

**This is an amendment to 1.7.7 NMAC, Sections 8, 9 and 17 effective 1/1/2021**

**1.7.7.8 ANNUAL LEAVE:**

- A.** Employees, except those on full-time educational leave with pay, absence without leave, leave without pay, unpaid FMLA leave, or suspension without pay shall accrue annual leave at the rate of:
- (1) 3.08 hours per pay period if less than three years of cumulative employment,
  - (2) 3.69 hours per pay period if three years or more but less than seven years of cumulative employment,
  - (3) 4.61 hours per pay period if seven years or more but less than eleven years of cumulative employment,
  - (4) 5.54 hours per pay period if eleven years or more but less than fifteen years of cumulative employment; or
  - (5) 6.15 hours per pay period if fifteen years or more of cumulative employment.
- B.** For purposes of Subsection A of 1.7.7.8. NMAC, any employment in the classified or exempt service and judicial or legislative branches of New Mexico state government shall be counted in determining years of cumulative employment in the classified service.
- C.** For purposes of Subsection A of 1.7.7.8. NMAC, employment in programs transferred into the classified service by legislation or executive order shall count as cumulative employment.
- D.** Employees employed on a part-time basis and employees on furlough who work at least eight hours in a pay period shall accrue annual leave on a prorated basis.
- E.** A maximum of 240 hours of annual leave shall be carried forward after the last pay period beginning in December. However, there shall be no limit to the number of annual leave hours that shall be carried forward after the last pay period of December 2020. Any annual leave hours above 240 that are carried forward past December 2020 and are not used prior to the pay period ending July 9, 2021, shall not be carried forward beyond that pay period.
- F.** Annual leave shall not be used before it is accrued and must be authorized before it is taken in accordance with agency policy.
- G.** Employees separating from the classified service, except by a reduction in force, shall be paid for accrued annual leave, as of the date of separation, up to a maximum of 240 hours at their current hourly rate. This payout shall not exceed 240 hours, notwithstanding any annual leave accrual beyond 240 hours that may occur pursuant to Subsection E of 1.7.7.8 NMAC.
- H.** Employees separating from the classified service as the result of a reduction in force shall be paid for all accrued annual leave, as of the date of separation, at their current hourly rate, excluding any annual leave accrual beyond 240 hours that may occur pursuant to Subsection E of 1.7.7.8 NMAC.
- [H].** The estate of an employee who dies while in the classified service shall be paid for the employee's total accrued annual leave, excluding any annual leave accrual beyond 240 hours that may occur pursuant to Subsection E of 1.7.7.8 NMAC.
- [1.7.7.8 NMAC - Rp, 1 NMAC 7.7.8, 7/7/2001; A, 11/14/2002; A, 1/1/2021]

**1.7.7.9 DONATION OF ANNUAL AND/OR SICK LEAVE:**

- A.** Employees may donate annual and/or sick leave to another employee in the same agency for a medical emergency with approval of the head of the agency. Employees may also make and receive donations of annual leave to and from employees in the exempt service in the same agency for a medical emergency with approval of the head of the agency, as set forth by the department of finance and administration's policies for Governor Exempt Employees.
- B.** Employees may donate annual leave to the full amount of their accumulated hours.
- C.** In accordance with the provisions of Section 10-7-10 NMSA 1978, the donation of sick leave is governed by the following restrictions:
- (1) employees who have accumulated more than six hundred hours of sick leave can transfer the additional amounts over 600 hours to another employee;
  - (2) the dollar value of the transferred leave shall equal fifty percent of the monetary value of the total hours transferred by the donor employee;
  - (3) no more than 120 hours of sick leave may be transferred by the donor in any one fiscal year, with the exception of the year in which an employee retires, when an employee may transfer up to 400 hours of sick leave;

(4) donations of sick leave may be made only once per fiscal year on either the pay date immediately following the first full pay period in January or the first full pay period in July, unless the employee is retiring.

**D.** An agency shall maintain the following documentation:

(1) the name, position title, and hourly rate of pay of the proposed leave recipient;

(2) a licensed health care provider's description of the nature, severity, and anticipated duration of the emergency involved which has been provided by the employee or legally authorized representative and a statement that the recipient is unable to work all or a portion of their work hours; and

(3) any other information which the employing agency may reasonably require.

**E.** Supporting documentation for the request to donate leave shall be kept confidential and not subject to public inspection without the written consent of the employee.

**F.** The agency shall transfer the leave to the leave account of the employee converting the dollar value of the donor's leave based on the donor's hourly rate of pay to hours of leave based on the recipient's hourly rate of pay.

**G.** The recipient of donated leave may not use such leave until first exhausting all accrued annual and sick leave, compensatory time and personal leave day.

**H.** Donated leave shall revert to the employees who donated the leave on a prorated basis when the medical emergency ends or the employee separates from the agency.

[1.7.7.9 NMAC - Rp, 1 NMAC 7.7.9, 7/7/2001; A, 11/14/2002; A, 7/5/2005; A, 1/1/2021]

#### **1.7.7.17 PERSONAL LEAVE DAY:**

**A.** Employees in career status are entitled to [~~4~~] two personal leave [~~day~~] days each calendar year. The personal leave [~~day~~] days will be consistent with the employee's normal workday. Such leave must be requested and approved in advance.

**B.** [~~The~~] Each personal leave day must be taken during consecutive hours.

**C.** The personal leave [~~day~~] days must be taken by December 31 or [~~it~~] they will be lost.

**D.** Employees who do not take [~~the~~] their personal leave [~~day~~] days shall not be paid for [~~it~~] them upon separation from the classified service.

[1.7.7.17 NMAC - Rp, 1 NMAC 7.7.17, 7/7/2001; A, 11/14/2002; A, 10/15/2008; A, 1/1/2021]