



NEW MEXICO JUDICIAL BRANCH

GENERAL PERSONNEL POLICY AND PROCEDURE

Reference NMJBPR Part 1, Section 5.05

NMJBPR Part 2, Section 19.05

Inquiries: AOC HR (505) 827-4937 or 827-4810

Dev: 5/1/07; Rev: 02/13/12

ANNUAL LEAVE DONATION PROGRAM POLICY

This policy applies to both at-will employees and employees. For the purpose of this policy, the term “employee” will apply to both at-will employees and employees.

Accompanying Forms: Request for Annual Leave Donations Form, Donation of Annual Leave Form

1. PURPOSE

To establish guidelines for the request, approval and administration of donated annual leave to eligible employees. The purpose of the leave shall be for a serious health condition affecting the employee, an immediate family member or domestic partner.

The transfer of donated annual leave is strictly a voluntary donation of annual leave from fellow Judicial Branch employees, with the approval of the Administrative Authority.

Any requests for exceptions to this policy shall be made in writing from the Administrative Authority to the AOC Director for approval. (Added 02/13/12)

2. DEFINITIONS

- A. **Administrative Authority** – Individual or designee with the primary responsibility to supervise and coordinate the administration of a Judicial Entity, or as designated by the Chief Judge and approved by the Supreme Court order. (Ref: Administrative Authority, Appointing Authority and At-Will Employee List Policy.) (Added 02/13/12)
- B. **Administrative Compensatory Time** - Time worked by exempt, non-covered and at-will employees in excess of 80 hours in a pay period.
- C. **Administrative Leave** - Paid leave authorized by the Chief Justice or Administrative Authority.
- D. **At-Will Employee** – A person in the Judicial Branch who is FLSA non-covered on the New Mexico Judicial Branch Job Classification and Pay Schedule, excluding a justice or judge. (Ref: Administrative Authority, Appointing Authority and At-Will Employees List Policy) (Added 02/13/12)
- E. **AOC HRD** – Administrative Office of the New Mexico Courts Human Resources Division. (Added 02/13/12)



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- F. Compensatory Time** - Time worked by FLSA non-exempt employees in excess of 40 hours during a designated work week.
- G. Domestic Partner** - A person who is in a mutually exclusive committed relationship with an at-will employee or employee and who both share a primary residence for 12 or more consecutive months and who are jointly responsible for the common welfare of each other and who share financial obligations, as evidenced by an affidavit of domestic partnership executed by the at-will employee or employee and the other person, as required by Executive Order 2003-010.
- H. Employee** - A person who holds a permanent or term position within the Judicial Branch excluding a justice, judge or at-will employee.
- I. Health Care Provider** - Any of the following (Ref: 29CFR 825.800):
- (1) A doctor of medicine or osteopathy, authorized to practice medicine or surgery by the state in which the doctor practices.
 - (2) Podiatrists, dentists, clinical psychologists, optometrists, chiropractors authorized to practice in the state and performing within the scope of their practice under state law.
 - (3) Nurse practitioners, nurse-midwives, clinical social workers authorized to practice in the State and performing within the scope of their practice under State law.
 - (4) Christian Science practitioners listed with the First Church of Christ Science in Boston, Massachusetts.
 - (5) Any health care provider from whom a State of New Mexico contracted health plan will accept a certification for the existence of a serious health condition to substantiate a claim for benefits.
 - (6) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his/her practice as defined under such law.



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- J. Immediate Family Member** – A child for whom the at-will employee or employee has acted as parent, regardless of the blood relation; biological parents or anyone who as acted as a parent when the at-will employee or employee was a child; and husband or wife as defined under the laws of the State of New Mexico. (Added 02/13/12)
- K. Intermittent Leave** - Leave taken at separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from a half hour or more to several weeks.
- L. Serious Health Condition** - An illness, injury, impairment, or physical or mental condition that involves either: (29CFR 825.113) (Definition Amended 00/10)
- (1) Inpatient care (e.g., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care: or
 - (2) Continuing treatment by a health care provider which includes:
 - a. A period of incapacity lasting more than **three (3) consecutive, full calendar days**, and any subsequent treatment or period of incapacity relating to the same condition, that **also** includes:
 1. Treatment two (2) or more times by or under the supervision of a health care provider (e.g., in-person visits, the first within seven (7) days and both within 30-days of the first day of incapacity) or
 2. one (1) treatment by a health care provider (e.g., an in-person visit within seven (7) days of the first day in incapacity) with a continuing regimen of treatment (e.g., prescription medication, physical therapy); or
 - b. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
 - c. Any period of incapacity or treatment for a chronic serious health condition, which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care



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provider is not necessary for each absence (e.g., asthma, diabetes, epilepsy, etc.); or

- d. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment (e.g., Alzheimer's, stroke, terminal diseases, etc.); or
- e. Any absences to receive multiple treatments for restorative surgery or for a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

3. ELIGIBILITY

Employees receiving workers' compensation benefits are not eligible. (Changed 02/13/12)

- A. To be eligible for annual leave donations Family Medical Leave (FML) requirements must be met. (Ref: FML Policy) (Added 02/13/12)
- B. Recipients of annual leave donations must have exhausted all annual, sick, administrative leave, compensatory time, administrative compensatory time and personal leave day before any annual leave donations will be used.
- C. Requests may be approved prior to exhaustion of all leave.

4. PROCESS FOR APPROVAL OF ANNUAL LEAVE DONATIONS

- A. The Administrative Authority shall have the discretion to grant or deny the request. (Added 02/13/12)
- B. The employee has the obligation to provide the Administrative Authority with all information required to evaluate the request. This shall include:
 - (1) a completed Request for Annual Leave Donations Form; and
 - (2) a completed Certificate of Healthcare Provider (*WH380E, WH380F, WH384, WH385 used for FML, if not attached or on file*).



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- C. The Administrative Authority may send an employee to a health care provider of the judicial entity's choice and at the judicial entity's expense for a second opinion. The employee shall be on administrative leave with pay during the examination and for a reasonable period of transportation time to and from the examination. The Administrative Authority shall provide the employee with a copy of any examination reports.
- D. If the request is granted the Administrative Authority shall authorize requests for solicitation of leave donations within the Judicial Entity or Judicial Branch wide. If solicitation is judicial entity wide then the HR representative or designee will prepare and send out the notification. If approval for solicitation is Judicial Branch wide, the request will be forwarded to AOC HR for processing.
- E. Upon final Administrative Authority approval, all associated documentation shall be forwarded to the appropriate judicial entity's human resources representative or designee who shall, at a minimum:
- (1) notify employees of the request for donated leave within the judicial entity or Judicial Branch wide and attach a Donation of Annual Leave Form for contributors to complete and submit to the HR department;
 - (2) maintain donation forms in the donating employee's personnel file; and
 - (3) track use of donated annual leave at least bi-weekly and communicate to the recipient the remaining balance at least monthly.
 - (4) If an annual leave donation is not transferred, the donor shall be notified.
- F. Donation requests shall be handled as follows:
- (1) An eligible employee may receive the amount needed and not more than 160 donated hours per request. Requests are limited to a total of three (3) during a 12-month period. (Changed 02/13/12)
 - (2) Donation requests from part-time employees shall be prorated.
 - (3) Subsequent requests shall follow the same request procedures as outlined above.



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- G. Annual leave donations shall transfer on a dollar-for-dollar basis to the recipient's sick leave balance. (Example: Employee "A" who earns \$20.00 per hour donates 3 hours leave to employee "B" who earns \$15.00 per hour. From Employee "A", Employee "B" receives 4 hours of donated leave. [$\$20.00 \times 3 \text{ hours} = \60.00 . $\$60.00/\$15.00 = 4 \text{ hours}$]).

5. USE OF LEAVE

- A. Donations of annual leave may be used consecutively or intermittently.
- B. The use of donated leave hours shall not exceed the employee's regularly scheduled work hours per pay period.
- C. Annual leave donations can only be used after all other leave has been completely exhausted and only for the purpose for which the leave was donated (full time or intermittent FML). (Added 02/13/12)
- D. All donated leave not used within 6 months (full time or intermittent FML) shall be reverted to the donor on a prorated basis. (Added 02/13/12)

6. CESSATION OF SERIOUS HEALTH CONDITION

The employee shall immediately notify the HR representative or designee when the serious health condition requiring leave ends.

- A. Any un-used leave shall be returned to the donors within the next pay period on a prorated basis depending on the dollar value of hours donated and the total value of donated leave. (Example: Employee "R" donates \$100.00 worth of leave to Employee "Q". Employee "Q" receives a total of \$500.00 worth of donated leave. ($\$100/\$500 \times 100 = 20\%$) Employee "Q" returns to work, \$75.00 worth of unused leave remains. Employee "R" will have 20% of the remaining \$75.00 returned. ($\$75.00 \times 20\% = \15.00))

Effective:



Arthur W. Pepin, Director
Administrative Office of the Courts



Date



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**REQUEST FOR ANNUAL LEAVE
DONATIONS FORM**

To be eligible for annual leave donations Family Medical Leave (FML) requirements must be met. If complete FML paperwork is already on file no additional information need be submitted with this request. An eligible employee may receive the amount needed and not more than 160 donated hours per request. Requests are limited to a total of three (3) during a 12-month period.

Employee Name: _____ **Date** _____

Judicial Entity: _____ **Title:** _____

Leave is for a serious health condition for (check one):

Self _____ **Domestic Partner** _____ **Immediate Family Member** _____

Date FML Leave is to Begin: _____ **Requested # of Hours Needed** _____

Please explain the condition and/or situation necessitating this request of donated leave:

Employee Signature: _____ **Date:** _____

The information submitted on this form is true and accurate.

For Administrative Use Only

Request # _____
Hours of Donations Previously Received:

Certification of Leave Balances

Balances Pay Period
Ending: _____

Sick Leave: _____
Annual Leave: _____
Compensatory Time: _____
Personal Leave Day: _____
Administrative Leave Time: _____

As Administrative Authority, I have reviewed this request for donated leave.

_____ Yes, I approve this request. _____ No, I disapprove this request.

Administrative Authority Signature:

Date _____

Leave Donations Solicited: _____ **Judicial Entity Wide:** _____ **Judicial Branch Wide (Forward to AOC HR)** _____

cc: Employee Personnel File



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DONATION OF ANNUAL LEAVE FORM

To the extent possible this shall remain anonymous.

Donor Name:	Donor Employee ID #:
Donor's Judicial Entity:	
Hours of Annual Leave Donated:	Donor's Hourly Rate of Pay:
Recipient's Name:	Recipient's Judicial Entity:
I hereby authorize the donation of annual leave, effective this date, pursuant to the New Mexico Judicial Branch Personnel Rules and the New Mexico Judicial Branch Personnel Rules for At-Will Employees.	
Donor's Signature: _____ Date: _____	
For Administrative Use Only	
Donor's Leave Balance	Before Donation: _____ After Donation: _____
Pay period ending in which leave donation is applied to recipient's sick leave balance: _____	
$\frac{\text{Donor's hourly rate of pay}}{\text{# of hours donated}} \times \frac{\text{Value of donated leave}}{\text{Recipient's hourly rate of pay}} = \frac{\text{# of hours Donated.}}{\text{# of hours Donated.}}$	
RETURN OF DONATED LEAVE	
$\frac{\text{\$Value of Donor's Leave}}{\text{\$Value of all Donated Leave}} \times 100 = \text{\% of Donor's Leave.}$	
$\frac{\text{\$Value of Unused Leave}}{\text{\% of Donor's Leave}} \times \frac{\text{\$Value of Leave to return to Donor}}{\text{Donor's Rate of Pay}} = \text{\# of Hours of Leave to return to Donor.}$	

cc: Donor's Personnel File