

40-7 Leave

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1. **Purpose.** The purpose of these policies and procedures is to set forth the manner in which the various types of leave from work time are granted to all employees, including faculty and non-faculty staff, of the Eastern New Mexico University System (the System). Each campus and its varying constituency groups should review their applicable handbook.

2. **Policy.** The general leave policy of the System is as follows:
 - A. The System recognizes the value to the System and to its employees of providing paid annual leave, which provides the employee an opportunity to relax for an extended period and to return to the job with renewed interest and vitality. The System encourages employees to take annual leave each year, with at least one (1) annual leave period of one (1) week in duration. Eligible employees accrue, use and are paid for annual leave according to the provisions of this policy.

 - B. The System observes specific holidays each year, and most offices are closed during these holidays.

 - C. The System recognizes that employees and members of an employee's immediate family will get sick or injured, and that a reasonable period of time off with pay should be granted to employees during such periods. Paid sick leave is a benefit provided by the System to enable employees to continue on paid status during an illness or disability.

 - D. The System also provides leave with pay for emergency closure, death in the family/bereavement, voting, jury/court duty and administrative leave.

 - E. The System complies with the federal Family and Medical Leave Act (FMLA), and complies with the federal Uniformed Services Employment and Reemployment Rights Act (USERRA).

The foregoing general policy statements are implemented by the following.

Procedures

3. **Administration.** These policies and procedures shall be administered by the ENMU System director of Human Resources (SDHR) with oversight by the ENMU System chief financial officer (CFO).

4. **Annual Leave.** Annual leave is awarded only pursuant to the following procedures:
 - A. **Eligibility.** Regular full-time and part time employees who work twenty (20) hours or more per week are eligible to receive paid annual leave. Faculty on twelve (12)-month contracts are eligible to receive paid annual leave. Faculty on nine (9)-month contracts are not eligible for paid annual leave. Temporary and occasional employees, which includes adjunct/resource faculty, are **not** eligible for annual leave. Regular part-time employees working fewer than twenty (20) hours per week are **not** eligible for annual leave. Athletic coaches are not eligible for annual leave.

- B. How Accrued. Eligible employees accrue annual leave during the first two pay periods of each month. Annual leave is not accrued during an unpaid leave of absence. To accrue annual leave, employees must work a minimum number of hours in accordance with schedule below. Paid time off counts as time worked for the purpose of accruing leave.

Annual Leave - Minimum Accrual Hours	
Type of Employee	Minimum Hours Worked/Pay Period
Full-time	40
3/4-time	30
1/2-time	20

- C. Annual Leave Accrual. Eligible employees accrue annual leave twice per month at an hourly rate, not to exceed the accrual rates defined below. Some employees may accrue leave according to their specific FTE if not defined in the table below.

Annual Leave Accrual		Years of Service	Hours per Month	Hours per Year	Maximum Accrual
Nonexempt (Support)	Full Time (40 hours per week)	0-1	7.00	84	240
		1-2	10.00	120	
		2-3	14.66	176	
	¾ Time (30-39 hours per week)	0-1	5.00	60	180
		1-2	7.50	90	
		2-3	10.50	126	
	½ Time (20-29 hours per week)	0-1	3.50	42	120
		1-2	5.00	60	
		2-3	7.33	88	
Exempt (Professional and At Will)	Full Time	N/A	14.66	176	352
	¾ Time	N/A	11.00	132	264
	½ Time	N/A	7.33	88	176

- D. Use of Annual Leave. While annual leave is normally scheduled according to the employee's wishes, the System reserves the right to schedule an employee's annual leave in accordance with the needs of the campus.

- (1) Advance Approval Required. Employees must request and receive approval of annual leave in advance from their immediate supervisor. Failure to request and receive approval in advance may result in unauthorized leave without pay and may subject the employee to disciplinary action.
- a. It is recognized that in certain emergency situations an employee may not be able to request leave in advance, and the supervisor should give such a request fair and reasonable consideration.
 - b. Supervisors cannot approve an annual leave request exceeding the employee's actual accrual.
 - c. If an employee requests leave for a future date in anticipation of accruing the required leave, any approvals given are contingent on the employee having accrued the necessary leave before taking leave.

- (2) **Monitoring.** Supervisors are expected to monitor employee leave balances.
- a. Supervisors should encourage employees paid through grants or other external funding to use annual leave accruals during the grant period.
 - b. Supervisors need to ensure that professional leave reports are being submitted and approved in a timely manner according to the leave report schedule for the applicable campus.
 - c. When an employee transfers to another department, leave balances shall also transfer. An employee shall not be required to use annual leave prior to such a transfer.
- (3) **Separation from the University System.** An employee who has announced an intention to terminate may not take vacation which would have the effect of extending the termination date beyond the last day actually worked.

E. **Payment for Annual Leave.** An employee taking annual leave is paid at his or her regular pay rate, and the amount of annual leave used is deducted from the employee's accrued annual leave balance.

(1) **Holidays.** When the time an employee is on leave includes a paid holiday, the holiday hours are not charged as annual leave.

(2) **Shift Workers.** Employees who are assigned to shift work are paid for annual leave at their normal pay rate (base pay plus shift differential).

F. **Unused Annual Leave.** Employees separating from the System, whether voluntarily or involuntarily, shall be paid for any unused accrued annual leave up to 240 hours. Employees changing their job classification or full-time and part-time status from a position that accrues annual leave to a position that does not accrue annual leave shall be paid out when their job classification changes.

G. **Externally Funded Employees.** Employees paid through externally funded grants/contracts with the System who are terminating their employment must either: (1) take their accrued annual leave during the contract period in which they are terminating their employment, or (2) terminate in sufficient time prior to the end of the contract period so that payment of unused annual leave accruals will not exceed the total monies provided in the contract. An employee who refuses to comply with the provisions of this paragraph will forfeit his or her right to receive payment for his or her unused annual leave upon termination of employment.

5. Holidays. This section describes which holidays are observed, which staff employees are eligible for holiday pay, calculation of holiday pay and compensation to staff employees who must work on a holiday. Faculty on regular or summer contracts will observe the System-approved holidays established by the annual calendar. Although the System does not grant holiday pay for religious holidays other than Christmas, the administration will attempt to accommodate those employees who request time off to observe a religious holiday. In such cases, employees normally will be required to take annual leave or leave without pay.

A. **Holidays Observed.** The following holidays are observed by employees of the System: the workday preceding New Year's Day, New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day preceding and

the day following Thanksgiving Day, Christmas Eve Day and Christmas Day. The specific days observed as the holiday period are announced each year by the chancellor and/or branch community college president. The System reserves the right to adjust the actual observance of all holidays.

- (1) **Holidays Falling on a Weekend.** When a holiday falls on a Saturday, the holiday shall be observed on the preceding Friday. When a holiday falls on a Sunday, the holiday shall be observed on the following Monday.
- (2) **Shift Assignment.** For employees working a shift assignment during which midnight falls, the observed holiday begins with the starting time of the employee's regular shift on the calendar day observed as the holiday.
- (3) **Holiday Observed on Employee's Day Off.** When a holiday falls on an employee's regular day off, the holiday is normally granted on the work day immediately preceding or following the employee's regular day off. The holiday may be granted, by mutual agreement between the employee and his or her supervisor, at another time within thirty (30) days.
- (4) **Any employee who requires a particular day off in connection with a religious observance or holiday should notify his or her supervisor well before the desired day off. In such cases, the notice must explicitly state the date of the particular day being requested and that the request is for religious purposes. The employee must use annual leave or, if not annual leave is available, leave without pay.**

B. Employee Eligibility for Holiday Pay. Unless otherwise stated in a particular employee's appointment letter or contract of employment, the following employees are eligible to receive paid holidays: (i) Leave eligible regular support employees. Temporary support employees working 30 or more hours per week, when the holiday falls on a regularly scheduled workday; and (ii) professional employees (both regular and temporary); and (iii) at-will employees, unless classified as support (non-exempt) working less than 30 hours per week; and (iv) Faculty on regular or summer contracts. Occasional employees, adjunct/resource faculty, and temporary support employees working less than 30 hours per week are not eligible for holiday pay.

- (1) Employees either must work or be on paid leave on scheduled work days before and after the holiday in order to be eligible for holiday pay.
- (2) Employees whose retirement date is on a holiday do not have to work or be on leave the day after the holiday in order to receive holiday pay.

C Employees Required to Work on a Holiday. Organizations or departments such as but not limited to law enforcement or security, libraries and plant maintenance, due to the nature of their operation, may regularly require employees to work on holidays.

- (1) Each employee affected shall be advised that this alternate holiday schedule is a condition of employment. However, to meet operational needs, an employee may be required to work a holiday without such notice and approval. In these situations, supervisors shall give employees as much notice as is reasonably practical under the circumstances.

- (2) Supervisors shall assign employees to work holidays in a fair and reasonable manner, taking into consideration the needs of the unit or department and the abilities and availability of employees.
 - (3) An employee who refuses to work a holiday may be subject to disciplinary action.
 - (4) Non-exempt employees who are required to work on a holiday shall be paid for the hours worked at a premium rate of two (2) times their regular rate.
 - (5) Exempt employees, including faculty, professional staff and other employees paid on a salary basis, are not entitled to receive any special pay, other than the employee's usual salary, for work on a holiday.
- C. Overtime. For the purpose of computing overtime compensation for over forty (40) hours per week, a paid holiday shall be considered time worked (this is not typical).
 - D. Employees Ineligible for Holiday Pay. Temporary, occasional and part-time employees working fewer than twenty (20) hours per week are not eligible to receive holiday pay.
 - F. Leave without Pay. Employees on leave without pay shall not be paid for holidays falling during the period of leave without pay.
- 6. Paid Sick Leave.** Accrued sick leave shall only be used for the specific purposes defined herein and shall not be used the same as accrued annual leave. Eligible employees shall accrue, use and be paid for paid sick leave only according to the provisions of this section. The provisions of this section can apply to sick leave taken under the Family Medical Leave Act, which runs concurrent with FMLA.
- A. Eligible Employees. Only regular full-time and part-time employees who work twenty (20) hours or more per week shall be eligible for paid sick leave.
 - B. Authorized Use of Paid Sick Leave. Paid sick leave shall be used only for time off due to:
 - (1) Personal illness or injury (including conditions due to pregnancy and childbirth),
 - (2) Doctor and dentist appointments,
 - (3) Quarantine of an employee's household, and
 - (4) The illness or injury of an immediate family member. Immediate family member is defined as the spouse, parent, grandparent, child, grandchild, or sibling, and the same relationships created by marriage.
 - C. Paid Sick Leave Procedures. The following procedures shall be followed to approve and record sick leave.
 - (1) Health Care Provider's Statement. Under certain circumstances – as described in this Section – an employee may be required to provide a Health Care Provider's Statement certifying that the employee was under the health care provider's care during the period of absence and was unable to work. A Health Care Provider's Statement should not contain personal medical diagnoses or information.

- a. An employee who claims five or more consecutive days of sick leave shall provide a Health Care Provider's statement to his or her supervisor.
 - b. Should a supervisor suspect an employee of abusing or using excessive sick leave (based upon specific articulable facts) the supervisor may, with written notice, require that employee to provide a Health Care Provider's Statement. In cases of suspected abuse, the employee may be required to provide a Health Care Provider's Statement regardless of the number of days of sick leave taken.
 - c. For prolonged illnesses or disabilities, confirmation of continued illness or disability may be required periodically. For sick leave lasting five or more days, employees should contact the Office of Human Resources for information about benefits under the Family Medical Leave Act (FMLA) and/or the Americans with Disabilities Act.
 - d. The System reserves the right at any time to require a health care provider's written statement regarding an employee's illness or injury and/or whether the employee is able to return to work. The System will exercise this right in compliance with the requirement of the Family Medical Leave Act and the Americans with Disabilities Act.
 - e. Employees who become ill while on annual leave may charge the time off to paid sick leave rather than annual leave after providing a Health Care Provider's Statement verifying the period of illness.
 - f. Where practical, advance written notice will be given to employees who are required to submit a Health Care Provider's Statement.
- (2) Reporting Absence. An employee must report any illness or injury necessitating absence from work to his or her immediate supervisor at least one hour before the start of the employee's scheduled work shift, or as soon as practical if prior notification is not possible.
- a. The employee shall bear the responsibility for reporting absences to his or her immediate supervisor. In the absence of the immediate supervisor, the employee shall contact the next higher supervisor in the line of authority, or an individual designated by the supervisor.
 - b. Employees are expected to request leave for planned medical, dental and vision appointments soon after the appointment is scheduled in order to facilitate scheduling needs.
 - c. Failure to report an absence or to request sick leave may result in unauthorized leave without pay and may give rise to disciplinary action.
- (3) Paid Sick Leave Abuse. The System may refuse to pay paid sick leave if it is determined that the claim for paid sick leave was fraudulent. If appropriate, the System may institute other disciplinary actions. The System reserves the right to monitor sick leave usage and require a health care provider's statement for an absence for any sick leave taken. Where practical, advance notice will be given to employees who are required to submit a health care provider's statement.
- D. Paid Medical Leave Banks. The System has a paid medical leave bank procedure which may be used by eligible employees who have exhausted all accrued leave. If an employee wishes to

take advantage of the paid medical leave bank, it is the employee’s responsibility to request leave under the paid medical leave bank procedure.

E. Paid Sick Leave Accrual. Paid sick leave may be accrued only during time actually worked and during paid sick leave, or annual leave time, holidays and paid leaves of absence.

(1) Accrual Rate. Eligible employees accrue paid sick leave at an hourly rate as described in the table below. Employees must be paid for at least one-half of their normal work schedule to accrue leave during a payroll period. Some employees may accrue leave according to their specific FTE if not defined in the table below.

Faculty Sick Leave Accrual		Hours per Semester	Hours per Year	Maximum Accrual	
Faculty	Full Time	48	96	1040	
Staff Sick Leave Accrual Rates					
	Employee Classification	Years of Service	Hours per Month	Hours per Year	Maximum Accrual
Non-exempt (Support)	Full Time (40 hours per week)	0-1	7.0	84	1040
		1-2	10.0	120	
		2-3	14.0	168	
	¾ Time (30-39 hours per week)	0-1	5.0	60	780
		1-2	7.5	90	
		2-3	10.5	126	
	½ Time (20-29 hours per week)	0-1	3.5	42	520
		1-2	5.0	60	
		2-3	7.0	84	
Exempt (Professional and At Will)	Full Time	N/A	14.0	168	1040
	¾ Time	N/A	10.5	126	780
	½ Time	N/A	7.0	84	520

(2) Maximum Allowable Accruals. Unused paid sick leave hours accrued may not exceed the maximum accruals indicated above.

F. Time Charged to Paid Sick Leave. Time off may be charged to an employee's paid sick leave account in accordance with the authorized uses and practices described in this policy, including the provisions listed below.

(1) Paid Sick Leave Accruals. Time charged to paid sick leave may not exceed the employee's accruals. An employee may elect to charge an absence due to illness to annual leave accruals. In such cases, approval shall be subject to the same conditions as described for paid sick leave herein. Absences due to illness shall automatically be charged to accrued annual leave after paid sick leave accruals have been exhausted.

(2) While on Annual Leave. An illness occurring during an employee's annual leave may be charged to paid sick leave. In this case, a health care provider's statement verifying the period of illness is required.

- (3) While on Holiday. When a holiday falls during the time an employee is on paid sick leave, the holiday shall be charged to holiday pay and not to paid sick leave.
 - (4) Although faculty and most academic staff are salaried and exempt under Fair Labor Standards Act, they are required to report sick leave. Leave reports or other documentation must be submitted and approved in a timely manner as required by the timelines of each campus.
- G. Accrued Unused Paid Sick Leave. Employees shall not be paid for accrued unused paid sick leave under any circumstances.
- H. Reinstatement of Paid Sick Leave after Layoff. Unused paid sick leave as of the date of layoff shall be reinstated for those employees who are recalled from layoff within one (1) year of the date of layoff.
- 7. Leave with Pay.** Annual leave, paid sick leave, military leave (up to fifteen days per year) and holidays are types of leave with pay. System policies pertaining to these types of paid time off are described in other sections of this policy. This section addresses other types of paid leave.
- A. Eligible Employees. Only regular employees, classified as half-time or more, shall be eligible to receive leave with pay.
 - B. Authorized Use of Leave with Pay. Leave with pay is authorized only for the specific purposes defined below.
 - (1) Campus Closure. Eligible employees shall use leave with pay on those occasions when the campus is declared closed by chancellor or branch community college president (for example, in cases of inclement weather or another emergency).
 - (2) Death in Family/Bereavement. Eligible employees receive paid leave for an absence due to a death in the employee's immediate family, up to a maximum of five (5) working days. Immediate family is defined as the spouse, parent, grandparent, child, grandchild, or sibling, and the same relationships created by marriage.
 - (3) Voting. Employees who are registered voters are granted, at their request, time off from System duties to vote in a governmental election, up to a maximum of two (2) hours. This policy does not apply to employees whose daily work schedule either begins two (2) hours or more after the polls open or ends at least three (3) hours before the polls close.
 - (4) Jury/Court Duty. An employee is granted time off with pay for the time spent on duty when he or she is summoned for jury duty, appearance for jury duty qualification or duty as a witness (other than as plaintiff or defendant).
 - a. To qualify, the employee must present documentary evidence of the summons or subpoena to his or her supervisor and remit any monies received from the court to the Business Office. Typically, employees can let the court know that their employer will compensate them for their service and they will not be paid by the court.
 - b. Employees summoned or subpoenaed as specified above are required to return to their work location while temporarily excused from attendance at court.

- (5) **Administrative Leave.** An employee may be placed on administrative leave with pay by his or her supervisor or another System official in any of the three (3) types of circumstances described below.
- a. **Urgent.** When, for reasons perceived to be of an urgent or serious nature, an employee should be immediately removed from his or her job, the supervisor may place the employee on administrative leave with pay. The supervisor shall try to contact the area executive administrator and/or the director of Human Resources before taking this action if possible, and as soon as possible after the action is taken.
 - b. **Not Urgent.** An employee may be removed from the work place during the investigation of an alleged violation of law or of System policy. Approvals of the appropriate area executive administrator and the director of Human Resources are required.
 - c. **Extraordinary.** In other extraordinary circumstances not covered elsewhere in this policy, an employee may be placed on administrative leave with pay if authorized and approved by the president. Approvals of the appropriate executive administrator and approved by the appropriate area executive administrator, the director of Human Resources and the chancellor or branch community college president.
- C. **Leave with Pay Procedures.** Normally, employees must arrange for absences in advance with their supervisor.
- (1) If prior arrangement is not possible, the employee must notify the supervisor of the reason for the absence as early in the work day as possible.
 - (2) System managers may take into consideration any unusual circumstances that preclude an employee from requesting approval prior to an absence.
8. **Leave without Pay.** In certain circumstances, a leave of absence without pay may be granted to or imposed upon staff employees. Voluntary leave without pay may be granted only after leave accruals have been exhausted.
- A. **Circumstances.** Such circumstances include the following:
 - (1) When leave accruals are exhausted, time off shall be charged to leave without pay. In this case, leave without pay may be granted if eligibility and other requirements defined herein are met.
 - (2) At its discretion, the System may grant a leave of absence without pay at the employee's request for personal reasons, for school attendance to obtain an applicable degree or courses, because of an illness in the employee's family or for other justified reasons.
 - (3) In the case of either an unexcused absence or suspension for disciplinary reasons, the System may place an employee on leave without pay. In these circumstances, employees are not allowed to use any type of paid leave.
 - B. **Eligible Employees.** Regular full-time and part-time employees are eligible to take leave without pay.

C. Length of Leave and Required Approval. For each authorized reason for using leave without pay, the maximum duration of the initial period and extension period (if any) and any approvals required are illustrated in the table below. Approvals must be obtained in the following order: supervisor, dean/director, area executive administrator, and the director of Human Resources.

Reason	Maximum Initial Period	Maximum Extension — Not To Exceed:
Extended personal illness or disability extending beyond sick leave accrual	6 months	6 months
Personal	1 month	3 months
Sickness in employee's family	3 months	3 months
School attendance	12 months	12 months
Suspension for disciplinary reasons	1 month	1 month*
Other	1 month	1 month

* For serious infractions (whether proven or alleged) the time limit may be extended with the written approval of the chancellor or branch community college president.

D. Procedures. Procedures for requesting or approving leave without pay:

(1) Employee Request. When a leave of absence is at the employee's request, the employee must submit the request in writing to his or her supervisor. Requests for leave must be made at least two (2) weeks in advance for initial requests and extensions, except when such notice is impossible.

(2) Approval of Leave without Pay.

a. Nonexempt Employees. Leave without pay of five (5) days or fewer shall be reported on the employee's electronic time sheet. The department should indicate "LWOP" for the days on leave.

b. Exempt Employees. Supervisors shall report an exempt employee's leave without pay to the Office of Human Resources.

(3) Suspension or Unexcused Absence. Leave without pay due to an unexcused absence or suspension for disciplinary reasons must be approved by the employee's area executive administrator in accordance with policy 40-11.

E. Reinstatement. Normally a leave of absence without pay is not recommended or granted without the expectation of reinstatement. However, reinstatement shall not be guaranteed.

(1) Employee's Responsibilities. An employee returning from a voluntary leave of absence without pay must request reinstatement prior to the expiration of the leave period.

a. Failure to make such a request results in separation of employment. Such a separation is treated as a resignation.

b. An employee on leave of absence without pay and/or on FMLA leave due to an extended illness or injury must submit a health care provider's written certification that the employee is able to return to work prior to being reinstated.

- (2) **System's Obligations.** The System does not have an absolute obligation to reinstate an employee after leave without pay.
- a. When practical, the System may attempt to fill an employee's position with a temporary employee during the leave without pay period but reserves the right to eliminate the position or fill it with a regular employee.
 - b. When a leave without pay period ends, if the employee's previous position is no longer available and the employee is not placed in another similar position within ninety (90) days, or if the employee refuses a position offered, the System has no further reinstatement obligation. In this case, the employee is separated from employment. Such a separation is treated as a resignation.
- (3) **Reinstatement Procedure.** Employees are not permitted to return to work prior to approval by the Office of Human Resources.

9. Faculty Leave. The System grants certain leaves of absence to faculty. Details of these are covered in the Faculty Handbook.

10. Military Leave. The System shall grant a military leave of absence to any regular employee while on active duty in the Armed Forces of the United States, defined to include the Army, Navy, Air Force, Marine Corps, Coast Guard and their reserve components; the National Guard and State Guard or the U.S. Public Health Service; and their reserve components.

A. **Types of Active Duty.** The following types of active military duty qualify for a military leave of absence.

- (1) **Annual Duty for Training.** The System grants a military leave of absence to employees required to participate in Annual Duty for Training by their National Guard or Reserve unit. Such training periods are normally for two (2) weeks or fifteen (15) days in duration.
- (2) **Special Training.** The System grants a military leave of absence to employees for voluntary active duty for a special training purpose, such as attending an Armed Forces school.
- (3) **Local Emergency.** The System grants a military leave of absence to employees whose units are activated when a local emergency is declared by either the President of the United States or the Governor of New Mexico.
- (4) **National Emergency.** The System grants a military leave of absence to employees who are called into active duty when the President of the United States declares a national emergency and activates military units.
- (5) **Obligated Service.** The System grants a military leave of absence to employees who are required to serve on active duty as part of a Reserve or ROTC obligation.
- (6) **Enlisted Service.** The System grants a military leave of absence to employees who voluntarily enlist for military service.

B. **Request for a Military Leave of Absence.** To request a military leave of absence, the employee or his or her designated representative must give the employee's supervisor a copy of official

military orders or other written evidence showing that the employee is entering active military duty.

- C. **Military Leave with Pay.** When a military leave of absence is granted for Annual Duty for Training or for a local or national emergency, the University must grant military leave with pay for up to a total of fifteen (15) calendar days per each fiscal year.
- (1) The military leave is paid at the employee's straight-time rate of pay and the employee is paid for the work days he or she would normally be scheduled to work during the leave period. Once the fifteen (15) calendar day period is used, the employee is on leave without pay for the remainder of the absence, unless the employee's military duties prevent him or her from doing so.
 - (2) Any exception to the fifteen (15) calendar day maximum must be approved by the appropriate area executive administrator in consultation with the Office of Human Resources.
- D. **Military Leave without Pay.** Any military leave of absence except as set forth in 9.C. above shall be without pay.
- E. **Benefits.** Although activated employees and dependents shall be eligible for health care through the military, those who choose to continue the health insurance through the System may do so, and shall continue its contribution toward the premiums. Upon reinstatement after the tour of duty, employees and dependents who had chosen to interrupt enrollment in a campus health insurance program are permitted to enroll again.
- F. **Reinstatement.** An employee returning from a military leave of absence must be reinstated into his or her original position, or to a position with the same status and pay rate, with no loss of seniority, as provided by applicable law.
- (1) In an extended leave of absence, the System may attempt to fill an absent employee's position with a temporary employee, but reserves the right to fill it with a regular status employee.
 - (2) If the duration of the tour of active duty is uncertain, such as in a national emergency, the System may choose to fill the temporary vacancy with a regular status employee.
 - a. Reinstatement of the returning veteran to the same or similar job may require the relocation or layoff of the employee who replaced the veteran.
 - b. In such cases, the System must inform the replacement employee in writing, at the point of hiring, of the potential consequence.
- G. **Reporting Military Leave.** The Office of Human Resources is responsible for maintaining records of military leave granted to its employees.
- (1) **Military Leave with Pay.** Paid military leave for nonexempt employees shall be reported as regular hours on the payroll time report with a notation identifying the time as paid military leave. Paid military leave for exempt employees shall be reported by submitting a PAN. The department should check "Other" in the Action section of the PAN and indicate that the action is to report military leave with pay for record keeping purposes only.

- (2) **Military Leave without Pay.** When military leave is without pay, the department must process a PAN to place the employee on military leave. The department must indicate "Military LWOP" under other on the PAN. When the employee returns from military leave, the department must process a PAN to reinstate regular employment.

11. Medical Leave Bank. The Medical Leave Bank provides salary and benefits continuation for eligible System employees who have exhausted all paid annual leave and sick leave due to their own catastrophic illness, injury or impairment. The Medical Leave Bank is a voluntary program that allows employees to donate a portion of their annual sick leave to assist employees who are eligible under the program. The administration of the Medical Leave Bank appears in the Medical Leave Bank policy (AGP&P 40-15).

12. Emergency Closures. The System has an obligation to conduct its education, business and support activities on a regular basis despite occasional inconveniences caused by inclement weather or other reasons determined by the administration.

A. **Closings, Delays, Early Releases.** The campus shall not close during periods of inclement weather unless conditions are so severe as to endanger the campus community.

- (1) The chancellor or branch community college president or their designated representative shall determine if the campus will close.
- (2) Employees shall be advised of early release, late report or no report conditions through TV, radio announcements and the campus's emergency alert system. The announcements shall specify if the campus is delayed or closed. Other departments, such as Athletics and Theatre, shall be responsible for advising their customers about the status of events on inclement weather days when closures or delays have been declared.

B. **Critical Areas.** In the event the campus is delayed or closed, certain critical areas, due to the nature of the activities, shall need to remain open.

- (1) Critical activities shall be determined by the appropriate area executive administrator.
- (2) Directors of critical activities shall clearly communicate to their employees what their work attendance requirements are during severe weather, regardless of what media messages are being conveyed to the larger campus population. For example, critical activities such as Physical Plant, Department of Public Safety, Campus Security and Housing shall likely need to remain open when the campus is declared closed due to inclement weather or to open at the normal time when there is a delay announced. Directors of critical activities shall prepare contingency plans, keep plans updated and communicate such plans to employees.
- (3) An employee should direct any questions about job expectations during a delay or closure to his or her supervisor.
- (5) The area executive administrator of the unit or department shall initiate necessary actions to provide emergency meals and sleeping arrangements, should conditions require.
- (6) Non-Exempt employees required to work during a delay or closure will be compensated at their regular rate of pay. If an employee is required to work during a delay the first priority for supervisors will be early release (Example: If the campus is delayed until 10 a.m. and an employee works from 7 a.m. to 10 a.m., the supervisor will attempt to release the

employee 3 hours early, and the employee will receive a full day's pay). If early release is not possible, any hours worked during the delay will be added to the total hours worked for the day (Example: If an employee works 8 hours total during a day the campus was delayed he or she will be paid the 8 hours worked plus hours worked during the delay period). Any hours worked during a full day closure will be added to the 8 hours of pay employees receive for the closure. All hours logged during a delay or closure will be used for the purpose of computing overtime compensation for over forty (40) hours per week.

- (7) An exempt employee who is required to work during a delay or closure shall not receive any additional pay beyond his or her regular salary.
- C. Work Schedules. During emergency closures, both employees and supervisors must bear in mind the safety and well-being of employees and the need for the campus to conduct business on a regular basis.
- (1) Employees are expected to be at work as scheduled, but should take reasonable and safe measures in attempting to meet their employment obligations.
 - (2) An employee may need to leave work early to avoid hazardous driving conditions occurring late in the day as temperatures drop.
 - (3) An employee's ability to keep regular hours due to inclement weather or hazardous driving conditions may be adversely affected by such things as the employee's own medical or physical limitations, where the employee lives, availability of transportation and family care responsibilities. If operations permit, supervisors should attempt to accommodate the needs of the employee. These decisions should be made on an individual basis, taking into consideration the employee's specific situation. Supervisors are expected to be flexible in these situations in accordance with the business needs of the campus and the reasonable health and safety needs of employees.
- D. Absences Due to Delays and Closures. When a delay has been announced, employees in non-critical areas shall be expected to report to work at the time indicated by the media messages.
- (1) Delays and closures will not affect time and leave reporting for employees on previously approved sick or annual leave or on a shift assignment not affected by the delay.
 - (2) When an employee is unable to be at work at the expected time, the employee must notify his or her supervisor, explain the reason for the absence and provide an estimated time of arrival at work.
 - (3) If the employee's individual situation permits, the employee should attempt to get to work when possible.
 - (4) In most cases, driving conditions improve later in the day, enabling the employee to get to work safely. When an employee misses additional work time beyond the time indicated for the delay to end or because he or she needs to leave early even when the campus is not closed, the employee must:
 - a. Make up the time missed under suitable conditions approved by the supervisor, if operational needs permit (up to two (2) hours);
 - b. Take annual leave or

- c. Take leave without pay.

13. Family and Medical Leave Act. In compliance with the federal Family and Medical Leave Act (FMLA), the System shall provide eligible employees up to twelve (12) weeks of job-protected leave (FMLA leave) within a twelve (12) month period for certain family, medical and military-related reasons. FMLA for military reasons may be extended beyond twelve (12) weeks if certain criteria are met. For purposes of this policy, the “leave” year is a “rolling calendar year.” That is, the “leave” year is determined by the date that the employee takes FMLA leave for the first time as an ENMU employee. Subsequent leave years begin when that employee takes FMLA leave following completion of any previous 12-month leave year (See 29 CFR 825.200(b)(3) of the Family Medical Leave Act.)

- A. The System requires employees to use sick and annual leave accruals concurrently with FMLA. However, FMLA leave may extend beyond leave accruals.
- B. The System defines an immediate family member as the spouse, parent, grandparent, child, grandchild, or sibling, and the same relationships created by marriage.
- C. For more information on or to apply for FMLA leave, contact the Office of Human Resources.

14. Domestic Abuse Leave Act. The System complies with New Mexico state additions to FMLA, including but not limited to Domestic Abuse Leave Act (NMSA 1978 §50.4 [2009]), which provides eligible employees up to fourteen (14) days of leave in any calendar year up to eight (8) hours in one day, to obtain or attempt to attain an order of protection or other judicial relief from domestic abuse or to meet with law enforcement officials, or other activities allowed by the Act. Persons seeking relief under this Act should consult with the Office of Human Resources.

15. Record Keeping Requirements. The responsibilities and requirements for record keeping regarding leave are as follows:

- A. Office of Human Resources. The Office of Human Resources shall keep official leave records for all types of leave for the University's non-exempt and exempt employees.
- B. Departments. Each department shall also be responsible for maintaining internal records of each employee's leave of all types, including leave hours accrued and used, as well as balances.
- C. Family and Medical Leave Act. The System is required to keep all documentation pertaining to FMLA leave requests for three (3) years. The documentation must include the following:
 - (1) Dates of FMLA leave taken by employees. Leave must be designated as FMLA leave. If FMLA leave is taken in increments of less than one (1) full day, the hours of the leave must be recorded.
 - (2) Copies of employee notices of leave furnished to the employer under FMLA, if in writing, and copies of all required general and specific written notices given to employees.
 - (3) Records of any dispute between the employer and an eligible employee regarding designation of leave as FMLA leave.
- D. Confidentiality of Medical Records. The System must maintain records and documents relating to medical certifications and/or medical histories of employees or employees' family members

in separate, secure limited-access files and treat them as confidential medical records.
However,

- (1) The employee's supervisors and managers may be informed regarding necessary restrictions on the work and necessary accommodations,
- (2) Safety personnel may be informed if the employee's medical condition might require emergency treatment,
- (3) In appropriate instances other decision-making authorities may be informed and consulted regarding necessary accommodations.

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