

**SERIES:** Human Resources (SRCA 400)

**NUMBER:** SRCA-408

**TITLE:** Employee Absence and Leave

**PURPOSE:** The purpose of this policy is to provide guidance to agency employees in requesting, granting, and donating leave.

**SCOPE:** This policy applies to all SRCA employees.

**DEFINITIONS:**

**"Absence with leave"** means unpaid and unauthorized leave.

**"Administrative leave"** means time off approved by the State Records Administrator (SRA) or as otherwise provided in this policy.

**"Bereavement leave"** means administrative leave approved by the SRA upon the death of a family member of an employee.

**"Comp-time"** means compensatory time or compensation in the form of leave to be taken at a later date in lieu of payment for overtime worked.

**"Family and Medical Leave (FMLA)"** means leave that is prescribed in the federal Family and Medical Leave Act of 1993 and further addressed in state personnel rules and agency policies, which shall be comprised of annual leave, comp-time, sick leave, or leave without pay or any combination of annual, sick, comp-time leave, and leave without pay.

**"Family member"** means an individual who is the spouse or domestic partner of or is by blood, marriage, or legal adoption a parent, grandparent, great-grandparent, child, foster-child, grandchild, great-grandchild, brother, sister, niece, nephew, aunt, or uncle or is living in the household of an employee.

**"Flex time"** means an alternate, 40-hour-week schedule other than the normal 9 a.m. to 5 p.m. Monday through Friday schedule.

**"Jury duty"** means summons for qualifications for or service as a member of a petit jury or grand jury in either state or federal court.

**"Leave"** means any authorized absence from work activities granted to an employee for specific purposes as set forth in the State Personnel Board Rules.

**"Leave without pay"** means authorized uncompensated leave.

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**"Medical emergency"** means an unexpected, sudden and severe injury or illness that results in the employee requiring a level of care and treatment by a medical provider that is extended and more complex than routine care or treatment. For the purpose of this policy, a statement from the attending physician is required describing the nature, severity, and expected duration of the emergency involved and stating the employee is unable to work.

**"Physical fitness time"** means approved administrative leave for physical fitness activities (see SRCA 412).

**"Sick leave"** means leave accrued by employees of the state of New Mexico as outlined in 1.7.7.10 NMAC and used for illness or medical treatment of the employee or a family member as set forth in this policy, or to attend the funeral of an individual as described in this definition.

**A. GENERAL PROVISIONS:** Employees are expected to provide a full day's work for a full day's pay. As a benefit of state employment, employees earn (accrue) leave to be taken at a later date. Employees shall accrue annual and sick leave in accordance with State Personnel Board Rules 1.7.7 NMAC. Likewise, leave may only be used in accordance with State Personnel Board Rules 1.7.7 NMAC and this policy.

Leave requests are to be submitted to and approved or disapproved by the immediate supervisor. If the immediate supervisor is not available, leave requests will be approved or disapproved by the appropriate Division Director, and, in some circumstances, the SRA or designee. All leave taken by an employee must be documented in a timely fashion and requested at least 24 hours in advance. Exceptions will be considered only for special circumstances for which advance notice could not be reasonably provided. Sick leave and annual leave may not be used before it is accrued and must be authorized or denied according to SRCA policy.

**B. ANNUAL LEAVE:** Employees must submit a written request for leave to their immediate supervisor to receive advance authorization. Supervisors must balance business operations with an employee request. Reasonable efforts will be made to accommodate the employee's request, however, supervisors may deny requests that would disrupt the delivery of services. Approval of leave requests shall not be unreasonably withheld. A supervisor may approve the use of annual leave in lieu of sick leave and employees may be required, at the discretion of the Division Director, to use annual leave when reporting to work or returning from break period past the allotted time.

**C. LEAVE DONATIONS:** Employees may donate leave to another employee in the same agency for a medical emergency with the approval of the SRA and pursuant to 1.7.7.9 NMAC.

**D. SICK LEAVE:** Sick leave may be used for personal medical treatment or illness or medical treatment or illness of a family member. Employees affected by pregnancy, childbirth, and related medical conditions shall be treated the same as persons affected by other medical conditions. Sick leave may also be used to attend the funeral of a family member.

Employees must request sick leave as soon as practical and must communicate with their immediate supervisor to request sick leave as soon as possible but no later than 30 minutes after the scheduled beginning of their workday. If the supervisor is unavailable or does not respond, the employee must communicate with the Division Director, the Deputy State Records Administrator, or the SRA in that order. A leave form documenting time taken shall be completed within 8 hours of returning to work. If an employee is able to plan this type of leave for doctors' appointments, elective surgery, and so forth, they shall request the leave as soon as possible to allow the division to plan for appropriate coverage of work. In the event an employee is incapacitated, a family member may call in on behalf of the employee.

In the event of extended sick leave of 3 days, a supervisor must contact the Human Resources Manager for possible eligibility and use of FMLA leave. All requests for use of long-term (40 hours or more) sick leave will be evaluated to determine if the request qualifies as FMLA leave. In cases of insufficient sick leave, supervisors may approve the

use of annual leave, comp-time, or personal leave. All requests for leave without pay, with the exception of FMLA leave, must be approved by the Division Director and the SRA.

An employee may be required to provide medical documentation or certification to return to work after medical leave. If there is a pattern of abuse of leave or reason to believe that the employee is abusing sick leave, supervisors are to consult with the Human Resources Manager to determine the proper protocol based on the individual situation. Examples of patterns of abuse giving reason to believe an employee is abusing sick leave include, but are not limited to the following:

1. Calling in or requesting sick leave on certain days of the week;
2. Calling in or requesting sick leave prior to or following scheduled days off;
3. Calling in or requesting leave for several days at a time; and
4. A request for another type of leave of has been denied, and the employee calls in sick for the period.

Payment for accumulated sick leave may be made in accordance with State Personnel Board Rules 1.7.7,10 NMAC.

**E. BEREAVEMENT LEAVE:** The State Records Administrator may grant up to 24 hours of bereavement leave to an SRCA employee upon the death of a family member, regardless of other leave balances or other leave requested. This type of leave shall not be accrued for use at a later date.

**F. LEAVE WITHOUT PAY:** All requests for leave without pay (LWOP) shall be considered in accordance with 1.7.7.11 NMAC and must be approved by the SRA. LWOP may affect an employee's benefits (please refer to 1.7.7 NMAC, Absence and Leave). If LWOP is not approved, leave may be charged to absence without leave.

**G. FAMILY AND MEDICAL LEAVE:** All requests for FMLA leave shall be processed in accordance with 1.7.7.12 NMAC, the Family and Medical Leave Act, and regulations adopted pursuant to the act.

**H. ABSENCE WITHOU LEAVE:** Employees who fail to appear for work without authorized leave or who appear for work but are in violation of agency policy governing their readiness for work shall be considered to be absent without leave. Employees shall not be paid for any period of absence without leave and shall not accrue annual or sick leave and may be subject to disciplinary action up to and including termination.

**I. ADMINISTRATIVE:** The SRA may authorize employees' leave with pay for up to five consecutive work days when it is in the best interests of the agency to do so and pursuant to 1.7.7.14 NMAC. Employees who are members of a state board or commission may be entitled to leave with pay to attend meetings or transact business of the board or commission.

Employees who are registered voters may absent themselves from work for 2 hours for the purpose of voting between the time of the opening and the time of the closing of the polls. The employee's supervisor may specify the hours during the day during the period in which the voter may be absent. This leave is not available to employees whose work day begins more than 2 hours after the time of the opening of the polls or ends more than 3 hours prior to the time of the closing of the polls. This leave shall be available only when an election in which the employee is eligible to vote is being conducted. Voting time shall only be used for voting purposes; employees using this time for other purposes shall be disciplined.

Employees shall be entitled to administrative leave when appearing during regularly scheduled work hours in obedience to subpoena as a witness before a grand jury or court or before a federal or state agency. Fees received as a witness, excluding reimbursement for travel, shall be remitted to the SRCA. Employees shall be entitled to leave with pay for serving on a grand or petit jury during regularly scheduled work hours. Fees received as a juror, excluding reimbursement for travel, shall be remitted to the SRCA.

**J. MILITARY LEAVE:** Employees may request military leave according to 1.7.7.16 NMAC, Military Leave.

**K. PERSONAL LEAVE DAY:** An employee may request their personal leave day in accordance with 1.7.7.17 NMAC, Personal Leave. The Division Director shall determine whether the request can be approved at the time requested, but shall not cause the loss of this type of leave, unless the employee fails to request it prior to the beginning of the last pay period beginning in December.

**L. COMP-TIME:** Use of comp-time earned, shall be requested in the same manner as annual leave. Unless the SRA grants an exception, comp-time shall be used before annual leave.

**M. CONFERENCES AND WORKSHOPS:** Leave to attend conferences and workshops, including all state-sponsored classes, shall be documented as field travel, and no leave is necessary.

**N. INTERVIEWS:** Employees may be granted administrative leave to interview for positions within the agency, but such leave must be requested at the time the interview is scheduled. Employees may use annual leave or comp-time to interview for positions outside the agency.

[1.1.70.001 Leave, 4/29/1996 and 1.1.70.002, Bereavement Leave, 6/12/1996; renumbered and amended, 3/11/2002; amended 05/02/2003, renumbered and amended 3/7/2014; amended, 2/1/2020 ]

**APPROVED:**

**EFFECTIVE:**



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State Records Administrator

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