

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 kinds of leave from work time are granted to professional, support and at will employees of Eastern New Mexico University (the University). The faculty policies and procedures are contained in the *Faculty Handbook*.
2. **Policy.** The general leave policies of the University are as follows:
 - A. The University recognizes the value to the University 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 University encourages employees to take annual leave each year, with at least one (1) annual leave period of one (1) week in duration. Eligible faculty and staff employees earn, accrue, use and are paid for annual leave according to the provisions of this policy.
 - B. The University observes specific holidays each year, and most offices are closed during these holidays.
 - C. The University 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 **medical** leave is a benefit provided by the University to enable employees to continue on paid status during an illness or disability.
 - D. The University also provides leave with pay for **emergency closure**, death in the family/bereavement, voting, jury/court duty and administrative leave.
 - E. The University complies with the federal Family and Medical Leave Act (FMLA), and complies with the federal Uniformed Services Employment and Reemployment Rights Act.

The foregoing general policies are implemented by the following.

Specific Policies and Procedures

3. **Administration.** These policies and procedures shall be administered by the director of Human Resources (DHR) with oversight by the vice president for Business Affairs (VPBA).
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 on-call employees and regular part-time employees working fewer than twenty (20) hours per week are not eligible for annual leave.
 - B. **How Earned.** Eligible employees accrue annual leave during the first two pay periods of each month. Annual leave is not earned during an unpaid leave of absence. To earn annual leave, employees must work a minimum number of hours in the first two pay periods of the month, 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.

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

- D. **Use of Annual Leave.** While annual leave is normally scheduled according to the employee's wishes, the University reserves the right to schedule an employee's annual leave in accordance with the needs of the University. An employee who requests time off to observe a religious holiday that does not fall on a University holiday must be allowed to take annual leave or leave without pay.

- (1) **Advance Approval Required.** Employees must request and receive approval of leave in advance from their immediate supervisor. Failure to request and receive approval in advance may result in unauthorized leave without pay and be subject 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 may not 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) **Available for Use.** New employees' annual leave accruals begin on the date of hire; however, new employees are not permitted to use annual leave during the first three (3) months of employment. An employee may request leave without pay during the first three (3) months of employment.
 - a. Any authorized leave taken exceeding the employee's accrued annual leave hours shall be leave without pay.
- (3) **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. 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.

- E. **Payment for Annual Leave.** When an employee takes annual leave, the employee 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 University, whether voluntarily or involuntarily, shall be paid for any unused accrued annual leave up to 240 hours.
- G. **Externally Funded Employees.** Employees paid through externally funded grants/contracts with the University 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.
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 should refer to the *Faculty Handbook* for applicable holiday policies and procedures. Although the University does not grant holiday pay for religious holidays, an employee who requests time off to observe a religious holiday must be allowed to do so by taking annual leave or leave without pay.
- A. **Holidays Observed.** The following holidays are observed by employees of the University: the workday preceding New Year's Day, New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day following Thanksgiving Day, the workday preceding Christmas Day and Christmas Day. The specific days observed as the holiday period are announced each year by the president. *The University 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*.
- B. **Employees Eligible for Holiday Pay.** Only regular full-time or part-time employees, working twenty (20) or more hours per week, are eligible to receive holiday pay.
- (1) Temporary, occasional and part-time employees working fewer than twenty (20) hours per week are not eligible to receive holiday pay.
- (2) 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.
- (3) 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. **Holiday Pay—Exempt.** Exempt staff shall receive their normal pay for holidays, while managing their time appropriately to ensure completion of all assigned duties.
- D. **Employees Required to Work on a Holiday.** *Departments* which, 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 possible.
 - (2) Supervisors shall assign employees to work holidays in a fair and reasonable manner, taking into consideration the needs of the unit and the abilities and availability of employees.
 - (3) An employee who refuses to work a holiday shall be subject to disciplinary action.
 - (4) Employees who work holidays shall be compensated at a premium rate for time worked, defined as follows:
 - a. Nonexempt employees who are required to work on a holiday shall be paid for the hours worked at a premium rate of one and a half (1-1/2) times their regular rate, and shall also be given time off in lieu of the holiday. The time off given in lieu of the holiday must be given in accord with these policies and procedures and must be granted within **thirty (30)** days of the time earned.
 - b. **Eligible, non-exempt employees required to work on a holiday who cannot be given a day off in lieu of the holiday shall be paid the premium rate [one and a half times (1-1/2) their regular rate plus shift differential].**
- E. **Overtime.** For the purpose of computing overtime compensation for over forty (40) hours per week, a paid holiday shall be considered time worked. Time off in lieu of the holiday shall also be considered time worked.
- F. **Ineligible Employees.** Employees not eligible for holiday pay who are required to work on a holiday shall be paid at the straight-time rate for the hours worked on the holiday.
- H. **Leave without Pay.** Employees on leave without pay shall not be paid for holidays falling during the period of leave without pay.
6. **Medical Leave.** **Medical** leave shall only be used for the specific purposes defined herein and shall not be used the same as earned annual leave. Eligible employees shall accrue, use and be paid for **medical** leave only according to the provisions of this section.
- 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 **medical** leave.
- B. **Authorized Use of Medical Leave.** **Medical** leave shall be used only for time off due to:
 - (1) Personal illness or injury (including medical 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. **Medical Leave Procedures.** The following procedures shall be followed to approve and record **medical** leave.

- (1) **Reporting Absence.** An employee must report any illness or injury necessitating an absence from work to his or her immediate supervisor within one (1) hour of the beginning of the employee's work shift, preferably before the start of the 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. Failure to report an absence and to request medical leave may result in unauthorized leave without pay and may be subject to disciplinary action.

- (2) **Physician's Statement.** At the supervisor's discretion, a physician's statement may be required for an absence due to illness. The physician's statement should certify that the employee was under the doctor's care during the period of absence and was unable to work. The University reserves the right to require a physician's statement that an employee is physically able to return to work. Employees who become ill while on annual leave, may charge the time off to medical leave rather than annual leave after providing a physician's statement verifying the period of illness.
 - a. For prolonged illnesses or disabilities, confirmation of continued illness or disability may be required periodically.
 - b. The University reserves the right at any time to require a physician's statement regarding an employee's illness or injury, certifying whether or not the employee is physically able to return to work.

- (3) **Medical Leave Abuse.** The University may refuse to pay medical leave if it is determined that the claim for medical leave was fraudulent. If appropriate, the University may institute other disciplinary actions.

D. Medical Leave Banks. The University has a medical leave bank procedure which may be used by eligible employees who have exhausted all accrued leave.

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

- (1) **Accrual Rate.** Eligible employees accrue medical 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.

Faculty Medical Leave Accrual		Hours per Semester	Hours per Year	Maximum Accrual
Faculty	Full Time	48	96	1040
	¾ Time	36	72	780
	½ Time	24	48	520

Staff Medical Leave Accrual Rates					
	Employee Classification	Years of Service	Hours per Month	Hours per Year	Maximum Accrual
Nonexempt (Support)	Full Time (40 hours per week)	1	7.0	84	1040
		2	10.0	120	
		3	14.0	168	
	¾ Time (30-39 hours per week)	1	5.0	60	780
		2	7.5	90	
		3	10.5	126	
	½ Time (20-29 hours per week)	1	3.5	42	520
		2	5.0	60	
		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 **medical** leave hours accrued may not exceed the maximum accruals indicated above.

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

(1) **Medical Leave Accruals.** Time charged to **medical** 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 **medical** leave herein. Absences due to illness shall automatically be charged to accrued annual leave after **medical** leave accruals have been exhausted.

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

(3) **While on Holiday.** When a holiday falls during the time an employee is on **medical** leave, the holiday shall be charged to holiday pay and not to **medical** leave.

G. **Accumulated, Unused Sick Leave.** Employees shall **not** be paid for accumulated unused **medical** leave under any circumstances.

H. **Reinstatement of Medical Leave after Layoff.** Unused **medical** 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, **medical** leave, military leave and holidays are types of leave with pay. University policies pertaining to these types of paid time off are described in the sections above. 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) **University Closure.** Eligible employees shall use leave with pay on those occasions when the University is declared closed by the president (for example, in cases of inclement weather or other

emergency). [Eligible non-exempt](#) employees required to work on such days may be granted equivalent time off at their straight-time pay rate.

- (1) **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. [For definition of immediate family, see the medical leave policy 6.B.\(5\)](#)
 - (2) **Voting.** Employees who are registered voters are granted, at their request, time off from University 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](#).
 - 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 University official in any of the [three \(3\)](#) disciplinary 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. Approval of the appropriate [executive administrator and the director of Human Resources](#) is required.
 - b. **Not Urgent.** An employee may be removed from the work place during the investigation of an alleged violation of law or of University policy. Approval of the [appropriate executive administrator and the director of Human Resources](#) is 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. Approval of the [appropriate executive administrator and the director of Human Resources](#) is required.
- 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) Unusual circumstances that preclude requesting permission may be considered by the University.
- D. **Reinstatement.** When employees are absent from work on leave with pay, their jobs shall be held for them unless other factors (such as violation of University policy) result in the employee being terminated from employment.
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 University 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 University 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, executive administrator, and the director of Human Resources.

Reason	Maximum Initial Period	Maximum Extension — Not To Exceed:
Extended personal illness or disability extending beyond medical 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 extremely serious infractions the time limit may be extended with the written approval of the president.

D. Procedures. Procedures for granting leave without pay are:

- (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 except when such notice is impossible.
- (2) **More Than Five (5) Days.** When a leave of absence is to be for more than five (5) days in duration, the department must process a Personnel Action Notice (PAN). The authorized leave period and reason for the leave must be indicated on the PAN.
- (3) **Five (5) Days or Fewer.** A PAN is not required in cases in which leave without pay is granted or imposed for a period of five (5) days or fewer.
 - a. **Nonexempt Employees.** Leave without pay of five (5) days or fewer shall be reported on the employee's payroll 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 of five (5) days or fewer by submitting a Report of Absence to the Office of Human Resources.
- (4) **Suspension or Unexcused Absence.** Leave without pay due to an unexcused absence or suspension for disciplinary reasons must be approved by the Office of Human Resources. In these circumstances, the leave must be documented by a memo addressed by the supervisor to the employee, with a copy submitted to the Office of Human Resources.

- E. **Reinstatement.** While a leave of absence without pay is not recommended or granted except with expectation of reinstatement, 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 due to an extended illness or injury must submit a doctor's written certification that the employee is able to return to work prior to being reinstated.
 - (2) **University's Obligations.** The University does not have an absolute obligation to reinstate an employee after leave without pay.
 - a. However, when practical, the University 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 University 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.](#) To reinstate an employee after an authorized leave of absence without pay, the department must process a PAN.
9. **Military Leave.** The University 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, U.S. Coast and Geodetic Survey 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 University 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 University 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 University 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 University 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 University grants a military leave of absence to employees who are required to serve on active duty as part of a Reserve or ROTC obligation. Normally, such tours of duty are no more than two (2) years in duration.

- (6) **Enlisted Service.** The University grants a military leave of absence to employees who voluntarily enlist for military service. Normally, a tour of three (3) years or more of active duty is required.
- 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 military 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.
- (2) Any exception to the fifteen (15) calendar day maximum must be approved by the appropriate [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 University may do so, and the University 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 University 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 University 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 University 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 University must inform the replacement employee in writing, at the point of hiring, of the potential consequence.
- G. **Reporting Military Leave.** Departments are responsible for maintaining records of military leave granted to its employees.
- (1) **Military Leave with Pay.** The department shall report paid military leave for nonexempt employees as regular hours on the payroll time report with a memo attached, identifying the time on paid military leave. The department shall report paid military leave for exempt employees 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.

10. Medical Leave Bank. The Medical Leave Bank (the Bank) is a voluntary program designed to provide medical leave to contributors who have suffered an unplanned personal illness, injury, disability or quarantine and who have exhausted their compensatory time and personal, sick and annual leave balances.

A. **Administration.** The Medical Leave Bank shall be administered by an *ad hoc* committee consisting of five (5) members appointed by the president as follows: one (1) member shall represent Personnel; one (1) member shall represent Business Affairs; one (1) member shall represent faculty members; one (1) member shall represent professional employees and one (1) member shall represent support employees.

- (1) Employees participating in the Bank must agree to abide by the rules and regulations established herein by the Committee.
- (2) Employees participating in the Bank must agree to abide by the rules and regulations of the [Medical Leave Bank](#).
- (3) All actions of the Committee shall require three (3) affirmative votes. Decisions of the Committee shall be final.
- (4) The Committee shall act affirmatively or negatively on all Bank applications within ten (10) calendar days of the date the application is received in the Office of Human Resources.
- (5) The Office of Human Resources shall provide administrative support for the Committee and maintain all official records pertaining to the Bank.

B. **Membership Provisions.** Any regular University employee who earns medical and annual leave shall be eligible to participate in the Bank. A minimum participation of twenty (20) employees shall be required to establish the Bank.

- (1) Any eligible University employee who elects to participate in the Bank must have a minimum of six (6) days of medical leave at the time of assessment. The initial assessment shall be three (3) days of medical leave.
- (2) Enrollment shall be open during the months of September, October and November of each year.
- (3) Any employee may cancel membership from the Bank by written request as of September 30 of each year. Membership withdrawal shall result in the forfeiture of all days contributed.
- (4) The right to membership or to apply for membership ceases with termination of employment, retirement, cancellation of membership or refusal to comply with assessments.
- (5) If membership falls below twenty (20) members and the medical leave balance is fewer than twenty (20) days, the Committee may decide to dissolve the Bank rather than making an assessment. If the Bank is dissolved, any days on deposit shall be returned to the participating members at the time of dissolution and credited to their personal medical leave accumulation in proportion to the days each has contributed.
- (6) Membership in the Bank shall remain confidential and be divulged only as necessary to maintain and administer the Bank.
- (7) If an employee who is participating in the Bank at one (1) campus or unit transfers without a break in service to another campus that has a Bank, membership shall be transferred without any hours.
- (8) If any employee who is participating in the Bank terminates service from the University and is rehired by the University within the same enrollment year, that person shall be reinstated to the Bank at the time of rehire with no additional assessment. If that employee is rehired after one (1) or more enrollment years, he or she may rejoin the Bank during the next open enrollment and incur a new enrollment assessment.

- (9) If a leave-accruing employee who is participating in the Bank accepts a non-leave accruing position, the employee cannot remain in the Bank. If the employee in the non-leave accruing position later accepts a position that accrues leave, he or she may request readmission in the Bank without incurring a new assessment.

C. Contributions/Assessments of Medical Leave Days. All medical leave days contributed to the Bank are non-refundable and non-transferable.

- (1) The Committee [in consultation with the Office of Human Resources](#) is authorized to make the necessary and reasonable assessments of the membership to maintain an adequate reserve of days based upon total membership and projected need. To maintain the Bank, the balance of medical leave days in the Bank shall not fall below one (1) day per member.
- (2) In the event of an assessment, the membership must be notified in writing at least thirty (30) days prior to the effective date of the assessment. At the end of the thirty (30)-day notification period, transfers shall be made from the medical leave balances of members to the Bank, except in cases in which members have notified the Committee of their unwillingness to honor the assessment.
- (3) Failure to comply with any assessments established by the Committee shall result in cancellation of membership unless the member has made a current application for medical leave from the Bank or is on leave with pay (medical leave) using an allocation from the Bank. If a member has no accumulated medical leave at the time of the assessment, [membership in the Medical Leave Bank ceases](#).
- (4) The number of days requested from each member may not exceed three (3) days per assessment or six (6) days per fiscal year.

D. Eligibility/Application for Medical Leave Days. Members who have been in the Bank for at least thirty (30) calendar days are eligible to apply for medical leave days from the Bank.

- (1) The Committee may not grant time to new members requesting time for pre-existing conditions until six (6) months following the effective date of membership. Pre-existing shall mean a condition that existed for which an employee received treatment or advice during the six (6) month period prior to the effective date of initial Bank membership (verified via medical certification).
- (2) Medical leave days may be requested from the Bank only for the personal illness or injury of an employee. Bank medical leave days may not be granted for elective surgery, for illness of any member of the individual's family or during any period an individual is receiving disability benefits from social security, a retirement plan, long-term disability or during any period of time an individual is drawing or is eligible to receive workers' compensation benefits.
- (3) All personal accrued leave (medical and annual) must be used before receiving medical leave days from the Bank. However, application may be made prior to that time and approval given contingent upon the employee's exhaustion of all accrued leave.
- (4) A written application for Bank medical leave days, on a form provided by the Office of Human Resources, shall be required.
- (5) If an employee is eligible but unable to apply due to physical or mental condition, any family member or other agent may apply on behalf of that employee.

E. Granting Medical Leave Days. The number of medical leave days granted may never exceed the number of days in the Bank.

- (1) Each initial grant of medical leave days shall be limited to a maximum of twenty (20) consecutively scheduled working days for each illness or injury. After the initial grant, an

extension or (extensions) of up to forty (40) medical leave days may be granted per illness or injury. The total medical leave granted to any one (1) member shall not exceed ninety (90) days in a twelve (12)-month period for any one (1) illness, recurring illness or accident.

- (2) If medical leave from the Bank is granted to an employee, the employee shall be considered to be in active pay status during the use of that leave, and all employment benefits apply including the accrual of annual and medical leave.
- (3) If any medical leave is granted but not used by the employee, the unused portion of the amount of medical leave transferred shall be returned to the Bank. This would apply in the case of an employee's death or recovery from the illness or injury.

11. Emergency Closures. The University 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. At the same time, the University has a responsibility for the safety and well being of its students, faculty and staff.

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

- (1) The president shall determine if the campus will close.
- (2) Employees shall be advised of early release, late report or no report conditions through TV and radio announcements [and the University's emergency alert system](#). The announcements shall specify if the University is delayed or closed. Other University departments, such as the Athletic Department and the University 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 University 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 vice president.
- (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 University population. For example, critical activities such as Physical Plant, University Police and Housing shall likely need to remain open when the University 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.
- (4) The administrator of the unit shall initiate necessary actions to provide emergency meals and sleeping arrangements, should conditions require.
- (5) All employees required by their supervisors to work during a delay or closure shall be paid for hours worked and shall be granted equivalent time off, at the straight-time rate, for actual hours worked during the delay or closure. [Time granted off in these circumstances shall not be considered as time worked for overtime compensation purposes.](#)

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 University 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 University 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) Time off due to the announced delay or closure shall be reported as paid administrative leave and shall not be considered as time worked for overtime compensation purposes; however, employees on previously approved sick or annual leave or on a shift assignment not affected by the delay are not eligible for the paid administrative leave.
- (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 University 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.

12. Family and Medical Leave Act. In compliance with the federal Family and Medical Leave Act (FMLA), the University 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.](#)

- [A. The University complies with New Mexico state additions to FMLA, including but not limited to domestic abuse leave.](#)
- [B. The University requires employees to use medical and annual leave accruals concurrently with FMLA. However, FMLA leave may extend beyond leave accruals.](#)
- [C. The University follows the definition of family as defined by the Family and Medical Leave Act.](#)
- [D. For more information on or to apply for FMLA leave, contact the Office of Human Resources.](#)

13. 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 nonexempt 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 earned and used, as well as balances.
- C. **Family and Medical Leave Act.** The University 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 University must maintain records and documents relating to medical certifications and/or medical histories of employees or employees' family members in separate files and treat them as confidential medical records. Information can also be obtained through the Department of Labor. 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 the director of Disability Services may be informed and consulted regarding necessary accommodations and
 - (4) Relevant government officials shall be provided relevant information upon request.

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