

Administrative Office of the Courts

Supreme Court of New Mexico

Arthur W. Pepin, Director



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INTERPRETATIVE MEMORANDUM 2023-001

DATE: November 9, 2022

TO: Court Executive Officers, Human Resources, Judicial Branch Employees

FROM: Arthur W. Pepin, AOC Director *Arthur W. Pepin*

RE: **15-days Paid Military Leave ~ NMJBPR 5.14, and NMJBPAWE 19.14**
15-days Additional Military Leave ~ Federal Fiscal Year 2023

This memorandum shall serve to interpret the application of the New Mexico Judicial Branch Personnel Rule 5.14, For Employees, and New Mexico Judicial Branch Personnel Rule 19.14, For At-Will Employees, which state:

5.14 & 19.14 MILITARY LEAVE

- A.** *An employee or at-will employee who serves in the State Guard or National Guard, a State Defense Force, a reserve component of the uniformed services of the United States, the Civil Air Patrol or who volunteers for such service **shall be granted military leave with or without pay** in accordance with the Uniformed Services Employment and Re-employment Rights Act (USERRA), 38 USC Sections 4301-4335, for "service in the uniformed services" as defined in that Act, and with the New Mexico Statutes and Rules, including, but not limited to NMSA 1978, Sections 20-4-7, 20-5-14, and 20-7-5. The Administrative Authority may authorize the hiring authority or appointing authority to temporarily fill a vacancy, and the employee or at-will employee may return to work as provided by law. [Emphasis added.]*
- B.** *An employee or at-will employee who is on military leave with pay shall have the same rights and benefits as any other employee who is on leave with pay.*

(Amended 07/01/19)

15-DAYS PAID MILITARY LEAVE

All Judicial Branch employees who are members of organized units of the Army or Air National Guard, or Army, Air Force, Navy, Marine or Coast Guard Reserves **shall be given** not to exceed fifteen working days' military **leave with pay** per federal fiscal year when they are **ordered to duty for training**. Such leave is in addition to other leave or vacation time with pay to which such employees are otherwise entitled. [New Mexico State Statutes § 20-4-7]

Judicial Entities should request a copy of the orders for verification purposes, and inclusion in the employee's personnel file.

15-DAYS ADDITIONAL PAID MILITARY LEAVE

For the 2023 Federal Fiscal Year, running from October 1, 2022 to September 30, 2023 the Judiciary will, as has Governor Lujan-Grisham for Executive agencies, grant employees an additional 15-days of paid military leave in accordance with §20-4-7 NMSA 1978; this shall be in addition to the 15-days of paid military leave already provided under §20-4-7 NMSA 1978, for a total of 30-days of paid military leave.

MILITARY LEAVE EXHAUSTED

When military leave is exhausted, employees have the option of being placed on leave without pay (LWOP) or using accrued leave. Employees who exhaust their annual leave shall then be placed on LWOP for the remainder of time they are on active duty. Employees do not receive pay or accrue leave while on LWOP.

RETURN TO WORK

Upon return to work, the employee shall be entitled to all the rights and benefits based upon length of service he or she would have received had the military service not occurred. Therefore, all time spent while called to duty shall count for seniority, general pay increases, probation, and annual leave accrual rate purposes.

JUDGES

Judges are allowed paid military leave, but will not record the time taken as they are paid a salary by statute. Judges should send a copy of his or her orders to their Human Resources office for their personnel file.

QUESTIONS:

Questions relating to Military Leave should be directed to the employee's Human Resources office, or the AOC Human Resources Division.

Questions relating to how military leave and/or LWOP may affect Group Insurance should be directed to the employee's group benefits representative or Risk Management Division at 1-877-301-8041.

Questions relating to how military leave and/or LWOP may affect PERA should be directed to a PERA benefit counselor at 1-800-342-3422.