brings disrepute and discredit by the public on the department or its' employees is also considered conduct unbecoming.

**Volume 1 Administrative Policies. Section 1: Obedience to Rules**

1. Violation of any rules, policies, procedures, General Orders, failure to comply with any order of a supervisor, or failure to properly perform any assigned duties of a supervisor will be considered sufficient cause for disciplinary action.
2. All members are responsible for immediately reporting violations of rules, policies, procedures, General Orders and other employee misconduct to their supervisor. In cases where the supervisor is the violator, the next officer in the chain-of-command will be contacted.
3. The deliberate refusal of any member to promptly obey any lawful order given by any supervisor will be deemed insubordination. Openly disregarding and/or mocking the authority, order or actions of any supervisor will likewise be deemed insubordination.

**Volume 1 Administrative Policies. Section 2: Disciplinary Guidelines**

1. The overall purpose of the disciplinary system is to facilitate the orderly operation and function of the El Paso Fire Department; ensure employee adherence to reasonable and acceptable performance standards and conduct; and to provide fair and equitable consequences for failing to adhere to those standards. The process also ensures due process for the involved employee(s) should disciplinary action be necessary.

**Basis for Discipline**

12. Employees are subject to discipline for violations of law, rules and regulations of the Civil Service Commission, departmental rules and procedures, and lawful verbal or written directives of supervisory personnel. All disciplinary actions taken under this section are subject to, and will be consistent with, applicable state law, local ordinances, administrative rulings, Civil Service rules and collective bargaining agreements. No disciplinary action will occur for conduct that:
  - cannot be connected with job performance,
  - does not constitute conduct unbecoming
  - does not violate any of the rules regarding off-duty personal conduct as set forth in Civil Service Rules and regulations, departmental policies, applicable City policies or ordinances, or the City Charter provisions.

**CITY OF EL PASO'S MISSION, VISION AND VALUES**

**Mission:** Deliver exceptional services to support a high quality of life and place for our community.

**Vision:** Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.

**Values:** *Integrity – Trusted to do the right thing.*  
*Respect – Recognize the value and dignity of all individuals.*  
*Excellence – Perfect effort.*  
*Accountability – Passionate and determined.*  
*People – Our teams are problem-solvers and collaborate with our customers.*

EMPLOYEE'S INITIALS



# PROPOSED NOTICE OF SEPARATION

Name: Daniel Cordero	Last 4 #'s of SS #: [REDACTED]	Date: 07/18/2024
Position: Firefighter	Employee ID #: [REDACTED]	

**El Paso Fire Department Disciplinary Guidelines (Table A)**  
 Level F Offences and Deficiencies - Performance - 1st Offense  
 AWOL (3 Consecutive days or more)

**Date Received by Human Resources:** 4/24/2024  
**120<sup>th</sup> Day Deadline, pursuant to CSC Rule 8 Section 3(e):** 8/22/2024

**SPECIFICATIONS:**

You were approved for intermittent FMLA to care for your wife beginning May 24, 2023 through November 24, 2023. You exhausted your FMLA balances on October 22, 2023, and failed to request a Leave of Absence (LOA) accordingly. The FMLA parameters and procedures were communicated to you via a Fire HR letter dated June 14, 2023, which was mailed to the home address on file and a copy emailed to you on June 29, 2023. The letter stated the following:

*If you need to request a Leave of Absence (LOA), it usually takes ten (10) working days for the approval process. Please ensure that you start that process in time and provide all the required documentation.*

On August 22, 2023, you inquired via email about requesting a Leave of Absence and received guidance on the process from Fire HR via email response on August 23, 2023. On October 10, 2023, you phoned Fire HR regarding your leave status and were provided with a follow up email explaining the LOA process. On both occasions, you were reminded of the LOA process and advised that the FMLA was approved through November 24, 2023, but the approved leave could end sooner if you exhaust your FMLA hours.

On October 22, 2023, you exhausted your FMLA balances and were coded AWOL beginning October 24, 2023.

On April 15, 2024, you called Fire HR and spoke to a representative regarding your leave. As a follow up to the conversation, you were advised via email of the Leave of Absence process and were given one final opportunity to submit documentation to account for your absences by April 18, 2024. On April 16, 2024, you were advised via email that your Non-FMLA Leave of Absence Request should have a start date of October 24, 2023 and were advised to contact your chain of command regarding the re-entry program due to your prolonged absence. The deadline to submit your documentation was further extended through April 23, 2024. You acknowledged the extension and advised you would try to get the documentation by the deadline. You did not provide any medical documentation to cover your leave beginning October 23, 2023.

On June 20, 2024, City Human Resources sent you a letter which afforded you one final opportunity to submit documentation to support a Non-FMLA Leave of Absence. The letter directed you to provide medical documentation to cover your leave within 10 days of the mailing of the letter. You were notified that failure to do so may result in discipline, up to and including termination of your employment. As of July 1, 2024, the Fire Department did not receive any documentation to support a Non-FMLA Leave of Absence. Therefore, you have been coded Absent Without Leave (AWO) from October 23, 2023, through your return to work on May 13, 2024. You were contacted several times during the course of the year, to inform you of your leave status and documentation needs, and you failed to show regard for your employment status. You failed to provide sufficient medical documentation to cover your absence.

EMPLOYEE'S INITIALS

*[Handwritten initials]*



CITY OF EL PASO, TEXAS  
**PROPOSED NOTICE OF SEPARATION**



Name: Daniel Cordero	Last 4 #'s of SS #: [REDACTED]	Date: 07/18/2024
Position: Firefighter	Employee ID #: [REDACTED]	

As an employee of the El Paso Fire Department it is your responsibility to conduct yourself in accordance with ordinary reasonable rules of good conduct and behavior that govern law-abiding citizens and in accordance with the laws of the State of Texas, ordinances of this community and the rules and regulations of this department. Your actions of (being coded AWO for more than three consecutive days), constitute violations of Department rules and regulations.

**In accordance with the El Paso Fire Department Disciplinary Guidelines, your conduct is determined to be a Level F Offense and Deficiency, 1st Offense which subjects you to termination.**

**Your disciplinary history reflects the following:**

None


Based on the above specifications, the City of El Paso Fire Department has determined that your employment is hereby terminated.

You have **thirty (30) days** from the date you receive the **final notice** to appeal this action to the Civil Service Commission. The City reserves the right to amend these charges and/or specifications at a later date.

EMPLOYEE'S INITIALS



# CITY OF EL PASO NOTICE OF ADMINISTRATIVE LEAVE

Name: Daniel Cordero	Last 4 #'s of SS #: [REDACTED]	ID#: [REDACTED]
Date of Notice: 7/18/2024		
Address: 14701 Tierra Mirage El Paso, TX 79938		
From: City of El Paso Fire Department Subject: Notice of Administrative Leave		
<p>This is to notify you that as part of the disciplinary disposition of separation, you are hereby placed on Administrative Leave with Pay effective Thursday, July 18, 2024.</p> <p>During this leave, you must be accessible by providing an up-to-date phone number and available for report between the hours of 8:00a.m. and 5:00p.m. Monday thru Friday. If requested, you must report to the designated location within an hour of notification.</p> <p>If you have any questions, you may contact Randy Heredia at 915-873-8257 for further guidance.</p>		
<p>I HAVE RECEIVED A COPY OF THIS NOTICE</p> <p></p> <p>Employee's Signature (Acknowledgement of Receipt)</p> <p>BY CERTIFIED MAIL NUMBER</p> <p>Date: 7/19/24</p>	<p>DEPARTMENT HEAD</p> <p>COPY RECEIVED AND FILED</p> <p>BY</p> <p>HUMAN RESOURCES DIRECTOR</p>	

DISTRIBUTION: Original - Human Resources Department, Copy - Department

**RECEIVED**  
AUG 26 2024  
CIVIL SERVICE  
COMMISSION



# CITY OF EL PASO, TEXAS NOTICE OF SEPARATION



Name: Daniel Cordero  
Position: Firefighter

Last 4 #'s of SS #: [REDACTED]  
Employee ID #: [REDACTED]

Date: 07/29/2024

Address: [REDACTED]

From: City of El Paso Fire Department  
Subject: Termination of Employment Case File # 24-034

THIS IS TO NOTIFY YOU THAT YOUR EMPLOYMENT WITH THE CITY OF EL PASO IS HEREBY TERMINATED FOR EFFECTIVE: 07/29/2024

THE FOLLOWING ARE THE STATUTORY REASONS OR GROUNDS AND SPECIFICATIONS OF FACTS WHICH HAVE NECESSITATED THIS ACTION:

**CHARGES:**

YOU HAVE VIOLATED THE FOLLOWING CITY OF EL PASO CIVIL SERVICE COMMISSION CHARTER PROVISIONS, ORDINANCES, RULES AND REGULATIONS:

**CITY CHARTER – ARTICLE VI – Civil Service**

**SECTION 6.13-2, DISCIPLINARY ACTION; REDUCTION**

A regular employee may be discharged, suspended or reduced in rank or position as provided in the Charter or further defined in the Rules.

**SECTION 6.13-3, CAUSES OF SUSPENSION, REDUCTION OR DISCHARGE**

The following, which may be further defined in the Rules, may constitute causes for discharge, suspension or reduction in grade of regular employees:

- F. Incompetency or negligence in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner;
- H. Abandonment of position, repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification or the provision of a valid or acceptable reason for absence;
- P. For just cause

I HAVE RECEIVED A COPY OF THIS NOTICE

[Signature]  
Employee's Signature

Date: 7/29/24

BY CERTIFIED MAIL NUMBER: \_\_\_\_\_



[Signature]  
DEPARTMENT HEAD

COPY RECEIVED AND FILED

HUMAN RESOURCES

BY: \_\_\_\_\_  
DIRECTOR

DISTRIBUTION: Original – Human Resources Department; Copy – Department



# CITY OF EL PASO, TEXAS NOTICE OF SEPARATION



Name: Daniel Cordero  
Position: Firefighter

Last 4 #'s of SS # [REDACTED]  
Employee ID #: [REDACTED]

Date: 07/29/2024

## CIVIL SERVICE COMMISSION RULES AND REGULATIONS

### RULE 8. SUSPENSION, REDUCTION, DISCHARGE

#### Section 1. Causes of Suspension, Reduction or Discharge

The following may constitute causes for discharge, suspension or reduction of regular employees: That an officer or employee in the Civil Service:

- f. Is incompetent or negligent in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner; or (Amended 8/25/09, 9/17/13)
- h. Abandons his position, has repeated unexcused absences or tardies, abuses leave privileges, or is absent without notification or without the provision of a valid or acceptable reason for the absence; or (Amended 9/17/13)
- p. For just cause; or (Added 7/21/07)

#### Section 2. Disciplinary Notice

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him fairly upon his defense. The specifications of fact shall be of sufficient specificity so as to preclude the possibility of disciplinary action for the same act or omission in the future. Nothing contained herein shall prohibit the Department Head from using an employee's prior acts or omissions resulting in discipline in determining future disciplinary action against the employee. An employee may be disciplined for other acts or omissions not specified in the notice even if such acts arise from the same incident or event. A Department Head may not unilaterally reduce the discipline given once notice of discipline has been provided to the employee, without the employee's consent. A copy of such notice of discipline, together with the employee's explanation, if any, will be filed with the Human Resources Director. (Amended 06/24/03, 7/31/07, 8/25/09)

#### Section 3. Notice of Proposed Disciplinary Action, Procedure and Limitation of Action

- a. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 and Section 3 (b) of this Rule. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. (Amended 8/25/09)
- b. Within ten (10) days of receipt of the notice of proposed disciplinary action, the employee may request a conference with the Department Head. Within five (5) working days of receipt of the employee's response, the Department Head shall meet with the employee, provided further that this period may be extended with the mutual consent of the Department Head and the employee. No witnesses may be called to testify as part of the employee's explanation or response. During the conference, the employee, their representative, and the Department Head shall engage in discussions with a view toward reaching a consensus and agreement relative to the proposed disciplinary action. No part of the discussions that take place during the conference may be offered into evidence at any subsequent hearing, except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "f" and for impeachment purposes. In the event such a consensus is reached, the execution by the employee of documents finalizing the settlement agreement shall constitute a waiver of the employee's right to appeal to the Commission, and the employee shall be so advised in plain language. (Amended 09/09/03, 01/06/04, 8/25/09; 1/20/15)

EMPLOYEE'S INITIALS DC



CITY OF EL PASO, TEXAS  
**NOTICE OF SEPARATION**



Name: Daniel Cordero  
Position: Firefighter

Last 4 #'s of SS # [REDACTED]  
Employee ID # [REDACTED]

Date: 07/29/2024

- c. Respecting discharge, those departments currently using a pre-termination hearing shall not be required to have a conference as contemplated hereinabove provided that the time between notification and hearing shall be at least five (5) days and further provided that there shall be no change to current practices regarding violations of applicable federal laws. (Amended 09/09/03, 01/06/04, 08/25/09)
  - d. The employee is entitled to have a representative of their choice assist them in the preparation and presentation of their response, provided further that in the event the representative is an employee of the City, he shall use vacation leave or personal days for such time as may be required for the representative to attend the conference. If the employee does not have any accrued vacation or personal days, the employee will be placed on unpaid administrative leave for such time as may be required for the representative to attend the conference. The employee must provide his Department Head with two days notice of the request to take the above leave. The Department Head may disapprove the request if the leave significantly interferes with the operational needs of the department. (Amended 09/09/03, 01/06/04, 08/25/09)
  - e. A proposed written notice of disciplinary action must be served on an employee within 120 calendar days from the date Human Resources is made aware of the occurrence of the incident giving rise to the discipline, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident. Once a Department Head receives notice from the employee that charges have been preferred, through an indictment or information, or that the criminal investigation has been concluded without the preferral of charges, then the time period will resume running. (Amended 09/09/03, 01/06/04, 8/25/09, 09/19/17)
- Any issue of non-compliance with these provisions will be considered by the hearing officer and/ or Commission upon the appeal of the disciplinary action. (Amended 01/06/04)
- g. Excluding Section 3 (e), in computing any time periods set forth in this Rule, Saturdays, Sundays, and City Holidays shall not be included. (Amended 01/06/04, 09/19/17)
  - h. Nothing in the Rule shall prevent suspension of the employee from service without pay in appropriate circumstances. (Amended 01/06/04)
  - i. A copy of this rule shall be attached to each notice of proposed disciplinary action. (Passed 1/6/04)

**Section 4. Resignation Before Appeal Decision**

The acceptance by Department Head of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges and the separation of the employee concerned will be recorded as a resignation and the preceding will be dismissed without judgment. (Amended 7/31/07)

**Section 5. Disqualification for Reappointment**

Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking a Civil Service examination for two years thereafter. His name will be removed from all eligible lists, unless, in the judgment of the Commission the cause of his dismissal or resignation under charges will not affect the possibility of his or her usefulness in some other position. (Amended 8/25/09)

**Section 6. Non-Certification of Suspended Persons**

The names of persons suspended will not be certified from eligible lists during the period of suspension.

**Section 7. Election to Forfeit Annual Leave**

Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to approval of the Department Head. The election provided for herein, shall work a waiver of the employee's right to appeal the disciplinary action to the Commission,

EMPLOYEE'S INITIALS DC



CITY OF EL PASO, TEXAS  
**NOTICE OF SEPARATION**



Name: Daniel Cordero  
Position: Firefighter

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Employee ID #: [REDACTED]

Date: 07/29/2024

and the employee shall be so advised in plain English on a suitable form upon which the election shall be made, as developed by the Human Resources Director and appended to the notice of suspension. The Department Head shall not unreasonably withhold approval of the employee's election. (Added 05/11/04, Amended 7/31/07)

**Section 8. Formal Counseling**

Formal Counseling is not within the type of disciplinary action specified in Section 6.13-2 of the Charter which may be appealed to the Civil Service Commission. A formal counseling is issued by the Department Head and considered a written counseling to address employee workplace conduct. Employees receiving a formal counseling shall have the right to place responses to the formal counseling into their personnel files which shall remain in the file so long as the formal counseling to which the response relates remains in the file.

Included in, or in conjunction with, the formal counseling document, the Department Head must provide the employee with written notice of the reasons for the formal counseling, with sufficient explanation to place the employee fairly upon his defense.

Upon an employee's request, formal counselings shall be removed from an employee's personnel file after the expiration of twelve (12) months from the date of the last formal counseling, provided the employee has not received any disciplinary action during the twelve (12) month time period between the request and the last-received formal counseling. Formal counselings meeting the criteria above shall not be considered against the employee for purposes of determining progressive discipline or performance evaluations, regardless of whether or not the employee requested removal of the formal counselings. (Added 8/25/09) (Amended 11/2/10, 3/6/12, 1/20/15, 11/15/16)

**RULE 11. DEPARTMENTAL RULES**

**Section 1.** Any department head shall have the right to promulgate rules and regulations regarding the operation of his department, and the conduct of the employee therein, subject to the consent and approval of the City Manager, provided that such rules do not conflict with the Civil Service Charter or the Rules promulgated thereunder. (Amended 07/11/06)

**Section 2.** Large departments having various sub departments may, in their rules, have rules and regulations pertaining to said sub departments in addition to general rules and regulations regarding the department. (Amended 7/31/07)

**Section 3.** The Human Resources Director may promulgate, rules, regulations and policies and procedures, that apply to all or some city departments, as may be specified by the Director, regarding any requirements applicable to the employees of such departments, subject to the consent and approval of the City Manager, provided that such rules, regulations, or policies and procedures do not conflict with the Civil Service Charter or the Rules promulgated hereunder. (Added 3/6/12)

**Section 4.** Any Department Head may, as provided in the Charter, suspend, discharge or demote any employee for insubordination, for failure to comply with departmental rules and regulations, for failure to comply with the Rules of the Commission or for failure to obey any lawful order of a superior officer. (Amended 07/11/06)

**Section 5.** The Human Resources Director is authorized to maintain a comprehensive manual of safety procedures and driver safety standards of all employees. Each employee shall receive a link to a copy of the manual. (Added 3/6/12)

**DEPARTMENT RULES**

**Volume 1: Administrative Policies. Section 1: Organizational Standards:**

**General Conduct**

1. The purpose of the following rules is to promote an atmosphere of goodwill, cooperation and harmony in the relationships among employees and the public. The intention is that such an attitude will produce a highly efficient performance by each employee, thereby increasing the effectiveness of the department.

EMPLOYEE'S INITIALS

[Handwritten initials]





CITY OF EL PASO, TEXAS  
**NOTICE OF SEPARATION**



Name: Daniel Cordero  
Position: Firefighter

Last 4 #'s of SS #: [REDACTED]  
Employee ID #: [REDACTED]

Date: 07/29/2024

2. Employees will be governed by the ordinary reasonable rules of good conduct and behavior of law-abiding citizens whether they are on or off-duty. Conduct or behavior that adversely affects the morale or efficiency of operations of the department may be deemed conduct unbecoming. Conduct or behavior that brings disrepute and discredit by the public on the department or its' employees is also considered conduct unbecoming.

**Volume 1 Administrative Policies. Section 1: Obedience to Rules**

1. Violation of any rules, policies, procedures, General Orders, failure to comply with any order of a supervisor, or failure to properly perform any assigned duties of a supervisor will be considered sufficient cause for disciplinary action.
2. All members are responsible for immediately reporting violations of rules, policies, procedures, General Orders and other employee misconduct to their supervisor. In cases where the supervisor is the violator, the next officer in the chain-of-command will be contacted.
3. The deliberate refusal of any member to promptly obey any lawful order given by any supervisor will be deemed insubordination. Openly disregarding and/or mocking the authority, order or actions of any supervisor will likewise be deemed insubordination.

**Volume 1 Administrative Policies. Section 2: Disciplinary Guidelines**

1. The overall purpose of the disciplinary system is to facilitate the orderly operation and function of the El Paso Fire Department; ensure employee adherence to reasonable and acceptable performance standards and conduct; and to provide fair and equitable consequences for failing to adhere to those standards. The process also ensures due process for the involved employee(s) should disciplinary action be necessary.

**Basis for Discipline**

12. Employees are subject to discipline for violations of law, rules and regulations of the Civil Service Commission, departmental rules and procedures, and lawful verbal or written directives of supervisory personnel. All disciplinary actions taken under this section are subject to, and will be consistent with, applicable state law, local ordinances, administrative rulings, Civil Service rules and collective bargaining agreements. No disciplinary action will occur for conduct that:
  - cannot be connected with job performance,
  - does not constitute conduct unbecoming
  - does not violate any of the rules regarding off-duty personal conduct as set forth in Civil Service Rules and regulations, departmental policies, applicable City policies or ordinances, or the City Charter provisions.

**CITY OF EL PASO'S MISSION, VISION AND VALUES**

**Mission:** Deliver exceptional services to support a high quality of life and place for our community.

**Vision:** Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.

**Values:**

- Integrity - Trusted to do the right thing.*
- Respect - Recognize the value and dignity of all individuals.*
- Excellence - Perfect effort.*
- Accountability - Passionate and determined.*
- People - Our teams are problem-solvers and collaborate with our customers.*

EMPLOYEE'S INITIALS *DC*



CITY OF EL PASO, TEXAS  
**NOTICE OF SEPARATION**



Name: Daniel Cordero  
Position: Firefighter

Last 4 #'s of SS #: [REDACTED]  
Employee ID #: [REDACTED]

Date: 07/29/2024

**El Paso Fire Department Disciplinary Guidelines (Table A)**  
Level F Offences and Deficiencies - Performance - 1st Offense  
AWOL (3 Consecutive days or more)

**Date Received by Human Resources:** 4/24/2024  
**120<sup>th</sup> Day Deadline, pursuant to CSC Rule 8 Section 3(e):** 8/22/2024

**SPECIFICATIONS:**

You were approved for intermittent FMLA to care for your wife beginning May 24, 2023 through November 24, 2023. You exhausted your FMLA balances on October 22, 2023, and failed to request a Leave of Absence (LOA) accordingly. The FMLA parameters and procedures were communicated to you via a Fire HR letter dated June 14, 2023, which was mailed to the home address on file and a copy emailed to you on June 29, 2023. The letter stated the following:

*If you need to request a Leave of Absence (LOA), it usually takes ten (10) working days for the approval process. Please ensure that you start that process in time and provide all the required documentation.*

On August 22, 2023, you inquired via email about requesting a Leave of Absence and received guidance on the process from Fire HR via email response on August 23, 2023. On October 10, 2023, you phoned Fire HR regarding your leave status and were provided with a follow up email explaining the LOA process. On both occasions, you were reminded of the LOA process and advised that the FMLA was approved through November 24, 2023, but the approved leave could end sooner if you exhaust your FMLA hours.

On October 22, 2023, you exhausted your FMLA balances and were coded AWOL beginning October 24, 2023.

On April 15, 2024, you called Fire HR and spoke to a representative regarding your leave. As a follow up to the conversation, you were advised via email of the Leave of Absence process and were given one final opportunity to submit documentation to account for your absences by April 18, 2024. On April 16, 2024, you were advised via email that your Non-FMLA Leave of Absence Request should have a start date of October 24, 2023 and were advised to contact your chain of command regarding the re-entry program due to your prolonged absence. The deadline to submit your documentation was further extended through April 23, 2024. You acknowledged the extension and advised you would try to get the documentation by the deadline. You did not provide any medical documentation to cover your leave beginning October 23, 2023.

On June 20, 2024, City Human Resources sent you a letter which afforded you one final opportunity to submit documentation to support a Non-FMLA Leave of Absence. The letter directed you to provide medical documentation to cover your leave within 10 days of the mailing of the letter. You were notified that failure to do so may result in discipline, up to and including termination of your employment. As of July 1, 2024, the Fire Department did not receive any documentation to support a Non-FMLA Leave of Absence. Therefore, you have been coded Absent Without Leave (AWO) from October 23, 2023, through your return to work on May 13, 2024. You were contacted several times during the course of the year, to inform you of your leave status and documentation needs, and you failed to show regard for your employment status. You failed to provide sufficient medical documentation to cover your absence.

EMPLOYEE'S INITIALS

DC



CITY OF EL PASO, TEXAS  
**NOTICE OF SEPARATION**



Name: Daniel Cordero  
Position: Firefighter

Last 4 #'s of SS #: [REDACTED]  
Employee ID #: [REDACTED]

Date: 07/29/2024

As an employee of the El Paso Fire Department it is your responsibility to conduct yourself in accordance with ordinary reasonable rules of good conduct and behavior that govern law-abiding citizens and in accordance with the laws of the State of Texas, ordinances of this community and the rules and regulations of this department. Your actions of (being coded AWO for more than three consecutive days), constitute violations of Department rules and regulations.

**In accordance with the El Paso Fire Department Disciplinary Guidelines, your conduct is determined to be a Level F Offense and Deficiency, 1st Offense which subjects you to termination.**

**Your disciplinary history reflects the following:**  
None

Based on the above specifications, the City of El Paso Fire Department has determined that your employment is hereby terminated.

You have **thirty (30) days** from the date you receive **the final notice** to appeal this action to the Civil Service Commission. The City reserves the right to amend these charges and/or specifications at a later date.

EMPLOYEE'S INITIALS



## ADMINISTRATIVE POLICIES AND PROCEDURES

**Policy ID:** Human Resources  
**Subject:** FMLA Leave of Absence  
**Creation Date:** December 15, 2013  
**Revision Date:** None  
**Prepared By:** Human Resources Department  
**Approved By:** City Manager  
**Legal Review:** Elizabeth Ruhmann

**DESCRIPTION:** FMLA LEAVE OF ABSENCE

**POLICY:** The City of El Paso ("City") will afford its employees family and medical leave guaranteed by the Family and Medical Leave Act (FMLA). Under this policy, the City will grant to eligible employees, during a "rolling" 12-month period, up to 12 weeks of job protected unpaid leave, or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness.:

**PROCEDURES:**

**1. Eligibility**

To be eligible for FMLA leave, an employee must:

- have been employed by the City for at least 12 months (need not be consecutive); separate periods of employment will be counted, provided that the break in service does not exceed seven (7) years; and
- have worked at least 1,250 hours in the preceding 12 months from the date FMLA is to be used.

Employees eligible for FMLA will be placed on FMLA and will be required to submit the appropriate paperwork in accordance with Federal guidelines.

**II. Policy Details**

**A. Reasons for FMLA Leave**

To qualify as FMLA leave under this policy, the employee must be taking leave for one or more of the reasons listed below:

- Because of the employee's own serious health condition which makes the employee unable to perform the essential functions of the employee's job;
- Birth of the employee's child, or to take care for the employee's newborn child;
- Placement of a child with the employee for adoption or foster care;



- To care for an immediate family member with a serious health condition:
  - a) An immediate family member is a spouse, parent, son or daughter with a serious health condition.
  - b) A son or daughter is defined as a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in *loco parentis* – taking the place of the child's parents for day-to-day physical or financial support. The son or daughter must be under the age of 18 or if older than 18, incapable of self-care because of a mental or physical disability at the time FMLA leave is requested.
- Leave because of a qualifying exigency (“qualifying exigency leave”) as guaranteed under the military family leave provisions of the FMLA
- Leave to care for a covered service member with a serious injury or illness (“military caregiver leave”) as guaranteed under the military family leave provisions of the FMLA.

**B. Duration of Leave**

Eligible employees may receive up to 12 workweeks of unpaid leave during any “rolling” 12-month period, measured backward from the date that any FMLA leave is used. On each day of the year, an eligible employee's FMLA leave entitlement is determined by the amount of leave he or she used in the 12 months before. As each new day is added, one day from the 12 months ago is eliminated. If on that date 12 months ago the employee took FMLA leave, one day of leave entitlement is created for the next 12 months.

*Example for Determining Available Time*

An employee used FMLA leave from May 1 through June 15, 2012 (six weeks of his 12-week entitlement). He used an additional six weeks of FMLA leave Nov. 15 through Dec. 31. On June 1, 2013, he would be eligible for four weeks of FMLA leave, figured by subtracting from his 12-week entitlement the six weeks used during the prior November and December, and the two weeks used June 1-15, 2012. The four weeks used in May 2012 would be outside the look back period because they occurred more than 12 months prior to the date on which the calculation of leave entitlement is begun. This example excludes FMLA taken for military caregiver leave.

FMLA leave for the birth or placement of a child for adoption or foster care must be concluded within 12 months of the birth or placement and cannot be taken intermittently. When a husband and wife both work for the same employer, they are limited to a combined total of 12 weeks of FMLA leave for the birth of a son or daughter, the placement of a child with them for adoption or foster care, or if they are needed to care for a parent with a serious health condition.

When leave is to care for a service member or veteran with a serious injury or illness, an eligible employee may take up

to 26 workweeks of leave during a single 12-month period to care for that service member or veteran. Leave to care for an injured or ill service member or veteran, when combined with other FMLA qualifying leave, may not exceed 26 weeks in the single 12-month period during which the 26 weeks of military caregiver leave is available. A single 12-month period for purposes of military caregiver leave begins on the first day that an employee takes military caregiver leave and ends twelve months after that date, regardless of the rolling 12-month period that the City utilizes for determining available leave for other FMLA-qualifying reasons.

#### **C. Request for Leave**

When the need for the leave is foreseeable, the employee must provide the City with at least 30 days advanced notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day.

When the need for FMLA leave is not foreseeable, the employee must comply with normal call-in procedure requirements and procedures for requesting leave, absent unusual circumstances.

Leave requests that are not submitted according to policy, and as soon as practicable may be delayed or denied based on individual facts and circumstances.

#### **D. Certifications of Leave**

##### *Certification for the Employee's and Family Member's Serious Health Condition*

The City will require certification for the employee's serious health condition or the family member's serious health condition. The Human Resources Department will receive all medical certifications for employee's or family member's serious health condition(s). The employee must respond to the request for certification within 15 calendar days of the notice of eligibility. Failure to comply with the above mentioned requirements may result in delay or denial of leave or reinstatement from leave, in which case the employee's leave of absence would be unauthorized, subjecting the employee to discipline up to and including termination.

##### *Certification of Qualifying Exigency for Military Caregiver Leave*

The City will require certification of the qualifying exigency for military family leave as provided under the FMLA. The documentation (i.e. military orders) should be sent to Human Resources. The employee must respond to such a request within 15 calendar days of the request. Failure to comply with the above mentioned requirements may result in delay or denial of leave or reinstatement from leave, in which case the employee's leave of absence would be unauthorized, subjecting the employee to discipline up to and including termination.

##### *Certification for Serious Injury or Illness of Covered Service Member for Military Caregiver Leave*

The City will require certification for the serious injury or illness of the covered service member as provided under the FMLA. The certification must be submitted to the Human Resources Department. The employee must respond to such a request within 15 calendar days of the request. Failure to comply with the above mentioned requirements may result in delay or denial of leave or reinstatement from leave, in which case the employee's leave of absence would be unauthorized, subjecting the employee to discipline up to and including termination.

#### **E. Leave Determination**

##### *Incomplete Certifications*

If an incomplete medical certification is received, the Human Resources Department will provide the employee with the opportunity to either have the health care provider correct the certification or provide a written release for Human Resources to contact the Health care provider directly. The employee will have seven (7) calendar days to resolve any deficiencies in the medical certification. If, after seven (7) calendar days the identified deficiencies have not been resolved, the FMLA request may be denied.

##### *2<sup>nd</sup> and 3<sup>rd</sup> Opinions*

The City may request recertification and/or a second opinion for the serious health condition of the employee or the employee's family member in accordance with the regulations under the FMLA. If the City questions the validity of the health care provider's opinion, a second opinion may be required. In such cases, the City will choose a health care provider to give the second opinion and will pay the cost. If the first and second opinions differ, the City may require a third opinion. The health care provider giving the third opinion will be jointly approved by the City and the employee. The third opinion will be binding on both parties. The City will pay the cost of the third opinion.

##### *Recertification*

If, after the initial medical certification, the employee needs to renew or change the leave request, he or she is required to submit an additional or amended medical certification to the Human Resources Department.

Recertification will be necessary when the employee seeks an extension of his or her leave. The employee must provide a new medical certification every six months.

The City may require recertification of the ongoing need for leave every 30 days or more often depending on the circumstances of each individual situation. Failure to provide proper medical certification may result in the denial of FMLA leave, or in a delay of its approval.

##### *Approval/Denial Notice*

Once Human Resources received a completed medical certification, the employee will be notified within five (5) business days whether or not the leave is approved or denied along with a designation of the leave as FMLA.

If an employee takes sick leave for a condition that progresses into a serious health condition, and the employee requests additional medical leave as provided under this policy, the City may designate all or some portion of the leave taken as FMLA leave, to the extent that the earlier leave meets the necessary qualifications.

#### **F. Intermittent Leave**

Eligible employees may take FMLA leave intermittently (in blocks of time), or by reducing their normal weekly or daily work schedule, when medically necessary for their own or an immediate family member's serious health condition or for the serious injury or illness of a service member. This type of FMLA leave use must be carefully reviewed and supported by medical certification. Intermittent FMLA is also available for leaves due to a qualifying exigency. Employees who require intermittent leave or reduced-schedule leave must try to schedule their leave so that it will not disrupt the department's operations.

##### *Birth of Child/Adoption*

Intermittent FMLA leave is not permitted for the birth of a child or to care for a newborn child or newly adopted child when there is no serious medical condition.

##### *Call-In Procedures*

Absent unusual circumstances, employees must comply with the City/departmental call-in procedures when they miss work for reasons potentially covered by FMLA leave. Employees must also designate their absence as an FMLA covered event each time intermittent leave is utilized. Failure to comply with these procedures may subject the employee to discipline up to and including employment termination.

##### *Exhaustion of Intermittent Leave*

Once FMLA is exhausted or no longer needed, absences will be counted as such. Should an employee exceed the estimated time away from work provided in his or her medical certification, he or she will be required to submit medical documentation or an updated medical certification to support the additional leave. If the need for more leave is protected under the FMLA, the absences will be counted as protected leave. Absences under FMLA must be related to the serious health condition according to the medical certification. Utilizing FMLA for reasons not related to the certification(s) is not permitted.

#### **G. Pay Status While on Leave**

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family/service member, birth/adoption, or using military caregiver leave for a qualifying exigency, must use all accrued Sick leave and then Vacation leave prior to being eligible for unpaid leave.



#### **H. Exempt Employee**

If an exempt employee is on FMLA, deductions may be made for any hours taken as intermittent or reduced FMLA leave within a workweek, without affecting the exempt status of the employee, regardless of whether these hours are paid or not. Whole days or partial days not worked due to FMLA will be charged against an employee's accrued leave balance or will be leave without pay. All FMLA time taken regardless of whether it is paid or unpaid will count against the employee's 12-week leave entitlement.

#### **I. Employee Benefits While on Leave**

While an employee is on FMLA leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work, as long as the employee pays his or her portion of the health care premium.

While on paid FMLA leave, the City will continue to make payroll deductions to collect the employee's share of the premium.

While on unpaid FMLA leave, the employee is responsible for making the employee's share of the premium. If an employee does not pay the required contributions, coverage may be canceled. However, the employee will be given 15 days-notice before coverage is canceled.

Employees retain their employment status during the period of leave. An absence covered by FMLA leave will not be considered a break in service for purposes of determining an employee's longevity, or any employee benefit plan.

If the employee contributes to the pension plan or life insurance, the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums.

#### **J. Job Restoration**

An employee who takes leave under the FMLA will normally return to the same position or a position with equivalent status, pay, benefits and other employment terms.

##### *Unable to Return after FMLA Leave*

If the employee is not medically released to return to work at the end of their FMLA leave and the employee has not been granted any additional leave, employment ends as "unable to return from leave" effective the last day of the approved leave, unless a continuation of leave has been granted as an accommodation under the Americans with Disabilities Act as amended, or for other reasons.

##### *Failure to Return after FMLA Leave*

Any employee who fails to return to work as scheduled after FMLA leave (end of certification, release to return to work, or

exhaustion of leave entitlement) may be subject to termination of employment. Employees, who exceed their FMLA entitlement without extension(s) of their leave approved under other appropriate leave provisions and applicable attendance policies, may be subject to dismissal from employment and applicable attendance policies.

#### **K. Notice Requirements for Returning from FMLA Leave**

Employees are expected to be able to return to work by the end of their approved leave. Prior to returning from leave for a personal health condition, the employee is required to secure a medical release from his or her healthcare provider confirming the release to return to work to perform the regular duties or set any restrictions. The request to return from medical leave of absence form should be completed and submitted to the Human Resources Department at least two (2) days in advance of the expected date of return reflected on the Request for Leave form.

If the employee is released to return to work with restrictions, the Human Resources Department in consultation with the Department Head, Departmental Human Resources Manager and/or employee's supervisor(s) will consider whether the restriction can be met in the workplace or if a reasonable accommodation is required. Medical restrictions are those that prevent the employee from performing their regular duties at the end of the approved leave due to a continuing medical condition. If an employee on FMLA leave for personal medical reasons is released to return to work sooner than the expected return date listed on the Leave Request, the employee must notify the Human Resources Department and their Departmental Human Resources Manager and/or supervisor within two (2) business days of receiving the release.

#### **L. Coordination with other Policies**

##### *Attendance and FMLA*

Absences covered by FMLA will not be charged against the employee under the employee's departmental attendance/absence policy. However, employees may be subject to discipline up to and including termination of employment if, during their leave, they engage in activities inconsistent with the stated purpose for the leave. For example, employee may be prohibited from engaging in other employment during FMLA leave. Misrepresentations or any act of dishonesty related to FMLA leave will also be grounds for discipline, up to and including termination of employment.

##### *Worker's Compensation and FMLA*

FMLA and Worker's compensation run concurrently if the injury meets the definition of a serious health condition under FMLA. FMLA requests for work injuries involving Worker's Compensation may follow a different process with respect to the verification of clarification of the medical certification. Please consult with the Human Resources Department/Departmental Human Resources Manager for more information on benefits and pay status while on leave.

Related Policies: Non-FMLA Leave of Absence Policy.

APPROVED BY:

*Joyce Wilson*  
Joyce Wilson, City Manager

1/6/14  
Date



## ADMINISTRATIVE POLICIES AND PROCEDURES

**Policy ID:** Human Resources  
**Subject:** Non-FMLA Leave of Absence  
**Creation Date:** December 15, 2013  
**Revision Date:** None  
**Prepared By:** Human Resources Department  
**Approved By:** City Manager  
**Legal Review:** Elizabeth Ruhmann

**DESCRIPTION:** Non-FMLA Leave of Absence

**POLICY:** The policy of the City of El Paso ("City") is to consider an employee's request for a leave of absence (where the leave does not qualify for protection under the Family Medical Leave Act (FMLA)) in accordance with guidelines set forth below. This policy generally provides up to twelve (12) months of consecutive leave, or a combined period of twenty-four (24) months within the most recent seven (7) years of an employee's employment with the City, unless otherwise required by law, including the Americans with Disabilities Act Amendments (ADAAA). All leaves of absence (except military leave provided under USERRA) are concurrent and count towards the twelve (12) or twenty-four (24) months, as applicable.

**PROCEDURES:** I. Non-FMLA Leave of Absence

*a. Leave for Regular Employees after First Year of Employment*

An employee with a serious medical condition as defined under the FMLA who does not meet the 1,250 hour requirement or has exhausted leave available under the FMLA may request a leave of absence for a self-qualifying medical event. Approved time away from work will generally not exceed (12) consecutive months. Intermittent leave under Non-FMLA is not permitted unless such leave has been approved as a reasonable disability related accommodation pursuant to the ADAAA. Requests for disability related accommodations should be made to the City's Human Resources Department.

A request for a medical leave of absence not to exceed twelve (12) consecutive months together with the reason(s) therefore and the period of leave desired, and a full statement as to the desire or intention of the employee to return to the Civil Service, must be made in writing by the employee on the forms prescribed. The Department Head shall recommend disposition of the request in writing to the Human Resources Director.



b. *Leave for Employees within First Year of Employment*

A request for a Non-FMLA leave of absence not to exceed (3) months, together with the reason(s) therefore and the period of leave desired, and a full statement as to the desire or intention of the employee to return to the Civil Service, must be made in writing by the employee on the forms prescribed. The Department Head shall recommend disposition of the request in writing to the Human Resources Director. Employees taking Non-FMLA leave during their initial Probationary period must still complete their remaining probation upon their return to work.

Intermittent leave under Non-FMLA is not permitted unless such leave has been approved as a reasonable disability related accommodation pursuant to the ADA. Requests for disability related accommodations should be made to the City's Human Resources Department.

- c. When the leave of absence is necessary because of sudden serious health condition or injury, the request may be made by the Department Head without securing the signature of the employee and forwarded to the Human Resources Director or designee.
- d. The employee shall submit necessary medical documentation upon request. The request for leave will not be effective until approved by the Human Resources Director or designee. In the case of a leave requested as an exception to length-in-service requirement policy, the request must be accompanied by such proof as the Human Resources Director or designee may require.
- e. A Non-FMLA leave of absence may not be granted or extended for a combined period of twenty-four (24) months within the most recent seven (7) years of an employee's employment with the City, unless otherwise required by law, including the Americans with Disabilities Act Amendments Act (ADAAA) and military leave provided under the USERRA.

A. **Requesting a Non-FMLA Leave**

Except as otherwise provided by law, no employee will be granted a leave of absence until the employee has been in the Civil Service for at least one year immediately preceding the date of leave except in case of military service, urgent necessity, as allowed in Section I(b) or in accordance with federal or state law, as determined and approved by the Human Resources Director or designee. In these cases, an application for a leave will be accompanied by such proof as the Human Resources Director may require, along with a recommendation from the Department Head.

To obtain a leave of absence based on an employee's own serious health condition, the employee must provide the

Department Head with a written request stating the reason for the requested medical leave, the amount of time expected to be away from work and such forms as may be required by the Human Resources Director, completed by the employee's health care provider, as directed in section B below. The employee will be required to reapply for a Leave of Absence (LOA) every (30) days and provide the supporting medical documentation from the employee's health care provider on the serious health condition, as well as a fitness for duty certification when the employee seeks to be reinstated. If, for medical reasons, the employee is unable to deliver any documentation required under this paragraph, the employee may have a friend, family member or health care provider deliver them.

To obtain a leave of absence so that an employee may care for a spouse, designated household member, child or parent of either with a serious health condition, the employee must provide his Department Head with the required forms, completed by that individual's health care provider, no later than the fifteenth calendar day of absence. The health care provider should indicate that the employee is needed to care for the individual and estimate the amount of time involved. The employee may be required to provide periodic updates on the relevant individual's condition and on the employee's continued need to care for that person.

To obtain foreseeable leave based on the birth or the placement of a child for adoption or foster care with the employee or for planned medical treatment, an employee must notify the Department Head not less than 30 days before the employee plans to commence leave. If it is not possible to give 30 days' notice, the employee must give as much advance notice as is practicable.

A request for Non-FMLA leave of absence for other than the terms stated in this policy may be made to the City Human Resources Director and may only be granted under certain terms and conditions by the City Human Resources Director and/or the City Manager.

**B. Certifications for Non-FMLA Leave**

The City will require certification for the employee's serious health condition. The employee must respond to the request for certification within (15) calendar days of the notice of eligibility. Failure to comply with the above mentioned requirements will result in denial of leave or reinstatement from leave, in which case the employee's leave of absence would be unauthorized, subjecting the employee to discipline up to and including employment termination.

*Incomplete Certifications*

If an incomplete medical certification is received, the City will provide the employee with the opportunity to either have the health care provider correct the certification or provide a written release for the City to contact the health care provider



directly. The employee will have seven (7) calendar days to resolve any deficiencies in the medical certification. If, after seven (7) calendar days the identified deficiencies have not been resolved, the request for leave will be denied.

**C. Benefits and Pay Status While on Non-FMLA Leave**

The City requires any employee taking Non-FMLA leave to first utilize accrued but unused sick leave and then vacation leave during the leave of absence provided that it is not used to receive more compensation than the employee would receive were the employee on duty.

Employees on unpaid leave of absence are not entitled to holiday pay for those holidays falling during the leave. Additionally, benefits such as vacation time and sick leave do not accrue during an unpaid leave of absence. A break in seniority will occur when an employee is on an unpaid leave of absence for thirty or more consecutive days.

During the portion of any paid leave of absence in which the employee is using accrued vacation or sick leave, the City will maintain its share of an employee's coverage under any group health or insurance plan on the same conditions as if the employee was not on leave. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium.

During any unpaid leave of absence, an employee must pay the cost of any insurance coverage that the employee has elected to make under the City's benefit program. The employee must make arrangements with the Human Resources Department Insurance & Benefits section to make any such payments. If an employee does not pay the required contributions, coverage may be canceled. However, the employee will be given 15 days' notice before coverage is canceled.

If the employee contributes to a pension plan or life insurance plan, the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay their portion of the premiums. If the employee does not continue these payments, the City may discontinue coverage during the leave.

**Note:** When a personal leave is granted to care for a family member covered under the sick time policy, sick accruals should be exhausted before any other accrued leave

**D. Notice Requirements for Returning from Non-FMLA Leave**

Employees are expected to be able to return to work by the end of their approved leave. Prior to returning from leave for a personal health condition, the employee will be required to secure a release from his or her healthcare provider confirming the release to return to work to perform regular duties or set forth any restrictions.



If the employee is released to return to work with restrictions, the City's Human Resources in consultation with the employee's department will determine whether the restrictions can be reasonably accommodated. Medical restrictions are those that prevent the employee from performing his or her regular duties at the end of the approved leave due to a continuing medical condition.

If an employee on leave is released to return to work sooner than the expected return date listed on the Leave Request, the employee must notify their supervisor within two (2) business days of receiving the release.

*Unable to Return from Non-FMLA Leave*

If the employee is not medically released to return to work at the end of his or her leave and the employee has not been granted any additional leave, employment ends as "unable to return from leave" effective the last day of the approved leave, unless a continuation of leave has been granted as an accommodation under the ADAAA, or for other reasons.

*Failure to Return from Non-FMLA Leave*

Any employee who fails to return to work as scheduled after leave may be subject to dismissal from employment. Employees, who exceed their leave without extension of their leave approved under appropriate leave provisions, may be subject to termination of employment pursuant to the City's discipline policy.

**E. When Leave of Absence shall not be Granted**

No leave of absence, with or without pay, will be approved or granted when it appears to the Human Resources Director or designee that it is requested for the purpose of enabling the employment of a temporary employee to the same position; or because of political influence, or for cause contrary to the good of the Service.

Personal leaves are not granted for engaging in employment outside of the City, pursuing an independent business venture or as additional leave after Non-FMLA Medical Leave. Intermittent leave under Personal Leave is not permitted.

**F. Notices regarding Designated Household Members**

Any employee may designate one person who resides in the employee's household, for whom the provisions in this Rule related to a designated household member shall apply. The employee shall submit the name of such household member to the Human Resources Department. In the event that the household member moves from the employee's household or the employee desires to change the designation of his household member, the employee shall immediately file a notice of termination of designation of household member with the Human Resources Department. The Human

Resources Director shall develop appropriate forms for use by employees under this section. The required Designated Household Member form must be completed and filed with the City's Human Resources Department prior to making the request for Non-FMLA leave. Completion of the form is not retroactive.

## II. Coordination with Other Policies

### A. Attendance and Non-FMLA Medical/Personal Leave

Absences covered under Non-FMLA Leave will be counted as occurrences of absenteeism under the City's discipline policy. However, employees may be subject to discipline up to and including termination of employment, if, during their leave, they engage in activities inconsistent with the state purpose for the leave. For example, employees may be prohibited from engaging in other employment during leave. Misrepresentations or any act of dishonesty related to a leave of absence under this policy will also be grounds for discipline, up to and including termination of employment.

### B. Worker's Compensation and Non-FMLA Leave

Non-FMLA Medical Leave and Worker's Compensation can run concurrently. Non-FMLA Medical Leave requests for work injuries involving Worker's Compensation may follow a different process with respect to the verification or clarification of the medical certification.

Related Policies: FMLA Leave of Absence Policy

APPROVED BY:

  
\_\_\_\_\_  
Joyce Wilson, City Manager

1/6/14  
\_\_\_\_\_  
Date

**Section 2: Records, Reports & Forms**

**El Paso Fire Department Disciplinary Guidelines (Table A)**

<b>Level A - Offenses and Deficiencies - have minimal negative impact on the operations or professional image of the Department, including but not limited to:</b>		1 <sup>st</sup> Offense	2 <sup>nd</sup> Offense	3 <sup>rd</sup> Offense	4 <sup>th</sup> Offense	5 <sup>th</sup> Offense
<ul style="list-style-type: none"> <li>Violations of City/Departmental Rules &amp; Regulations and Protocols (Not to include severe or flagrant violations)</li> <li>Loss/Misplaced/Damaged City/Department Property</li> <li>At Fault Motor Vehicle Accidents</li> <li>Language and/or Action which is Deemed Unprofessional Behavior for an Employee in the Public Trust (Not to include severe or flagrant violations)</li> <li>Unsafe Work Practices</li> <li>Failure to Obtain Patient Release</li> </ul>	<ul style="list-style-type: none"> <li>Failure to Submit Subordinate Performance Evaluation within Time Frame (Supervisors)</li> <li>Failure to Provide Instruction/Training (Supervisors)</li> <li>Failure to Enforce City/Departmental Rules (Supervisors)</li> <li>Outside Employment Without Approval</li> <li>Expired Defensive Driving Certification</li> <li>Failure to Attend Scheduled Training</li> <li>Tardiness</li> <li>Uniform Violation</li> <li>Failure to Maintain/Complete Records or Documentation Required by Federal, State or other Applicable Law</li> </ul>	Formal Counseling	3-Day Suspension	10-Day Suspension	30-Day Suspension and/or Demotion	Termination
<b>Level B - Offenses and Deficiencies - have more than a minimal negative impact on the operations or professional image of the department; or that negatively impacts relationships with other firefighters, agencies or the public including but not limited to:</b>						
<ul style="list-style-type: none"> <li>Hazing</li> </ul>	<ul style="list-style-type: none"> <li>Non-Compliance Mandatory EAP Referral</li> <li>AWOL (Less than 3 days)</li> <li>Insubordination</li> <li>Derelection of Duty</li> <li>Failure to Comply with Vehicle Operations Procedures</li> <li>Failure to Report Arrests/Convictions/Warrants</li> </ul>	3-Day Suspension	10-Day Suspension	30-Day Suspension and/or Demotion	Termination	
<b>Level C - Offenses and Deficiencies - have a pronounced negative impact on the operations or professional image of the department, or on relationships with other firefighters, agencies or the public including but not limited to:</b>						
<ul style="list-style-type: none"> <li>Lost/Misplaced/Damaged City/Department Property due to willful disregard of EPFD policies and procedures</li> <li>At Fault Motor Vehicle Accidents due to willful disregard of EPFD policies and procedures</li> <li>Conviction/Deferred Adjudication of a Class C Misdemeanor (Not to include traffic offenses)</li> </ul>	<ul style="list-style-type: none"> <li>Off or On Duty Conduct and/or Behavior Unbecoming</li> <li>Arrest</li> <li>Violation of City Workplace Violence Policy</li> <li>Temporary Loss of Required Certification or Driver License due to Negligence</li> </ul>	5-Day Suspension	15-Day Suspension and/or Demotion	Termination	<b>Progressive Discipline Durations</b> <b>Life of Career</b> Sexual Harassment, Assault, Positive Test Drugs/Alcohol, Racial Discrimination, Criminal Activity 4 years Suspension or Greater 3 years Suspension or greater for at Fault MVA 1 year Formal Counseling	
<b>Level D - Offenses and Deficiencies - is substantially contrary to the values of the department or that substantially interferes with its mission, operations or professional image, or that involves a demonstrable serious risk to firefighter or public safety including but not limited to:</b>						
<ul style="list-style-type: none"> <li>Conviction/Deferred Adjudication of a Class B Misdemeanor</li> <li>Possessing, Accessing, Viewing, Distributing, or Displaying of Pornographic Material *** while on Duty</li> <li>Official Oppression</li> <li>Improper Use/Release of Confidential Information</li> </ul>	<ul style="list-style-type: none"> <li>Failure to Respond to a Dispatch</li> <li>Loss of Controlled Substances (Due to Negligence)</li> <li>Interfering in an Administrative Investigation</li> </ul>	* 10-Day Suspension	* 30-Day Suspension and/or Demotion	** Termination	Note: * Time served for underlying conduct unbecoming will be deducted (not to exceed 5 days). ** Discipline for underlying conduct unbecoming is separate and will NOT reduce termination.	
<b>Level E - Offenses and Deficiencies - involves the serious abuse or misuse of authority, unethical behavior, or an act that results in an actual serious and adverse impact on firefighter or public safety or to the professional image of the department including but not limited to:</b>						
<ul style="list-style-type: none"> <li>Positive Drug /Alcohol Test Result</li> <li>Conviction/Deferred Adjudication of a Class A Misdemeanor</li> <li>Sexual Harassment</li> </ul>	<ul style="list-style-type: none"> <li>Fighting/Physical Altercation on Duty</li> <li>Falsified Reports or Falsified Official Documents with Intent</li> </ul>	* 30-Day Suspension and/or Demotion	** Termination			
<b>Level F - Offenses and Deficiencies - involves any violation of law, rule or policy which foreseeably results in death or serious bodily injury to another person; or constitutes a willful and wanton disregard of department values or involves any act which demonstrates a serious lack of the integrity, ethics or character related to a firefighter's fitness to hold the position of firefighter; or involves egregious misconduct that is substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is public safety, or involves any conduct which constitutes the failure to adhere to any contractual condition of employment or requirement of certification mandated by law including but not limited to:</b>						
<ul style="list-style-type: none"> <li>At Fault Motor Vehicle Accident Resulting in Serious Injury or Death</li> <li>Conviction/Deferred Adjudication of a Felony</li> <li>Conviction/Deferred Adjudication of Theft or Misappropriation of City Property</li> <li>Possession, Distribution, or Sale of an Illegal Substance or Alcohol on Duty</li> <li>Fighting/Physical Altercation Involving a Weapon on Duty</li> <li>Sexual Assault</li> </ul>	<ul style="list-style-type: none"> <li>AWOL (3 Consecutive days or more)</li> <li>Unsafe Work Practices Resulting in Serious Injury or Death</li> <li>Permanent Loss of Department Sponsored Certification or Driver License</li> <li>Disobeying a Directive Issued as Part of an Administrative Investigation</li> </ul>	** Termination	<b>NATURE OF INFRACTIONS</b> MVA/Property Damage or Loss Conduct Performance Varies According to Circumstances			

Levels A-F Offenses and Deficiencies classify the severity of infractions while the Nature of Infractions group violations by type. Progressive discipline shall be imposed on succeeding violations, when both the severity and the nature of the initial and subsequent infractions are the same and occur within the timeframes specified in Volume 1: Administrative Policies, Section 2: Disciplinary Guidelines, Disciplinary Guidelines Penalty Table Categorization. Examples:

1. If an employee is found to be at fault for a second performance-related Level A Offense or Deficiency within one year, the second discipline will progress to a 3-day suspension. If, however, the second Level A Offense or Deficiency was different in nature than the first, both disciplines would be considered first offenses and would each result in Formal Counseling.
2. If an employee is found to be at fault for a second performance-related offense, but the offenses were different levels, then both offenses would be considered separately and would not be treated progressively.

EXHIBIT

STATE LEGAL



# City of El Paso EMPLOYEE HANDBOOK

January 2023



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## LEAVE TIME

### HOLIDAYS

City of El Paso observes twelve (12) holidays each year. Eligibility for holiday pay is dependent upon employee status, as described earlier under EMPLOYMENT POLICIES. If one or more of the legal holidays fall on either Saturday or Sunday, the management may declare the preceding Friday or the following Monday as an alternate day off. Uniform Police and Fire personnel shall refer to their respective collective bargaining agreements for holiday information and guidelines. Holidays other than those listed will not be recognized as paid holidays. Upon prior approval, employees may observe other holidays by charging the time off against appropriate leave balances. The following are City-observed holidays:

New Year's Day  
Martin Luther King Holiday  
Cesar Chavez Day  
Memorial Day  
Juneteenth  
Independence Day  
Labor Day  
Veterans Day  
Thanksgiving Day  
Day After Thanksgiving  
Christmas Day  
Employee's Birthday

You will not be charged a day of vacation for any holiday falling within a period of paid vacation. Straight-time will be paid for all non-worked holidays. Employees qualify for holiday pay only if they are in a pay status on the work day immediately before and after a holiday. During a holiday work week, overtime is figured after 40 hours of worked time for non-exempt employees (non-worked holiday hours do not count as work time).

### VACATION

Eligibility for vacation leave is dependent upon employee status, as described earlier under EMPLOYMENT POLICIES. The City encourages you to make regular use of vacation time since the annual vacation benefit is designed to provide you with an opportunity to rest and enjoy a departure from the normal work routine.

Vacations are scheduled each year at the convenience of the City and the employee. Every effort will be made by the City to allow you to take vacation according to the schedule that is most convenient to you. The entire vacation period need not be taken at once. With your immediate supervisor's approval, it may be separated into more than one period to be taken during the year.

Accrual: Vacation is earned and calculated according to the schedule below.

All regular employees shall accrue vacation credit at the following rates per pay period for each pay period completed by the employee in the City Service, calculated from the employee's date of employment:

For 0-5 year of service (96 hours):  
40 hour per week employees – 3.70 hours per biweekly pay period

For >5 to 15 years of service (136 hours):  
40 hour per week employees – 5.24 hours per biweekly pay period

For >15 or more years of service (160 hours):  
40 hour per week employees – 6.16 hours per biweekly pay period

The maximum accrual for vacation leave is 400 hours.

Employees who are in an unpaid leave of absence status will not accrue vacation until they return to work on a regular basis.

The City does not advance vacation time. Vacation time charged by an employee who has insufficient vacation hours available will be treated as leave without pay. Uniform Police and Fire personnel shall refer to their respective collective bargaining agreements for vacation information.

Limitations: Every effort will be made to grant your requests to take vacation when requested; however, vacation requests are subject to the needs of the business, which includes having an adequate staff at all times.

Following termination of employment, employees who have completed one year of City employment will be paid at their current rate for unused earned vacation leave remaining at termination; however, all or a portion of the unused leave may be used prior to payout to offset or repay the City for any outstanding loans or any other indebtedness owed by the employee to the City of El Paso, as permitted by applicable laws and City policy.

### **SICK LEAVE**

Paid sick leave is accrued and provided to maintain continuity of your income during limited periods of non-job-related illness. Pro-rated accrual of sick leave may be available to unclassified employees working less than 30 hours.

Accrual. All regular and probationary employees who are scheduled to work a minimum of forty (40) hours per week are entitled to annual sick leave, with full pay, in the amount of 120.0 hours per year or 4.62 hours per pay period.

Regular part-time employees who are scheduled to work a minimum of twenty (20) hours per week shall accrue sick leave at a pro-rated amount of full-time entitlement based on the number of hours that they are scheduled to work.

Employees covered by collective bargaining agreements shall accrue sick leave as provided in the applicable agreement.

Employees may accrue unlimited sick leave.

Sick Leave Verification. No sick leave of three (3) or more consecutive work days will be granted to any person without a medical certificate verifying that the leave is necessary for medical/health reasons. Additionally, no sick leave the last scheduled work day before, the scheduled work day of, or the first scheduled work day after a City designated holiday will be granted to any person without a certificate. Such certificate must be from a health care provider, and verify that the leave is necessary for medical reasons.



Employees with inadequate sick leave balances coded Absent-Without-Leave (AWO) must provide a doctor's note verifying that the leave was necessary for medical reasons.

Department-specific rules and policies relating to sick leave verification may be established that are more or less stringent, based on the nature of the department's operations and needs.

Limitations: Accrued sick leave is not paid at termination of employment, unless otherwise required by a Collective Bargaining Agreement.

### **EMERGENCY LEAVE**

Emergency Leave may be granted under the sick leave clause for the following reasons:

- (a) A quarantine established by the Health Authority
- (b) Death of mother, father, child, grandchild, brother or sister, or spouse or designated household member, or their child, or parent. A maximum of five (5) days of sick leave may be granted for this purpose per event. Employees shall provide written documentation of the funeral or death.
- (c) Death of other relatives or other person with whom the employee has a significant familial relationship. Leave with pay in such cases may be for not more than one (1) day to permit attendance at the funeral.
- (d) Illness of the employee's immediate family. "Immediate family" is defined as the spouse, designated household member, children, the grandparents, or parents of the employee or of the employee's spouse or designated household member. No more than two days per pay period may be authorized to permit necessary arrangements for care unless the employee takes leave under the Family and Medical Leave Act.

### **MILITARY LEAVE**

Military leave for City employees is provided in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and State military leave laws. Employees serving in the U.S. Armed Forces will be allowed paid military leave in accordance with the City's Military Leave Policy.



### **FAMILY AND MEDICAL LEAVE OF ABSENCE**

The Family and Medical Leave Act entitles qualified employees to as much as 12 weeks of unpaid leave of absence for specific reasons and events. Employees will be granted leave in accordance with the City's FMLA Leave policy.

### **LEAVE OF ABSENCE**

Leave of Absence may be granted in accordance with the City's Non-FMLA policy and FMLA Leave of Absence policy.

A request for a Leave of Absence for regular employees with one year or more of service, not to exceed twelve consecutive months, together with the reasons therefore and the period of leave desired, and a full statement as to the desire or intention of the employee to return to the Civil Service, must be made in writing by the employee on the forms prescribed. Employees qualifying for FMLA leave must utilize all available FMLA leave before being eligible to receive an additional leave of absence. The Department Head shall recommend disposition of the request by writing to the Human Resources Director.

#### **CIVIL LEAVE**

The head of any department shall grant an employee leave for any absence necessary for serving on a jury, attending court as a witness when subpoenaed due to court cases involving the City of El Paso or registering for and taking tests of fitness for promotion in the City service during scheduled work time. A department head may grant leave with full pay to an employee for voting in an election. Civil Leave pay shall be for only the hours actually served.

You must notify your immediate supervisor that you have received a summons or subpoena after receiving it. Additionally, you must submit a copy of the statement from the court showing the dates you served on jury duty or as a subpoenaed witness to your immediate supervisor on the first workday following your return from court service. You are expected to work that portion of your normal workday not spent in court or performing duties in connection with court service.

Employees **Profile** Reports Positions Downloads

**DC**

Daniel Cordeiro

REGISTERED AS HR

Employee

Onboarding

Offboarding

Manager

HR

Email	[REDACTED]	Department	FD EMERGENCY OPER
Address	[REDACTED]	Division	
Phone	[REDACTED]	Position	REGISTERED AS HR
Active	No	Position Type	
Online Access	REDACTED	Hire Date	05/11/2022
		Position Start Date	11/21/2021
		Separation Date	07/30/2024

**Tasks**

Subject	Related To	Task Status	Task Type	Due Date	Updated On	Actions
CDEP Conditions of Temporary Positions Employment	Daniel Cordeiro	Completed	Form	05/02/2021	05/02/2021	
CDEP Notice to New Employees Concerning W.C.	Daniel Cordeiro	Completed	Form	05/02/2021	05/02/2021	
CDEP Employee Handbook	Daniel Cordeiro	Completed	Form	05/02/2021	05/02/2021	
CDEP Acknowledgment Form 2	Daniel Cordeiro	Completed	Form	05/02/2021	05/02/2021	



# El Paso Fire Department

**MAYOR**  
Oscar Leeser

June 14, 2023

Daniel Cordero (017921)

[REDACTED]  
El Paso, Texas 79938

**CITY COUNCIL**

District 1  
Brian Kennedy

District 2  
Alexandria Anello

District 3  
Cassandra Hernandez

District 4  
Joe Molinar

District 5  
Isabel Salcido

District 6  
Art Fierro

District 7  
Henry Rivera

District 8  
Chris Canales

**CITY MANAGER**  
Tommy Gonzalez

Dear Mr. Cordero:

We have received your request for a leave of absence under the Family and Medical Leave Act (FMLA). Your request for Intermittent FMLA Status is approved from May 24, 2023 until November 24, 2023, for a maximum of twelve (12) weeks combined time. Your intermittent leave is approved for up to 5 times per month lasting up to 5 days per possible episodic flare ups due to your spouse's medical condition within the 6-month period based on the supporting medical documentation that you have provided. In order to protect your employment status, you are required to provide advance notice of the absence if it is possible. As of May 24, 2023, your FMLA accrual balance is 672 hours.

If the reason for this FMLA case changes over the course of this year, it is your responsibility to keep your departmental chain of command informed of the situation. If you need to use more than the 12 weeks allowed you must coordinate with your supervisor, as well as take the necessary actions to protect your benefits. If you need to request a Leave of Absence (LOA), it usually takes ten (10) working days for the approval process. Please ensure that you start the process in time and provide all the required documentation.

Please contact Benefit Services immediately if benefit premiums have been or may be missed or partially collected in order to avoid any lapse in coverage. You may also be enrolled in life insurance or a disability plan eligible for a waiver of premium. During any unpaid leave of absence outside of FMLA entitlement, you may elect to continue coverage through COBRA, which requires you to pay the total premium cost (employee plus employer portion). If you return to work following COBRA coverage, you must visit Benefit Services within 30 days in order to reinstate your benefits at the employee rates.

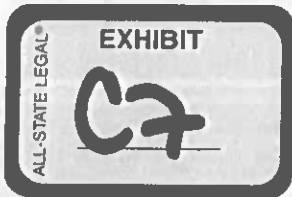
If you have any questions or concerns, you may contact your payroll clerk or Nancy Groh, Human Resources Analyst, at (915) 212-5625.

Sincerely,

*Randy Heredia*

Randy Heredia  
Departmental Human Resources Manager

cc: EPFD Payroll  
Benefit Services  
Employee's medical file



**Jonathan P. Killings – Fire Chief**

Fire Department | 416 N. Stanton - 2nd Floor | El Paso, TX 79901  
PH: (915) 212-5600 | [www.elpasotexas.gov/fire](http://www.elpasotexas.gov/fire)



ISO Class 1



DELIVERING EXCEPTIONAL SERVICES

## Duran, Gregory

---

**From:** Groh, Nancy  
**Sent:** Thursday, June 29, 2023 4:11 PM  
**To:** Cordero, Daniel  
**Cc:** FD-Payroll  
**Subject:** Cordero, Daniel Approved Intermittent FMLA letter dated 06\_14\_2023  
**Attachments:** Cordero, Daniel Approved Intermittent FMLA letter dated 06\_14\_2023.pdf

Hello Firefighter Cordero:

Attached is your approved intermittent FMLA letter dated 06/14/2023 for your records regarding your spouse's health condition. A hardcopy of this letter will be sent to your mailing address on file. If you have any questions or if I can assist any further, please call me at 915-212-5625. Thank you. Nancy Groh, Fire Human Resources

Nancy Groh, Human Resources Analyst

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City of El Paso Fire Department

416 N. Stanton, Ste. 508, El Paso, TX 79901

Phone: 915-212-5625

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**Duran, Gregory**

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**From:** Groh, Nancy  
**Sent:** Tuesday, August 22, 2023 2:06 PM  
**To:** Cordero, Daniel  
**Subject:** RE: LOA Request

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>
	Cordero, Daniel	Delivered: 8/22/2023 2:06 PM

Hi Firefighter Cordero:  
Thank you for your inquiry.

At this time, your intermittent FMLA is currently approved from 05/24/2023 through 11/24/2023 to care for your spouse; however, your FMLA may end sooner if your FMLA hours are exhausted.

Should you exhaust your FMLA hours, you can request a Non-FMLA Leave of Absence. For a Leave of Absence, you would need to submit a written request stating the reason for the requested medical leave, the amount of time expected to be away from work, along with supporting medical documentation from your spouse's health care provider. The health care provider should indicate that you are needed to care for her and estimate the amount of time involved.

Please note, for a Non-FMLA Leave of Absence, the leave would need to be continuous. If you have further questions, please call me direct at 915-212-5625. I also left you a voice message returning your call this afternoon. Please call me at your convenience. Thanks again. Nancy

Nancy Groh, Human Resources Analyst  
[Click here to create an HR request in our new ticketing system!](#)  
City of El Paso Fire Department  
416 N. Stanton, Ste. 508, El Paso, TX 79901  
Phone: 915-212-5625

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**From:** Cordero, Daniel <CorderoD@elpasotexas.gov>  
**Sent:** Tuesday, August 22, 2023 11:15 AM  
**To:** Groh, Nancy <GrohNX@elpasotexas.gov>  
**Subject:** LOA Request

Good Morning Ms. Groh,

I wanted to inquire about requesting a LOA as I am currently utilizing FMLA. If you can please advise on what steps to take.

Thank You.

FF Daniel Cordero  
6 A-Shift Swing  
[CorderoD@elpasotexas.gov](mailto:CorderoD@elpasotexas.gov)



[REDACTED]

**Duran, Gregory**

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**From:** Groh, Nancy  
**Sent:** Tuesday, October 10, 2023 10:22 AM  
**To:** Cordero, Daniel  
**Cc:** Reynosa, Denise; Heredia, Randy  
**Subject:** FW: Cordero, Daniel Approved Intermittent FMLA letter dated 06\_14\_2023  
**Attachments:** Cordero, Daniel Approved Intermittent FMLA letter dated 06\_14\_2023.pdf

Hello Firefighter Cordero:

Thank you for your call this morning regarding your FMLA. Attached is the letter previously sent to you in which your FMLA was approved from May 24, 2023 until November 24, 2023. The intermittent leave was approved for up to 5 times per month lasting up to 5 days per possible episodic flare ups due to your spouse's medical condition within the 6-month period based on the supporting medical documentation that you provided.

Keep in mind that if your absences are not in-line with your approved intermittent FMLA, you will need to provide documentation amending the frequencies.

As mentioned, as of today, Kronos/UKG currently reflects a balance of **144 FMLA hours (which is equivalent to six 24 hour shifts)**. Should you exhaust your FMLA prior to November 24<sup>th</sup> and need to be out to care for your spouse, you can request a Non-FMLA Leave of Absence.

To obtain a leave of absence to care for your spouse with a serious health condition, you will need to obtain/submit medical documentation from her health care provider indicating you are needed to care for her and estimate the amount of time needed. To start the process, submit a written request with the reason for the requested medical leave and the amount of time expected to be away from work.

If you have further questions, please call me at 915-212-5625. Thank you. Nancy Groh

**From:** Groh, Nancy  
**Sent:** Thursday, June 29, 2023 4:11 PM  
**To:** Cordero, Daniel <CorderoD@elpasotexas.gov>  
**Cc:** FD-Payroll <FD-Payroll@elpasotexas.gov>  
**Subject:** Cordero, Daniel Approved Intermittent FMLA letter dated 06\_14\_2023

Hello Firefighter Cordero:

Attached is your approved intermittent FMLA letter dated 06/14/2023 for your records regarding your spouse's health condition. A hardcopy of this letter will be sent to your mailing address on file. If you have any questions or if I can assist any further, please call me at 915-212-5625. Thank you. Nancy Groh, Fire Human Resources

Nancy Groh, Human Resources Analyst  
[Click here to create an HR request in our new ticketing system!](#)  
City of El Paso Fire Department  
416 N. Stanton, Ste. 508, El Paso, TX 79901  
Phone: 915-212-5625



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**Duran, Gregory**

---

**From:** Groh, Nancy  
**Sent:** Monday, April 15, 2024 5:45 PM  
**To:** dancorder89@yahoo.com; Cordero, Daniel  
**Cc:** Reynosa, Denise  
**Subject:** Leave Inquiry

Tracking:	Recipient	Delivery
	dancorder89@yahoo.com	
	Cordero, Daniel	Delivered: 4/15/2024 5:45 PM
	Reynosa, Denise	Delivered: 4/15/2024 5:45 PM

Hello Firefighter Cordero:  
Thank you for your call this afternoon.

As discussed, your intermittent FMLA was approved from May 24, 2023 until November 24, 2023. The intermittent leave was approved for up to 5 times per month lasting up to 5 days per possible episodic flare ups due to your spouse's medical condition within the 6-month period based on the supporting medical documentation that you had provided. You were also previously advised your absences were not in-line with your approved intermittent FMLA and were instructed to submit documentation to amend the frequencies based on your need to care for your spouse.

You have also been previously provided with instructions on how to obtain a leave of absence. You were advised to obtain a leave of absence to care for your spouse with a serious health condition, you would need to obtain/submit medical documentation from her health care provider indicating you are needed to care for her and estimate the amount of time needed. To start the process, you were to submit a written request with the reason for the requested medical leave and the amount of time expected to be away from work.

Per our conversation today, you stated you did not submit a leave of absence request nor did you provide medical documentation to account for your absence. Please confirm if this is the case or if you do have a request and medical documentation, please provide no later than April 18, 2024 for review and possible approval.

If you have any questions, please contact Ms. Denise Reynosa, Human Resources Business Partner, at (915) 212-5684. Thank you. Nancy Groh, Fire HR

Nancy Groh, Human Resources Analyst  
City of El Paso Fire Department  
416 N. Stanton, Ste. 508, El Paso, TX 79901  
Phone: 915-212-5625

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p7

**Duran, Gregory**

---

**From:** Groh, Nancy  
**Sent:** Tuesday, April 16, 2024 1:35 PM  
**To:** Daniel Cordero  
**Cc:** Reynosa, Denise  
**Subject:** RE: Leave Inquiry

Tracking:	Recipient	Delivery
	Daniel Cordero	
	Reynosa, Denise	Delivered: 4/16/2024 1:35 PM

Hi Mr. Cordero:

I just received confirmation on the date you exhausted your FMLA; therefore, your Non-FMLA Leave of Absence Request should have a start date of 10/24/2023. Please submit your request as soon as possible and ensure to provide medical documentation to account for your continuous absence if your leave of absence was to care for your spouse with a serious health condition. The medical documentation from her health care provider would need to indicate that you were needed to care for her and to include the amount of time needed.

Also, due to your prolonged absence, you would be required to go through the re-entry program before you can return to Operations; therefore, please speak with your chain of command regarding that process once you are ready to return to work.

As discussed yesterday, although Telestaff reflects your absence as 'FML', you are no longer under a protected leave nor on an approved leave of absence. Since you indicate you cannot provide the documentation by this Thursday, you have been given a week extension; therefore, please provide your documentation no later than Tuesday, April 23, 2024, 5:00 PM.

If you have any questions, you are encouraged to contact Ms. Reynosa. Thank you. Nancy

---

**From:** Groh, Nancy  
**Sent:** Tuesday, April 16, 2024 10:49 AM  
**To:** Daniel Cordero <dancorder89@yahoo.com>  
**Cc:** Reynosa, Denise <ReynosaD@elpasotexas.gov>  
**Subject:** RE: Leave Inquiry

Hello Mr. Cordero:  
Thank you for the confirmation.

---

**From:** Daniel Cordero <dancorder89@yahoo.com>  
**Sent:** Tuesday, April 16, 2024 7:53 AM  
**To:** Groh, Nancy <GrohNX@elpasotexas.gov>  
**Subject:** Re: Leave Inquiry

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Good Morning Mrs. Groh, that is correct, I did not provide that documentation. I will be able to obtain any supporting documentation that might be needed to support my claim though the timeframe of 4/18/24 will not be sufficient time.

Thank You.

Sent from Yahoo Mail for iPhone

On Monday, April 15, 2024, 5:45 PM, Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)> wrote:

Hello Firefighter Cordero:

Thank you for your call this afternoon.

As discussed, your intermittent FMLA was approved from May 24, 2023 until November 24, 2023. The intermittent leave was approved for up to 5 times per month lasting up to 5 days per possible episodic flare ups due to your spouse's medical condition within the 6-month period based on the supporting medical documentation that you had provided. You were also previously advised your absences were not in-line with your approved intermittent FMLA and were instructed to submit documentation to amend the frequencies based on your need to care for your spouse.

You have also been previously provided with instructions on how to obtain a leave of absence. You were advised to obtain a leave of absence to care for your spouse with a serious health condition, you would need to obtain/submit medical documentation from her health care provider indicating you are needed to care for her and estimate the amount of time needed. To start the process, you were to submit a written request with the reason for the requested medical leave and the amount of time expected to be away from work.

Per our conversation today, you stated you did not submit a leave of absence request nor did you provide medical documentation to account for your absence. Please confirm if this is the case or if you do have a request and medical documentation, please provide no later than April 18, 2024 for review and possible approval.

If you have any questions, please contact Ms. **Denise Reynosa**, Human Resources Business Partner, at (915) 212-5684. Thank you. Nancy Groh, Fire HR

Nancy Groh, Human Resources Analyst

City of El Paso Fire Department

416 N. Stanton, Ste. 508, El Paso, TX 79901

Phone: 915-212-5625

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P4

**Duran, Gregory**

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**From:** Reynosa, Denise  
**Sent:** Wednesday, April 17, 2024 10:56 AM  
**To:** Groh, Nancy  
**Subject:** RE: Leave Inquiry

Thank you!!

*Denise Reynosa, MBA*

[Click here to create an HR request in our new ticketing system!](#)

Human Resources Business Partner  
City of El Paso Fire Department  
416 N. Stanton Ste. 508, El Paso, TX 79901  
P: (915) 212-5684 E: [ReynosaD@elpasotexas.gov](mailto:ReynosaD@elpasotexas.gov)

**From:** Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)>  
**Sent:** Wednesday, April 17, 2024 10:56 AM  
**To:** Reynosa, Denise <[ReynosaD@elpasotexas.gov](mailto:ReynosaD@elpasotexas.gov)>  
**Subject:** FW: Leave Inquiry

Hi Denise:  
Fyi--thank you.

**From:** Daniel Cordero <[dancorder89@yahoo.com](mailto:dancorder89@yahoo.com)>  
**Sent:** Wednesday, April 17, 2024 10:54 AM  
**To:** Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)>  
**Subject:** Re: Leave Inquiry

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Yes ma'am, will do. Thank you.

Sent from Yahoo Mail for iPhone

On Wednesday, April 17, 2024, 10:45 AM, Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)> wrote:

Hello Mr. Cordero:

Thank you. Also, as a reminder, speak with your chain of command regarding your return to work.

**From:** Daniel Cordero <[dancorder89@yahoo.com](mailto:dancorder89@yahoo.com)>  
**Sent:** Wednesday, April 17, 2024 10:24 AM

To: Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)>

Subject: Re: Leave Inquiry

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Yes ma'am, thank you I appreciate the extension, I will try to get that documentation by the 23rd.

Thank You.

Sent from Yahoo Mail for iPhone

On Tuesday, April 16, 2024, 1:34 PM, Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)> wrote:

Hi Mr. Cordero:

I just received confirmation on the date you exhausted your FMLA; therefore, your Non-FMLA Leave of Absence Request should have a start date of 10/24/2023. Please submit your request as soon as possible and ensure to provide medical documentation to account for your continuous absence if your leave of absence was to care for your spouse with a serious health condition. The medical documentation from her health care provider would need to indicate that you were needed to care for her and to include the amount of time needed.

Also, due to your prolonged absence, you would be required to go through the re-entry program before you can return to Operations; therefore, please speak with your chain of command regarding that process once you are ready to return to work.

As discussed yesterday, although Telestaff reflects your absence as 'FML', you are no longer under a protected leave nor on an approved leave of absence. Since you indicate you cannot provide the documentation by this Thursday, you have been given a week extension; therefore, please **provide your documentation no later than Tuesday, April 23, 2024, 5:00 PM.**

If you have any questions, you are encouraged to contact Ms. Reynosa. Thank you.  
Nancy

**From:** Groh, Nancy

**Sent:** Tuesday, April 16, 2024 10:49 AM

**To:** Daniel Cordero <[dancorder89@yahoo.com](mailto:dancorder89@yahoo.com)>

**Cc:** Reynosa, Denise <[ReynosaD@elpasotexas.gov](mailto:ReynosaD@elpasotexas.gov)>

**Subject:** RE: Leave Inquiry

Hello Mr. Cordero:  
Thank you for the confirmation.

---

**From:** Daniel Cordero <[dancorder89@yahoo.com](mailto:dancorder89@yahoo.com)>  
**Sent:** Tuesday, April 16, 2024 7:53 AM  
**To:** Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)>  
**Subject:** Re: Leave Inquiry

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Good Morning Mrs. Groh, that is correct, I did not provide that documentation. I will be able to obtain any supporting documentation that might be needed to support my claim though the timeframe of 4/18/24 will not be sufficient time.

Thank You.

---

Sent from Yahoo Mail for iPhone

On Monday, April 15, 2024, 5:45 PM, Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)> wrote:

Hello Firefighter Cordero:  
Thank you for your call this afternoon.

As discussed, your intermittent FMLA was approved from May 24, 2023 until November 24, 2023. The intermittent leave was approved for up to 5 times per month lasting up to 5 days per possible episodic flare ups due to your spouse's medical condition within the 6-month period based on the supporting medical documentation that you had provided. You were also previously advised your absences were not in-line with your approved intermittent FMLA and were instructed to submit documentation to amend the frequencies based on your need to care for your spouse.

You have also been previously provided with instructions on how to obtain a leave of absence. You were advised to obtain a leave of absence to care for your spouse with a serious health condition, you would need to obtain/submit medical documentation from her health care provider indicating you are needed to care for her and estimate the amount of time needed. To start the process, you were to submit a written request with the reason for the requested medical leave and the amount of time expected to be away from work.

Per our conversation today, you stated you did not submit a leave of absence request nor did you provide medical documentation to account for your absence. Please confirm if this is the case or if you do have a request and medical documentation, please provide no later than April 18, 2024 for review and possible approval.

If you have any questions, please contact Ms. Denise Reynosa, Human Resources Business Partner, at (915) 212-5684. Thank you. Nancy Groh, Fire HR

Nancy Groh, Human Resources Analyst  
City of El Paso Fire Department  
416 N. Stanton, Ste. 508, El Paso, TX 79901  
Phone: 915-212-5625

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**Duran, Gregory**

---

**From:** Daniel Cordero <dancorder89@yahoo.com>  
**Sent:** Monday, April 22, 2024 9:37 AM  
**To:** Groh, Nancy  
**Subject:** Re: Leave Inquiry

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I apologize Mrs. Groh, I forgot to attach it

On Monday, April 22, 2024 at 09:33:14 AM MDT, Groh, Nancy <grohnx@elpasotexas.gov> wrote:

Hello Mr. Cordero

There is no attachment to your email. Also, please I have not received your request for a leave of absence as advised several times. At this time, we do not have any medical documentation to account for your continuous leave. If you have any questions regarding the process, please contact Ms. Reynosa at (915) 212-5684. Thank you. Nancy

**From:** Daniel Cordero <dancorder89@yahoo.com>  
**Sent:** Monday, April 22, 2024 9:19 AM  
**To:** Groh, Nancy <grohnx@elpasotexas.gov>  
**Subject:** Re: Leave Inquiry

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Good Morning Mrs. Groh, I am attaching paperwork from the specialist that treated my wife for her current illness. I really have not been able to retrieve any other documentation from the physicians she saw in the past year. This is all the documentation I am able to provide at this time. Please advise if the documentation is sufficient.

Thank You.

Daniel Cordero

(915)204-5637

49

On Wednesday, April 17, 2024 at 10:45 02 AM MDT, Groh, Nancy <[grohnx@elpasotexas.gov](mailto:grohnx@elpasotexas.gov)> wrote:

Hello Mr. Cordero:

Thank you. Also, as a reminder, speak with your chain of command regarding your return to work.

---

**From:** Daniel Cordero <[dancorder89@yahoo.com](mailto:dancorder89@yahoo.com)>

**Sent:** Wednesday, April 17, 2024 10:24 AM

**To:** Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)>

**Subject:** Re: Leave Inquiry

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Yes ma'am, thank you I appreciate the extension, I will try to get that documentation by the 23rd.

Thank You.

Sent from Yahoo Mail for iPhone

On Tuesday, April 16, 2024, 1:34 PM, Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)> wrote:

Hi Mr. Cordero:

I just received confirmation on the date you exhausted your FMLA; therefore, your Non-FMLA Leave of Absence Request should have a start date of 10/24/2023. Please submit your request as soon as possible and ensure to provide medical documentation to account for your continuous absence if your leave of absence was to care for your spouse with a serious health condition. The medical documentation from her health care provider would need to indicate that you were needed to care for her and to include the amount of time needed.

Also, due to your prolonged absence, you would be required to go through the re-entry program before you can return to Operations; therefore, please speak with your chain of command regarding that process once you are ready to return to work.

As discussed yesterday, although Telestaff reflects your absence as 'FML', you are no longer under a protected leave nor on an approved leave of absence. Since you indicate you cannot provide the documentation by this Thursday, you have been given a week extension; therefore, please **provide your documentation no later than Tuesday, April 23, 2024, 5:00 PM.**

If you have any questions, you are encouraged to contact Ms. Reynosa. Thank you. Nancy

---

**From:** Groh, Nancy

**Sent:** Tuesday, April 16, 2024 10:49 AM

**To:** Daniel Cordero <[dancorder89@yahoo.com](mailto:dancorder89@yahoo.com)>

**Cc:** Reynosa, Denise <[ReynosaD@elpasotexas.gov](mailto:ReynosaD@elpasotexas.gov)>

**Subject:** RE: Leave Inquiry

Hello Mr. Cordero:

Thank you for the confirmation.

---

**From:** Daniel Cordero <[dancorder89@yahoo.com](mailto:dancorder89@yahoo.com)>  
**Sent:** Tuesday, April 16, 2024 7:53 AM  
**To:** Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)>  
**Subject:** Re: Leave Inquiry

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Good Morning Mrs. Groh, that is correct, I did not provide that documentation. I will be able to obtain any supporting documentation that might be needed to support my claim though the timeframe of 4/18/24 will not be sufficient time.

Thank You.

---

Sent from Yahoo Mail for iPhone

On Monday, April 15, 2024, 5:45 PM, Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)> wrote:

Hello Firefighter Cordero:  
Thank you for your call this afternoon.

As discussed, your intermittent FMLA was approved from May 24, 2023 until November 24, 2023. The intermittent leave was approved for up to 5 times per month lasting up to 5 days per possible episodic flare ups due to your spouse's medical condition within the 6-month period based on the supporting medical documentation that you had provided. You were also previously advised your absences were not in-line with your approved intermittent FMLA and were instructed to submit documentation to amend the frequencies based on your need to care for your spouse.

You have also been previously provided with instructions on how to obtain a leave of absence. You were advised to obtain a leave of absence to care for your spouse with a serious health condition, you would need to obtain/submit medical documentation from her health care provider indicating you are needed to care for her and estimate the amount of time needed. To start the process, you were to submit a written request with the reason for the requested medical leave and the amount of time expected to be away from work.

Per our conversation today, you stated you did not submit a leave of absence request nor did you provide medical documentation to account for your absence. Please confirm if this is the case or if you do have a request and medical documentation, please provide no later than April 18, 2024 for review and possible approval.

If you have any questions, please contact Ms. **Denise Reynosa**, Human Resources Business Partner, at (915) 212-5684. Thank you. Nancy Groh, Fire HR

Nancy Groh, Human Resources Analyst  
City of El Paso Fire Department  
416 N. Stanton, Ste. 508, El Paso, TX 79901  
Phone: 915-212-5625

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**Duran, Gregory**

---

**From:** Groh, Nancy  
**Sent:** Monday, April 22, 2024 11:10 AM  
**To:** Daniel Cordero  
**Cc:** Reynosa, Denise  
**Subject:** RE: Leave Inquiry

Tracking:	Recipient	Delivery
	Daniel Cordero	
	Reynosa, Denise	Delivered: 4/22/2024 11:10 AM

Hello Mr. Cordero:

The 10/19/2023 document from Texas Arthritis Center has been received; however, the signed supporting medical documentation from your spouse's health care provider would need to indicate that were needed to care for her and estimate the amount of time involved.

Also, to date, you have not submitted a Non-FMLA Leave of Absence written request stating the reason for the requested medical leave, the amount of time expected to be away from work, along with supporting medical documentation from your spouse's health care provider.

As a reminder, please provide your documentation no later than Tuesday, April 23, 2024, 5:00 PM as you have been away from work on unapproved continuous leave.

If you have any questions regarding the above, please contact Ms. Reynosa at (915) 212-5684. Thank you. Nancy

**From:** Daniel Cordero <dancorder89@yahoo.com>  
**Sent:** Monday, April 22, 2024 9:37 AM  
**To:** Groh, Nancy <grohnx@elpasotexas.gov>  
**Subject:** Re: Leave Inquiry

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I apologize Mrs. Groh, I forgot to attach it.

On Monday, April 22, 2024 at 09:33:14 AM MDT, Groh, Nancy <grohnx@elpasotexas.gov> wrote:

Hello Mr. Cordero:

There is no attachment to your email. Also, please I have not received your request for a leave of absence as advised several times. At this time, we do not have any medical documentation to account for your continuous leave. If you have any questions regarding the process, please contact Ms. Reynosa at (915) 212-5684. Thank you. Nancy

p13

**From:** Daniel Cordero <[dancorder89@yahoo.com](mailto:dancorder89@yahoo.com)>  
**Sent:** Monday, April 22, 2024 9:19 AM  
**To:** Groh, Nancy <[grohnx@elpasotexas.gov](mailto:grohnx@elpasotexas.gov)>  
**Subject:** Re: Leave Inquiry

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Good Morning Mrs. Groh, I am attaching paperwork from the specialist that treated my wife for her current illness. I really have not been able to retrieve any other documentation from the physicians she saw in the past year. This is all the documentation I am able to provide at this time. Please advise if the documentation is sufficient.

Thank You.

Daniel Cordero  
(915)204-5637

On Wednesday, April 17, 2024 at 10:45:02 AM MDT, Groh, Nancy <[grohnx@elpasotexas.gov](mailto:grohnx@elpasotexas.gov)> wrote:

Hello Mr. Cordero:  
Thank you. Also, as a reminder, speak with your chain of command regarding your return to work.

**From:** Daniel Cordero <[dancorder89@yahoo.com](mailto:dancorder89@yahoo.com)>  
**Sent:** Wednesday, April 17, 2024 10:24 AM  
**To:** Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)>  
**Subject:** Re: Leave Inquiry

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Yes ma'am, thank you I appreciate the extension, I will try to get that documentation by the 23rd.

Thank You.

Sent from Yahoo Mail for iPhone

On Tuesday, April 16, 2024, 1:34 PM, Groh, Nancy <[GrohNX@elpasotexas.gov](mailto:GrohNX@elpasotexas.gov)> wrote:

Hi Mr. Cordero:

I just received confirmation on the date you exhausted your FMLA; therefore, your Non-FMLA Leave of Absence Request should have a start date of 10/24/2023. Please submit your request as soon as possible and ensure to provide medical documentation to account for your continuous absence if your leave of absence was to care for your spouse with a serious health condition. The medical documentation from her health care provider would need to indicate that you were needed to care for her and to include the amount of time needed.

Also, due to your prolonged absence, you would be required to go through the re-entry program before you can return to Operations; therefore, please speak with your chain of command regarding that process once you are ready to return to work.

As discussed yesterday, although Telestaff reflects your absence as 'FML', you are no longer under a protected leave nor on an approved leave of absence. Since you indicate you cannot provide the documentation by this Thursday, you have been given a week extension; therefore, please **provide your documentation no later than Tuesday, April 23, 2024, 5:00 PM.**

If you have any questions, you are encouraged to contact Ms. Reynosa. Thank you. Nancy

---

**From:** Groh, Nancy

**Sent:** Tuesday, April 16, 2024 10:49 AM

**To:** Daniel Cordero <dancorder89@yahoo.com>

**Cc:** Reynosa, Denise <ReynosaD@elpasotexas.gov>

**Subject:** RE: Leave Inquiry

Hello Mr. Cordero:

Thank you for the confirmation.

---

**From:** Daniel Cordero <dancorder89@yahoo.com>

**Sent:** Tuesday, April 16, 2024 7:53 AM

**To:** Groh, Nancy <GrohNX@elpasotexas.gov>

**Subject:** Re: Leave Inquiry

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Good Morning Mrs. Groh, that is correct, I did not provide that documentation. I will be able to obtain any supporting documentation that might be needed to support my claim though the timeframe of 4/18/24 will not be sufficient time.

Thank You.

Sent from Yahoo Mail for iPhone

On Monday, April 15, 2024, 5:45 PM, Groh, Nancy <GrohNX@elpasotexas.gov> wrote:

Hello Firefighter Cordero:

Thank you for your call this afternoon.

p15

As discussed, your intermittent FMLA was approved from May 24, 2023 until November 24, 2023. The intermittent leave was approved for up to 5 times per month lasting up to 5 days per possible episodic flare ups due to your spouse's medical condition within the 6-month period based on the supporting medical documentation that you had provided. You were also previously advised your absences were not in-line with your approved intermittent FMLA and were instructed to submit documentation to amend the frequencies based on your need to care for your spouse.

You have also been previously provided with instructions on how to obtain a leave of absence. You were advised to obtain a leave of absence to care for your spouse with a serious health condition, you would need to obtain/submit medical documentation from her health care provider indicating you are needed to care for her and estimate the amount of time needed. To start the process, you were to submit a written request with the reason for the requested medical leave and the amount of time expected to be away from work.

Per our conversation today, you stated you did not submit a leave of absence request nor did you provide medical documentation to account for your absence. Please confirm if this is the case or if you do have a request and medical documentation, please provide no later than April 18, 2024 for review and possible approval.

If you have any questions, please contact Ms. **Denise Reynosa**, Human Resources Business Partner, at **(915) 212-5684**. Thank you. Nancy Groh, Fire HR

Nancy Groh, Human Resources Analyst  
City of El Paso Fire Department  
416 N. Stanton, Ste. 508, El Paso, TX 79901  
Phone: 915-212-5625

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# PSO Notification

**Duran, Gregory**

---

**From:** Torres, Miguel A.  
**Sent:** Wednesday, April 24, 2024 10:20 PM  
**To:** Duran, Gregory  
**Cc:** Heredia, Randy; Reynosa, Denise; Arvizu, Robert; Groh, Nancy; FD-Standards  
**Subject:** Re: FMLA Notification-FF Daniel Cordero, ID#017921, A-Shift, Battalion 3

Good evening Captain,

Respectfully, requesting for FD-Standards to initiate or direct administrative investigation into FF Cordero's failure to request leave of absence or any other violations of Fire or City policies by FF Cordero.

FF Cordero failed to request a leave of absence either in September or October 2023. His payroll account was closed in September 2023 resulting in cessation of any type of leave accrual.

Unfortunately, since August 27, 2023 through April 22, 2024 he has been placed on continuous FMLA in TeleStaff even though during the majority of this period he did not have sufficient leave or authorization for continuous FMLA.

As per Ms. Heredia, Fire HR/Payroll will shortly change all incorrect FMLA entries in TeleStaff to AWOL/unauthorized leave w/o pay.

Thank you,  
Chief Torres

---

**From:** Groh, Nancy <GrohNX@elpasotexas.gov>  
**Sent:** Tuesday, April 23, 2024 1:09 PM  
**To:** Torres, Miguel A. <TorresM2@elpasotexas.gov>  
**Cc:** Heredia, Randy <HerediaRX@elpasotexas.gov>; Reynosa, Denise <ReynosaD@elpasotexas.gov>  
**Subject:** FW: FMLA Notification-FF Daniel Cordero, ID#017921, A-Shift, Battalion 3

Hello Chief Torres:

Although FF Cordero's intermittent FMLA was approved through 11/24/2023, he exhausted his FMLA on 10/22/2023. To date, FF Cordero has not submitted a request for a Non-FMLA Leave of Absence nor has he submitted medical documentation for his continuous leave. I see that he continues to be coded FML in Telestaff; however, he is no longer on an approved absence. Please ensure FML is removed from Telestaff starting 10/24/2023.

Also, please note, FF Cordero has recently inquired on returning to work but has been referred to his chain of command regarding re-entry.

Thank you. Nancy

---

**From:** Groh, Nancy  
**Sent:** Thursday, June 29, 2023 4:19 PM  
**To:** Carson, Ricci J. <CarsonRJ@elpasotexas.gov>



**Cc:** Heredia, Randy <HerediaRX@elpasotexas.gov>; Reynosa, Denise <ReynosaD@elpasotexas.gov>  
**Subject:** FMLA Notification-FF Daniel Cordero, ID#017921, A-Shift, Battalion 3

Hello Chief Carson:  
Firefighter Daniel Cordero's FMLA has been approved from May 24, 2023 until November 24, 2023.

The intermittent leave is approved for up to 5 times per month lasting up to 5 days per possible episodic flare ups due to his spouse's medical condition within the 6-month period based on the supporting medical documentation that he has provided.

Thank you. Nancy Groh, Fire HR

---

**From:** Groh, Nancy  
**Sent:** Thursday, June 29, 2023 4:11 PM  
**To:** Cordero, Daniel <CorderoD@elpasotexas.gov>  
**Cc:** FD-Payroll <FD-Payroll@elpasotexas.gov>  
**Subject:** Cordero, Daniel Approved Intermittent FMLA letter dated 06\_14\_2023

Hello Firefighter Cordero:  
Attached is your approved intermittent FMLA letter dated 06/14/2023 for your records regarding your spouse's health condition. A hardcopy of this letter will be sent to your mailing address on file. If you have any questions or if I can assist any further, please call me at 915-212-5625. Thank you. Nancy Groh, Fire Human Resources

Nancy Groh, Human Resources Analyst  
[Click here to create an HR request in our new ticketing system!](#)  
City of El Paso Fire Department  
116 N. Stanton, Ste. 508, El Paso, TX 79901  
Phone: 915-212-5625

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**Duran, Gregory**

---

**From:** Duran, Gregory  
**Sent:** Friday, April 26, 2024 3:35 PM  
**To:** Groh, Nancy  
**Cc:** FD-Standards; Heredia, Randy; Reynosa, Denise; Torres, Miguel A.  
**Subject:** PSO Request - FF Cordero Documentation  
**Attachments:** 4-24 at 2020 Torres to Duran.msg

Greetings Ms. Groh,  
The PSO has initiated an administrative investigation on FF Daniel Cordero. May we please have any and all documentation regarding FF Cordero's FML requests? Thank you very much.

Respectfully,  
Captain Greg Duran  
El Paso Fire Department  
Professional Standards Office  
915-212-5629  
915-667-3308

## Duran, Gregory

---

**From:** Duran, Gregory  
**Sent:** Friday, April 26, 2024 2:57 PM  
**To:** dancorder89@yahoo.com; Cordero, Daniel  
**Cc:** FD-Standards; Torres, Miguel A.; Ortiz, Emir; Nicholson, James E.; Rivera, Samson M.; Carson, Christopher J  
**Subject:** PSO Meeting - FF Daniel Cordero (B6)

**Importance:** High

Greetings FF Cordero,

As we discussed over the phone, we need to meet in person at the PSO to go over some things; it should take about an hour or so. I will coordinate the presence of a local 51 representative for you, and please arrive in the standard work uniform. Thank you.

Location: 416 N. Stanton, 3<sup>rd</sup> floor (free parking is at 420 N. Campbell).

Date: May 7, 2024

Time: 1500

Respectfully,  
Captain Greg Duran  
El Paso Fire Department  
Professional Standards Office  
915-212-5629  
915-667-3308





CITY OF EL PASO, TEXAS  
**FIRE DEPARTMENT**



**INCIDENT REPORT**

\*\*\*\*\*

May 7, 2024

EMPLOYEE

Firefighter	Daniel Cordero	[REDACTED]	Battalion 6 SWG, A Shift
Rank	Name	KRONOS	Assignment

INITIATING OFFICER

Captain	Gregory Duran	PSO
Rank	Name	Assignment

INCIDENT INFORMATION

April 24, 2024	2020	Performance - AWO
Incident Date	Incident Time	Nature of Incident

*This document is not discipline. It is to serve as a record of an incident involving an employee, which after investigation, may result in disciplinary action.*

Description of Incident:

On April 24, 2024, the Professional Standards Office was notified that FF Cordero has been off on unauthorized leave for an extended period of time. This occurred because FF Cordero failed to provide the supporting medical documentation to continue the use of approved Family Medical Leave as specified in Volume 1: Section 4: Protected Leave: page 117.

Professional Standards Officer

5/7/24  
 Date

Employee

5/7/24  
 Date

(Acknowledgment of Receipt Only)



# El Paso Fire Department

**MAYOR**  
Oscar Leeser

To: Fire Chief Jonathan P. Killings

From: Firefighter Daniel Cordero

**CITY COUNCIL**

Subject: AWO

**District 1**  
Brian Kennedy

Date: May 7, 2024

**District 2**  
Dr. Josh Acevedo

\*\*\*\*\*

**District 3**  
Cassandra Hernandez

Dear Chief,

**District 4**  
Joe Molinar

**District 5**  
Isabel Salcido

**District 6**  
Art Fierro

**District 7**  
Henry Rivera

**District 8**  
Chris Canales

**INTERIM CITY  
MANAGER**  
Cary Westin

Approximately six months ago I requested the use of FMLA in order to take care of my wife, who suffers from fibromyalgia, and our two kids. With my wife's illness she requires around-the-clock care when her pain flares-up. As a result of these flare-ups, she isn't able to take care of herself or our children. It was my understanding that this request was granted. At the time I was unaware of the need to submit further documentation in order to remain out on FMLA. After about a month of being off I was informed that I had not followed the process correctly and that my FMLA was going to end. At that point I was unsure of how to proceed and contacted HR to request a leave of absence. I resubmitted the documentation that I had originally turned in and later noticed that I was on leave of absence on Telestaff.

After several months of being on the leave of absence, my wife's symptoms and pain have been less and we have also moved into a single-story home that makes it easier for her to get around. With her feeling like she could better take care of herself and our children, I contacted HR to find out what the process was for me to come back to work. At that time, I was informed that I would need to talk to my battalion chief before returning. I was waiting for him to return to shift when I was contacted by standards. I was advised that I had been coded as AWOL for the time that I had been off since the end of the initial FMLA period.

My family's situation has improved, and I believe that I am ready to return to my position with the department. I understand that there was a miscommunication on



**Jonathan P. Killings – Fire Chief**  
Fire Department | 416 N. Stanton - 2nd Floor | El Paso, TX 79901  
PH: (915) 212-5600 | [www.elpasotexas.gov/fire](http://www.elpasotexas.gov/fire)



ISO Class



DELIVERING EXCEPTIONAL SERVICES



# El Paso Fire Department

**MAYOR**

Oscar Leeser

my behalf, which led to these circumstances. If allowed to resume my career with the department, I will ensure that I maintain better communication with my chain of command, HR, and the department should something like this come up again in the future.

**CITY COUNCIL**

**District 1**

Brian Kennedy

Respectfully,

**District 2**

Dr. Josh Acevedo

**District 3**

Cassandra Hernandez

FF Daniel Cordero, B6-A Swing

**District 4**

Joe Molinar

**District 5**

Isabel Salcido

**District 6**

Art Fierro

**District 7**

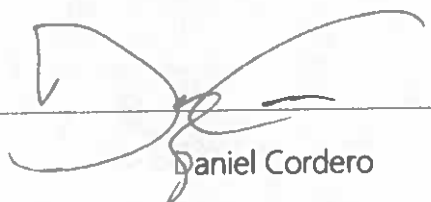
Henry Rivera

**District 8**

Chris Canales

**INTERIM CITY  
MANAGER**

Cary Westin

  
Daniel Cordero

May 7, 2024

Date



**Jonathan P. Killings – Fire Chief**  
Fire Department | 416 N. Stanton - 2nd Floor | El Paso, TX 79901  
PH: (915) 212-5600 | [www.elpasotexas.gov/fire](http://www.elpasotexas.gov/fire)



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**Duran, Gregory**

---

**From:** Duran, Gregory  
**Sent:** Wednesday, May 1, 2024 1:00 PM  
**To:** Groh, Nancy; Heredia, Randy; Torres, Miguel A.  
**Cc:** FD-Standards  
**Subject:** FF Daniel Cordero - Telestaff Calendar - AWO  
**Attachments:** 4-24 at 2020 Torres to Duran.msg

Greetings all,  
FF Cordero's Telestaff Calendar has been updated to show AWO starting on 4/26/24. However, he still shows FML prior to that. Would you like for me to update his calendar to reflect AWO starting on 10/24/23? I can take care of this. Thank you.

Respectfully,  
Captain Greg Duran  
El Paso Fire Department  
Professional Standards Office  
915-212-5629  
915-667-3308





## Duran, Gregory

---

**From:** Groh, Nancy  
**Sent:** Monday, May 6, 2024 12:24 PM  
**To:** Duran, Gregory; Heredia, Randy; Reynosa, Denise  
**Cc:** Garcia, Miguel A. (Battalion Chief); Torres, Miguel A.  
**Subject:** RE: FF Daniel Cordero - Telestaff Calendar - AWO  
**Attachments:** FW: FMLA Notification-FF Daniel Cordero, ID#017921, A-Shift, Battalion 3

Hello Captain Duran:

I apologize for the delay. I had previously advised FF Cordero to go through his chain of command for re-entry and in part stated '...Yes ma'am, will do'. Regrettably, I do not believe he has done so. I also requested for his respective DC to ensure FML is removed from Telestaff as noted in the attached email. FD-Payroll did an audit and confirmed AWO should have been starting 10/24/2023. Thank you.

---

**From:** Duran, Gregory <DuranGX1@elpasotexas.gov>  
**Sent:** Monday, May 6, 2024 8:12 AM  
**To:** Groh, Nancy <GrohNX@elpasotexas.gov>; Heredia, Randy <HerediaRX@elpasotexas.gov>; Reynosa, Denise <ReynosaD@elpasotexas.gov>  
**Cc:** FD-Standards <FD-Standards@elpasotexas.gov>; Torres, Miguel A. <TorresM2@elpasotexas.gov>  
**Subject:** Re: FF Daniel Cordero - Telestaff Calendar - AWO

Good morning all,

I am awaiting direction on how to update FF Cordero's Telestaff.

- Update on the PSO end: we are bringing him in on 5/7/24 to initiate the investigation. He will be given his incident report and will be directed to provide a written statement to the Fire Chief with Local 51 present.
- If he has any question on re-entry, what is the proper direction?

Respectfully,  
Captain Greg Duran  
El Paso Fire Department  
Professional Standards Office  
915-212-5629  
915-667-3308

---

**From:** Torres, Miguel A. <TorresM2@elpasotexas.gov>  
**Sent:** Sunday, May 5, 2024 10:31 AM  
**To:** Duran, Gregory <DuranGX1@elpasotexas.gov>; Groh, Nancy <GrohNX@elpasotexas.gov>; Heredia, Randy <HerediaRX@elpasotexas.gov>  
**Cc:** FD-Standards <FD-Standards@elpasotexas.gov>  
**Subject:** RE: FF Daniel Cordero - Telestaff Calendar - AWO

Captain, can you please touch base with HR in the morning and change accordingly thank you

---

**From:** Duran, Gregory <DuranGX1@elpasotexas.gov>  
**Sent:** Wednesday, May 1, 2024 1:00 PM

**Duran, Gregory**

**From:** Groh, Nancy  
**Sent:** Thursday, May 9, 2024 2:23 PM  
**To:** Cordero, Daniel  
**Cc:** Torres, Miguel A.; Heredia, Randy; Reynosa, Denise; Duran, Gregory  
**Subject:** RE: Daniel Cordero- Re-entry Program

Hello Firefighter Cordero:  
Thank you for your inquiry. Captain Duran with the Professional Standards Office has confirmed that a decision from the Fire Chief is not pending regarding your return to work. Once the re-entry process has been coordinated, your chain of command will make a notification to FD-Staffing Changes regarding your temporary assignment at the TA. Thanks again.  
Nancy

Nancy Groh, Human Resources Analyst  
[Click here to create an IIR request in our new ticketing system!](#)  
City of El Paso Fire Department  
416 N. Stanton, Ste. 508, El Paso, TX 79901  
Phone: 915-212-5625

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**From:** Cordero, Daniel <CorderoD@elpasotexas.gov>  
**Sent:** Thursday, May 9, 2024 1:21 PM  
**To:** Groh, Nancy <GrohNX@elpasotexas.gov>  
**Subject:** Daniel Cordero- Re-entry Program

Good Afternoon Mrs. Groh, as you may know I began the process with standards for possible re-entry into my position with Fire. I spoke to my chain of command and the TA, and they both advised that I notify yourself and payroll of my potential start date on 5/13/24. Standards and my chain of command informed me that I could start re-entry until the Fire Chief has made his decision. Please advise if there is something pending or if I am able to proceed.

Thank You.

Respectfully,  
FF Daniel Cordero  
B6 A-Shfit SWG  
[CorderoD@elpasotexas.gov](mailto:CorderoD@elpasotexas.gov)  
(915)204-5636





# ADMINISTRATIVE INVESTIGATION REPORT COVERSHEET



Date of Notification: 04/24/2024

Case File No. 24-034

Name: Cordero, Daniel

Kronos No. [REDACTED]

Rank: Firefighter  
 Assignment: Battalion 6 SWG, A Shift  
 Fire Service Date: 11/21/2021  
 Date of Birth: [REDACTED]  
 Address: [REDACTED]  
 City, State, Zip: [REDACTED]  
 Telephone #: [REDACTED]  
 Last 4 of SS#: [REDACTED]



40-Day Benchmark: 6/3/2024  
 80-Day Benchmark: 7/13/2024  
 120-Day Disposition: 8/22/2024





# EPFD FORMAL INVESTIGATION REPORT



Date of Notification: April 24, 2024

Case File No. 24-034

Name: Cordero, Daniel

Kronos: [REDACTED]

Rank: Firefighter

Assignment/Shift: Battalion 6 SWG, A Shift

### Nature of Incident:

Performance - AWOL

### Battalion-Chief Level Investigation

#### Investigation Supporting Documentation Checklist *(Select those that apply)*

- EPFD Complaint Form
- EPFD Complaint Investigation Report
- Incident Report(s)
- Administrative Investigation Warning(s)
- EAP Referral Letter/Non-compliance procedures
- Police Report(s)
- Written statements
  - Involved crew members – FF Cordero
  - Other appropriate personnel – List Names Here
- Witness information (names, addresses, phone numbers)
- Photographs
- Net Viewer
- Communications Audio Recordings/Net Viewer
- Fire Records Incident Reports/Patient Care Forms
- El Paso Fire Department Property Damage Checklist & Required Forms
- Products or equipment causal to the incident
- Exculpatory information
- Misc.: (Ledger Pages, Daybook Entries, Maintenance Forms, Inventory Checklists, etc.)
- Other: Emails, HR documentation



# EPFD FORMAL INVESTIGATION REPORT



Date of Notification: April 24, 2024

Case File No. 24-034

Describe the incident: (**Who** was involved, **what** happened, **when** and **where** the incident happened, and **how**).  
FF Daniel Cordero went off on FMLA (beginning July 4<sup>th</sup> of 2023) for an extended amount of time and did not resubmit needed paperwork to HR after the expiration of said protected leave. On October 24<sup>th</sup> 2023, and to the present, he was placed on AWOL (Unauthorized Leave w/o Pay).  
During his off-time, an independent investigator visited my office to inquire about FF Cordero's performance on the job in relation to another career he was in search of. In addition, I received multiple emails regarding the same as far as recommending him for another job.

Why did it happen (Root Cause Analysis)?

FF Daniel Cordero failed to resubmit needed FMLA paperwork; and failed to contact HR and Payroll for any updates of his extended leave. Consequently, he was placed on AWOL since October 24<sup>th</sup> of 2023.

Summary of Findings (summary of pertinent facts)

FF Cordero failed to contact HR and did not resubmit FMLA paperwork. He was placed on AWOL since October 24<sup>th</sup> 2023.



# EPFD FORMAL INVESTIGATION REPORT



Date of Notification: April 24, 2024

Case File No. 24-034

## Battalion Chief Investigation & Recommendation

### 1. Disciplinary Guidelines Level Categorization

Level F Offences and Deficiencies

AWOL (3 consecutive days or more)

Nature of Offense(s) or deficiency(s) - Performance - 1st Offense

### 2. Discipline Recommended- Please explain in the Justification/Rationale field.

- NO ACTION
- COACHING
- COUNSELING RECORD FORM
- RETRAINING
- FORMAL COUNSELING (Written Reprimand)
- EVIDENCE SUGGESTS INVESTIGATION MAY RESULT IN SUSPENSION/DEMOTION OR SEPARATION

#### Justification/Rationale:

FF Cordero failed to resubmit FMLA paperwork; and consequently, he was placed on AWOL (3 days or more) since October 24<sup>th</sup> 2023.

BC Emir Ortiz

May 14, 2024

Battalion Chief/Division Head

Date:

Check here if the signature is digital

Date of email: 5/14/2024



# EPFD FORMAL INVESTIGATION REPORT



Date of Notification April 24, 2024

Case File No. 24-034

## Professional Standards Review

### PRESUMPTIVE VIOLATIONS

#### EL PASO FIRE DEPARTMENT RULES AND REGULATIONS

##### Volume 1: Administrative Policies. Section 1: Organizational Standards:

###### **General Conduct**

1 The purpose of the following rules is to promote an atmosphere of goodwill, cooperation and harmony in the relationships among employees and the public. The intention is that such an attitude will produce a highly efficient performance by each employee, thereby increasing the effectiveness of the department.

2 Employees will be governed by the ordinary reasonable rules of good conduct and behavior of law-abiding citizens whether they are on or off-duty. Conduct or behavior that adversely affects the morale or efficiency of operations of the department may be deemed conduct unbecoming. Conduct or behavior that brings disrepute and discredit by the public on the department or its' employees is also considered conduct unbecoming.

##### Volume 1 Administrative Policies. Section 1: Obedience to Rules

1 Employees violating the rules and procedures of the department or who fail to obey lawful orders are derelict\* in the performance of their duties (dereliction of duty). Violation of any rules, policies, procedures, General Orders, failure to comply with any order of a supervisor, or failure to properly perform any assigned duties of a supervisor will be considered sufficient cause for disciplinary action.

2 All members are responsible for immediately reporting violations of rules, policies, procedures, General Orders and other employee misconduct to their supervisor. In cases where the supervisor is the violator, the next officer in the chain-of-command will be contacted

3 The deliberate refusal of any member to promptly obey any lawful order given by any supervisor will be deemed insubordination. Openly disregarding and/or mocking the authority, order or actions of any supervisor will likewise be deemed insubordination.

##### Volume 1 Administrative Policies. Section 2: Disciplinary Guidelines

1 The overall purpose of the disciplinary system is to facilitate the orderly operation and function of the El Paso Fire Department; ensure employee adherence to reasonable and acceptable performance standards and conduct; and to provide fair and equitable consequences for failing to adhere to those standards. The process also ensures due process for the involved employee(s) should disciplinary action be necessary.

###### **Basis for Discipline**

12 Employees are subject to discipline for violations of law, rules and regulations of the Civil Service Commission, departmental rules and procedures, and lawful verbal or written directives of supervisory personnel. All disciplinary actions taken under this section are subject to, and will be consistent with, applicable state law, local ordinances, administrative rulings, Civil Service rules and collective bargaining agreements. No disciplinary action will occur for conduct that:

- Cannot be connected with job performance
- Does not constitute conduct unbecoming
- Does not violate any of the rules regarding off-duty personal conduct as set forth in Civil Service Rules and regulations, departmental policies, applicable City policies or ordinances, or the City Charter provisions.



# EPFD FORMAL INVESTIGATION REPORT



Date of Notification: April 24, 2024

Case File No. 24-034

## Relevant Policy/Procedure/Protocol

### Section 4: Protected Leave: Family Medical Leave

1 An employee may apply for Family Medical Leave (FMLA) in accordance with Civil Service Rules, Rule 6. FMLA is available for:

- employees with one or more years of City service who have worked at least 1,250 hours in the past "rolling" 12 months (The 12 months of employment need not be consecutive employment unless the break in service is seven years or more)
- employees with serious medical conditions, including Worker's Compensation
- birth, adoption, or foster care
- care of a spouse, parent, or minor child (17 and under) with a serious medical condition
- military leave to care for an active duty service member injured in the line of duty and for reserve members qualifying exigency leave (National Defense Authorization Act 2008)

2 The following are not covered under FMLA:

- grandchildren
- children over 18 years (unless they meet the definition of disabled in accordance with ADA)
- grandparents, cousins, and siblings
- ex-spouses
- girl/boyfriends

3 The employee is responsible for the following:

- Notify the department through the chain-of-command, at least 30 days prior, if foreseeable.
- Complete the City's *Request for Family or Medical Leave* form. The form is located on the Fire Department Drive or may be picked up from Fire Human Resources. The form must be completed and returned to payroll as soon as possible.
- Provide the supporting medical documentation (Department of Labor Certification Form, birth certificate, adoption, etc.).
- Contact the pension and insurance offices to secure their benefits.

4 The supervisor is responsible for the following:

- When an employee is absent for more than three consecutive days, it is the supervisor's responsibility to ask the employee if the absence is FMLA related.
- If the employee fails to submit an FMLA request or ask for FMLA and the supervisor has reasonable knowledge that the absence is FMLA related, the supervisor has the responsibility of submitting the FMLA request on behalf of the employee.
- Keep Fire Human Resources aware of the status of the employee and any applicable FMLA.
- Sign and submit "requests" as quickly as possible to prevent any unnecessary delays.

### Employee Disciplinary History (For PSO Use)

1. 6/29/23 Formal Counseling. CBA 5th occurrence disincentive.





# EPFD FORMAL INVESTIGATION REPORT



Date of Notification: April 24, 2024

Case File No. 24-034

No other discipline on file that is within the prescribed timeframes that would count towards progressive discipline.

### PSO Review Checklist

- Employee Discipline History
- Level & Offense – Department Guidelines (Table A)
- Presumptive Violations - Rules and Regulations
  
- Professional Standards Office Review

PSO Officer: Captain Gregory Duran

Date: May 15, 2024



# EPFD FORMAL INVESTIGATION REPORT



Date of Notification: April 24, 2024

Case File No. 24-034

**\*\* APPROVALS (FORMAL COUNSELING AND BELOW) \*\***

## Deputy Chief Review & Recommendation

### 1. Disciplinary Guidelines Level Categorization

Level F Offences and Deficiencies

The employee's actions, inactions, and/or conduct involved a violation of law, rule, or policy that foreseeably may have resulted in death or serious bodily injury to another person; or constituted a willful and wanton disregard of departmental values; or involved any act which demonstrated a serious lack of the integrity, ethics, or character related to a firefighter's fitness to hold the position of firefighter; or involved egregious misconduct that was substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is public safety, or involved any conduct which constituted a failure to adhere to any contractual condition of employment or requirement of certification mandated by law.

Nature of Offense(s) or deficiency(s) - Performance - 1st Offense

### 2. Discipline Recommended- Please explain in the Justification/Rationale field.

- NO ACTION
- COACHING
- COUNSELING RECORD FORM
- RETRAINING
- FORMAL COUNSELING (Written Reprimand)
- SUSPENSION - [No. of Days]
- DEMOTION
- TERMINATION

Justification/Rationale:

### Deputy Chief Miguel A. Torres – Justification for Termination:

FF Cordero failed to follow clearly stated FMLA parameters and procedures as stated in Fire HR letter and email dated June 14, 2023, and June 29, 2023, respectively.

FF Cordero did not use his FMLA intermittently for the majority of his FMLA period and did not request non-FMLA LOA after his leave balances were exhausted.

FF Cordero's unauthorized absence from 10/24/2023 – 5/13/2024, significantly exceeded three or more consecutive days of AWOL, is substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is public safety and constitutes failure to adhere to contractual condition of employment. In addition, all core values, and principles of the El Paso Fire Department were egregious disregarded.

It is important to note Fire HR repeatedly informed FF Cordero of FMLA parameters and processes and of his personal responsibility for notifying his chain of command of any FMLA changes and submitting non-FMLA LOA, but FF Cordero failed to act on this assistance and direction.



# EPFD FORMAL INVESTIGATION REPORT



Date of Notification: April 24, 2024

Case File No. 24-034

## Deputy Chief Torres review of FF Cordero's dear Chief letter:

FF Cordero's reasons and his stated miscommunication on his part in his dear chief letter dated May 7, 2024 do not align with documentation and communication provided to FF Cordero by Fire Human Resources either by mail, email, or verbally.

The following statements from FF Cordero's dear Chief letter have been extracted to provide a timeline and facts contrary to FF Cordero's statements. Note: some facts will be repeated since they are applicable to multiple of FF Cordero's statements.

Symbol \* are Deputy Chief Torres responses.

Symbol • are summaries of facts derived from supporting documentation.

1. FF Cordero states he requested FMLA approx. 6 months ago and it was his understanding it was granted.
  - \* FMLA was requested over 11 months ago not 6 months ago.
  - **June 14, 2023** – Letter from Fire HR. Randy Heredia, mailed to FF Cordero's address on file. This letter specifically states all parameters of his FMLA to include how to protect his employment status. Letter also states for any questions or concerns to contact his payroll clerk or Nancy Groh.
  - **June 29, 2023, 4:11 p.m.** - Fire HR. Nancy Groh, emailed FF Cordero with an attached letter via email of his approved intermittent FMLA and that same letter was mailed to his address on file. Email also stated if he had any questions to please call Nancy Groh.
  
2. FF Cordero states he was unaware of the need to submit further documentation to remain off on FMLA.
  - \*FF Cordero was aware of the need to provide documentation as noted on Fire HR email dated October 10, 2023, 10:22 a.m.
  
  - \*FF Cordero was aware of LOA as a subsequent course action to FMLA but did act on instructions provided by Fire HR. He initiated an email dated August 22, 2023, requesting LOA, and acknowledged he was utilizing FMLA at the time of inquiry.
    - **June 14, 2023** – Letter from Fire HR. Randy Heredia, mailed to FF Cordero's address on file. This letter specifically states all parameters of his FMLA to include how to protect his employment status. Letter also states for any questions or concerns to contact his payroll clerk or Nancy Groh.
    - **June 29, 2023, 4:11 p.m.** - Fire HR, Nancy Groh, emailed FF Cordero with an attached letter via city email of his approved intermittent FMLA and same letter was mailed to his address on file. Email also stated if he had any questions to please call Nancy Groh.
    - **August 22, 2023, 11:15 a.m.** – FF Cordero emailed Nancy Groh by email "I wanted to inquire about requesting a LOA as I am currently utilizing FMLA. If you can please advise on what steps to take."
    - **August 22, 2023, 2:06 p.m.** – Fire HR, Nancy Groh, responded to FF Cordero's inquiry dated August 22, 2023, 11:15 p.m. by email informing him that his FMLA was approved from 5/24/2022 to 11/24/2023 but that it may end sooner if his FMLA hours are exhausted and how to request Non-FMLA Leave of Absence.
    - **October 10, 2023, 10:22 a.m.** – Fire HR. Nancy Groh, via city email acknowledged phone conversation she had received from FF Cordero the same morning. Nancy Groh also reiterated



# EPFD FORMAL INVESTIGATION REPORT



Date of Notification: April 24, 2024

Case File No. 24-034

parameters stated on letter from Randy Heredia dated June 14, 2023, informed FF Cordero his absences were not in line with his approved intermittent FMLA, the requirement of documentation to amend the frequencies, 144 hours of FMLA remaining, he could request non-FMLA LOA, and how to obtain non-FMLA LOA. In addition, he could call her if he had any questions.

3. FF Cordero states after about a month of being off on FMLA he was informed he did not follow the process correctly and his FMLA was going to end.

\* FF Cordero's statement is not in line with email sent to him on October 10, 2023, 10:22 a.m. informing him he had 144 hours of FMLA left and that his absences were not in line with his approved intermittent FMLA.

4. FF Cordero states he was unsure on how to proceed and contacted HR to request a leave of absence.

\* FF Cordero's statement is not in line email sent to him on October 10, 2023, 10:22 a.m. informing him he had 144 hours of FMLA left and that his absences were not in line with his approved intermittent FMLA.

5. FF Cordero states he resubmitted original documentation and later noticed he had been placed on LOA in Telestaff.

\*FF Cordero did not submit necessary medical documentation.

• **April 16, 2024, 1:35 p.m.** – Fire HR, Nancy Groh via email provided an extension to submit medical documentation - due date 4/23/24 5:00 p.m.

• **April 22, 2024, 09:37 a.m.** – FF Cordero submitted a document dated 10/19/2023 from Texas Arthritis Center but was informed by Nancy Groh via email that documentation was needed stating his wife needed his care and estimate amount of time involved. He was also informed of the due date for medical documentation submittal of 4/23/24 5:00 p.m.

• **April 25, 2024, 08:22 a.m.** – FF Cordero informed Fire HR, Denise Reynosa, the week of April 22, 2024, that he did not have/will not be providing medical documentation to cover his leave.

6. FF Cordero states after being off on LOA for several months his wife's symptoms have improved.

\*FF Cordero was code AWO from 10/24/23 – 5/13/24 and was never approved for LOA

Deputy Chief Miguel A. Torres

May 31, 2024

Deputy Chief/Division Head

Date:

Check here if the signature is digital

Date of email: 5/31/2024



# EPFD FORMAL INVESTIGATION REPORT



Date of Notification: April 24, 2024

Case File No. 24-034

## Assistant Chief Review & Recommendation

### 1. Disciplinary Guidelines Level Categorization

[Level F Offences and Deficiencies]

The employee's actions, inactions, and/or conduct involved a violation of law, rule, or policy that: foreseeably may have resulted in death or serious bodily injury to another person, or constituted a willful and wanton disregard of departmental values; or involved any act which demonstrated a serious lack of the integrity, ethics, or character related to a firefighter's fitness to hold the position of firefighter; or involved egregious misconduct that was substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is public safety, or involved any conduct which constituted a failure to adhere to any contractual condition of employment or requirement of certification mandated by law.

Nature of Offense(s) or deficiency(s) - Performance - 1st Offense

### 2. Discipline Recommended- Please explain in the Justification/Rationale field

- NO ACTION
- COACHING
- COUNSELING RECORD FORM
- RETRAINING
- FORMAL COUNSELING (Written Reprimand)
- SUSPENSION - [No. of Days]
- DEMOTION
- TERMINATION

#### Justification/Rationale:

My recommendation of "TERMINATION" is being based on review of the case file and submitted documentation. Firefighter Daniel Cordero failed to follow clearly stated FMLA parameters and procedures as stated in Fire HR letter emailed on June 14, 2023, and June 29, 2023, respectively. FF Daniel Cordero did not use his FMLA intermittently for the majority of his FMLA period and failed to request a Leave of Absence (LOA) accordingly, resulting in FF Daniel Cordero being coded Absent Without Leave. Firefighter Daniel Cordero was contacted several times during the course of the year to inform him of his leave status and documentation needs and he failed to show regard for his employment status.

Robert Arvizu

June 3, 2024

Assistant Chief

Date:

Check here if the signature is digital

Date of email: 6/3/2024



# EPFD FORMAL INVESTIGATION REPORT



Date of Notification April 24, 2024

Case File No. 24-034

### Fire Chief or Designee Adjudication

Approve Recommendation       Modify Recommendation       Disapprove Recommendation

#### 1. Disciplinary Guidelines Level Categorization

##### Level F Offences and Deficiencies

The employee's actions, inactions, and/or conduct involved a violation of law, rule, or policy that: foreseeably may have resulted in death or serious bodily injury to another person; or constituted a willful and wanton disregard of departmental values; or involved any act which demonstrated a serious lack of the integrity, ethics, or character related to a firefighter's fitness to hold the position of firefighter, or involved egregious misconduct that was substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is public safety, or involved any conduct which constituted a failure to adhere to any contractual condition of employment or requirement of certification mandated by law.

Nature of Offense(s) or deficiency(s) - Performance - 1st Offense

#### 2. Discipline Recommended- Please explain in the Justification/Rationale field.

- NO ACTION
- COACHING
- COUNSELING RECORD FORM
- RETRAINING
- FORMAL COUNSELING (Written Reprimand)
- SUSPENSION - [No. of Days]
- DEMOTION
- TERMINATION

#### Justification/Rationale:

Firefighter Daniel Cordero failed to follow clearly stated FMLA parameters and procedures as stated in Fire HR letter emailed on June 14, 2023, and June 29, 2023, respectively. FF Daniel Cordero did not use his FMLA intermittently for the majority of his FMLA period and failed to request a Leave of Absence (LOA) accordingly, resulting in FF Daniel Cordero being coded Absent Without Leave. Firefighter Daniel Cordero was contacted several times during the course of the year to inform him of his leave status and documentation needs and he failed to show regard for his employment status.

Jonathan Killings

June 4, 2024

Jonathan P. Killings, Fire Chief

Date:

Check here if the signature is digital

Date of email: 6/4/2024



# EPFD FORMAL INVESTIGATION REPORT



Date of Notification April 24, 2024

Case File No. 24-034

## CHRONOLOGY

(For PSO use only)

6/29/23

Nancy Groh (Fire HR) notified FF Cordero that Family Medical Leave was approved from 5/24/23 to 11/24/23.

8/22/23

Nancy Groh (Fire HR) notified FF Cordero that his FML may end sooner if FML hours are exhausted. She advised him that he may request a Non-FMLA Leave of Absence if that occurs.

10/10/23

Nancy Groh (Fire HR) reminded FF Cordero that he may request a Non-FMLA Leave of Absence.

4/18/24

Nancy Groh (Fire HR) notified FF Cordero that he needed to provide medical documentation to account for his absence.

4/16/24

Nancy Groh (Fire HR) notified FF Cordero that his FML hours were exhausted. She advised him to provide medical documentation to account for his absence with a deadline of 4/23/24 by 1700 hours.

4/22/24

FF Cordero provided insufficient documentation to Nancy Groh. Ms. Groh advised him to resend the appropriate documentation.

4/23/24

The deadline was met without the required documentation to approve FML.

4/24/24

PSO Notified.

5/7/24

FF Cordero met with the PSO and Local 51 at Fire HQ.

5/14/24

Capt. Duran sent the case file to BC E. Ortiz.



# EPFD FORMAL INVESTIGATION REPORT



Date of Notification: April 24, 2024

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5/14/24

BC Ortiz returned the case file to Capt. Duran.

5/16/24

Capt. Duran sent the case file to DC Torres.

5/31/24

DC Torres returned the case file to Capt. Duran.

Capt. Duran sent the case file to AC Arvizu.

6/4/24

AC Arvizu returned the case file to Capt. Duran.

Capt. Duran sent the case file to FC Killings.

FC Killings returned the case file to Capt. Duran.

Capt. Duran sent the case file and disciplinary documents to HR Manager Randy Heredia.





# EPFD FORMAL INVESTIGATION REPORT



Date of Notification April 24, 2024

Case File No. 24-034

N/A:

The available evidence exonerates the employee or fails to indicate that he or she was more likely than not to have committed an offense or evidenced a deficiency that would warrant disciplinary action.

Level-A Offenses and Deficiencies:

The employee's actions, inactions, or conduct had and are likely to have a minimal negative impact on the operations or professional image of the Department.

Level-B Offenses and Deficiencies:

The employee's actions, inactions, or conduct had and/or are likely to have more than a minimal negative impact on the operations or professional image of the department, or a negative impact on relationships with other firefighters, agencies, or the public.

Level-C Offenses and Deficiencies:

The employee's actions, inactions, or conduct had and/or are likely to have a pronounced negative impact on the operations or professional image of the department, or a negative impact on relationships with other firefighters, agencies, or the public.

Level-D Offenses and Deficiencies:

The employee's actions, inactions, or conduct were substantially contrary to the values of the department; have or are likely to substantially interfere with its mission, operation, and/or professional image; or have constituted a demonstrably serious risk to firefighter safety, public safety, or the professional image of the department.

Level-E Offenses and Deficiencies:

The employee's actions, inactions, and/or conduct constituted a serious abuse or misuse of authority, unethical behavior, or had a serious and adverse impact on firefighter safety, public safety, or the professional image of the department.

Level-F Offenses and Deficiencies:

The employee's actions, inactions, and/or conduct involved a violation of law, rule, or policy that: foreseeably may have resulted in death or serious bodily injury to another person; or constituted a willful and wanton disregard of departmental values; or involved any act which demonstrated a serious lack of the integrity, ethics, or character related to a firefighter's fitness to hold the position of firefighter; or involved egregious misconduct that was substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is public safety, or involved any conduct which constituted a failure to adhere to any contractual condition of employment or requirement of certification mandated by law.



# Department of Human Resources

**MAYOR**  
Oscar Leoser

June 20, 2024

Daniel Cordero (017921)

El Paso, TX 79938

**CITY COUNCIL**

**District 1**  
Brian Kennedy

**District 2**  
Dr. Josh Acevedo

**District 3**  
Cassandra Hernandez

**District 4**  
Joe Molinar

**District 5**  
Isabel Salcido

**District 6**  
Art Fierro

**District 7**  
Henry Rivera

**District 8**  
Chris Canales

Dear Mr. Cordero;

Our records reflect that you were approved for a Medical Leave of Absence under the Family and Medical Leave act (FMLA), from May 24, 2023 until November 24, 2023. In accordance with the City of El Paso's Non-FMLA Leave of Absence policy, the employee is required to apply for the (LOA) every 30 days and provide the supporting medical documentation from the health care provider.

On June 14, 2023, you were sent a letter notifying you that if your FMLA had exhausted you needed to submit an extension request for Non FMLA Leave of Absence along with the medical documentation to continue your leave. As of the mailing of this letter we have not received any medical documentation that would enable us to make a determination regarding your continued absence. Fire Payroll personnel have made several attempts to date to contact you regarding your unapproved medical status from November 24, 2023 to May 13, 2024.

Because your Leave of Absence was not approved, your leave is considered unauthorized and considered "AWO" (absent without authorization) and subject to discipline up to and including termination. You are hereby directed to provide the medical documentation to cover your leave during that time or contact Randy Heredia, Fire Human Resources Manager at (915) 212-5622 within ten days of the mailing of this letter. Failure to do so may result in discipline, up to and including, termination.

**INTERIM CITY  
MANAGER**  
Cary Westin

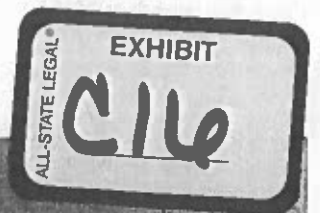
If you have any questions regarding this letter, please feel free to contact Payroll and Benefits Officer, Zulema Perez at (915) 212 - 1249.

Sincerely,

Mary Wiggins  
Chief Human Resources Officer  
Department of Human Resources

- cc Jonathan Killings, Fire Chief
- Randy Heredia, Departmental Human Resources Officer
- Fire Payroll
- Benefit Services
- Employee's Medical File

Mary Wiggins PHR, SHRM-CP – Chief Human Resources Officer  
Department of Human Resources | 300 N. Campbell | El Paso, TX 79901  
O: (915) 212-0045 | Email: WigginsML@elpasotexas.gov



BEFORE THE CIVIL SERVICE COMMISSION  
FOR THE CITY OF EL PASO, TEXAS

IN RE: DANIEL CORDERO )  
 )  
 ) DOCKET NUMBER  
 ) 24-FD-03-PP

Item#9B  
HO'S  
Recommendation  
Daniel Cordero

RECOMMENDATION OF HEARING OFFICER

Case Procedural Summary

DATE OF DISCIPLINE: Termination July 29, 2024  
DATE OF ASSIGNMENT:  
TO HEARING OFFICER: 8-27-24  
DATE OF PREHEARING: 9-10-24  
DATE OF HEARING: 10-11-24  
PLACE OF HEARING: Fire Dept. Conference Room  
ATTORNEY FOR CITY: Miguel Talamantes  
REPRESENTATIVE FOR THE CITY: Miguel Garcia, Battalion Chief  
REPRESENTATIVE FOR THE EMPLOYEE: None. Represented himself.

WITNESSES FOR THE CITY:

Jonathan P Killings, Fire Chief  
Miguel Torres, Deputy Fire Chief  
Gregory Durn, Captain, Professional Standards  
Randy Heredia Marker, HR Manager, Fire Dept.  
Nancy Groh, HR Analyst, Fire Dept.  
Zulema Perez, Payroll and Benefits Officer, HR City

WITNESSES FOR THE EMPLOYEE:

Daniel Cordero, Appellant Firefighter

EXHIBITS ENTERED AS EVIDENCE:\*

City Exhibits C-1 to C-16  
Appellant's Exhibits: None

## **A. FACTS AND EVIDENCE**

### **Cordero's Alleged Violations**

Daniel Cordero has been a Firefighter for the City for ten years. He has no disciplinary history. Cordero was granted leave under the Family Medical Leave Act ("FMLA") to care for his ill wife from May 24, 2023 through November 24, 2023. FMLA is "job protection" leave and is not paid leave. Because of the way he took his leave (i.e. continuous rather than intermittent as had been granted), Cordero used up his FMLA balances on October 22, 2023, and failed to request a non-FMLA Leave of Absence ("LOA"). He did not attempt to renew his FMLA. In spite of several written and oral communications with him outlining what he had to do to substantiate his additional leave, Cordero did not communicate with either Human Resources at the Fire Department, Human Resources at the City, or with his chain of command from October 10, 2023 until April 15, 2024. Cordero communicated on April 15, 2024 seeking to return to work. Although Cordero returned to work on May 13, 2024, he failed to provide the required medical documents to substantiate his absence that showed that it was medically necessary for him to be a caretaker to his wife after his FMLA leave expired. After an investigation by the Professional Standards Office of the Fire Department, his leave was coded as "AWO" or absent without official leave ("AWOL") from October 23, 2023 to May 13, 2024 when he returned to work. In terminating Cordero, the Fire Chief followed the Department's Disciplinary Matrix which designates AWOL of three consecutive days or more as the most serious offense level of "F." The first Level F violation results in termination upon the first offense.

### **Leave Policies involved in Cordero's Termination**

The federal Family Medical Leave Act, or FMLA, requires employers, such as the City of El Paso, to grant 12 weeks of unpaid leave a year to employees. Generally, FMLA leave is for an employee's own serious health condition, or childbirth, or to care for an immediate family member with a serious health condition. The City has a written policy outlining procedures and requirements employees must follow. (Exhibit C-3). Employees may take sick and vacation leave

they have earned to pay for the time off.

After FMLA leave is depleted during the year, an employee may request a “Non-FMLA Leave of Absence.” Again, written policies describe the requirements for obtaining a Non-FMLA leave of absence. (Exhibit C-4). Employees who do not comply with the policies are warned that they are subject to “discipline up to and including employment termination” for an unauthorized absence which is “absence without official leave, ” or AWOL. The employees of the Fire Department of the City are subject to the leave policies described in Exhibits C-3 and C-4. The Fire Department has a Human Resources department staff which reports to the central Human Resources department of the City.

The City’s “Non-FMLA Leave of Absence” policy also applies where the leave does not qualify for protection under the Family Medical Leave Act. The policy generally provides up to 12 months of consecutive leave, or a combined period of 24 months within the most recent 7 years of employment with the City. (Exhibit C-4). The City’s Non-FMLA Leave of Absence policy requires that an employee must apply for the leave every 30 days and provide supporting medical documentation from the health care provider. Requirements for other leaves such as the Americans with Disabilities Act or military leave may have other requirements but are not relevant to Daniel Cordero’s case.

The FMLA policy of the City, which applies to all City employees, requires that when foreseeable, the employee must provide the City with at least 30 days advance notice. When not foreseeable, the employee must comply with normal call-in procedure requirements. (Exhibit C-3).

The Fire Department’s Rules and Regulations, Volume 1, Section 4, state that when taking FMLA leave, “the employee is responsible for the following: Notify the department through the chain of command at least 30 days prior, if foreseeable.” The employee must complete any forms required and must provide documentation to substantiate their leave (Exhibit C-15, p. 5). Under the policy, the supervisor is also responsible when an employee is absent for more than three consecutive days. “When an employee is absent for more than three consecutive days, it is the supervisor’s responsibility to ask the employee if the absence is FMLA related. If the employee fails to submit an FMLA request or ask for FMLA and the supervisor has reasonable knowledge that the absence is FMLA related, the supervisor has the responsibility of submitting the FMLA

request on behalf of the employee.” The supervisor also is responsible for keeping Fire Human Resources “aware of the status of the employee and any applicable FMLA.” (Exhibit C-15, p. 5).

### Chronology

On June 14, 2023 Cordero was granted FMLA leave from May 24, 2023 until November 24, 2023. Appellant Cordero initially followed policies and procedures and was granted FMLA leave to care for his sick wife, as explained in a June 14, 2023, letter from Randy Heredia, Departmental Human Resources Manager. (Exhibit C-7). Ms. Heredia (now Marker) stated as follows: “Your intermittent leave is approved for up to 5 times per month lasting up to 5 days per possible episodic flareups due to your spouse’s medical condition within the 6 month period based on the supporting medical documentation that you have provided. In order to protect your employment status, you are required to provide advance notice of the absence if it is possible. As of May 24, 2023, your FMLA accrual balance is 672 hours.” (Exhibit C-7). The letter also explained that it was Cordero’s responsibility “to keep your departmental chain of command informed of the situation” if the need for FMLA changed. If he needed to take more than the 12 weeks allowed, he was told to request a Leave of Absence (LOA) and to “ensure that you start the process in time and provide all the required documentation.” (Exhibit C-7). Cordero was told to call Nancy Groh, HR Analyst at the Fire Department, if he had any questions. Cordero does not deny that he received this letter.

On August 22, 2023, Cordero called Nancy Groh, HR Analyst, left a voicemail, and sent an e mail to her stating that since he was currently utilizing FMLA, he needed advice on what steps to take for obtaining a LOA. (Exhibit C-8). Ms. Groh replied with a voicemail and e mail telling Cordero that his FMLA leave ending November 24, 2023 “may end sooner if your FMLA hours are exhausted.” (C-8). Groh explained that he would need to submit “a written request stating the reason for the requested medical leave, the amount of time expected to be away from work, along with supporting medical documentation from your spouse’s health care provider. The health care provider should indicate that you are needed to care for her and estimate the amount of time involved.”

On October 10, 2023, Cordero again called Groh, who responded by e mail. (Exhibit C-

9). Groh informed him that he only had 144 FMLA hours left, which was equivalent to six 24 hour shifts. "Should you exhaust your FMLA prior to November 24<sup>th</sup> and need to be out to care for our spouse, you can request a Non-FMLA Leave of Absence." Again she instructed him of the need to submit medical documentation supporting that he was needed to care for his spouse and with an estimate of the time needed. She attached the letter dated June 14, 2023 sent from Randy Heredia Marker earlier.

From October 10, 2023 to April 15, 2024, Cordero did not reach out to anyone at Human Resources. There is no evidence that he reached out to his chain of command.

On April 15, 2024, Cordero called Groh inquiring about returning to work. By then his FMLA had expired on October 24, 2023. Groh talked to him and sent an e mail confirming that he had admitted in their telephone call that he had not submitted a leave of absence request nor did he provide medical documentation to account for his absence. She reminded him that she had previously reminded him that his absences "were not in-line with your approved intermittent FMLA" and she had instructed him to provide appropriate medical documentation. She gave Cordero until April 18, 2024 to provide such documentation for review and possible approval. (Exhibit C-10).

On April 16, 2024, Cordero sent Groh an e mail confirming that "I did not provide that documentation." He asked for more time to submit the documentation which he contended he would be able to obtain. (Exhibit C-10, pp. 2-3). On April 16, 2024, Groh responded by e mail that she had confirmed he ran out of leave beginning October 24, 2023, so that any documentation submitted must start with that date. She again explained that "the medical documentation from her health care provider would need to indicate that you were needed to care for her and to include the amount of time needed." (Exhibit C-10, p. 2). Groh extended the deadline to submit the documentation to April 23, 2024. Because of the status of his unauthorized leave, he was advised to contact Denise Reynosa, a central office Human Resources manager. Groh testified that once the leave was a serious AWOL, the situation had been elevated to the City's central Human Resources Office. Groh also explained to Cordero that due to his prolonged absence, he needed to contact his chain of command to go through a re-entry program to return to work.

On April 22, 2024, Cordero resubmitted his original paperwork from the doctor who treated his wife. He stated: "I really have not been able to retrieve any other documentation from the

physicians she saw in the past year. This is all the documentation I am able to provide at this time. Please advise if the documentation is sufficient.”(Exhibit C-10, p. 9).

On April 22, 2024, Groh sent an e mail to Cordero stating that the documents he had just submitted from the Texas Arthritis Center did not indicate that Cordero was needed to care for his wife and did not specify the time he was needed to do so. She gave him until April 23, 2024 to provide the medical documentation to support his absence from October 24, 2024 to the present.(Exhibit C-10, p. 13).

During the week of April 22, 2024, Cordero told Denise Reynosa from HR that he would not be providing additional documentation and she should “do what you have to do.” In his testimony for this Civil Service Hearing, Cordero confirmed his “do what you have to do” statement. (Exhibit C-15, p. 9 and Cordero testimony).

On April 23, 2024, Nancy Groh sent Deputy Fire Chief Miguel Torres an e mail informing him that Cordero had exhausted his leave, had not provided documentation to substantiate further leave, and had been erroneously carried on the computer payroll program Telestaff as FML, or Family Medical Leave. She asked that FML be removed from Telestaff starting 10/24/23. (Exhibit C-10, p. 13).

On April 24, 2024, Deputy Chief Torres ordered that an internal investigation be commenced by Captain Gregory Duran of the Professional Standards Office regarding Cordero’s AWOL status so it could either be confirmed or denied. He ordered that Payroll change its incorrect FMLA entries in TeleStaff to AWOL.(Exhibit C-11).

On April 26, 2024, Captain Duran commenced the internal investigation. He set up a meeting on May 7, 2024 with Cordero and his union representative to begin procedures to allow Cordero to return to work while the investigation proceeded. (Exhibit C-12).

On May 7, 2024, Cordero met with Captain Greg Duran who gave him an “Incident Report” outlining what charges were being brought against him which would be investigated. (Exhibit C-12).

On May 7, 2024, Cordero submitted a letter to Fire Department Chief Jonathan Killings. He listed the reasons he had been out of work and assured the Chief that if allowed to return to work, “I will ensure that I maintain better communication with my chain of command, HR, and the department should something like this come up again in the future.” (Exhibit C-12).



On May 13, 2024, Cordero returned to work as a firefighter.

On June 4, 2024, based on the internal investigation by the Professional Standards Office, Fire Chief Killings approved the termination of Daniel Cordero for his conduct in not following FMLA and leave procedures which resulted in him being AWOL. Cordero's chain of command agreed with termination since Cordero had more than 3 consecutive AWOL's, had no medical documents to support his leave, had been given many explanations of what he needed to provide to substantiate his absences, had been given substantial time to comply, and yet had failed to do so. The Fire Chief and the Chain of Command under him believed that enforcement of the Department's Disciplinary Guidelines for termination was supported by the facts. (Exhibit C-15).

On June 20, 2024, the City's Chief Human Resources Officer, Mary Wiggins, sent a letter to Cordero giving him one more chance to submit documentation to support his absences. She directed him to provide medical documentation to cover his leave from November 24, 2023 to May 13, 2024, the date he returned to work. She gave him ten days to comply.(Exhibit C-16). He did not comply.

On July 18, 2024, Cordero was given his Proposed Notice of Separation within the 120 days required by CSC Rule 8 Section 3(e).(Exhibit C-1)

On July 29, 2024, he received his final Notice of Separation, which he is appealing to the Civil Service Commission. (Exhibit C-2).

## **B. CORDERO'S DEFENSES**

At the meeting on May 7, 2024 when Cordero met with Captain Greg Duran of the Professional Standards Office, Cordero was presented with the charges and allowed to prepare a "Dear Chief" letter to the Department Head, Fire Chief Jonathan Killings. (Exhibit C-12). In his letter he contends that he was unaware of the need to submit further documentation in order to remain out on FMLA. "After about a month of being off I was informed that I had not followed the process correctly and that my FMLA was going to end. At that point I was unsure how to proceed and contacted HR to request a leave of absence. I resubmitted the documentation that I had originally turned in and later noticed that I was on leave of absence on Telestaff."(Exhibit C-12). Cordero explained that after several months of being on leave of absence, his wife's

symptoms improved, they had moved into a single-story home, and his wife felt she could better take care of herself and the children. Cordero then contacted HR to return to work. "I understand that there was miscommunication on my behalf, which led to these circumstances. If allowed to resume my career with the department, I will ensure that I maintain better communication with my chain of command, HR, and the department should something like this come up again in the future." (Exhibit C-12).

At the Hearing on this appeal, Cordero testified that he did not believe that he should be terminated. He proposed even a six months suspension would be more fair than termination. He felt that his situation had not been taken into consideration. He had worked ten years and he had a clean disciplinary record. He felt that the decision was made by only the Fire Chief. He was critical of HR in that they were not aware he was carried on the payroll records as on FMLA leave rather than AWOL. He felt that it was unfair that no one had taken action against him until he called to come back to work in April of 2024. He testified that HR seemed to think he had already been fired when he called to come back to work. When he returned to work in May 2024, he did not know what specific information was needed, so he told them to "do what you need to do." He admitted that he did not provide additional information to HR. He had stopped paying insurance premiums so his wife stopped seeing a doctor in November 2023. Her regular doctor left town. The new doctor said he would not go backwards to cover a period where another doctor was treating Cordero's wife, but would work on something if the City asked him and if Cordero paid a fee for his report. Cordero admitted that he never provided the City with a release so that the City could ask Mrs. Cordero's doctor for information with violating HIPPA. Cordero felt it was unfair that he returned to work, then he was fired. If he had been fired months before when he ran out of FMLA in October 2023, he could have looked for another job rather than returning to work at the Fire Department for a short time. Cordero admitted that to date, he had no documentation to show that it was necessary for him miss work to care for his wife other than the original documentation he submitted which covered the FMLA period which ended in November 2023. When his FMLA ran out October 24, 2023, he admits did not apply for Non FMLA leave, nor did he apply for further FMLA leave. He thought he was still on FMLA leave since the payroll records showed him on FMLA status. He contended he did not understand what he had to do, and the information required was documentation he could not obtain.

### **C. THE DISCIPLINARY GUIDELINES (MATRIX)**

The Fire Department's Disciplinary Guidelines follow that of the City of El Paso's Disciplinary Matrix in that AWOL or Absent Without Leave for three consecutive days is the category of highest level of offenses and is punishable by termination for the first offense. (Exhibit C-5). Fire Chief Jonathan Killings testified that he followed the Fire Department's Disciplinary Matrix in the termination of Firefighter Cordero. He reviewed all of the facts and determined that Cordero had more than three consecutive days of absence without leave authorized. He determined that Cordero had been given adequate instructions and time to present documents to substantiate his leave. Cordero's ten years of service and clean disciplinary record did not enter into his decision since he used the Disciplinary Guidelines which do not take into account tenure or past disciplinary record when one is AWOL for three consecutive days or more. Cordero's chain of command agreed with the termination, although as Fire Chief he made the final decision. Assistant Fire Chief Robert Arvizu attended the last meeting with Cordero when he was given his final separation notice, but Arvizu had authority to reduce the action or enter into a settlement agreement if Cordero had presented any new evidence, which he did not.

### **D. DISCUSSION**

Cordero's request for leave was to care for his sick wife. The City made a simple request to provide information from a health care provider that Cordero's wife needed home care, and for how many hours a day, and for how long. This type of information is routinely required by insurance companies to approve payment for home health services so the City's request was reasonable and within common practice. It certainly was necessary information to decide whether to grant additional Family Medical Leave or Non-Family Medical Leave. Cordero had used up his earned sick leave and vacation pay. He testified that because he was not working, he could not pay the part of the premium employees must pay under the City's health plan, so that his family had no medical insurance. This was why he contended his wife had not seen a physician since November 2023. He testified that proceeds from his home sale prevented the use of Medicaid.

Cordero contended that he did not know what he needed to provide in the way of documentation. However, the e mails and letters he received from the City were very clear as to what he needed to provide. (Exhibits C- 7, 8, 9, 10, 16) . He also spoke on the phone to people who told him what he needed to provide. He needed to provide proof that his wife’s medical condition required that Cordero stay out of work to care of her daily needs, at least for some hours a day, and for a length of time. During the last weeks of April when he was given until April 23, 2024 to provide documentation, he informed HR personnel that he would not be providing further medical documentation and HR should “do what you have to do.” (C-15, p. 9 and Cordero’s hearing testimony). He failed to deliver substantiating documents by the April 23, 2024 deadline even though he was given numerous chances to do so. In one last effort to assist Mr. Cordero, in a letter dated June 20, 2024, the Chief Human Resources Officer for the City, Mary Wiggins, gave Cordero ten more days to provide the information needed to substantiate his absences.(Exhibit C-16). He failed to do so and was terminated approximately a month later.

In civil law, failure to produce a witness or important piece of evidence which is under the control of a party can be used as an “inference” that had the party or document been produced, it would have been detrimental to that party’s legal position in their case. In this case, one can infer that perhaps the health care providers would not say that Cordero needed to stay home to take care of his wife full time from October 23, 2023 until he returned to work.

Cordero felt that termination was not warranted, and that a long 6 month or so suspension was more appropriate. However, the Fire Department Disciplinary guidelines are clear that the offenses listed under Level F, such as AWOL for 3 consecutive days, are serious. Although the Fire Chief has authority to change the penalties, in this case he did not believe there were any facts that mitigated the discipline of termination for the first offense. Level F states that those listed under F “*involves any violation of law, rule or policy which foreseeably results in death or serious bodily injury to another person or involves any violation of law, rule or policy which constitutes a willful and wanton disregard of department values, or involves any act which demonstrates a serious lack of the integrity, ethics or character related to a Firefighter’s fitness to hold the position of Firefighter, or involves egregious misconduct that is substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is public safety, or involves any conduct which constitutes the failure to adhere to any contractual condition of employment or*

*requirement of certification mandated by law.* An offense of “AWOL (3Consecutive days or more)” is listed as a Level F deficiency or offense. (Exhibit C-5).

Failure to attend work is not a protected activity for an employee unless the failure to attend work is excused either by a supervisor or by a policy or law such as the FMLA. An employee cannot just choose to be absent. Of course, any employee has a right to resign his position for personal reasons not covered by a leave policy. With respect to a firefighter engaged in work directly related to public safety, it is even more important that the Fire Department be fully staffed and that management is able to schedule firefighters efficiently.

Cordero has a point in being upset about the delay in firing him. He believed that had his Department been more efficient, they would have taken action soon after he was considered to be on unauthorized leave, which would have been soon after October 24, 2023, rather than wait until he called on April 15, 2024 to return to work. Cordero testified that at least he could have started looking for a job elsewhere, rather than return to work at the Fire Department and then get fired for his absences. In Cordero’s case, Fire Department management, payroll, and Human Resources did fail Firefighter Cordero in several respects. For one, his absence from November 24, 2023 was carried on the payroll computer system as Family Medical Leave until April 23, 2024, when Groh from HR notified Chief Torres that the payroll coding needed to be corrected to show that Cordero was AWOL from 10/24/23 until the present. (Exhibits C-11, C-13). Cordero testified in person and in his letter to the Chief that he had seen that he was on FML on the computer system. He wrongly decided he did not need to turn in the documentation requested of him.

The administrative procedures of the Fire Department also state that the supervisor is responsible for checking on an employee’s leave status when they have been AWOL and it is connected to family leave. If an employee is absent for more than three consecutive days, especially if it is connected to FMLA, the supervisor is supposed to reach out to the employee and also keep Fire Department Human Resources “aware of the status of the employee and any applicable FMLA.” (Exhibit C-15, p. 5 of 14). There was no oral or written evidence presented to this Hearing Officer that any supervisor in Cordero’s chain of command had reached out to him from October or November 2023 until April 2024 when Cordero called to inquire about returning to work.

Cordero also complained that when he was trying to return to work, he was confused by

an e mail he received from Nancy Groh on May 9, 2024 when he told her that the Standards office and his chain of command had informed him that he could not start re-entry procedures “until the Fire Chief has made his decision. Please advise if there is something pending or if I am able to proceed.” (Exhibit C-14). Groh responded that Captain Duran “has confirmed that a decision from the Fire Chief is not pending regarding your return to work.” (Exhibit C-14). However, Captain Duran of Professional Standards, who was conducting the AWOL investigation, testified at the Hearing with this Hearing Officer that when he met with Cordero on May 7, 2024, he explained to Cordero that he was going to recommend bringing him back to work because he knew he needed a paycheck and the Department needed firefighters, but that the AWOL issue was still pending. Duran testified that he told Cordero he would be investigating the disciplinary issue and did not know how long the investigation would take, but at least in the meantime Cordero was working and receiving a paycheck. Therefore, Groh’s answer that there was nothing pending from the Chief “regarding your return to work” was accurate in that what was still pending was the disciplinary action for the AWOLs.

Regardless of any failures by Cordero’s chain of command or Human Resources personnel, the Fire Department’s administrative procedures and the FMLA policies place the obligation on employees to keep their chain of command and human resources informed of their status when out of work, and this obligation is not wiped out because the department did not follow through on the employee’s absence. Even if they had, the situation would have resulted in the same outcome, i.e. Cordero would be fired because he obviously could not, or would not, obtain the documentation necessary to support his leave status. He would only have been fired earlier. The City was willing to accept and act upon the documentation as late as June 20, 2024 when the City HR Chief gave him ten more days to comply but he did not. Obviously, the City was making an effort to retain Cordero as a firefighter and give him every opportunity possible to substantiate his absences rather than lowering the boom on him quickly. Therefore, the City’s delay in enforcing their policies on Cordero would not have affected the ultimate outcome in this case, that Cordero was absent without authorization for more than three consecutive days and did not produce any documents or evidence to justify his absences, which under the disciplinary guidelines, results in termination.

#### **E. CONCLUSIONS**

1. Section 6.13 of the City Charter imposes on a department head the burden of proof to prove by a preponderance of the evidence that the employee committed conduct alleged in the specifications and that such conduct violated the rules and regulations of the City. In civil law, preponderance of the evidence means the greater weight of the credible evidence. If the evidence is 50/50, then the employee wins, since the City must prove its case by at least 51 percent.
2. The Department Head has met his burden of proof and has proven by a preponderance of the evidence that the employee committed the conduct alleged in the specifications of the Notice of Separation, and that the conduct violated City and/or Department policies.
3. The Department Head has met his burden of proof and proven by a preponderance of the evidence that the employee's conduct warrants termination.

**F. RECOMMENDATION**

**I recommend that the Separation (“termination”) of Daniel Cordero be sustained.**

Respectfully submitted:



Patricia L. Palafox  
Hearing Officer

October 28, 2024

Date