Welcome NMSU Employees!

Leave Policies Workshop
March 20, 2014

NMSU Policy Manual
http://manual.nmsu.edu/current-nmsu-policies/
Annual Leave

• 12 month employees earn 22 work days per fiscal year.
  – Pro-rated if working less than full time (40 hrs/wk)
  – Leave accrues from hire date, and may be used as it is earned.
  – 240 hours (30 days) may be carried forward each July 1
    • Excluding non-regular term employees & RTW retirees – must use or lose all annual leave accrued as of June 30 by September 30
  – Employees who have accumulated more than 240 hours on July 1 must use excess leave (with supervisor’s approval) prior to October 1st.
Annual Leave Continued…

• Leave **may not** be advanced prior to accrual.
• Leave should be requested in advance in accordance with departmental procedures, subject to supervisor approval.
• Leave will transfer from one department to another.
• When an employee terminates employment, leave is paid up to 240 hours.
  – **Excluding non-regular term employees & RTW retirees** – no payout upon termination.
Sick Leave

• 12 month regular full-time employees (prorated for part-time employees) earn 8 hours of sick leave per month (12 days per year). *Non-regular term employees and RTW retirees do not accrue sick leave

• Leave accrues from hire date, and may be used as it is earned.
• Foreseeable leave should be requested in advance.
• Unforeseeable leave should be requested in accordance with departmental procedures.
• A doctor’s excuse/release should be provided for leave in excess of 3 consecutive days. *Individual departments may require a doctor’s excuse for absences less than 3 days to use sick leave
• Sick leave may accrue to 800 hours (100 days).
• Sick leave will transfer from one department to another.
Sick Leave Continued…

• Leave may be used when an employee’s presence is reasonably required to care for a dependent during an illness. A dependent* is defined as a spouse, child, or immediate family member who normally resides in an employee’s household and is dependent upon the employee for care and maintenance.

* If leave is being taken under FMLA, parents are included as dependents for sick leave purposes, as well as individuals who serve “in loco parentis”.

• Leave is also granted to full-time employees for the care of a newly adopted well child under the age of 5. Leave may not exceed 6 weeks. If both parents work for the university, combined leave may not exceed 6 weeks.*

* If both parents work for the University, leave cannot exceed a combined 12 weeks within the 12 months following placement if leave is taken under FMLA. A maximum of 6 weeks sick leave may be taken within the first 12 weeks following the placement.
Sick Leave Continued…

• Birth fathers may take up to 6 consecutive weeks of sick leave.*

* If leave is taken under FMLA, birth mothers and fathers may take six weeks of sick leave immediately following the birth up to 12 weeks after the baby’s birth, and an additional six weeks of annual leave/leave without pay. All leave must be completed within the 12 months immediately following the birth.

• Documentation for the use of sick leave may be required.

• When an employee terminates employment, leave is paid if the employee has between 600-800 hours of leave at ½ their hourly rate. The maximum amount payable is 200 hours.

• If an employee depletes their sick leave, available annual leave may be applied with approval from the department.
Leave Without Pay

• Leave without pay (LWOP) may be requested for up to 90 days once all annual and sick leave* has been exhausted.

* Sick Leave can only be used for medical reasons. Non-medical LWOP requires all annual leave be exhausted prior to LWOP commencing.

* If leave is taken under FMLA, an employee may voluntarily take Leave Without Pay after sick leave is exhausted, even if there is annual leave available.

• LWOP requests for up to 90 days may be approved by the Director/Department Head.

• Departments must obtain approval from the Human Resources Director via written request through the Dean or Vice President, if requesting LWOP for more than 90 days.
Leave Without Pay Continued…

• Leave without pay for an exempt employee will begin on the first 8 hour day and end on the last 8 hour day of the leave period.

• While on LWOP, the employee is responsible for paying 100% of insurance premiums (employer and employee portion).

• Employees on Educational, FMLA and Professional LWOP are required only to pay the employee’s portion of insurance premiums.

• If premiums are not paid, an employee’s insurance coverage is subject to cancellation.
What is the Family and Medical Leave Act?

• Family Medical Leave Act is a Federal Law that provides up to 12 weeks job protected leave benefits in most instances to eligible employees.

• The 1993 Federal Act provides:
  – Job protection from adverse employment actions while on FMLA status
  – Ability to maintain existing medical benefit programs

• Available to all employees who have been with the university for at least 12 months (does not have to be consecutive), and have worked at least 1,250 hours for the university during the immediately preceding 12 months.

• Enforced and Regulated by the Department of Labor
When does FMLA Apply?

- Birth of a child
- Placement of an adopted or foster child (leave must be taken within 12 months of placement)
- Care of a child, parent, spouse or recognized domestic partner with a serious health condition
- Serious health condition of staff member
- Care of a service member with a serious health condition incurred during active duty (up to 26 weeks* in a 12-month period)
  
  * 26 week period includes the initial 12 weeks allowed by law
- Qualifying exigencies arising from service member’s active duty or call to active duty
What is A Serious Health Condition?

- Inpatient care (overnight stay)
- Incapacity more than 3 calendar days involving continuing treatment
- Incapacity due to pregnancy or for prenatal care
- Incapacity due to chronic serious health condition
- Receiving multiple treatments for condition which, if untreated, would result in incapacity of more than 3 calendar days
Examples of Serious Health Conditions

- Heart attack
- Stroke
- Severe respiratory conditions
- Cancer
- Childbirth and prenatal care/exams
- Asthma
- Diabetes
- Lupus
- Epilepsy
- Mental illness
- Back conditions requiring therapy
- Severe arthritis
- W/C Injuries
What is a Health Care Provider?

• Health care professional who is accepted by the employer and the health insurance provider:
  – Examples: podiatrists, dentists, clinical psychologists, optometrists, nurse practitioners, physicians, physician assistants, social workers, chiropractors, midwives
FMLA Request Process

• Online Request for FMLA Leave form is submitted to Benefit Services by employee or department
  – http://benefits.nmsu.edu/leave-holidays/fmla/
  – As soon as need for leave is foreseeable
  – Any time an employee misses more than 3 consecutive days due to medical reason for themselves or a family member.

• Benefit Services determines employee eligibility for FMLA leave

• Benefit Services provides appropriate certification form to employee to be completed and returned within stated deadline.

• Benefit Services notifies supervisor and department HR liaison of request and certification deadline.
Certification

• Confirmation that the medical condition requires absence from work
• Type of leave required
  – Block: more than 3 consecutive days
  – Intermittent: periodic, episodic, and potentially unforeseeable
  – Reduced schedule: a consistent reduction of regular work schedule
• Duration of leave
  – Block: Begin and end date that employee **may not perform any work**
  – Intermittent: Begin and end date of absences and estimated frequency of absences per week or month
  – Reduced schedule: Begin and end date of absences and number of hours/days unable to work on a consistent basis
• Qualifying Exigency
  – Confirmation of active duty orders and appropriate facts related to the qualifying exigency
  – Duration of leave
FMLA Request Process Continued…

Once leave request is approved:

- Benefit Services maintains the Medical Health Certification and supporting documents in a secured and confidential file.
- Benefit Services notifies employee, supervisor and department HR liaison of approval.

If leave request is denied:

- Benefit Services notifies employee, supervisor and department HR liaison of denial.
FMLA Leave Reporting

• Departments must notify Benefit Services when an employee uses more than 3 continuous days of sick leave, annual leave or LWOP for medical circumstances for themselves or their family member.

• If an employee is consistently missing work due to illness of self or family member, even if the days are not consecutive, the department should notify Benefit Services.

• FMLA leave runs concurrently with sick/annual leave, not after paid leave runs out.

• Sick leave is required to be used first.* Use of subsequent annual leave is at the discretion of the employee and supervisor. If annual leave is not approved or the employee requests LWOP, the employee is placed on LWOP.

* For the birth/placement of a child, care of a parent, or care of an adult child, a maximum of 6 weeks of Sick Leave may be used.
FMLA Record Keeping

• Block:
  ➢ Personnel Action Form (PAF) is submitted by Department placing employee on FMLA leave with or without pay as appropriate.
  ➢ **It is the supervisor’s responsibility to track leave balances.** The department must submit a PAF placing the employee on LWOP if paid leave is exhausted.
  ➢ Department must submit a PAF returning the employee from FMLA leave effective the date the employee returns to work.
  ➢ If the leave was for the employee’s own health condition (including birth mothers), **the employee must provide a doctor’s release to return to work to Benefit Services on or before the date he/she returns to work.** If the employee provides the release to the department, it must be attached to the return PAF.
FMLA Record Keeping Continued…

• Intermittent or Reduced Schedule:
• Employee must submit a monthly report of all FMLA hours/dates taken to Benefit Services with a cc to supervisor (via mail, fax, email, or hand delivery)
• It is the supervisor’s responsibility to track leave balances. The department must submit a PAF placing the employee on LWOP for any full days employee takes leave if paid leave is exhausted, or if employee takes more than 3 consecutive days of FMLA leave.*

* If leave is for employee’s own health condition, a doctor’s release must be provided for leave in excess of 3 consecutive days.
FMLA & Attendance Policy

- Absences qualifying under FMLA cannot be counted as occurrences
- Employee may be temporarily reassigned
- Employee may be temporarily replaced
- To ensure attendance policy is not invoked:
  - Notification of need for leave must be provided in accordance with department/unit policies and procedures
  - Notification of foreseeable AND unforeseeable leave must be in accordance with department/unit policies and procedures.
Working while on leave
added 3/25/14

- NMSU does not have a policy for “working from home”
- Generally, working from home or location other than the workplace is not permitted while taking leave.
- Departments may request consideration for exigent circumstances by written request from supervisor & Department Head through the VP/Dean to the AVP of HRS. Request must include:
  - Confirmation that employee agrees to work during leave
  - A doctor’s release permitting employee to work from remote location
  - Why employee’s work cannot be performed by someone other than employee
  - Specific work to be performed and whether university-owned equipment will need to be issued to employee to perform the work
  - How work performed will be supervised and measured
  - Duration of alternative work arrangement
Sick Leave Bank

• Regular employees are eligible to join if they have 2 years of continuous employment and are enrolled in the Long-Term Disability program. Enrollment in the Long-Term Disability program must be maintained in order to remain eligible for usage of the bank.
• Employees are required to donate 40 hours to the bank.
• Program was established to help employees affected by a “personal emergency”.
• All annual and sick leave must be exhausted before usage of the bank may begin.*

* Employees with sick leave balances over 600 hours at the onset of the "personal emergency" do not have to use any annual leave before applying, but must have used all available sick leave.

• Usage of the bank is contingent upon approval from the SLB Committee.
• A maximum of 70 days per personal emergency or fiscal year may be used.
Military Leave

• Available to employees (excluding temporary) who are required to leave for military training. A copy of military orders must be submitted to supervisor.

• Military leave with pay cannot exceed 15 working days in a Federal fiscal year (October 1 – September 30)

• Employees are not required to use annual leave.

• Military leave is for training purposes only.
Active Military Duty

- Regular employees who are mobilized or volunteer for active duty are placed on leave without pay until the date of discharge or release from active duty at which time they will return to regular employment so long as they are honorably discharged. Copy of orders and DD214 required.

- Active duty cannot be for more than 5 years, unless active duty is during a war, declared national emergency or active duty in support of a critical mission.

- After active duty, an employee must apply for re-employment in accordance with USERRA.
Active Military Duty Continued…

• Employees may use annual leave during their active duty status, but not military leave.

• Employees may continue insurances during active duty by paying 100% of the premium. Employees who elect not to continue insurances may re-enroll in the plans upon return without submitting evidence of insurability.
Compassionate Leave

• In the event of the death of a member of the immediate family, an employee is allowed a leave with pay, not to be charged against sick or annual leave, of up to 3 regular working days following the death.

• Immediate family member includes spouse, a domestic partner as defined in Policy 7.04, a child, parent or legal guardian, a sister or brother, a grandparent, or a grandchild. Such familial relationships created by law are also included (i.e. mother/father in law; half or step siblings).

• Benefit is available to regular and term employees only.
Domestic Abuse Leave

• Leave taken due to the domestic abuse of an employee or an employee’s family member, including but not limited to: obtaining or attempting to obtain an order of protection or other judicial relief from domestic abuse, meeting with law enforcement officials, consulting with attorneys or victim advocates, attending court or other administrative agency proceedings.

• Unless the employee opts to use accrued sick or annual leave, compensatory time or other available paid time off, the domestic abuse leave shall be leave without pay.
Jury Duty

- Employees are paid their regular salary up to 8 hours for jury duty service.
- If employees serve less than 8 hours in a day, they are required to return to work after service ends.
- Available to regular and term employees only.
- Employees must present written notice of how many days they served under jury duty.
- Employees may retain any payments received for service on a federal jury, however state regulations prohibit public employees from receiving payment for serving on state juries.
Court Witness

• A copy of a subpoena should be given to the employee’s supervisor.
• Annual leave or LWOP will be granted.
Leave for Internal Interviews or Other University Services

- Leave will not be charged to a regular or term employee who is interviewing for a position within the university, registering for classes, visiting the Campus Health Center, or the Employee Assistance Program. Leave must be used when an employee takes a dependent to the Campus Health Center.
Employee Tuition Remission

• Employees taking courses under the tuition remission program during working hours may be required to make up time spent away from the work station (or take annual leave) unless enrollment is a requirement for continued employment.
Employee FTE Changes

• Before making a change to an employee’s FTE, supervisors are highly encouraged to consult with Benefit Services before making the change. Changes in FTE’s may affect an employee’s eligibility for benefits including, but not limited to:
  – Leave (annual, sick, sick leave bank, etc)
  – University sponsored insurance program
Return to Work Retirees
Applies only to Retirees with an approved application to return to work on file with the Educational Retirement Board

- Retirees who are employed as regular employees eligible for leave, will earn 22 days of annual leave each fiscal year. All leave for the previous fiscal year must be used by September 30th of the current fiscal year or it will be forfeited.
- When the retiree terminates employment, annual leave balances are not payable to the retiree.
- Retirees who are employed as regular employees eligible for leave do not earn sick leave.
Questions?

**NMSU Policy Manual**

**Chapter 7**

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