

**RECEIVED**

Revised 8/20/13

MAR 26 2024

**CIVIL SERVICE  
COMMISSION****CITY OF EL PASO  
EMPLOYEE GRIEVANCE FORM**Employee's Name: Patrick MunizLast 4 of SS #: 7173Job Title: Transit OperatorDepartment/Division or Section: Sun MetroWork Phone # 915-212-3333Immediate Supervisor's Name: Manuel Martinez / AUGUSTUS ELLIOTT**STEP ONE**

I discussed the following problem with my immediate supervisor on 1-1-2024 and wish to go on to Step Two of the grievance procedure, Civil Service Rule 14. (Complete the boxes below, sign and date form and give it to your supervisor's supervisor)

I believe that the following rights allowed me under the City Charter, Civil Service Commission Rules and Regulations and/or a City Policy has been violated: (You must cite the Charter Provision, Rule or Policy.)

Rule 6. Section 2 - b. Sick leave verification

Explanation of how my rights have been violated including date of occurrence: (Attach additional sheets if needed)

See attachments.

Requested Remedy:

Receive payment for my two sick days, and for Sun Metro to follow the City Charter.

Employee's Signature: RomyDate: 1-07-2024**STEP TWO - (Give form to your supervisor's supervisor)**

Immediate Supervisor's Statement:

SEE ATTACHED STATEMENT.

Immediate Supervisor's Signature: [Signature]Date: 1-19-24

Next Level Supervisor's Statement: (Return form to the employee and a copy to Department Head)

Grievance: Upheld ☐ Denied ☒

Explain the reason for your decision below:

SEE ATTACHED

Next Level Supervisor's Signature: [Signature]Date: 1-29-24Employee's Initials (indicating receipt of form): PMDate: 1-29-24

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**MAR 26 2024**

**CIVIL SERVICE  
COMMISSION**

Date of occurrence, January 2nd, 2024.

I received a phone call from Sun Metro Payroll on December 29th, 2023, which is my scheduled day off, and was told that I needed to provide a doctors note for taking two sick days the week prior, December 18th and 19th, 2023. I asked why did I need to provide a doctors note if by my understanding of the Civil Service Rules and Regulations, I need to provide a doctors note if I had taken 3 or more consecutive days. She told me that Sun Metro requires its employees to have a minimum balance of 120 hours of sick leave accrual in order to not need a doctors note and that since I had a balance of 118 hours accrued, I needed a doctors note. She told me she could give me a "freebie" for one of those two days, but I would still be receiving an AWL if I didn't submit a doctors note.

On Tuesday, January 2nd, 2024, the day I officially spoke with payroll, which was the next available day due to the holiday, I again asked why I needed to provide a doctors note if by Civil Service Regulations I do not need a base minimum accrual balance to use SLP. She then stated again that it was a Sun Metro policy and that I received a copy of that form when I got hired. I asked for a copy of it because I didn't remember receiving it nor was it in my binder that I was given when I got hired.

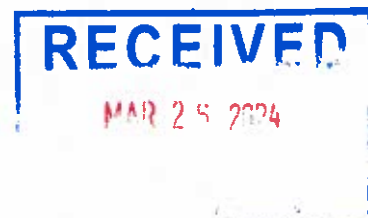
Back tracking to December 6th, 2023, I had a miss out because my means of transportation broke down on my way to work. I understood the ramifications of that, meaning disciplinary action as well as not getting paid for that day. On December 20th, 2023, my next working day after those two sick days, I had gone into Kronos to submit my SLP. I noticed that I was missing 7 hours of sick leave, from the last time I had viewed my accruals, so I investigated and found that those 7 hours were taken and used for the 6th of December. I was confused but it didn't heed any speculations beyond that, at that time.

So back to January 2nd, after I received a copy of the Sun Metro policy stating the 120 hour balance, I asked the payroll clerk about those 7 hours of SLP being used on the 6th, because no one contacted me about using them, I gave no authorization for my hours to be used nor did I ask for them to be used. She looked confused and said she was going to look into it and went to her computer. After a few minutes she came back and told me that I had provided a doctors note for that day and that's why those hours were used. I asked how was that possible if it was a miss out and I had already signed the disciplinary form for it. She was adamant that I submitted a doctors note for that day, I told her that I didn't agree with the AWL that I was given and would be appealing it. She said that she was going to submit for that day to be overturned and I would receive an AWL for it as well.

I left but when I got to my vehicle it didn't sit right with me, then I went back and asked for a copy of said doctors note. She then stated that she made a mistake and that she had given me Dec 6th, as the "freebie." I asked how was that a "freebie" if hours were still taken from my sick leave. She said it was a "freebie" because I had a minimum of 30 hours and that's what a freebie is, it's when you don't have the 120 hour balance but have at least 30 hours." I then said that I didn't need a minimum balance to use

SLP, but going off of what she said, then at that point in time I had 125 hours, so it wasn't free, and going off that same token when I had taken those two sick days, to my knowledge I had 125 hours. She said I'd be receiving an AWL regardless, be it the 6th, 18th or 19th. I again stated that I didn't agree with what she was saying, so I left once again but returned shortly after to get this grievance form.

It is unfair to me as, a city employee, that Sun Metro is attempting to force me to accrue and maintain a minimum balance of sick leave before I'm able to use any without a doctors note. I have earned the right to these hours and if Sun Metro were to terminate me, those are hours I would not be compensated for.



Friday, January 19, 2024

RE: Grievance submitted by Transit Operators Patrick I. Muniz referencing AWLs generated from absences on December 18-19, 2023

The following is my response to the City of El Paso Employee Grievance Form submitted by Transit Operator Patrick I. Muniz (029893) that references AWLs received on December 18-19, 2023.

Your "Requested Remedy" states the following *"Receive payment for my two sick days, and for Sun Metro to follow the City Charter."*

At the time of this response, Sun Metro Human Resources and the Office of the Director have not made a final determination regarding your AWL appeal. It's recommended that you wait until after the appeal is denied before submitting a grievance. Nonetheless, the Sun Metro Operations division is unable to approve payment made to you in regards to your absences. That would be a matter to address with Sun Metro Human Resources.

You cited "Rule 6. Section 2-b Sick Leave Verification" of the El Paso City Charter. The City Charter/Civil Service Rules afford City Divisions and Departments to increase requirements needed to utilize sick leave accruals. As stated in the Sick Leave Use and Investigation of Sick Leave Abuse Policy, *"Department Heads [...] may establish more relaxed or more stringent sick leave regulations as deemed necessary and appropriate based on the nature of the department's operations and needs."* In this case, Ellen Smyth implemented a Sick Leave Policy-Modification on October 26, 2020, which requires that all Sun Metro employees maintain a sick leave balance of 120 hours in order to bypass having to submit a physician's certification (note) in order to utilize SLP/SLD balances.

Therefore, I do not see any violations.

From my understanding, your SLP accruals dropped under 120 hours due to your absence on December 6, 2023. In your statement, you referenced Payroll taking your hours without authorization. Any employee absences must be coded. In this case, Payroll took 7 hours of SLP from your accruals to account for your absence on December 6, 2023. 2.22.1 of the Sun Metro Rules and Regulations Handbook states that *"It is the responsibility of each individual employee to keep track of their available leave balances."* You did not report to work on December 6, 2023, therefore balances were utilized to cover your absence.

I have attached a copy of the MEMO titled "Sick Leave Policy-Modifications" dated October 26, 2020 as a reminder, in addition to the Sick Leave Use and Investigation of Sick Leave Abuse Policy.

Also note, you had previously requested December 18, 2023 off as SPD via KRONOS. This leave was denied by Scheduling since pre-approved leave needs to be requested in person or by phone prior to being submitted via KRONOS, and this particular day was unavailable. 2.48.3.3 of the Sun Metro Rules and Regulations Handbook states that a physician's certificate is required when *"an employee's request for any type of time (sick leave, vacation, SPD, etc.) for the same date(s) is denied."* Ultimately, your absence on December 18, 2023 requires a doctors note. You failed to submit one which resulted in an AWL. I have attached a copy of the aforementioned policies to this response, as well as a copy of your KRONOS denial for December 18, 2023.

Thank you,



Augustus Elliott  
Transit Assistant Superintendent of Operations  
Sun Metro // City of El Paso



Friday, January 19, 2024

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Thank you,



**Augustus Elliott**

Transit Assistant Superintendent of Operations  
Sun Metro // City of El Paso








# Sun Metro

**MAYOR**  
Oscar Leaser

Date: January 29, 2024  
To: Patrick Muniz #029893  
From: Robert Dominguez, Superintendent of Operations   
Subject: Grievance Dated January 7, 2024

## 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

**INTERIM CITY  
MANAGER**  
Cary Westin

The following is a response to a City of El Paso Employee Grievance Form you submitted as "Step Two" to my office on January 23, 2024.

Upon review of your grievance, you specifically mention a possible violation of Civil Service Commission Rule 6 Section 2-b "Sick Leave Verification"

b. Sick Leave Verification No sick leave of three (3) or more consecutive work days will be granted to any person without a certificate verifying that the leave is necessary for medical 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 a certificate must be from a health care provider, and verify that the leave is necessary for medical reasons. (Amended 7/09/85, 2/14/89, 9/17/96, 2/07/06, 1/20/15).

In your complaint you mention "I asked why did I need to provide doctors (sic) note if by my understanding of the Civil Service Rule and Regulations, I need to provide doctors (sic) note if I had taken 3 or more consecutive days."

According to the explanation you received, it appears that the AWOL notice you received was not because you took sick leave for the third day, but rather because you did not meet Sun Metro's Sick Leave Policy. This policy requires employees to accrue at least 120 hours of sick leave in order to report sick without presenting a physician's certificate excusing them for any days missed due to illness. Additionally, the policy allows for one instance of taking sick leave without the need for a physician's certificate in a six-month period, provided the employee has accrued a minimum of 30 hours of sick leave at the time of the leave.

In your statement, you mentioned that you received a Miss-Out document on December 6, 2023, because you didn't report to work as scheduled. It is important to note that when an employee fails to report to work on time or doesn't call off work at least 2 hours before their scheduled shift, a Miss-Out document is generated. This document serves as a notice to remind employees about the importance of showing up to work on time or providing sufficient notice when calling off from work. It is also important to understand that the Miss-Out form is separate and distinct from any leave requirements for any time missed from work.

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MAR 26 2024

Anthony DeKeyzer, LSSBB, TSSP-Bus/Rail Director of Mass Transit  
Sun Metro | 10151 Montana Ave | El Paso, TX 79925  
O: (915) 212-3306 | Email: [DeKeyzerAR@elpasotexas.gov](mailto:DeKeyzerAR@elpasotexas.gov)

**CIVIL SERVICE  
COMMISSION**



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# Sun Metro

## MAYOR

Oscar Leaser

You also mention "It is unfair to me as, a city employee, that Sun Metro is attempting to force me to accrue and maintain a minimum balance of sick leave before I'm able to use any without a doctors (sic) note."

## CITY COUNCIL

### District 1

Brian Kennedy

You were given a copy of Sun Metro's Sick Leave Policy - Modifications dated October 26, 2020, which outlines the accumulation of 120 sick leave hours and the physician's certificate requirement. You were also provided Administrative Policies and Procedures regarding Sick Leave Use and Investigation of Sick Leave Abuse Policy which states department heads may establish stricter sick leave regulations deemed necessary. During your initial meeting with Assistant Superintendent Augustus Elliott, this information was explained in more detail.

### District 2

Dr. Josh Acevedo

### District 3

Cassandra Hernandez

The Civil Service Commission has acknowledged the modified Sun Metro Sick Leave Policy dated October 26, 2020. I have attached a copy of Sun Metro's Rules and Regulations policies related to Sick Personal Days (SPD), Leave-Sick Leave Investigation, Physician Certificates, and Miss-Outs for your reference. Additionally, I have attached a copy of the Miss-Out form which was issued to you for December 6, 2023.

### District 4

Joe Molinar

### District 5

Isabel Salcido

Although I appreciate you citing a possible violation of Civil Service Commission Rule 6 Section 2-b "Sick Leave Verification," after reviewing all the available information, I do not believe a violation of the Civil Service Rule occurred. Therefore, upon review of all the evidence, your grievance is denied.

### District 6

Art Fierro

### District 7

Henry Rivera

However, you are welcome to meet with me or any member of my chain of command to discuss further any other concerns you may have.

### District 8

Chris Canales

## INTERIM CITY MANAGER

Cary Westin



Anthony DeKeyzer, LSSBB, TSSP-Bus/Rail Director of Mass Transit  
Sun Metro | 10151 Montana Ave | El Paso, TX 79925  
O: (915) 212-3306 | Email: [DeKeyzerAR@elpasotexas.gov](mailto:DeKeyzerAR@elpasotexas.gov)



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## AWOL Medical Appeal Form

**COPY**

### PART I – EMPLOYEE'S REQUEST

(Type or Print in Ink)

To: **Department Head**  
01/02/2024

Date of AWOL: 12/19/2023 – Doctor's note required

From: (Employee Last, First, Middle Initial)  
Muniz, Patrick

Employee ID Number (KRONOS):  
029893

In accordance with the City's "Sick Leave Policy" - I am appealing my AWOL. I am requesting that the AWO be changed to LWO. I understand that I must submit in writing, within fourteen (14) calendar days from the denial, a signed statement and appropriate medical documentation adequately demonstrating the medical need for my absence from work. The medical documentation must state that it was medically necessary for me to be absent from work for the entire amount of time I was absent. A medical appointment alone is not adequate to cover the entire day's absence. If the doctor does not indicate that it was medically necessary for me to be out for my entire absence, I will only be allotted time for the office visit and reasonable travel time. If the appeal is approved, I will be placed on a "Leave-Without-Pay" (LWO) status and if necessary any adjustments to my pay will be made.

**If appeal is approved, confirm your balances with Payroll if a Retro is pending.**



I DO wish to appeal my AWOL



I DO not wish to appeal my AWOL

**For Non-Medical AWOL's a statement accompanied by supporting documentation is required.**

Employee Signature

*[Signature]*

Date

1-8-2024

### PART II – DEPARTMENT HEAD'S RECOMMENDATIONS

☐

Approved

☐

Denied

☐

Fourteen (14) day reporting requirement not met

☐

Did not provide documentation that leave was medically necessary

☐

Other

**COPY**

Department Head Signature

Date

Employee Receipt:

Date:

I understand that I can appeal to the Human Resources Director within five (5) calendar days of the notification of the denial from the Department Head. The Human Resources Director will make a final decision and I will be notified within ten (10) calendar days of the receipt of the appeal. The decision of the Human Resources Director is final and there are no other appeals. 8-24-18





MUNIZ, PATRICK I

029893

Previous Pay Period

152 Employee(s) Selected

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Date	Schedule	Pay Code	Amount	In	Transfer	Out	In	Transfer	Out	Shift	Daily	Period
Sun 12/17	6:22AM-5:15PM			6:20AM		5:17PM					10.95	10.95
Mon 12/18	5:50AM-1:17PM											
		SLP	7.45	5:50AM							7.45	18.4
Tue 12/19		AWO	7.45									
		SLP	-7.45									
	5:50AM-1:17PM											
		SLP	7.45	5:50AM							7.45	25.85
Wed 12/20	5:50AM-1:17PM			5:48AM		1:29PM				7.68	7.68	33.53
Thu 12/21												33.53
Fri 12/22												33.53
Sat 12/23	3:51AM-11:53AM			3:50AM		12:04PM				8.23	8.23	41.77
Sun 12/24	6:22AM-5:15PM			6:20AM		5:31PM				11.18	11.18	52.95
Mon 12/25		Christmas Day	8.0									
	5:50AM-1:17PM			6:20AM		5:16PM				10.93	18.93	71.88
Tue 12/26	5:50AM-1:17PM			5:49AM		1:24PM				7.58	7.58	79.47
Wed 12/27	5:50AM-1:17PM			5:48AM		1:25PM				7.62	7.62	87.08
Thu 12/28												87.08
Fri 12/29												87.08
Sat 12/30	3:51AM-11:53AM			3:49AM		11:53AM				8.07	8.07	95.15

## Accruals

Accrual Code	Accrual Available Balance	Accrual Units
AHL	0.0	Hour
CVD	0.0	Hour
FMLA	0.0	Hour
MIL	0.0	Hour

SHR	0.0	Hour
SLP	110.78	Hour
SPD	32.0	Hour
SPL	0.0	Hour
SSL	0.0	Hour
VAC	95.05	Hour
WDO	0.0	Hour

## Totals

Account	Pay Code	Amount
60010/60010-000012447/0/0/0/0/0	AWO	7.45
60010/60010-000012447/0/0/0/0/0	GR	6.85
60010/60010-000012447/0/0/0/0/0	HOL	8.0
60010/60010-000012447/0/0/0/0/0	OTP	5.38
60010/60010-000012447/0/0/0/0/0	REG	66.87
60010/60010-000012447/0/0/0/0/0	SLP	7.45
60010/60010-000012447/0/0/0/0/0	WorkedtimeCPC	72.25





# Sun Metro

MAYOR  
Dee Margo

TO: All Sun Metro Employees  
FROM: Ellen A. Smyth, Managing Director  
RE: Sick Leave Policy-Modifications  
DATE: October 26, 2020

## CITY COUNCIL

District 1  
Peter Svarzbein

District 2  
Alexsandra Anello

District 3  
Cassandra Hernandez

District 4  
Dr. Sam Morgan

District 5  
Isabel Salcido

District 6  
Claudia L. Rodriguez

District 7  
Henry Rivera

District 8  
Cissy Lizarraga

CITY MANAGER  
Tommy Gonzalez

Effective Sunday, November 1, 2020, the following Sick Leave (SLP) and Sick Leave Dependent (SLD) usage modifications will take effect in order to address employees who have accumulated a sick leave balance of at least 120 hours. The modifications are **NOT** related to any specific project and/or specific federal funds. The modifications are being implemented to impact the establishment of sick leave usage patterns and sick leave abuse within Sun Metro.

- Employees with a sick leave balance of at least 120 hours will **NOT** be required to bring a medical certificate or note from a licensed healthcare provider for any increment of sick leave (SLP or SLD) used.
- Employees with a sick leave balance of less than 120 hours **WILL** be required to bring a medical certificate or note from a licensed healthcare provider for any increment of sick leave (SLP or SLD) used.
- Employees with a sick leave balance of less than 120 hours, will be allowed **ONE INSTANCE** of sick leave (SLP or SLD) in a six-month period where they DO NOT have to bring a medical certificate or note from a licensed healthcare provider provided that they have a minimum sick leave balance of 30 hours at the time of leave.
  - **ONE INSTANCE** means any increment of sick leave used in a six-month period.

The Sun Metro Sick Leave policy does not exempt an employee from complying with the provisions of the City's Sick Leave and Investigation of Sick Leave Abuse Policy, which may still require a certificate from a health care provider verifying that the leave is necessary for medical reasons in the cases described below:

- For absences of three (3) or more consecutive work days.
- On the last scheduled work day before a city designated holiday; on the scheduled work day of a city designated holiday; or on the first scheduled work day after a city designated holiday.
- If there is reason to believe the employee is abusing or has established a pattern of misusing their sick leave in accordance with Section IV. of the Sick Leave and Investigation of Sick Leave Abuse Policy.
- If the employee has used 40 or more hours of unplanned sick leave during a quarter of a calendar year for two (2) or more consecutive quarters.

Cc: Samuel Rodriguez, Chief Operations and Transportation Officer

Ellen A. Smyth, Director  
10151 Montana Ave. | El Paso, Texas 79925 | (915) 212-3383 | [info@sunmetro.net](mailto:info@sunmetro.net)

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## ADMINISTRATIVE POLICIES AND PROCEDURES

Policy: Sick Leave and Investigation of Sick Leave Abuse Policy  
 Creation Date: May 30, 2015  
 Revision Date: March 8, 2016  
 Prepared By: HR Department  
 Approved By: City Manager  
 Legal Review: Elizabeth Ruhmann

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### **POLICY: SICK LEAVE USE AND INVESTIGATION OF SICK LEAVE ABUSE** **POLICY**

Sick leave is a paid absence from duty. An employee is entitled to use sick leave for personal medical needs and care of a family member with a serious health conditions. All regular and probationary employees shall accrue sick leave in accordance with City rules and regulations.

Sick leave is a privilege, and it is in the employee's best interest to manage their sick leave usage appropriately. It is a common misconception that just because you have a certain amount of sick leave hours accrued, you have the right to take those hours for any reason. However, sick leave can only be used for specific reasons, including doctor's appointments, dental visits, and absences due to illness or injury. Employees are encouraged to carefully consider their use of sick leave. Failure to have a sufficient "bank" of accrued sick leave hours may result in unpaid leave.

As a public agency, the City of El Paso has a responsibility to our citizens to ensure that taxpayer funds are used appropriately, and that we are working as efficiently, effectively, and productively as possible on their behalf. Inappropriate use of sick leave is essentially a misuse of public funds. Public agencies have an obligation to closely monitor and address sick leave usage to ensure that leaves are being used correctly, and that productivity does not suffer as a result of excessive or inappropriate absences from the workplace.

The Human Resources Director or Department Head or his or her designee is authorized to investigate an employee's record of sick leave or emergency leave (collectively referred to as "sick leave") usage when the employee has either a low sick leave balance or seems to have established a pattern of usage.

Sick Leave Policy (created 1-22-10) and Investigating Sick Leave Abuse and Overuse Policy (created 1-17-12) were all eliminated and combined to create this current policy

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**I. GUIDELINES FOR USE OF SICK LEAVE**

- A. Regular attendance is considered to be an essential function of every City employee's job and employees are expected to report to work as scheduled. Eligible employees shall be entitled to accrue sick leave in accordance with the Civil Service Rules and Regulations (the "Rules") and Ordinance 8064, and may use their accrued sick leave pursuant to the Rules, this policy and any applicable department-specific mandates.**
- B. Department Heads, when approved by the City Manager or designee, may establish more relaxed or more stringent sick leave regulations as deemed necessary and appropriate based on the nature of the department's operations and needs. Any employee who is aggrieved by such individual department regulations may apply for relief pursuant to the appeal process set forth in this policy.**
- C. For absences of three or more working days, an employee will be required to submit a medical certification from the attending healthcare provider upon return to work. It is within the discretion of the employee's Department Head to require documentation concerning illness resulting in absences of less than three days.**
- D. No sick leave of three (3) or more consecutive work days will be granted to any person without a certificate verifying that the leave is necessary for medical reasons. Additionally, no sick leave will be granted to any person, without a certification, on the last scheduled work day before a city designated holiday; on the scheduled work day of a city designated holiday; or on the first scheduled work day after a city designated holiday. Such certificate must be from a health care provider, and verifying that the leave is necessary for medical reasons.**
- E. Employees with inadequate sick leave balances will be coded Absent-Without-Learn (AWO), and such absences may be considered unexcused for purposes of potential disciplinary action. An employee may appeal to the Department Head the failure or refusal of a supervisor to grant a request for sick leave pay. AWO may be changed to LWO if the employee appeals pursuant to this policy and provides the appropriate medical certification.**
- F. Employees on AWO status, or who routinely exhaust their sick leave balances or whose behavior gives rise to the suspicion that sick leave is being used inappropriately, including an attempt to use "vacation in lieu of sick leave" or requesting leave without pay, may be required to submit a medical certification from an attending healthcare provider before paid sick leave is granted and may be subject to having their sick leave usage investigated by the Department Head, as described below.**

Sick Leave Policy (created 1-22-10) and Investigating Sick Leave Abuse and Overuse Policy (created 1-17-12) were all eliminated and combined to create this current policy



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- G. Employees on Family and Medical Leave Act (FMLA) leave, including FMLA intermittent leave, will be subject to the City's FMLA Leave of Absence Policy.

## **II. SICK LEAVE USE PROCEDURES:**

- A. To use sick leave with pay, employees must follow the sick leave notification procedure for their respective department. Departmental procedures for notification that sick leave benefits need to be used may vary, so it is the responsibility of the employee to become familiar with the particular procedures of their department.
- B. Employees need to receive approval from their supervisor to charge absences against accumulated sick leave when they have sufficient sick leave balances. "Sufficient sick leave balance" means having enough sick leave hours accumulated to cover the hours the employee is absent.
- C. Employees are responsible for monitoring and being aware of their sick leave balance. If an employee does not have a sufficient sick leave balance to cover all of the hours the employee is absent in a scheduled work day, the employee will be coded AWO for the entire day's absence, even if the employee has sick leave hours to cover a portion of the day's absence.
- D. An employee will not be allowed to use vacation leave in lieu of sick leave if the employee has insufficient sick leave balances. Vacation in lieu of sick leave will be permitted for employees on a protected leave status such as Family and Medical Leave (FMLA) leave, or while absent due to a compensable claim under the Texas Workers Compensation Act.

## **III. APPEAL PROCEDURES:**

- A. Employees who believe they have been improperly denied sick leave may appeal the coding of the AWO to their Department Head in writing within fourteen (14) calendar days from the denial. The employee will be required to provide the appropriate medical documentation demonstrating the medical need for the employee's absence from work. The documentation must state that the employee was medically required to be absent from work and note the time period. A medical appointment alone is not adequate to cover the entire day's absence; only the office visit and reasonable travel time will be allotted. If the employee's appeal is approved, they will be coded accordingly (Sick Leave Pay (SLP) or Leave-Without-Pay (LWO)) and the necessary pay adjustments will be made.

Sick Leave Policy (created 1-22-10) and Investigating Sick Leave Abuse and Overuse Policy (created 1-17-12) were all eliminated and combined to create this current policy



- B. If the employee wishes to appeal the Department Head's decision, the employee may appeal to the Human Resources Director within five (5) calendar days of the notification of the denial from the Department Head using the City's "Employee's Appeal of Sick/Vacation Leave Denial" form. The Human Resources Director will make a final decision and communicate this to the employee within ten (10) calendar days of the receipt of the appeal. The decision of the Human Resources Director is final and there are no other appeals.

#### **IV. INVESTIGATION OF POTENTIAL SICK LEAVE ABUSE**

- A. Reasons and circumstances to inquire into or investigate sick leave use may include, but are not limited to, the following:

1. Habitual use of sick leave in single or partial day increments, without valid or current medical documentation.
2. Sick leave consistently taken on Monday, Thursday (four-day work week) or Friday (five-day work week).
3. A pattern of using sick leave on the last scheduled work day before or first scheduled work day after a City holiday or a scheduled day off.
4. A pattern of using sick leave to avoid working overtime or holiday work shifts.
5. Sick leave consistently taken the same time of year.
6. Sick leave taken after a vacation request was denied.
7. Sick leave consistently taken when difficult assignments or projects are scheduled or due.
8. Sick leave taken after discipline for a performance matter is issued.
9. Sick leave consistently taken when supervisor is on vacation.
10. Using 40 or more hours of unplanned sick leave during a quarter of a calendar year for two (2) or more consecutive quarters, without current medical documentation.

B. Investigation Procedures:

1. The Department Head or designee with the responsibility of granting sick leave will monitor sick leave usage and identify any detectable patterns or concerns related to sick leave usage.
2. Any known mitigating circumstances will be identified. Mitigating factors may include leave taken under FMLA, medical/dental procedures or miscoded hours.
3. As appropriate, an investigation or inquiry into the use of sick leave will be initiated, which may include a discussion with the employee.
4. After the investigation, the Department Head will determine if there is reason to believe that the employee is abusing or misusing their sick leave accrual benefits.



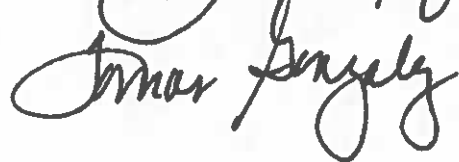
5

5. If abuse of sick leave is reflected by the investigation, the employee will be informed in writing of the patterns and specific concerns identified. The employee may be required to provide medical documentation for any subsequent use of sick leave, for a determined period of time. The employee will be advised that his or her sick leave usage will continue to be monitored, and that continued absences may result in disciplinary action up to and including termination.
6. If there is no evidence that the sick leave is being abused, the employee will be informed.

APPROVED BY:

  
TOMAS GONZALEZ, City Manager

DATE: March 22, 2016



From: MunizPI@elpasotexas.gov <MunizPI@elpasotexas.gov>  
Sent: Tuesday, December 12, 2023 1:34 PM  
To: Espinoza, Rebecca <EspinozaRX0@elpasotexas.gov>  
Subject: Request for Time off for Muniz, Patrick I

Muniz, Patrick I has submitted a Request for time off.

**Request Details:**

**Accrual balances:**

SLP: 121.07

SPD: 32.0

VAC: 91.35



**Leave Type: SPD**

**Start Date: 12/18/2023**

**End Date: 12/18/2023**

**Specify Hours 8.0**

**Employee's message:**

**Go to your task list to take immediate action.**

**Click here for Workforce Central:**

**<https://krns.elpasotexas.gov/wfc/logon>**

Run 113 Block 2501Scheduled  
Swipe Time5:50 AM

Swiped @

NoTSH# 314MISSOURI NOTICE  
VERBAL WARNING

sunmetro

TO:

Muniz, Patrick029893

Kronos ID#

DATE:

6 December 20237193

Last four digits of SSN

On 6 December 2023, you violated departmental rules by MISSING OUT. This is your 1st miss-out within a rolling six month period. Your prior miss-outs within this six-month period occurred on: \_\_\_\_\_

In accordance with the Sun Metro Missout Policy, the corrective action for this missout violation is:

☒ THIS VERBAL WARNING, WHICH WILL BE PLACED IN YOUR PERSONNEL FILE

I acknowledge receipt of this Notice. Do you elect to appeal this missout? (Circle & Initial) \*YES (NO) PM  
 \*You have five (5) business days from receipt of this notice to schedule an appeal of this missout with the Assistant Director of Operations. A written statement and appropriate supporting documentation must be provided at the time of appeal. Last day to schedule appeal: \_\_\_\_\_

Employee Signature

Supervisor Signature

12/13/23

Date

If appealed, was it approved:

YES ☐NO ☐

By: \_\_\_\_\_

Name and Date

## NOTICE OF DISCIPLINARY ACTION

In accordance with the Sun Metro Missout Policy, your discipline for this missout violation is

☐ THIS FORMAL COUNSELING, WHICH WILL BE PLACED IN YOUR PERSONNEL FILE

☐ A SUSPENSION OF \_\_\_\_\_ DAY(S) (Formal Notice of Suspension to be issued at a later date)

☐ OTHER \_\_\_\_\_

Additional missouts may be grounds for further disciplinary action

 Director of Mass Transit  
 (Only required for Formal Counseling)

Date

I acknowledge receipt of Director's decision of the above disciplinary or proposed disciplinary action

 Employee Signature  
 (Only required for Formal Counseling)

Date

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.

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)

Make a copy of this form for employee if receiving a Formal Counseling or upon request  
 Updated 11/15/2016







Sun Metro

RECEIVED

MAR 26 2024

CIVIL SERVICE  
COMMISSION

MAYOR  
Dee Margo

TO: Sun Metro Employees  
FROM: Ellen A. Smyth, Managing Director  
DATE: October 26, 2020

RE: Call-in Procedures Modifications for Operations and Maintenance employees

CITY COUNCIL

District 1  
Peter Svarzbein

District 2  
Alexandra Anello

District 3  
Cassandra Hernandez

District 4  
Dr. Sam Morgan

District 5  
Isabel Salcido

District 6  
Claudia L. Rodriguez

District 7  
Henry Rivera

District 8  
Cissy Lizarraga

The following modifications to the Call-in procedures are being made to allow for sufficient time for affected routes and shifts to be covered as a result of Operations and Maintenance employees calling in sick. The changes are NOT related to any specific project and/or specific federal funds. These call-in procedures apply to Transit Operators, Transit Supervisors, Communication Dispatchers and all employees assigned to Maintenance.

Operations:

Currently, Transit Operators must notify dispatch at least one (1) hour prior to the start of their shift if calling in sick. Effective Sunday, November 1, 2020, the notification time will be at least two (2) hours. In addition to Transit Operators, Transit Supervisors and Communication Dispatchers will also be required to notify dispatch at least two (2) hours prior to the start of their shift if calling in sick.

Maintenance:

Currently, Maintenance employees must notify their immediate supervisor at least one (1) hour prior to the start of their shift if calling in sick. Effective Sunday, November 1, 2020, the notification time will be at least two (2) hours. All Maintenance employees will be required to notify their immediate supervisor at least two (2) hours prior to the start of their shift if calling in sick.

CITY MANAGER  
Tommy Gonzalez

Ellen A. Smyth, Managing Director  
10151 Montana Ave. | El Paso, Texas 79925 | (915) 212-3333 | [sunmetro.net](http://sunmetro.net)



DELIVERING EXCEPTIONAL SERVICES

**2.30 LEAVES - PERSONAL DAY (SPD)**

- 2.30.1 Employees are entitled to use 32 hours of their sick leave balance per fiscal year (September 1st through August 31st) for personal business in accordance with Civil Service Commission Rules and Regulations.
- 2.30.2 It should never be assumed that SPD can be taken at any time without advance notice and approval.
- 2.30.3 Employees are required to secure approval to take SPD time in advance from their supervisors.
- 2.30.4 As a general rule, employees should request SPD personal days from their supervisors within a reasonably acceptable advance time frame for the supervisors to make proper judgment.
- 2.30.5 Supervisory personnel may grant an emergency request for SPD on a case-by-case basis.



**2.32 LEAVES - SICK LEAVE INVESTIGATION OF**

- 2.32.1 Sick leave use is monitored in accordance with Civil Service Commission Rules and Regulations and in accordance with *City of El Paso Investigating Sick Leave Abuse and Overuse Policy*, which is incorporated herein by reference.
- 2.32.2 The Department will review the use of sick leave by employees to ensure that proper requirements are met, to review for abusive trends and patterns, and to provide sick leave use information specific to employees to their supervisors for consideration in performance evaluations.
  - 2.32.2.1 Supervisors are also responsible to maintain awareness of individual employee sick leave use trends and patterns, and when appropriate in situations that may involve suspected abuse and overuse of sick leave, they should consult with the Department's Human Resources Division in order to take appropriate action(s).

- 2.32.2 Trends and patterns (excluding protected leave), at a minimum, include the following in a rolling calendar six (6) month period.
  - 2.32.2.1 More than two occurrences of sick leave without current medical documentation the day before/after a scheduled day off
  - 2.32.2.2 More than two occurrences of sick leave without current medical documentation the day before/after a scheduled vacation or SPD day off
  - 2.32.2.3 More than two occurrences of sick leave without current medical documentation taken on the same day(s) of the week
  - 2.32.2.4 More than two occurrences of sick leave without current medical documentation on a pay day or day after
- 2.32.3 The Director may require a physician's certificate for all subsequent absences, or take other appropriate action.

**2.33 LEAVES – SICK LEAVE REQUESTING OF**

- 2.33.1 Employees with inadequate sick leave balances will be coded as Absent Without Leave (AWL) in accordance with *City of El Paso Sick Leave Policy*, which is incorporated herein by reference.
- 2.33.2 If an employee is unable to come to work due to illness or an emergency, the employee must notify their immediate supervisor no later than the first fifteen (15) minutes of their scheduled shift.
- 2.33.2.1 Division managers and supervisors may adjust this standard as operationally necessary.
- 2.33.2.2 Fixed Route customer service personnel must notify their immediate supervisor one (1) hour prior to the commencement of their scheduled shift.
- 2.33.2.3 Maintenance personnel must notify their immediate supervisor one (1) hour prior to the commencement of their scheduled shift
- 2.33.2.3.1 If the employee's supervisor is not available, the employee must contact the Supervisor on duty at 212-3394
- 2.33.2.3.1a If an employee fails to notify his immediate supervisor or designee one (1) hour before his report time, he will be charged with a missout, except for justifiable emergencies.
- 2.33.2.4 Transit Operators must notify dispatch one (1) hour prior to the commencement of their scheduled shift.
- 2.33.2.4.1 If an employee fails to notify the dispatcher one (1) hour before his report time, he will be charged with a missout, except for justifiable emergencies.
- 2.33.2.4.2 When returning to work from sick leave the employee must call no later than 2:00 P.M. the day before the reporting day.
- 2.33.3 Supervisors and managers have reasonable discretion to approve or disapprove requests for sick leave.



- 2.33.3.1 Part of this responsibility is to authorize the use of leave only under proper and appropriate circumstances as identified by City policies.
- 2.33.4 It should not be assumed that calling in sick to supervisors, in accordance with departmental policy, is sufficient to justify approval.
- 2.33.4.1 Requests to be excused shall be made by the employee in person or by telephone.
- 2.33.4.2 Phone messages, e-mail messages, and communicating through a third party are not acceptable notifications of absence.
- 2.33.4.3 Explicit approval must be granted by the supervisor or other approving authority.
- 2.33.5 Employees will be required to request sick leave every day they are out sick, unless a medical certificate is presented with an approximate return to work date.
- 2.33.6 Where applicable, requests should be made using the KRONOS time keeping system.
- 2.33.7 The administrative payroll staff working in the Department are not authorized to approve sick leave for employees - approval of sick leave is required at the supervisory and/or management level.

**2.48 PHYSICIAN'S CERTIFICATES**

- 2.48.1** Employees are required to present a medical certificate describing the nature of the absence for sick leave of three (3) consecutive working days or more.
- 2.48.2** Employees are required to present a medical certificate from the attending health care provider upon return to work verifying that employee's leave is necessary for medical reasons for sick leave taken the *last scheduled working day before, the scheduled working day of, or the first scheduled working day after* a City designated holiday, to include the employee's birthday holiday.
- 2.48.3** Employees absent under sick leave on the *scheduled working days* indicated below will also be required to submit a physician's certificate:
- 2.48.3.1** When an employee has been on vacation or SPD the *scheduled* working day prior to sick leave request.
  - 2.48.3.2** When an employee is scheduled for vacation or SPD the *scheduled* working day after sick leave request.
  - 2.48.3.3** When an employee's request for any type of time off (sick leave, vacation, SPD, etc.) for the same date(s) is denied.
- 2.48.4** The certificate must be submitted no later than the day the employee returns to work from the illness/injury.
- 2.48.5** The following information must be included in the certificate:
- 2.48.5.1** That the employee was medically required to be absent from work and note the time period. A medical appointment alone is not adequate to cover the entire day's absence.
  - 2.48.5.2** Contact information of the doctor's office, clinic, hospital or medical facility.
  - 2.48.5.3** Name of examining or treating physician.
  - 2.48.5.4** Date of visit/examination.

- 2.48.5.5** Anticipated or actual date of release for work
  - 2.48.5.6** Physical or other restrictions, if any
  - 2.48.5.7** Original signature of the physician
- 2.48.6** Original certificate must be submitted (photocopies will not be allowed)
- 2.48.7** Employees are responsible for submitting the certificate to their supervisor.
- 2.48.7.1** Supervisors are responsible for submitting the certificate to the Department's Payroll Division.
- 2.48.8** Employees not submitting appropriate medical documentation will be placed on unauthorized leave without pay and coded "AWL" in payroll records.
- 2.48.9** All parties will maintain confidentiality of all medical information and will not release or disclose any information to parties not authorized to have this information.



**5.3 MISS-OUT POLICY**

- 5.3.1** An Operator's failure to report to the designated location at or before the designated time is defined as a "Missout".
- 5.3.2** It is the operator's responsibility to consider detours and unforeseen delays in order to report in a timely manner.
- 5.3.3** Designated time and location are indicated as follows:
  - 5.3.3.1** Pull Out
    - 5.3.3.1.1** Operators must swipe in and must report to the bus dispatcher at least 18 minutes prior to each scheduled bus pull-out time as assigned, regardless of number of pull-out assignments for that day.
    - 5.3.3.1.2** For example, if scheduled pull-out time is 5:00 a.m., an Operator who reports to the bus dispatcher at 4:42:01 will be charged with a Missout.





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COMMISSION

**§3.32 Relief**

**§3.32.1** Relief Operators must report to the bus dispatcher at least 15 minutes prior to the relief time at the DTC, 45 minutes for relief at Northeast Terminal, 30 minutes for relief at 5-Points Terminal, or 35 minutes to relief at Eastside Terminal.

**§3.32.2** For example, if scheduled relief time is 1:00 p.m. at DTC, a Relief Operator who reports to bus dispatcher at 12:45:01 will be charged with a Missout.

**§3.33 Split Runs**

**§3.33.1** If first run assignment is a pull-out, the operator must report at least 18 minutes prior to bus pull-out time.

**§3.33.2** If the second part of his assignment is to relieve at a relief time point, relief operator does not need to report to bus dispatcher 15 minutes prior to scheduled relief time.

**§3.33.3** A relief Operator who fails to report at scheduled relief time will be charged with a Missout.

**§3.33.4** For example, if scheduled relief time is: 1:00 p.m., a relief Operator who reports at relief point at 1:00:01 will be charged with a Missout.

**§3.34 Extra Board**

**§3.34.1** Operators must report to the bus dispatcher at the designated report time.

**§3.34.2** For example, if report time is 5:00 a.m., an Operator reporting to the bus dispatcher at 5:00:01 or later will be charged with a Missout.

**§3.4 Transit Operators accruing Missouts within a rolling six-month period are subject to disciplinary action as follows:**

**§3.4.1** For the first Missout within a rolling six-month period, the operator will be issued a verbal warning, with a copy of the verbal warning going to his personnel file.

**§3.4.2** For the second Missout within a rolling six-month period, the operator will be issued a formal counseling, with a copy of the formal counseling going to his personnel file.

**§3.4.3** For the third Missout within a rolling six-month period, the operator will be issued a minimum suspension of three (3) days.

**§3.4.4** For the fourth Missout within a rolling six-month period, the operator will be issued a minimum suspension of five (5) days.

**§3.4.5** For the fifth Missout within a rolling six-month period, the operator will be subject to termination.

**§3.5 Operators who repeatedly accrue a second, third or fourth Missout within a rolling three-year period will be subject to increasingly more severe disciplinary action including termination of employment.**

- 5.3.6 Operators may only serve two (2) suspensions of five days or greater within the term of their employment.
- 5.3.6.1 Accrual of a third Missout within a rolling six-month period following a second suspension of five or more days will result in termination of employment.
- 5.3.7 Operators on original or promotional probation who accrue two (2) Missouts within the probationary period will fail their probationary period and be separated in accordance with Civil Service Commission rules.
- 5.3.8 Reporting After Missouts
- 5.3.8.1 Business day is defined as Monday through Friday between 8:00 a.m. to 5:00 p.m.
- 5.3.8.2 In all of the following circumstances, except as otherwise instructed, the following shall apply:
- 5.3.8.2.1 An Operator shall report to the Transit Supervisor/Dispatcher.
- 5.3.8.2.2 An Operator who has accrued a Missout will report in person to the Transit Supervisor/Window Dispatcher within two (2) hours from their report time on the Missout day for further instruction on work assignment, based upon the operational needs of the department.
- 5.3.8.2.3 If an Operator who has a straight run accrues a Missout, he must report (in person or by phone) to Transit Supervisor/Dispatcher within two (2) hours of the originally scheduled reporting time.
- 5.3.8.2.4 If an Operator who has a "split run" assignment accrues a Missout for the first part of his daily assignment, he or she must report to the bus dispatcher 15 minutes prior to the scheduled report time of the second part of his assignment.
- 5.3.8.2.5 If the Missout occurs before regular business working hours, on a weekend or holiday, the Operator who has accrued a Missout will report to the Transit Route Supervisor or Radio Dispatcher on duty within two (2) hours of the report time.
- 5.3.8.2.6 The Transit Route Supervisor or Radio Dispatcher on duty will issue work assignment for the Operator.
- 5.3.8.2.7 An Operator who has accrued a Missout will report to the Transit Route Supervisor on the Missout day or on the 1st business day following the Missout for purposes of signing the required paperwork.
- 5.3.8.2.8 This procedure also applies to Missouts accrued on a Saturday, Sunday, or a City designated Holiday.
- 5.3.8.2.9 Failure to report on the Missout day or your first business day following the Missout will result in the accrual of an additional Missout.

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COMMISSION

- § 3.2.10 If an Operator who accrues a Missout requests sick leave for that day, Operator will call the Radio Dispatcher to place himself on the sick list within (2) two hours from his report time.
- § 3.2.11 If an Operator who accrues a Missout requests any other type of leave:
- § 3.2.11.a Operator will report in person within (2) hours from the report time to the Transit Supervisor to request the appropriate leave.
  - § 3.2.11.b If the Missout occurs before regular business day working hours, on a weekend, or a holiday, the Operator will call Radio Dispatcher to inform him of the type of leave he is requesting and report it to Transit Supervisor/Dispatch or on the 1st business day following the Missout.
  - § 3.2.11.c The only exception is for justifiable emergencies subject to verification and Operator will call or report as soon as practical to Operations Section Head.

§ 3. Missout Appeals

- § 3.1 If the Transit Operator wishes to appeal the Missout, the Transit Operator must report within five business days following the Missout violation to the Assistant Superintendent of Operations' Secretary to schedule a meeting with the Assistant Superintendent or Assistant Director of Operations.





# Sun Metro

**RECEIVED**

MAR 26 2024

CIVIL SERVICE  
COMMISSION**MAYOR**  
Oscar Leaser

Date: January 29, 2024  
To: Patrick Muniz #029893  
From: Anthony Dekeyzer, Director of Mass Transit  
Subject: Grievance Dated January 30, 2024

**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**INTERIM CITY  
MANAGER**  
Cary Westin

The following is a response to the City of El Paso Employee Grievance Form you submitted as "Step Three" to my office on January 30, 2024.

In your grievance you mention a possible violation of Civil Service Commission Rule 6 Section 2-b "Sick Leave Verification", as Robert Dominguez stated in his response to your grievance in step two of this process:

b. Sick Leave Verification No sick leave of three (3) or more consecutive work days will be granted to any person without a certificate verifying that the leave is necessary for medical 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 a certificate must be from a health care provider, and verify that the leave is necessary for medical reasons. (Amended 7/09/85, 2/14/89, 9/17/96, 2/07/06, 1/20/15).

The AWOL you received was because you did not meet Sun Metro's Sick Leave Policy. This policy requires employees to accrue at least 120 hours of sick leave in order to report sick without presenting a physician's certificate excusing them for any days missed due to illness. The policy allows for one instance of taking sick leave without the need for a physician's certificate in a six-month period, if the employee has accrued a minimum of 30 hours of sick leave at the time of the leave.

Please note that when an employee fails to report to work on time or doesn't call work at least 2 hours before their scheduled shift, a Miss-Out document is generated. In addition, call in procedures modifications for Operators and Maintenance employees' policy was provided to you by Robert Dominguez. The Miss-Out form is separate and distinct from any leave requirements for any time missed from work.

Anthony DeKeyzer, LSSBB, TSSP-Bus/Rail Director of Mass Transit  
Sun Metro | 10151 Montana Ave | El Paso, TX 79925  
O: (915) 212-3306 | Email: [DeKeyzerAR@elpasotexas.gov](mailto:DeKeyzerAR@elpasotexas.gov)



DELIVERING EXCEPTIONAL SERVICES



# Sun Metro

**RECEIVED**

MAR 26 2024

**CIVIL SERVICE  
COMMISSION**

**MAYOR**

Oscar Leaser

**CITY COUNCIL**

**District 1**

Brian Kennedy

**District 2**

Dr. Josh Acevedo

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Art Fierro

**District 7**

Henry Rivera

**District 8**

Chris Canales

**INTERIM CITY  
MANAGER**

Cary Westin

As mention in Mr. Dominguez statement, which I verified. You were given a copy of Sun Metro's Sick Leave Policy - Modifications dated October 26, 2020, which outlines the accumulation of 120 sick leave hours and the physician's certificate requirement. You were also provided Administrative Policies and Procedures regarding Sick Leave Use and Investigation of Sick Leave Abuse Policy which states department heads may establish stricter sick leave regulations deemed necessary. During your initial meeting with Assistant Superintendent Augustus Elliott, this information was explained in more detail.

The Civil Service Commission has acknowledged the modified Sun Metro Sick Leave Policy dated October 26, 2020. I also verified you received a copy of Sun Metro's Rules and Regulations policies related to Sick Personal Days (SPD), Leave-Sick Leave Investigation, Physician Certificates, and Miss-Outs for your reference.

After reviewing all the available information, I do not believe a violation of the Civil Service Rule occurred. Therefore, upon review of all the evidence, your grievance is denied.

However, you are welcome to meet with me or any member of Sun metro chain of command to discuss further any other concerns you may have.

**Anthony DeKeyzer, LSSBB, TSSP-Bus/Rail Director of Mass Transit**

Sun Metro | 10151 Montana Ave | El Paso, TX 79925

O: (915) 212-3306 | Email: [DeKeyzerAR@elpasotexas.gov](mailto:DeKeyzerAR@elpasotexas.gov)



DELIVERING EXCEPTIONAL SERVICES



# Department of Human Resources



**MAYOR**  
Oscar Leaser

**TO:** Patrick Muniz, Transit Operator (Kronos #029893)

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

**DATE:** March 11, 2024

**SUBJECT:** Grievance – Sun Metro Department Sick Leave Policy

## 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

**INTERIM CITY  
MANAGER**  
Cary Westin

A review of your grievance has been completed. In accordance with the Civil Service Commission (CSC) Rule 14, we have reviewed the available facts, documents and relevant rules. After reviewing the available information, I do not believe there has been a violation of your rights granted under the City Charter or CSC Rules. However, I would like to take this opportunity to address your concerns.

On January 30, 2024, you filed a grievance within your department citing:

*"I asked why did I need to provide doctors [sic] note if by my understanding of the Civil Service Rule and Regulations, I need to provide doctors [sic] note if I had taken 3 or more consecutive days."*

*"It is unfair to me as, a city employee, that Sun Metro is attempting to force me to accrue and maintain a minimum balance of sick leave before I'm able to use any without a doctors [sic] note."*

You received an AWOL posting on your timecard for your unscheduled sick leave absence on December 18-19, 2023. According to the explanation provided to you by Sun Metro Department, you did not receive AWOLs because you took sick leave for the third day, but rather because you did not meet Sun Metro's Sick Leave Policy dated October 26, 2020. This policy requires employees to accrue at least 120 hours of sick leave in order to report sick without presenting a physician's certificate excusing them for any unscheduled sick leave usage. Additionally, the policy allows for one instance of taking sick leave without the need for a physician's certificate in a six-month period, provided the employee has accrued a minimum of 30 hours of sick leave at the time of the leave.

In your grievance, you stated that your rights were violated under Rule 6, Section 2.b – Sick Leave Verification which states:

Sick Leave Verification - No sick leave of three (3) or more consecutive work days will be granted to any person without a certificate verifying that the leave is necessary for medical reasons. Additionally, no sick leave the last scheduled work day before, the scheduled work day of, or the

**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](mailto:WigginsML@elpasotexas.gov)



DELIVERING EXCEPTIONAL SERVICES





# Department of Human Resources



**MAYOR**  
Oscar Leaser

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. (Amended 7/09/85, 2/14/89, 9/17/96, 2/07/06, 1/20/15)

## CITY COUNCIL

**District 1**  
Brian Kennedy

CSC Rule 11 allows for the Department Head to promulgate rules and regulations according to the operational necessity of the department so long as it does not violate the City Charter or the CSC Rules. Additionally, as detailed by the Employee Handbook under section Leave Time - Sick Leave, department-specific rules and policies relating to sick leave may be more or less stringent based on the operational needs of the department.

**District 2**  
Dr. Josh Acevedo

Your requested remedy is to *"Receive payment for two sick days, and for Sun Metro to follow the City Charter."* You were issued an AWOL Medical Appeal Form on January 2, 2023 which provides you with information on how to appeal an AWOL posting. You must follow the appeal procedures in accordance with the timelines provided and the required medical documentation that needs to be submitted to approve your AWOL appeal. Additionally, this appeal procedure allows employees to submit their appeal to the Human Resources Director within five (5) calendar days of the notification of the denial from the Department Head. The Human Resources Director will make the final decision and employee will be notified within ten (10) calendar days of the receipt of the appeal. The decision of the Human Resources Director is final and there are no other appeals.

**District 3**  
Cassandra Hernandez

**District 4**  
Joe Molinar

**District 5**  
Isabel Salcido

**District 6**  
Art Fierro

**District 7**  
Henry Rivera

**District 8**  
Chris Canales

I concur with Sun Metro Department and find that the department's sick leave policy dated October 26, 2020 does not violate CSC Rules or the City Charter. I further recommend that you exercise your appeal rights in accordance with the AWOL Medical Appeal Form process as described above.

**INTERIM CITY  
MANAGER**  
Cary Westin

Please note – Sun Metro's Sick Leave Policy has been grieved beforehand through the CSC and appeals were heard on December 10, 2020 and February 11, 2021. In both occasions, the CSC took no action as it was determined that the CSC does not have jurisdiction in this matter.

Thank you.

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**STEP THREE**

I am not satisfied with the next level supervisor's response and ask to go on to the Department Head.

Employee's Signature: *PD* Date: 1/29/24 (Give form to Department Head)

Department Head or Designated Manager's Statement: (Required only if not resolved at supervisory level; return completed form to the employee, and copy to Personnel Director)

Grievance: Upheld ☐ Denied ☒ Explain the reason for your decision below:

See Attached

**RECEIVED**

MAR 26 2024

CIVIL SERVICE  
COMMISSION

Department Head's Signature: *Art R. Poff*

Date: 1/30/2024

Employee's Initials (indicating receipt of form): *PD*

Date: 1/31/24

**STEP FOUR**

I am not satisfied with the decision of the Department Head and ask to go on to the Human Resources Director.

Employee's Signature: *PD* Date: 1/31/24 (Give form to HR Director)

Human Resources Director's Recommendation: (Required only if not resolved at department head level; return completed form to the employee, and a copy to department head.)

Please see attached response.

Human Resources Director's Signature: *Mary Wiggins*

Date: 3/12/2024

Employee's Initials (indicating receipt of form): *PD*

Date: 3/13/24

**STEP FIVE**

I am not satisfied with the findings and recommendations of the Human Resources Director and ask to appeal to the Civil Service Commission for final disposition of my grievance. (Give to Secretary of Civil Service Commission)

Employee's signature: *PD*

Date: 3/13/24