

# NEW MEXICO JUDICIAL BRANCH

## GENERAL PERSONNEL POLICY AND PROCEDURE

Reference NMJBPR Part I, Sections 5.02, 5.08, 5.12 & 9.06  
NMJBPR Part II, Sections 19.02, 19.08 & 19.12

### LEAVE POLICY

#### ADMINISTRATIVE, EDUCATIONAL & LEAVE WITHOUT PAY

Accompanying Forms: Request for Leave Without Pay, Application for Educational Leave

*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.*

#### 1. PURPOSE

The purpose is to establish a uniform process for requesting and granting administrative leave, educational leave and leave without pay to Judicial Branch employees.

For additional types of leave and specific rules see applicable New Mexico Judicial Branch Personnel Rules Part I & II .

#### 2. DEFINITIONS

- A. **Absence Without Leave (AWOL)** - An unauthorized absence from the job which shall result in unpaid leave.
- B. **Administrative Leave** - Paid leave authorized by the Chief Justice or Administrative Authority.
- C. **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.
- D. **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 employee and the domestic partner as required by Executive Order 2008-010.
- E. **Employee** - A person who holds a permanent or term position within the Judicial Branch, excluding a justice, judge or at-will employee.

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- F. Family Member** - Relation by blood or marriage within the third degree, who is a spouse, parent, mother-in-law, father-in-law, stepparent, child, son-in-law, daughter-in-law, stepchild, brother, stepbrother, brother-in-law, sister, stepsister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great grandchild and great grandparent.
- G. Full-time** - An aggregate of 80 hours per pay period.
- H. Leave Without Pay (LWOP)** - An authorized unpaid absence from the job.
- I. Part-Time** - Less than 80 hours per pay period.,
- J. Permanent Employee** - An employee who occupies a permanent position and has completed the assigned probationary period within the Judicial Branch excluding a justice, judge, term or at-will employee.
- K. Probationary Employee** - An employee who has not completed the probationary period.
- L. Temporary Employee** - An at-will employee who occupies a temporary position without designated funding, that is generally for less than one (1) year.
- M. Term Employee** - An employee who occupies a term position that is funded by special funds.

### **3 ADMINISTRATIVE LEAVE (NMJBPR Part I, Section 5.02; Part II, Section 19.02)**

- A.** Administrative leave granted by the Chief Justice applies equally to at-will, term, permanent and temporary employees.
- B.** No Judicial Branch Employee or Judge (i.e., Magistrate, District or Metropolitan Judge, Justice or Administrative Authority) may authorize administrative leave to supplement holiday leave or administrative leave granted by the Chief Justice.

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#### 4. EDUCATIONAL LEAVE (Ref: NMJBPR Part I, Section 5.08; Part II, Section 19.08)

##### A. Eligibility

- (1) Full-time permanent and term employees who have completed the one (1) year probationary period and at-will employees who have completed one year of service are eligible for educational leave.
- (2) Part-time employees who have completed one (1) year of service shall be eligible for educational leave on a prorated basis. Review of a part-time employees opportunities for requested education during non-scheduled work hours should be requested.
- (3) Temporary and probationary employees are not eligible.

##### B. Leave

An eligible employee may be approved to receive up to four (4) hours per week of educational leave or not to exceed a total of 16 hours in a 30 day period for academic classes that are taken for credit and for which a grade is received, offered by an accredited institution.

##### C. Request

Educational leave may only be used for class attendance and regular travel to and from class. Educational leave is not to be used as study time, or to make up a missed lunch should class be scheduled during an employee's normal lunch hour.

- (1) A request for educational leave must be pre-approved by the employee's supervisor and the Administrative Authority. Requests shall be submitted on the Application for Educational Leave form.
- (2) Educational leave maybe disapproved if the workload is anticipated to be particularly high, when approval will cause a scheduling hardship, if the class is not relevant to the employee's job or career plan, if the supervisor has concerns about the employee's performance, budgetary limitations, or if there were other reasons that would justify denial. In the event that educational leave is denied, the supervisor must inform the employee in writing, detailing the reasons for not approving the leave. A copy must be forwarded to the Administrative Authority.

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#### 5. LEAVE WITHOUT PAY (LWOP) (Ref: NMJBPR Part I, Section 5.12; Part II, Section 19.12)

##### A. Eligibility

Any judicial branch employee may request leave without pay. The Administrative Authority shall approve or deny the initial request or any extension request based on an evaluation of the employee's compliance with proper procedures and work place needs at the time of the request and other relevant circumstances.

##### B. Request for LWOP

Any request for LWOP or extension shall be submitted on the LWOP Request Form and, unless there is an emergency, must be approved before any leave is taken.

##### C. Returning to Work from LWOP

- (1) An employee who fails to report to work upon expiration of approved LWOP is considered absent without leave and may be subject to disciplinary action up to and including dismissal.
- (2) An employee who returns to work from LWOP taken for health reasons shall be required to provide documentation by a health care provider of:
  - a. the employee's ability to perform essential functions of the employee's position upon return to work;
  - b. any restrictions on the employee's ability to perform the essential functions of the employee's position upon return to work.

##### D. Effects of Leave Without Pay

- (1) Any LWOP in excess of 30 consecutive calendar days shall not be credited toward the probationary period unless the leave was granted for active military duty or designated as Family Medical Leave (FML).
- (2) An employee on LWOP is responsible for any required payment of the employee's and employer's share of health insurance premiums if the employee wants coverage.

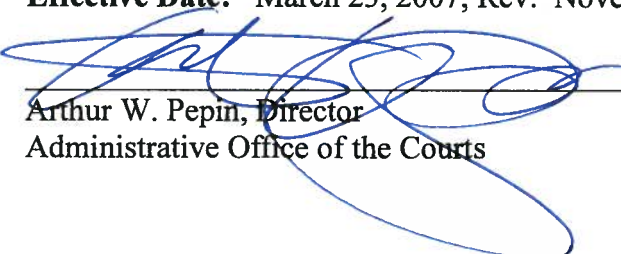
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- (3) For information regarding the effect of LWOP upon Public Employees Retirement Association (PERA) service time, contact PERA.
- (4) An employee who is on approved LWOP shall not receive any pay increase during the employee's absence unless the employee is on FML or military leave or as otherwise provided.

**Effective Date:** March 23, 2007; Rev: November 12, 2010

  
\_\_\_\_\_  
Arthur W. Pepin, Director  
Administrative Office of the Courts

12/2/10  
\_\_\_\_\_  
Date

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**REQUEST FOR LEAVE WITHOUT PAY FORM**

*The request for this leave must be submitted to the employee's immediate supervisor and is subject to the approval of the Administrative Authority.*

Employee Name: \_\_\_\_\_ Telephone # \_\_\_\_\_  
(Please print)

Judicial Entity: \_\_\_\_\_

Start Date of Leave Without Pay: \_\_\_\_\_

Number of Hours/Days of Leave Without Pay: \_\_\_\_\_

Anticipated Return Date from Leave Without Pay: \_\_\_\_\_

Reason(s) for Leave Without Pay request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If this is a Request for an Extension of Leave Without Pay, state the reason why an extension is needed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*If this request is pursuant to Family Medical Leave Act (FMLA), use the FMLA Application form for your request.*

- I recommend approval of the requested leave without pay.
- I do not recommend approval of the requested leave without pay.  
(The reasons for denial are listed on the back of this form.)

\_\_\_\_\_  
Supervisor Signature Date \_\_\_\_\_

- I approve the requested leave without pay.
- I do not approval the requested leave without pay.

\_\_\_\_\_  
Administrative Authority Signature Date \_\_\_\_\_

Cc: Employee Personnel File

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**APPLICATION FOR EDUCATIONAL LEAVE FORM**

**The request for this leave must be submitted to the employee's immediate supervisor and is subject to the approval of the Administrative Authority.**

Employee Name: *(Please print)* \_\_\_\_\_

Job Title: \_\_\_\_\_ Hire Date: \_\_\_\_\_

Telephone: \_\_\_\_\_ Judicial Entity: \_\_\_\_\_

Employment Status: Full-time  Part-time  Scheduled Work Hours: \_\_\_\_\_

Institution to Attend \_\_\_\_\_ Class Title : \_\_\_\_\_

Description of Class: \_\_\_\_\_

*(Additional information may be attached on a separate sheet of paper.)*

**I request educational leave for the above mentioned class for the period beginning**

\_\_\_\_\_ and ending on \_\_\_\_\_  
*(Month, Day, Year)* *(Month, Day, Year)*

on \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_  
*(Day(s))* *(Beginning Time)*

\_\_\_\_\_ **I anticipate travel time to be** \_\_\_\_\_  
*(Ending Time)* *(Day(s))*

from \_\_\_\_\_ to \_\_\_\_\_  
*(Beginning Time)* *(Ending Time)*

- I recommend approval of the requested education leave.
- I do not recommend approval of the requested education leave.  
(The reasons for denial are listed on the back of this form.)

\_\_\_\_\_  
Supervisor Signature

\_\_\_\_\_  
Date

- I recommend approval of the requested education leave.
- I do not recommend approval of the requested education leave

\_\_\_\_\_  
Administrative Authority Signature

\_\_\_\_\_  
Date

Cc: Employee Personnel File

