

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MOHAVE

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SUPERIOR COURT CLERK

IN THE MATTER OF:

REVISIONS TO JUDICIAL
MERIT SYSTEM RULES

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ADMINISTRATIVE ORDER
2001-40

WHEREAS, on August 20, 2001, the Judicial Merit System Commission reviewed and recommended the implementation of a bereavement leave program for judicial employees;

WHEREAS, on November 5, 2001, the Mohave County Board of Supervisors approved a procedural change to the Mohave County Merit System Rules to allow flexibility in scheduling an alternate Additional Holiday in situations where it is not operationally feasible for an employee to be allowed time off on one of the three established designated Additional Holidays;

WHEREAS, on November 5, 2001, the Mohave County Board of Supervisors also approved policy and procedural changes to establish a mechanism through which employees may receive time off from work when responding to humanitarian/emergency relief activities on a local, state or national level and during such time the employee may utilize their accrued Paid Time Off leave, Extended Illness Bank leave credits, and/or may seek income replacement in the form of donated leave during an approved unpaid leave of absence;

WHEREAS, it is the desire of the Mohave County Superior Court System to incorporate the above policy and procedural changes into the Judicial Merit System Rules;

WHEREAS, the Presiding Judge may approve revisions to the Judicial Merit System Rules upon written order pursuant to the provisions of Judicial Merit System Rule 102(P);

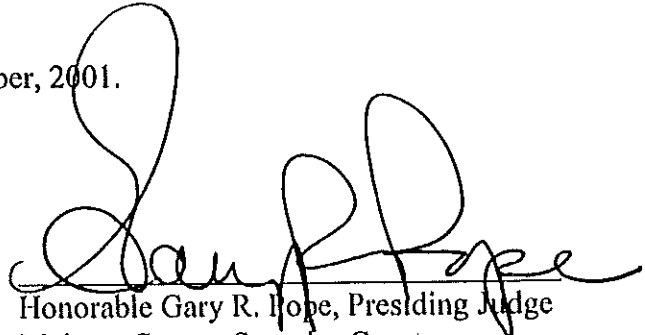
IT IS ORDERED that a bereavement leave program be adopted for judicial employees as defined in Judicial Merit Rule 414 'Bereavement Leave' (see Attachment #1).

IT IS FURTHER ORDERED that the revisions to Judicial Merit System Rule 304(E3) as specified in Attachment #2 be adopted this date defining a Division Head's authority to establish a mutually acceptable alternative Additional Holiday for a judicial employee if it is not operationally feasible for the employee to take time off work on one of the designated Additional Holidays.

IT IS FURTHER ORDERED that Judicial Merit System Rule 406 be revised as specified in Attachment #3 to include a new subsection I titled 'Leave for Humanitarian / Emergency Relief Activities' which provides that an employee who volunteers to participate in local, state, or national disasters, emergencies or humanitarian efforts may seek the use of their Paid Time Off and Extended Illness Bank leave accruals, and/or income replacement through donated leave while in an approved unpaid leave of absence status.

IT IS FURTHER ORDERED that Superior Court staff take whatever action necessary to inform judicial employees of the above revisions to the Judicial Employee Merit System Rules of the Superior Court of Mohave County and to make the revised Judicial Merit System Rules accessible and available to judicial employees electronically via computer networks in each of the Court divisions.

DATED this 26th day of November, 2001.



Honorable Gary R. Hope, Presiding Judge
Mohave County Superior Court

Original filed with the Clerk of the Superior Court in Mohave County

**ARTICLE 4.
RULE 414.**

**BENEFIT AND LEAVE PROGRAMS
BEREAVEMENT LEAVE**

**EFFECTIVE DATE:
REVISED DATE:**

- A. GENERAL:** Bereavement leave is paid leave granted to an employee to attend services and handle matters related to the death of a member of the employee's immediate family. Judicial Merit Rule 101.50 defines a member of the immediate family as a spouse, parent (whether biological or step), child, stepchild, siblings, father-in-law, mother-in-law, grandparents of an employee or employee's spouse and employees who live together and who consider themselves life partners but who are not legally married.
- B. ELIGIBILITY:** Regular and probationary status employees, except temporary, emergency and intermittent, are eligible to receive bereavement leave.
- C. USE OF BEREAVEMENT LEAVE:**
1. A full-time employee may be absent with pay for up to three consecutive working days based upon normally scheduled hours, not to exceed twenty-four (24) hours. Upon request, bereavement leave may be extended for two more working days not to exceed sixteen (16) hours if travel distance of 200 or more miles is required. Requests for bereavement leave must be made as soon as possible and be approved by the Division Head. Bereavement leave for eligible part-time employees shall be pro-rated based upon normal hours worked in the payperiod.
 2. A Division Head may require documentation substantiating an employee's need for bereavement leave.
 3. Bereavement leave may not be used in a manner that generates paid hours in excess of the normal work week.
 4. Bereavement leave may not be used while an employee is on an approved unpaid leave of absence.
 5. An employee may, with Division Head approval, use any applicable paid leave accruals for additional time off as necessary.
 6. Bereavement leave shall not be counted as hours worked for the purpose of computing overtime.

**ARTICLE 3. CLASSIFICATION AND
RULE 304. COMPENSATION
PREMIUM PAY**

**EFFECTIVE DATE: 05/04/98
REVISED DATE: 09/27/00**

D. ON-CALL (OR STAND BY) PAY:

1. Exempt and non-exempt employees may be required to be on an on-call status. Such status shall be interpreted as a period of time during which an employee is subject to being required to return to a work status. The compensability of on-call time shall be determined by factors including the exempt or non-exempt status of the on-call employee, the degree of restriction placed on the employee's time and activities while on-call and any additional considerations imposed under applicable provisions of the Fair Labor Standards Act.
2. Exempt employees who are on an on-call status are not eligible for any form of premium pay for time spent on such status, regardless of the degree to which their ability to use such time for personal activities is restricted.
3. Non-exempt employees placed on an on-call status who are required to remain on Court or other specific premises and/or whose use of personal time is otherwise so restricted as to render the on-call time as falling under the definition of hours worked as provided for under the Fair Labor Standards Act, shall be compensated in accordance with the provisions of such Act and these Rules.
4. A non-exempt employee placed on an on-call status whose time is not so restricted as to render it compensable, shall receive no additional compensation for hours spent in on-call status.
5. On-call status and time spent working is not subject to any of the provisions of call-back pay as otherwise provided for under this Rule.
6. Non-exempt employees who are called to work from an on-call status shall receive their regular wage for all such hours worked except in these cases wherein the total of all hours previously worked in that work week, and those worked when called to work from an on-call status, exceed forty (40) in any single work week. In instances when the total hours worked under this section exceed forty (40) in any work week, the overtime provisions of this Rule shall apply.

E. HOLIDAYS:

1. Employees occupying regular positions shall be allowed time off with pay as provided for by these Rules for those holidays observed/recognized by the Court. The holidays observed by the Court are as follows:

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RULE 304.

a.	January 1	New Year's Day
b.	Third Monday in January	Martin Luther King Jr./Civil Rights Day
c.	Third Monday in February	Lincoln/Washington Presidents Day
d.	Last Monday in May	Memorial Day
e.	July 4	Independence Day
f.	First Monday in September	Labor Day
g.	Second Monday in October	Columbus Day
h.	November 11	Veteran's Day
i.	Fourth Thursday in November	Thanksgiving Day
j.	December 25	Christmas Day

2. Unless otherwise necessary due to circumstances, Judicial offices shall be closed on each of the 10 holidays listed above. If holidays a, e, h or j fall on a Sunday, the holiday shall be observed on the following Monday. If holidays a, e, h or j fall on a Saturday, the holiday shall be observed on the preceding Friday. "Observed" means that Judicial offices shall be closed.

3. The Court recognizes an additional holiday wherein employees may be scheduled to take off and receive holiday pay for either

- a. The Day after Thanksgiving (the fourth Friday in November) OR
- b. Christmas Eve, which is recognized as the day preceding the Christmas Day holiday (if Christmas Eve falls on a Sunday, the holiday shall be recognized the day following the observed Christmas Day holiday, or, if Christmas Eve falls on a Saturday, the holiday shall be recognized on the preceding Friday.)
- c. New Year's Eve, which is recognized as the day preceding the New Year's holiday (if New Year's Eve falls on a Sunday, the holiday shall be recognized the day following the observed New Year's Day holiday, or, if New Year's Eve falls on a Saturday, the holiday shall be recognized on the preceding Friday.)

It is the responsibility of each Division Head to schedule and allow each of their employees who occupy regular positions time off with pay as provided for by County Rules for either one of the holidays listed in Rule 304,E3 above. **In instances where it is not operationally feasible for an employee to take their additional holiday on one of the holidays listed in Rule 304,E3 above, the Division Head may schedule the employee's additional holiday for a mutually acceptable future date, provided the alternative date is prior to the following April 1.** Each Division Head shall insure their department/offices remain open to public access and adequate staff coverage within their divisions and offices is provided during those holidays listed in Rule 304,E3 above.

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4. In order to avoid disparity among employees, a day of holiday leave shall be interpreted to mean an eight-hour work day; therefore, an employee (full-time) may be granted eighty-eight (88) hours of holiday time or pay as permitted by these Rules in any calendar year as the holidays accrue.

5. All employees shall, if possible, be given time off with pay for each observed/recognized holiday. Temporary, intermittent or emergency employees are not eligible for holiday pay.
 - a. With the exception of hourly juvenile detention officers, eligible full-time probationary and regular status employees, who are not required to work on a legal holiday and who do not work on such holiday, shall be paid wages at the employee's regular hourly rate for eight (8) hours for such holiday.

 - b. With the exception of hourly juvenile detention officers, eligible part-time probationary and regular status employees not required to work on a legal holiday and who do not work on such holiday, shall be paid a prorated amount based on normal hours worked per pay period.

 - c. No work shall be scheduled by an employee on a holiday unless approved in advance by the Division Head in writing. Work on a holiday shall only be scheduled as a result of an emergency or unusual and extraordinary circumstances or in cases where the nature of the Court's operation cannot be interrupted by the observance of the holiday.

 - d. With the exception of hourly juvenile detention officers, if it is not possible for a full-time employee to be given time off on a holiday and the employee is required to work, the employee shall receive:
 - 1) regular wages for hours actually worked on the holiday, and if applicable, overtime in accordance with Merit Rule 304(A), for hours actually worked on the holiday;

 - 2) holiday wages at the employee's regular hourly rate of pay for the number of hours determined by subtracting the hours the employee actually worked on the holiday from the allowable eight (8) hours of holiday benefit; and

 - 3) accrued holiday leave added to the employee's PTO balance in an amount equivalent to the number of hours they actually worked on the holiday.

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- e. With the exception of hourly juvenile detention officers, if it is not possible for a part-time employee to be given time off on a holiday and the employee is required to work, the employee shall receive:
- 1) regular wages for hours actually worked on the holiday, and if applicable, overtime in accordance with Merit Rule 304(A), for hours actually worked on the holiday;
 - 2) holiday wages at the employee's regular hourly rate of pay for a number of hours determined by subtracting the hours the employee actually worked on the holiday from the total number of hours they would have regularly worked on such day;
 - 3) accrued holiday leave added to the employee's PTO balance in an amount equivalent to the number of hours they actually worked on the holiday, up to the maximum number of hours they would regularly have worked on such day.
- f. Eligible full-time juvenile detention officers who are not required to work on a holiday and who do not work on such holiday, shall be paid holiday wages at the employee's regular hourly rate for eight (8) hours for such holiday. In addition the employee shall be paid regular wages at the employee's regular hourly rate, and if applicable overtime in accordance with Merit Rule 304(A), for hours actually worked during the normally scheduled work week. The employee shall not have any holiday benefit hours added to their PTO accruals.
- g. Eligible part-time juvenile detention officers who are not required to work on a holiday and who do not work on such holiday, shall be paid holiday wages at the employee's regular hourly rate for a prorated number of hours based on normal hours worked per pay period for such holiday. In addition the employee shall be paid regular wages at the employee's regular hourly rate, and if applicable overtime under Judicial Merit Rule 304(A), for hours actually worked during the normally scheduled work week. The employee shall not have any holiday benefit hours added to the employee's PTO accruals in the form of accrued holiday leave.
- h. If it is not possible for an eligible full-time hourly juvenile detention officer to be given time off on a holiday and the employee is required to work, the employee shall be paid:

ARTICLE 3.

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- 1) holiday wages at the employee's regular hourly rate for eight (8) hours for such holiday;
- 2) regular wages at the employee's regular hourly rate, and if applicable overtime in accordance with Merit Rule 304(A) for the hours actually worked during the normally scheduled work week, except for hours actually worked on the holiday; and
- 3) premium holiday wages at the rate of one and one-half (1.5) times the employee's regular hourly rate, for each hour actually worked on the holiday. The employee shall not have any holiday benefit hours added to the employee's PTO accruals in the form of accrued holiday leave.

i. If it is not possible for an eligible part-time hourly juvenile detention officer to be given time off on a holiday and the employee is required to work, the employee shall be paid:

- 1) holiday wages at the employee's regular hourly rate for a prorated number of hours based on normal hours worked per pay period for such holiday;
- 2) regular wages at the employee's regular hourly rate, and if applicable overtime in accordance with Merit Rule 304(A) for the hours actually worked during the normally scheduled work week, except for hours actually worked on the holiday; and
- 3) premium holiday wages, at the rate of one and one-half (1.5) times the employee's regular hourly rate for each hour actually worked on the holiday. The employee shall not have any holiday benefit hours added to the employee's PTO accruals in the form of accrued holiday leave.

j. Use of accrued holiday leave hours provided for under this Section may be scheduled and used as any other accrued PTO leave.

k. All additional PTO hours provided for by this Section may exceed two hundred forty (240) hours per employee in accordance with Merit Rule 402(F), except that at the end of the calendar year (December 31) only 240 accrued PTO hours (including any accrued holiday leave hours) will be carried forward to the new calendar year.

F. **LUNCH PERIOD:** Non-exempt employees will receive an unpaid work-free lunch period to assure that employees have an uninterrupted lunch period. Supervisors should encourage employees to leave their work stations during lunch periods.

ARTICLE 4. BENEFIT AND LEAVE PROGRAMS EFFECTIVE DATE: 05/04/98
RULE 406. CIVIC DUTY LEAVE (INCLUDES REVISED DATE:
MILITARY LEAVE)

A. ADMINISTRATION:

1. Eligibility for Leave: Judicial employees, except temporary, emergency and intermittent employees, are eligible to accrue any type of leave with pay from the date of appointment and may request leave after six (6) months of continuous employment. Temporary, emergency and intermittent employees are eligible only for leave for voting. Leave eligibility for contractual employees shall be as defined by contractual terms.
2. Requests for Leave: Except in an emergency, an employee must obtain approval in advance and in writing prior to taking any leave from the Division Head.

B. DEFINITIONS:

1. "Civic Duty Leave" means approved periods of absence with pay and related benefits from regularly scheduled work approved in advance while:
 - a. Serving as a juror;
 - b. Responding to a subpoena to appear as a witness as hereinafter provided;
 - c. Serving as a member of a public service board, commission or similarly constituted body;
 - d. Serving in the Arizona National Guard or Military Reserve as hereinafter provided; or
 - e. Voting; or
 - f. **Participating as a volunteer in humanitarian/emergency relief activities.**
2. "Consecutive Calendar Years" means a twenty-four (24) month consecutive period of time including the current and previous calendar years.
3. "Armed Forces" means the United States Air Force, Army, Navy, Marine Corps, Coast Guard or the Arizona National Guard.

C. LEAVE FOR JURY DUTY:

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RULE 406. CIVIC DUTY LEAVE (INCLUDES MILITARY LEAVE) REVISED DATE:

1. An employee summoned for duty as juror shall appear as required for such duty, and shall receive civic duty leave with pay as provided for in this section.
2. Employees must provide a copy of the jury duty summons to their supervisor within two (2) working days of receipt so the supervisor can make arrangements to accommodate the employee's absence. The Division Head or employee may request an excuse or postponement from jury duty if the Superior Court believes the employee's absence would cause serious disruption of the division's work activities.
3. The employee on jury duty during regularly scheduled work hours shall remit the fees paid for such jury duty (except reimbursement for miles traveled, food or lodging) to the Mohave County Finance Department through the Court Administrator's Office. When the employee's presence as a juror is not officially required during regular working hours, the employee shall return to work until again called. However, an employee shall not be required to return to work, if, because of the remoteness of the location of such work, the employee cannot respond to a call to return to jury duty with timeliness or the employee cannot arrive at work at least one (1) hour before the end of a regularly assigned work shift.
4. Jury duty pay will be calculated based on the employee's current rate of pay times the number of hours the employee would otherwise have worked on the day of absence.
5. An employee on jury duty during regularly scheduled time off or on PTO leave or leave without pay may keep any monies paid by the Courts.

D. LEAVE FOR AN EMPLOYEE SUBPOENAED TO APPEAR AS WITNESS:

1. An employee who has been subpoenaed to appear as a witness before any court or administrative, executive or legislative tribunal when it relates to Court business shall be entitled to civic duty leave with pay. The Division Head may authorize civic duty leave for an employee subpoenaed when such absence is for purposes which comply with this Rule.
2. Employees must provide a copy of the subpoena to their supervisor within two (2) working days of receipt so the supervisor can make arrangements to accommodate the employee's absence. An employee provided leave under this section is expected to report to work whenever the Court schedule permits.
3. An employee who has been subpoenaed to appear as a witness before any court on administrative, executive or legislative tribunal due to a personal, commercial,

ARTICLE 4. BENEFIT AND LEAVE PROGRAMS EFFECTIVE DATE: 05/04/98
RULE 406. CIVIC DUTY LEAVE (INCLUDES REVISED DATE:
MILITARY LEAVE)

business transaction or due to the employee's own actual or alleged unlawful conduct or misconduct shall not be entitled to civic duty leave with pay and all such leave will be counted against the employee's PTO accrual balance.

4. An employee who is paid a fee for an appearance as an expert witness while on civic duty leave shall remit such fee to Mohave County through the Court Administrator's Office or take PTO leave.

E. LEAVE FOR SERVICE ON A PUBLIC SERVICE BOARD OR COMMISSION: A Division Head may authorize civic duty leave to an employee to attend meetings of a public service board or commission, provided the employee is an elected or appointed member of such a board or commission.

F. TIME OFF FOR VOTING:

1. Every Judicial service employee is encouraged to exercise the right to vote at all public elections.
2. In accordance with Arizona Revised Statutes (ARS), any employee eligible and registered to vote in any public election held within this state, may be absent on the day of the election, either one (1) hour after the start of the employees work shift or one (1) hour before the end of the employees work shift.
3. Application for time off for voting shall be made prior to the day of election, and the Division Head may specify the hours during which the employee may be absent. An employee shall not be liable for any penalty nor shall any deduction be made from any salary or wages because of such absence. An employee may be required to provide evidence of eligibility to vote prior to an approval for time off.

G. LEAVE FOR SHORT-TERM MILITARY SERVICE:

1. An employee who is a member of the National Guard or military reserve and who is ordered to field training pursuant to Arizona Revised Statutes (ARS) shall be granted civic duty leave up to two hundred forty (240) hours in any two (2) consecutive calendar years. An employee ordered to military duty shall supply:
 - a. The Division Head with notification in writing in advance of the absence; and
 - b. The request is accompanied by a copy of the employee's military orders.

ARTICLE 4. BENEFIT AND LEAVE PROGRAMS EFFECTIVE DATE: 05/04/98
RULE 406. CIVIC DUTY LEAVE (INCLUDES REVISIED DATE:
MILITARY LEAVE)

2. An employee shall be granted military leave without pay or may take accrued PTO or compensatory leave, for required attendance at activities of the National Guard or military reserve exceeding the two hundred forty (240) hours with pay in any two (2) consecutive calendar years.
3. In either paid or unpaid short-term military leave status, such employee shall receive other employee benefits to which they are regularly entitled while on such leave, provided the division is notified by such employee in advance as prescribed in Rule 406(G)(1) above.

H. LEAVE FOR LONG-TERM MILITARY SERVICE:

1. A regular employee inducted, ordered or enlisted into active service of the Armed Forces of the United States shall be restored to a position of like seniority, status, and pay upon completion of active service if the employee:
 - a. Provided notice of intent to enter military service as the reason for separation from County service;
 - b. Requests such restoration in writing within ninety (90) calendar days of separation from the armed forces;
 - c. Possesses a certificate of satisfactory completion of service. (Honorable Discharge, General Discharge or Discharge under Honorable Conditions);
 - d. Is still qualified to perform the duties of the position.
2. An employee's restoration rights expire after four (4) years of continuous service in the Armed Forces unless service extension beyond four (4) years is at the request and convenience of the Federal Government (Military Selective Services Act, as amended).

I. LEAVE FOR HUMANITARIAN / EMERGENCY RELIEF ACTIVITIES:

1. Employees who volunteer to participate in local, state, or national disasters, emergencies or humanitarian efforts during regular work hours may request use of their Paid Time Off (PTO) accruals pursuant to Judicial Merit Rule 402 and/or Extended Illness Bank (EIB) credits pursuant to Judicial Merit Rule 403. Additionally, employees may seek an unpaid leave of absence pursuant to the provisions of Judicial Merit Rule 408. If the leave of absence

ARTICLE 4. BENEFIT AND LEAVE PROGRAMS EFFECTIVE DATE: 05/04/98
RULE 406. CIVIC DUTY LEAVE (INCLUDES REVISIED DATE:
MILITARY LEAVE)

is approved, an employee may seek income replacement through the use of donated leave in accordance with the provisions of Judicial Merit Rule 413.