

DEPARTMENT: Superior Court Adult Probation Office Juvenile Court Clerk of Superior Court	DIVISION: ALL
RULE NAME: Judicial Merit Rules RULE: Leave Plan RULE NUMBER: 15	DATE ADOPTED: March 1, 2002 DATE AMENDED: November 20, 2006 DATE AMENDED: October 27, 2010 DATE ADOPTED: January 1, 2011 DATE AMENDED: October 11, 2011 DATE AMENDED: October 21, 2011 DATE AMENDED: April 9, 2012 DATE AMENDED: October 10, 2014 DATE ADOPTED: October 10, 2014 DATE AMENDED: November 5, 2018

RULE 15 - LEAVE PLAN (Amended October 10, 2014)

15.01 Purpose

Matters related to attendance, holiday and leave are administered in accordance with these Rules. Provisions of Rule 14 regarding leave apply to all employees including probationary, classified, unclassified, temporary, full or part-time as applicable.

15.02 Authority

The Presiding Judge is the final authority for resolution of leave issues pursuant to these Rules. The Presiding Judge may change or amend the leave policy as necessary upon

15.03 Holidays

Employees must be in a pay status for the full regularly scheduled workday both before and after the holiday to be eligible to receive holiday pay. Employees using paid sick leave or vacation time are in a pay status. The maximum number of paid holiday hours is eight (8).

A. Employees (except on-call and temporary) will be allowed time off with pay for any legal holiday set forth by the Yuma County Board of Supervisors unless required by a court department to work in order to maintain essential court services.

B. The paid holidays are:

1	January 1	New Year's Day
2	Third Monday in January	Martin Luther King, Jr. / Civil Rights Day
3	Third Monday in February	Washington / Lincoln President's
4	Last Monday in May	Memorial Day
5	July 4	Independence Day
6	First Monday in September	Labor Day
7	November 11	Veteran's Day
8	Fourth Thursday in November	Thanksgiving Day

9 Friday after Thanksgiving Day

10 December 25 Christmas Day

11. Upon declaration from the Yuma County Board of Supervisors, any date appointed or declared by the President of the United States as an occasion for national mourning, rejoicing, or observance of a national emergency.

- C. Employees who ordinarily work forty (40) hours per week and who are required to work on a legal holiday regardless of the day of the week on which such legal holiday falls, will be compensated as provided in A.R.S. § 38-608 for such holiday worked by either:
1. Commensurate compensatory time off with pay; or
 2. Additional commensurate compensation or wages
- D. Employees working forty (40) hours per week who are working an alternative schedule will receive eight (8) hours pay for the observed holiday. Subject to the approval of their Appointing Authority, employees will adjust their work schedules to meet their forty (40) hours during the same work week, use vacation time, or take time off without pay to make up the difference between the eight (8) hours of pay for the holiday and their regularly scheduled hours.
- E. When a holiday falls on a Saturday, it will be observed the preceding Friday. When a holiday falls on a Sunday, it will be observed on the following Monday.
- F. Regular status part-time employees working less than forty (40) hours per week, but more than twenty (20) per week, will be compensated as in A & B, above. Holiday pay will be pro-rata basis of their regularly scheduled hours.

15.04 Coverage and Administration of Leave

A. Coverage and Exclusions

Employees occupying regular status positions who are scheduled to work at least 50% full time are eligible to accrue leave with pay under these Rules from the date of appointment. The following types of employees are excluded from the leave provisions and are not eligible to accrue or to be given any type of leave with pay:

1. Temporary appointments
2. On-call appointments
3. Contract Service Providers and their Employees (Amended October 10, 2014)

B. Eligibility for Leave

1. All employees are eligible for annual leave with pay on accrual of such leave.

2. Any employee who works less than twenty (20) hours per week is not eligible for annual or sick leave.

C. Carryover of Leave

1. Any accumulation of annual leave in excess of two hundred forty (240) hours at the end of December will be forfeited unless otherwise approved by the Appointing Authority and the Presiding Judge.
2. Unused sick leave credits will accrue without limitation.

D. Reporting and Recording Leave

Each court department will maintain a leave record showing earned, used and unused leave for each category of leave for each of its employees. The forms and manner of maintaining such records will be in accordance with Yuma County Rules and Regulations. Such records will be subject to review and audit by the Appointing Authority and Human Resources for compliance with these Rules.

E. Leave Requests

1. Leave will be requested and approved in advance of the time when it is taken. Court departments will establish requirements to cover requests for leave in emergency situations when advance approval cannot be obtained.
2. Any leave which has not been earned will not be approved for payment.

F. Attendance

Every employee is expected to report to work on time for their scheduled shift as predetermined by their agency head. Due to the disruptive nature of unscheduled absences, agency heads may counsel and discipline employees who abuse the leave policy. (Adopted October 10, 2014)

15.05 Annual Leave for Court and Court Department Employees

Annual leave is a broad category of leave which includes vacation time as well as other periods of approved absence with pay from work which is not chargeable to any other category of leave.

A. Rates of Accrual

1. Regular full-time (40 hour work week) employees in complete continuous pay status accrue annual leave as follows:

<u>Months of Credited Service</u>	<u>Hours Per Month</u>	<u>Days Per Year</u>
0 through 12 months	8	12
13 months through 48 months	10	15
49 months through 120 months	14	21
121 months or more	18	27

2. Regular part-time employees will accrue annual leave time as follows:

<u>Hours Per pay Period Regularly Scheduled</u>	<u>Percent of Regular Accrual</u>
40 but less than 48	50%
48 but less than 56	60%
56 but less than 64	70%
64 but less than 72	80%
72 but less than 80	90%

3. Annual Leave

Annual leave will accrue during any approved leave of absence with pay, but it does not accrue during any leave of absence without pay or payment through Extended Illness Bank (EIB). (Amended October 27, 2010)

B. Annual Accrual

Employees may accrue the maximum hours allowed in one (1) calendar year.

C. Use of Annual Leave

1. Employees eligible to accrue annual leave credits pursuant to these Rules may request and be granted leave according to the needs of the court department and the approval of their supervisor.
2. Annual leave will not be charged against an employee's accrued balance for an authorized holiday which occurs while an employee is using annual leave.
3. Employees may voluntarily donate increments of their accrued annual leave pursuant to Yuma County policy.

D. Disposition of Accrued Leave upon Separation

Upon separation of an employee who is eligible to use annual leave with pay, all accrued annual leave credit and compensatory time will be paid at the employee's current hourly rate. (Amended October 10, 2014)

15.06 Sick Leave for Classified and Unclassified Employees

A. Description

Sick leave includes any approved period of absence with pay of an Employee under the following conditions:

1. Illness or injury
2. Medical, maternity, or dental care

3. Exposure to contagious disease and possible endangering of others by attendance on duty
4. Illness, required medical care, or injury of a member (or members of the immediate family (including the employee's spouse, mother and father-in-law, parents, siblings, children, grandparents, grandchildren, or person serving *In Loco Parentis* of either employee or spouse) which requires the presence of the employee for assistance or care.

B. Rates of Accrual

1. Regular status full-time employees accrue without limitation eight (8) hours of sick leave each month.
2. Regular status part-time employees assigned to work at least half-time (40 hours per pay period or more) but less than full-time (80 hours per pay period) accrue (without limitation) sick leave credits for each two (2) week pay period in which they are in a pay status at the following rates:

Hours Per Pay Period	Percent of Regular Accrual
Seasonal, Temporary, Emergency and Part-Time less than 25%	1 hour for every 30 hours physically worked less than 25%
40 but less than 48	50%
48 but less than 56	60%
56 but less than 64	70%
64 but less than 72	80%
72 but less than 80	90%

3. Sick leave accrues during any approved leave of absence with pay, but does not accrue during any leave of absence without pay or payment through Extended Illness Bank (EIB). (Amended October 27, 2010)
4. Seasonal, temporary, emergency and part-time employees working less than 25% will accrue 1 hour for every 30 hours physically worked as required by law, effective July 1, 2017. (Amended November 5, 2018)

C. Use of Sick Leave

1. Employees eligible to accrue sick leave pursuant to these Rules may use such sick leave they have accrued since the beginning date of their employment.
2. Sick leave will not be charged against an employee's accrued balance for an authorized holiday which occurred while using sick leave.
3. Personal Necessity Leave: On a calendar year basis, twenty (20) hours of the employee's sick leave may be used for personal necessity leave. Personal necessity leave may be taken at any time approved by the appointing authority or designee, and may be used for any reason, provided the employee maintains a minimum balance of 80 hours in their sick leave bank after using any personal necessity leave. Compensatory time must be used prior to using Personal Necessity Leave. (Adopted January 1, 2011; Amended October 11, 2011)

D. Verification of Need for Sick Leave

The Appointing Authority may approve sick leave for any period of time only after ascertaining that the absence was for an authorized reason. The Appointing Authority may require employees to submit substantiating evidence, including but not limited to, a certificate from a licensed physician or practitioner. If the Appointing Authority does not consider the evidence adequate, it will disapprove the request for sick leave and charge the time taken to annual leave or leave without pay.

E. Sick Leave Without Pay

1. When accrued sick leave allowances with pay are not sufficient to cover disability, sick leave without pay may be taken by the employee subject to the approval of the Appointing Authority.
2. If an employee requires sick leave without pay but upon request does not submit evidence of disability or continuing disability or submits evidence unsatisfactory to the Appointing Authority, the employee's sick leave without pay becomes void and may result in termination of the employee's services.

F. Payment of Unused Sick Leave

Regular status employees are eligible to receive payment for all accrued sick leave upon separation from employment with the courts at the rate of three dollars (\$3.00) per hour of sick leave up to one thousand (1,000) hours of such unused leave. Reimbursement of accrued sick leave is conditioned upon an employee's continuous employment with the courts and/or county for five (5) years, and upon the condition that the employee provides the courts with notice of separation at least two (2) weeks prior to the effective date of separation from the courts. See Appendix B, Para. VIII, "Separation Pay." (Amended October 10, 2014)

G. Family Medical Leave Act

Pursuant to the Family Medical Leave Act ("FMLA") the Appointing Authority is required to provide a maximum of twelve (12) weeks leave upon the employee's request provided however that the employee qualifies under the FMLA. Leave granted pursuant to the FMLA will be granted in writing advising the employee that the leave is granted under FMLA requirements. Questions about the provisions of the FMLA or the notification requirements may be directed to your individual Court Department Human Resources or Yuma County Human Resources Department for assistance. (Amended October 10, 2014)

A summary of the provisions of the FMLA are contained in Rule 17. The full text of the FMLA is available from the Court Department Human Resources or Yuma County Human Resources for review by employees. (Amended October 10, 2014)

15.07 Annual Leave for Judicial Staff

Commissioners are unclassified employees but are defined as Judicial Staff for purposes of Rule 14. Judicial staff members, including judicial assistants, bailiffs and court reporters appointed by judges, are

classified employees as defined in these Rules and are therefore covered employees for all purposes defined and described in these Rules.

The amount of annual leave for judicial staff and the schedule for use of such leave must be approved by the Presiding Judge. The provisions of 15.04 and 15.05 do not apply to judicial staff with respect to annual leave, including annual leave accruals. Effective January 1, 2007, judicial staff will receive two hundred sixteen hours (216) of annual leave beginning January 1st, of each calendar year. Leave is used or forfeited within each calendar year.

Judicial staff must use their annual leave at the same time and on the same days as the judge for whom they work. A judicial officer, in their discretion, may allow a member of their staff to substitute a different annual leave day in place of an already scheduled annual leave day.

If a judicial staff employee terminates his or her employment with the courts, the employee is not entitled to compensation for any unused annual leave. (Amended November 20, 2006; October 21, 2011)

15.08 Special Leaves of Absence with Pay

Special leaves of absence with pay from regularly scheduled work will be granted to employees according to the terms and conditions indicated and will not be charged to accrued annual, sick or compensatory leave.

A. Court Business

Leave with pay for court business that requires an employee to be absent from the court except for established or routine duties, will be granted with prior approval of the Appointing Authority.

B. Conferences and Training

Leave with pay to attend trade, professional or other meetings which relate directly to official duties will be granted with the approval of the Appointing Authority.

C. Jury Duty

Leave with pay will be granted to employees who are called to serve on a jury during their regularly schedule working hours. The amount of leave with pay granted to employees who serve on jury duty will be equal to the amount of time normally scheduled for the employee to work on the day of the week on which jury duty falls. Employees will retain their regular salary plus juror mileage; however jury fee pay, if paid to an employee, must be returned to the court.

D. Voting

Leave with pay not exceeding two (2) hours may be granted to employees who are qualified to vote on primary and general election days. The Appointing Authority may specify the hours for exercise of voting leave.

E. Bereavement

A regular status employee may be absent with pay for a period of time not to exceed five (5) working days (40 working hours) (prorated for part-time employees) for the death of a spouse, brother, sister, parent, step-parent, child, step-child, grandparent, great

grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandparent-in-law, great grandparent-in-law or any member of a household domiciled in the employee's residence, or a person serving in loco parentis of either an employee or their spouse. (Amended April 9, 2012; Amended October 10, 2014)

F. Administrative Leave

Leave with pay will be granted for a period of absence:

1. Authorized by the Presiding Judge in emergency situations such as extreme weather conditions, fire, flood or malfunction of a publicly-owned or controlled machinery or equipment;
2. Based upon the declaration by the Yuma County Board of Supervisors or the Governor of the State of Arizona that a state of emergency, disaster or grief exists; or
3. When an Appointing Authority determines that an employee should be removed from the workplace pending an investigation which may result in disciplinary action or termination of employment.

15.09 Break Time for Nursing Mothers

A. **Purpose**

The Courts recognizes that breastfeeding has many benefits for new mothers by accommodating the employee who wishes to express breast milk during her workday for up to one year after her child's birth.

B. **Policy**

Under the patient protection and affordable care act enacted March 23, 2010, employers are required to provide reasonable break time for an employee to express breast milk for one year after the birth of her child.

Reasonable break time is considered to be 20 minutes or less for up to three (3) times per day. The Courts have employees who are exempt from the Fair Labor Standards Act (FLSA) and those who are Non-exempt. Non-exempt employees shall take sick time for breaks of more than 20 minutes in length.

Employers are not required under the FLSA to compensate nursing mothers for breaks taken for the purpose of expressing milk; however, where employers already provide compensated breaks, an employee who uses that break time to express milk must be compensated in the same way that other employees are compensated for break time.

Employees must be completely relieved from their duties in a designated room and not interrupted during break time to express milk.

C. **Responsibilities**

Employers are required to provide a designated room which is not a bathroom that can be locked and is shielded from view by the public and co-workers. This room must be equipped with a comfortable chair, electric outlets, and a table. The employee must

leave this room clean. Employees who work offsite or in other locations will be accommodated with a designated room as necessary.

A refrigerator may be available for the storage of breast milk. Any employee storing breast milk in a refrigerator assumes all responsibility for the safety of the milk and the risk of harm for any reason.

Employees are required to request the need for a designated room to their Supervisor and establish their lactation needs and approximate schedule. (Adopted November 5, 2018)

15.10 Leaves of Absence Without Pay

A. Educational Leave

Leave without pay may be granted for reasonable periods of time normally not exceeding one (1) year in order to enable employees to attend work-related education and training courses. Education leave without pay may be granted by the Appointing Authority.

B. Return from Leave Without Pay

An employee's right to return from leave without pay to a position in the Courts will be conditioned upon the availability of an appropriate position and sufficient appropriation or authorization of funds. All unused accruals in all categories, including, but not limited to annual leave and sick leave, will be reinstated to the benefit of an employee at the time the employee returns to full-time Regular Status.

C. Failure or Inability to Return from Leave Without Pay

If an employee does not return to work on the first working day following the expiration of the approved leave without pay or any approved extensions, the employee may be separated without prejudice or dismissed for cause, as determined by the Appointing Authority, depending upon the circumstances.

15.11 The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA 38 U.S.C. 4301-4335)

A. Long Term

A.R.S. §38-298 provides that employees who are inducted, enlisted, or ordered into active service in the Armed Forces of the United States after August 1, 1939 will, upon completion of their service, be restored to positions held by them at the time of induction or of reporting for service, or to a position having similar or other duties which they are qualified to discharge, and of like status and pay, if such employees:

1. Possess a certificate of satisfactory training and service or honorable discharge issued by the proper military or naval authority;
2. Are still qualified to perform the duties of the position;

3. Apply in writing for restoration within ninety (90) days after separation from the Armed Forces;
4. Apply within five (5) years from the date of separation from the courts; and
5. Gave written notice of entrance into military service as the reason for separation from the courts.

B. Short Term

1. Military leave includes authorized periods of absence of an employee who is a member of the Arizona National Guard or military reserve for active duty, to attend camps, maneuvers, formations, armory drills, or other activities with the Arizona National Guard or military reserve as provided in A.R.S. §§26-168, 26-171, and 38-610.
2. Employees who are members of the national guard or military reserve and who are engaged in field training as provided in A.R.S. §§26-168, 26-171, and 38-610 will be granted Military Leave with pay for a period not to exceed thirty (30) working days in two (2) calendar years.
3. Employees will be granted military leave without pay or may take accrued annual or compensatory leave for absences from a position in the Courts for required attendance at activities of the National Guard or military reserve. Employees will accrue all other employee benefits to which they are regularly entitled while on such leave, provided that the affected Court Department is notified by the employee in advance by submission of a request for absence, which request is accompanied by a copy of the employee's military orders. (Amended November 5, 2018)

15.12 Absence without Leave

- A. Any unauthorized absence of an employee from duty is considered an absence without leave. The Appointing Authority may authorize a deduction from the employee's pay in an amount calculated as the hourly wage multiplied by the number of hours the employee was on unauthorized leave from work.
- B. An unauthorized absence will constitute grounds for disciplinary action by the Appointing Authority.
- C. An employee who is absent without authorized leave for three (3) or more consecutive days, is considered to have resigned; except where extenuating circumstances are found to exist. If extenuating circumstances exist, such absence may be covered by leave with or without pay by the Appointing Authority.

15.13 Industrial Leave - Workers' Compensation Benefits

The industrial leave procedures used by the Human Resources Department of Yuma County are hereby adopted for purposes of payment of Workers' Compensation benefits and for other

related issues in accordance with state statutes and Industrial Commission regulations. These procedures set forth the processes for receiving Workers' Compensation benefits.

15.14 Reinstatement of Sick Leave

Employees who successfully complete initial probation and who separate from any court department in good standing and who return to work in any court department within two (2) years of separation will be entitled to reinstatement of all accrued sick leave which was forfeited at the time of separation. (Amended October 27, 2010)

15.15 Overtime Pay and Compensatory Leave

- A. Fair Labor Standards Act of 1938 (29 U.S.C. 201-219, as amended).
All terms and conditions of the Fair Labor Standards Act ("FLSA") apply to these provisions regarding overtime pay and compensatory leave.
- B. Prior Approval
All work hours in excess of forty (40) hours per week or in excess of an established work period must be approved in advance in writing by the employee's Appointing Authority.
- C. Non-Exempt Employees (Amended October 10, 2014)
Employees in non-exempt positions, as defined in the FLSA, who work in excess of forty (40) hours per regularly scheduled work week in or in excess of the hours provided for in an established work period, will be compensated by either:
 - 1. Compensatory leave at the rate of one and one-half hours for each excess hour worked; or,
 - 2. Additional pay at the rate of one and one-half times the employee's regular rate for each excess hour worked, under the follow circumstance:
 - a. The Appointing Authority has given prior approval,
 - b. The department has adequate funding, and
 - c. The hours worked in excess of forty (40) were due to an unforeseen emergency, the safety of the public and/or Court personnel, a special project, a situation where the use of compensatory time would cause the creation of more compensatory time for the department, or other unique circumstance.
- D. Use of Compensatory Time
Employees are permitted to use accrued compensatory time within a reasonable period after requesting such time; provided however that the period of time requested as "comp time" does not unduly disrupt the operations of the courts and court departments.

When an employee has accumulated compensatory time, such time shall be utilized prior to any utilization of vacation leave. (Does not apply to Judicial Staff) An employee may request to utilize vacation leave instead of compensatory time when his accrued vacation time is projected to be in excess of 240 hours at the end of the year. (Adopted October 10, 2014)

All compensatory time accumulated must be used by any court employee (does not apply to Judicial Staff) with the deadline imposed by the County for that fiscal year. (Adopted October 10, 2014)

E. Court Reporters Exception to Overtime Provisions

The overtime provisions of the FLSA do not apply for purposes of calculating a rate of compensation when court reporters prepare transcripts for the courts or outside employers. The hours a court reporter spends preparing court transcripts after the regular work day are not compensable as overtime hours as long as the employee receives a minimum per-page rate for the extra work. A per-page rate must be at least:

1. The maximum rate established by state law or local ordinance for the jurisdiction;
2. The maximum rate otherwise established by a judicial or administrative officer and in effect on July 1, 1995; or
3. The rate freely negotiated between the employee and administrative officer and in effect on July 1, 1995, or
4. The rate freely negotiated between the employee and the party requesting the transcript, other than the judge who presided over the proceedings.