



**NEW MEXICO JUDICIAL BRANCH
GENERAL PERSONNEL POLICY AND PROCEDURE:
DRIVING WHILE INTOXICATED (DWI)**

Policy No. 2014.NMJB.85

Inquiries: AOC HRD 505/827-4810

DRIVING WHILE INTOXICATED (DWI) POLICY

1. PURPOSE

The conduct of Judicial Branch employees reflects on the integrity and independence of the Judicial Branch. As employees of the branch of government that sentences offenders for not complying with the law, Judicial Branch employees are held to a high standard of conduct.

The purpose of this policy is to establish uniform procedures for addressing DWI convictions to ensure that no Judicial Branch employee operates a motor vehicle while in a physically or mentally impaired condition due to the consumption of alcohol, drugs, or other controlled substances.

2. REFERENCES

NMJBPR Part 1, Section 9.0, 12.0, 12.4
NMJBPR Part 2, Section 23.0

3. DEFINITIONS

A. Administrative Authority – Individual or designee with the primary responsibility to supervise and coordinate the administration of Judicial Entity, or as designated by the Chief Judge and approved by the Supreme Court order. (Ref: Administrative Authority, Appointing Authority and At-Will employee List Policy.)

B. Alcohol – Consumable non-prescription substances, which contain alcohol such as, without limitation, spirits, wine, malt beverages and intoxicating liquors. (Changed 2/13/12)

C. Controlled Substance – Any drug or other substance listed in schedules of the Controlled Substances Act (21 U.S.C. 812), and as further defined by 21 C.F.R. §1308.11 through 1308.15, and any material containing methamphetamines. Generally, these are drugs that have a high potential for abuse such as, but not limited to, marijuana, cocaine, opiates, phencyclidine (PCP), heroin, amphetamines and “crack;” metabolite of those drugs, or any non-prescription substance containing those drugs. A *controlled substance* also includes “legal drugs” that are not prescribed by



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or taken under the supervision of a licensed physician.

- D. Conviction** – A finding of guilt (including a plea of *nolo contendere*) or imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes or municipal ordinances.
- E. Criminal Drug Statute** – A federal or non-federal criminal statute involving the manufacture, distribution, dispensation, use or possession of a controlled substance or alcohol.
- F. Driving While Intoxicated (DWI)** - Driving while under the influence of intoxicating liquor or drugs in any jurisdiction.
- G. NMJBPRawe** – New Mexico Judicial Branch Personnel Rules – Part II for at-will employees. (Added 2/13/12)
- H. NMJBPR** – New Mexico Judicial Branch Personnel Rules – Part I for employees. (Added 2/13/12)

3. PROHIBITED CONDUCT

- A. Judicial Branch employees are required to respect and comply with the law. Any conviction for an offense under NMSA 1978, §§ 66-8-102 (2010) is therefore prohibited.

4. DUTY TO REPORT

- A. **Upon Arrest.** A Judicial Branch employee who is arrested for DWI must report the arrest to his or her Court Executive Officer or Administrative Authority within seventy-two (72) hours of the arrest. Immediately upon return to work the Judicial Branch employee must also complete the *Notification of Arrest* form, (form 2014.NMJB.85-A), and provide it his or her Court Executive Officer or Administrative Authority. Although the fact of arrest is not a basis for termination, failure to report is just cause for discipline up to and including immediate termination.
- B. **Upon Conviction.** A Judicial Branch employee, within seventy-two (72) hours of conviction for DWI must provide his or her Human Resources Administrator a completed *Notification of Conviction* form (form 2014.NMJB.85-B), with a copy of the criminal complaint and statement of probable cause, any plea and disposition



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agreement entered in the case, the judgment and sentence, the order of probation, completion of probation, and any probation violations and a signed Partial Waiver form (form 2014.NMJB.85-C), to permit the employee's Judicial Entity access to the treatment recommendation of the probation department or community compliance program.

5. DISCIPLINARY ACTION

- A. Failure to report an arrest or conviction for DWI is just cause for immediate termination.
- B. A conviction for an actual first offense (not a second or subsequent offense that is reduced to a first offense) is just cause for termination. In determining whether a first conviction will result in termination, the Administrative Authority shall consider the facts and circumstances surrounding the offense, any efforts by the employee to address the issue of alcohol or substance abuse, and any other information deemed relevant. The Administrative Authority may impose, as an alternative to termination, conditions or requirements on continued employment such as drug testing or rehabilitative treatment.
- C. A conviction for an actual second or subsequent DWI offense within ten (10) years of the previous offense shall result in termination.
- D. A conviction for an actual second or subsequent DWI offense that is reduced to a conviction for a first DWI offense, even though there has not been a prior conviction, will be considered a second conviction for the purpose of this policy.
- E. A conviction for an actual second or subsequent DWI offense beyond ten (10) years of the prior offense will be considered a first offense for the purpose of this policy.

6. ATTACHMENTS AND ACKNOWLEDGEMENT

- A. All New Mexico Judicial Branch Employees, (Classified and At-Will) will be provided with a copy of the Driving While Intoxicated (DWI) policy and must sign the *Acknowledgement* form upon receipt of the policy. (Form 2014.NMJB.85-D) The acknowledgement form will be placed in the employee's personnel file.
- B. Attachments include the following forms:

Distribution: All employees (Classified & At-Will) of the Judiciary
Retain until Superseded

Developed: June 5, 2014

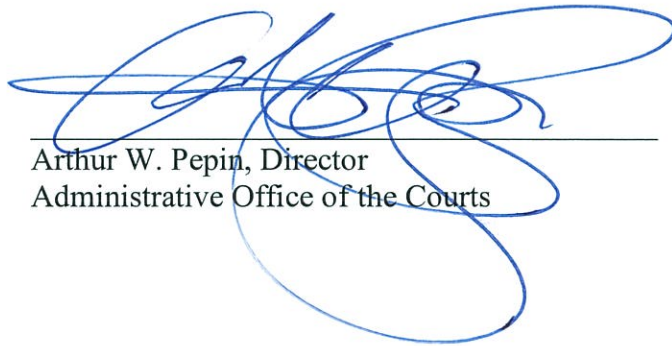


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- (1) the *Notification of Arrest* (form 2014.NMJB.85-A),
- (2) *Notification of Conviction* (form 2014.NMJB.85-B),
- (3) Partial Waiver (form 2014.NMJB.85-C), and
- (4) Acknowledgment (form 2014.NMJB.85-D).

Effective Date: June 5, 2014



Arthur W. Pepin, Director
Administrative Office of the Courts

Date





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**DRIVING WHILE INTOXICATED (DWI)
NOTIFICATION OF ARREST FORM**

Form 2014.NMJB.85-A

Reference: Driving While Intoxicated (DWI) Policy
NMJBPR Part 1, Section 9.0 & 12.0, 12.4 & NMJBPR Part 2, Section 23.0

Pursuant to the New Mexico Judicial Branch Personnel Policy Driving While Intoxicated (DWI), all Judicial Branch employees must report the arrest of a DWI to his or her Court Executive Officer or Administrative Authority within seventy-two (72) hours of the arrest. Immediately upon return to work the Judicial Branch employee must also complete this form and submit it to his or her Court Executive Officer or Administrative Authority. Failure to do so is just cause for discipline up to and including immediate termination.

TO BE COMPLETED BY JUDICIAL BRANCH EMPLOYEE WITHIN 72-HRS OF RETURN TO WORK	
EMPLOYEE NAME: (Please print)	DATE ARRESTED:
JUDICIAL ENTITY:	DIVISION:
CASE or CITATION NO: (Required if available)	DATE SIGNED/COMPLETED:
EMPLOYEE SIGNATURE:	

TO BE COMPLETED BY CEO OR ADMINISTRATIVE AUTHORITY <u>CONFIRMATION OF RECEIPT</u>	
RECEIVED BY: (Please print)	DATE RECEIVED/SIGNED:
CEO or ADMINISTRATIVE AUTHORITY SIGNATURE:	

CC: Employee
Employee Confidential Personnel File
Court Administration / Management Files



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**DRIVING WHILE INTOXICATED (DWI)
NOTIFICATION OF CONVICTION FORM**

Form 2014.NMJB.85-B

Reference: Driving While Intoxicated (DWI) Policy
NMJBPR Part 1, Section 9.0 & 12.0, 12.4 & NMJBPR Part 2, Section 23.0

Pursuant to the New Mexico Judicial Branch Personnel Policy Driving While Intoxicated (DWI), within seventy-two (72) hours of conviction for DWI all Judicial Branch employees must provide his or her Human Resources Administrator a copy of the criminal complaint and statement of probable cause, any plea and disposition agreement entered in the case, the judgment and sentence, the order of probation, completion of probation, and any probation violations and a signed partial waiver to permit the employee's Judicial Entity access to the treatment recommendation of the probation department or community compliance program.

TO BE COMPLETED BY JUDICIAL BRANCH EMPLOYEE UPON RETURN TO WORK	
EMPLOYEE NAME: (Please print)	CASE or CITATION NO: (Required if available)
EMPLOYEE SIGNATURE:	DATE SIGNED/COMPLETED:

Documents Attached:	√ if document is attached	HR Admin Initials accepting docs
Notification of Arrest Form signed by CEO or Admin Auth		
Criminal Complaint		
Statement of Probable Cause		
Plea and Disposition Agreement		
Judgment and Sentence		
Order of Probation		
Completion of Probation and any probation violations		
Partial Waiver Form signed by CEO or Admin Auth		

TO BE COMPLETED BY HUMAN RESOURCES ADMINISTRATOR	
<u>CONFIRMATION OF RECEIPT</u>	
RECEIVED BY: (Please print)	DATE RECEIVED/SIGNED:
HUMAN RESOURCES REPRESENTATIVE SIGNATURE:	

CC: Employee
Employee Confidential Personnel File
Court Administration / Management Files

Distribution: All employees (Classified & At-Will) of the Judiciary
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**DRIVING WHILE INTOXICATED (DWI)
PARTIAL WAIVER**

Form 2014.NMJB.85-C

Reference: Driving While Intoxicated (DWI) Policy
NMJBPR Part 1, Section 9.0 & 12.0, 12.4 & NMJBPR Part 2, Section 23.0

Pursuant to the New Mexico Judicial Branch Personnel Policy Driving While Intoxicated (DWI), within seventy-two (72) hours of conviction for DWI all Judicial Branch employees must provide his or her Human Resources Administrator a copy of the criminal complaint and statement of probable cause, any plea and disposition agreement entered in the case, the judgment and sentence, and the order of probation, completion of probation, and any probation violations. In addition, the employee must provide the Human Resources Administrator with a partial waiver to permit the court to gain access to the treatment recommendation of the probation department or community compliance program.

PARTIAL WAIVER

I authorize the probation department or community compliance program related to the Case No. or Citation No. listed below to release my probation agreement/compliance information including any treatment recommendations related to this arrest and conviction to the Human Resources office of my employer. I understand the following information may be released: medical records, reports, notes, test results, and any other relevant and material information in the probation department/community compliance program's possession.

TO BE COMPLETED BY JUDICIAL BRANCH EMPLOYEE	
EMPLOYEE NAME: (Please print)	CASE or CITATION NO: (Required if available)
EMPLOYEE SIGNATURE: (Partial Waiver Agreement)	DATE SIGNED/COMPLETED:

TO BE COMPLETED BY CEO OR ADMINISTRATIVE AUTHORITY	
<u>CONFIRMATION OF RECEIPT</u>	
RECEIVED BY: (Please print)	DATE RECEIVED/SIGNED:
CEO or ADMINISTRATIVE AUTHORITY SIGNATURE:	

CC: Employee
Employee Confidential Personnel File
Court Administration / Management Files

Distribution: All employees (Classified & At-Will) of the Judiciary
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**DRIVING WHILE INTOXICATED (DWI)
ACKNOWLEDGMENT FORM**

Form 2014.NMJB.85-D

I, _____,
(Print Name)

acknowledge that I have received, read and understand the

**New Mexico Judicial Branch
Driving While Intoxicated (DWI) Policy & Procedure,**

and understand that I am responsible for adhering to these policies. I understand that I am required to report any arrest for DWI to my Court Executive Officer or Administrative Authority within seventy-two (72) hours. I understand that while the fact of arrest may not be a basis for termination, failure to report **is just cause for discipline up to and including immediate termination.** I understand that upon conviction for DWI, I must provide my Human Resources Administrator with a copy of the criminal complaint and statement of probable cause, any plea and disposition agreement entered in the case, the judgment and sentence, and the order of probation, along with signing the partial waiver form allowing my court to gain access to the treatment recommendation of the probation department or community compliance program

TO BE COMPLETED BY JUDICIAL BRANCH EMPLOYEE	
EMPLOYEE SIGNATURE:	DATE SIGNED/COMPLETED:
JUDICIAL ENTITY/COURT:	

cc: Employee Personnel File