



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-030600 Employee Reporting Responsibilities; Calculation of Hours	Issued: 4/25/94 Effective: 4/25/94	Reviewed: 3/30/20 Revised: 2/23/15
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

- A. NMSA 1978, Section 33-1-6, as amended.
- B. Policy CD-010100.
- C. Fair Labor Standards Act, 1938, as amended.

REFERENCE:

- A. State Personnel Board Rule 1.7.7 NMAC, Absence and Leave, and 1.7.11 NMAC, Discipline.
- B. Policy *CD-037800*.
- C. Policy *CD-035100* and *CD-035101*.

PURPOSE:

Establish employee reporting procedures and to create a progressive system of discipline for employees who are absent without approved leave (AWOL), tardy, have insufficient leave requests or who have displayed a pattern of undependability or failure to comply with this policy.

Establish the method for calculating the number of hours worked.

APPLICABILITY:

All New Mexico Corrections Department (NMCD) employees.

FORMS:

- A. **Documentation of Oral Reprimand** form (*CD-030601.1*)
- B. **Employee Tardy Notice** form (*CD-030601.2*)
- C. **AWOL/Absentee Report** form (*CD-030601.3*)
- D. **Work Improvement Plan** form (*CD-030601.4*)

ATTACHMENTS:

- A. **Attendance Development Plan Review** Attachment (*CD-030601.A*)
- B. **Acknowledgement of Receipt and Understanding** Attachment (*CD-030601.B*)

DEFINITIONS:

- A. Absence: Any length of time not at the assigned workstation during scheduled work hours.
- B. Authorized Absence: An absence for which the employee has received approval by an Authorized Supervisor.
- C. Authorized Supervisor: Those supervisors who are authorized by the warden or division director to approve leave. For purposes of call-in procedures for custody employees, the on-duty shift commander is an authorized supervisor.
- D. AWOL: Without authorization, abandoning a post, leaving while on an assigned shift / regular work schedule, or failing to report within the first hour of any assigned shift / regular work schedule or workday. As used in this policy, "assigned shift" includes regularly scheduled work hours and assigned overtime.
- E. Custody Employee: All positions with working titles of Correctional Officers below the position of Chief of Security.
- F. Insufficient Leave: Any amount of time an employee does not have to cover their request for leave (annual, sick, compensatory, etc.)
- G. Lawful arrest: the legal and legitimate custody of a person under warrant or under a probable cause. Probable cause includes the belief of commission of crime, or an arrest demanded under civil process.
- H. Non-Custody Employee: All other employees who do not fall under the definition of custody employee. This includes Chiefs of Security.
- I. Tardy: Arrival at work one to 59 minutes beyond the scheduled start of the employee's workday.
- J. Unauthorized Absence: An absence for which the employee does not receive approval by an authorized supervisor.
- K. Undependability: Repeated incidents of unauthorized absences, tardiness or AWOLS; or use of sick leave in any fashion which gives rise to a reasonable suspicion that it is being abused. This includes, but is not limited to, excessive use of sick leave in conjunction with regular days off, annual leave or any other type of leave; use of sick leave when a previous request for other leave has been denied; use of sick leave on pay day or the day following pay day; use of sick leave on the day of a special event.
- L. Unexcused Tardy: A tardy for which an authorized supervisor has determined that the employee did not provide sufficient justification for being late.

POLICY:

- A. The NMCD shall ensure that employees are properly compensated for hours worked by establishing uniform procedures for the calculation of time worked.
- B. NMCD employees shall adhere to their regularly established and/or assigned overtime work schedules, reporting to work and leaving work as directed by their supervisors.
- C. The NMCD will use progressive discipline for all employees who fail to follow established reporting procedures and other requirements.



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AUTHORITY:

Policy *CD-030600*

PROCEDURES:

A. Rounding to the Nearest Quarter Hour:

For purposes of determining the number of hours paid for work, the Department will round the actual time that each person begins to perform work at the start of his or her shift / regular work schedule to the nearest quarter hour, and the actual time that each person stops performing work at the end of his/her shift / regular work schedule to the nearest quarter hour. For example, if an employee begins to perform work at 7:55 a.m. and stops performing work at 4:02 p.m., the number of hours worked shall be deemed to be eight hours (8:00 a.m. to 4:00 p.m.). If an employee begins to perform work at 8:01 a.m. and stops performing work at 4:10 p.m., the number of hours worked shall be deemed to be eight and a quarter hours (8:00 a.m. to 4:15 p.m.). However, employees who are tardy, AWOL or who otherwise have an unauthorized absence are still subject to formal or informal disciplinary action, regardless of this rounding practice.

B. General:

1. Supervisors shall inform their subordinates in advance, either by a standing directive or by the end of the subordinate's immediately preceding shift / regular work schedule, of the specific location to which they are to report to begin their shift / regular work schedule. Supervisors shall not allow subordinates to "sign in" or perform any duties more than seven minutes before or seven minutes after the employee's assigned shift / regular work schedule unless the supervisor approves a written overtime authorization form or notifies and schedules the employee for an equal period of time off before the end of the work week in accordance with *CD-035100* and *CD-035101*.
2. Walking, riding or traveling to and from the actual place of performance of the principal activity or activities which the employee is employed to perform, and activities which are preliminary to or subsequent to said principal activity or activities, which occur either prior to the time on any particular workday at which the employee commences, or subsequent to the time on any particular workday

which the employee ceases such principal activity or activities, is not considered hours worked.

3. Employees are expected to adhere to assigned shift / regular work schedules and may not enter their work area or perform duties more than seven minutes prior to the start of their assigned shift / regular work schedule, nor remain at their work area more than seven minutes after the end of their assigned shift / regular work schedule unless specifically authorized to report early or stay late by supervisory personnel.
4. Employees who perform work more than seven minutes before or seven minutes after their assigned shift / regular work schedule without specific authorization from their supervisor shall immediately submit written notification to their supervisor advising the supervisor that the employee exceeded the number of assigned hours of work and the reasons there of. The supervisor shall then either approve payment of overtime for the employee as an emergency or notify and schedule the employee for an equal period of time off before the end of the workweek in accordance with *CD-035100* and *CD-035101*. An employee, who, without sufficient justification or prior authorization, works more hours than assigned, is subject to disciplinary action.
5. Each unauthorized absence of eight or more minutes will result in loss of pay in quarter hour increments, which shall be rounded as provided in paragraph II.A. Unauthorized absences of less than eight minutes shall not result in loss of pay; but unauthorized absences of any duration may be grounds for formal or informal disciplinary action.
6. An employee may be considered AWOL only once for each scheduled shift / regular work schedule. However, each AWOL on a separate shift / regular work schedule may be considered a separate offense, even if the employee is AWOL two or more days in a row or two or more shift / regular work schedules in a row.
7. For purposes of this policy and the sanctions set out herein, an unauthorized failure or refusal of an employee to work an overtime assignment will be treated the same as an AWOL.
8. When an employee is occasionally late for work and has called in or made a reasonable attempt to do so, the Employer, if possible, shall allow them to make-up up to one (1) hour of the lost work time within the same work week. However, unexcused tardies may be grounds for formal or informal disciplinary action.

C. Call-In Procedures:

1. Custody Employee: Custody employees shall notify the on-duty shift commander (who is an authorized supervisor for these purposes) through the Master Control Center of their request to be absent from their assigned shift / regular work schedule no less than **two hours** prior to the start of their assigned shift / regular work

schedule. The employee must make this call personally unless circumstances exist that would not enable the employee to do so.

The on-duty shift commander may approve the request for leave, approve the request on certain conditions, or deny the request for leave. The on-duty shift commander will notify the on-coming shift commander of all such action so reported by completing and delivering the **AWOL/Absentee Report Form (CD-030601.3)**.

2. Non-custody Employee: All non-custody employees shall notify their immediate supervisor of their request to be absent within **30 minutes** following the start of their normal work day, or, in the case of institution personnel, the Master Control Center, if the supervisor is not available. Leaving a message through voice-mail, or otherwise, will not be considered a proper call-in. This call must be made by the employee unless circumstances exist that would not enable the employee to do so.

Failure to comply with the procedure outlined in paragraphs 1 and 2 will constitute absence without approved leave (AWOL).

D. Sanctions:

1. Tardy: A progressive system of sanctions shall be considered by counting the number of unexcused tardies during the 12-month period preceding the date of the most recent violation. Sanctions are as follows:
 - 1st Offense – Oral reprimand;
 - 2nd Offense – Oral reprimand (documented using *CD-030601.1*);
 - 3rd Offense – Written reprimand;
 - 4th Offense – 3 Day suspension;
 - 5th Offense – 5 Day suspension; and
 - 6th Offense – Dismissal.

Any infraction shall be reported by the supervisor to the employee and the person having authority to impose formal discipline by using the **Employee Tardy Notice Form (CD-030601.2)**.

2. AWOL: A progressive system of sanctions shall be considered by counting the number of AWOLS during the 12-month period preceding the date of the most recent violation. An employee may be considered AWOL only once for each assigned shift / regular work schedule. However, each AWOL on a separate shift / regular work schedule will be considered a separate offense. Being AWOL on two consecutive days may be considered two offenses, even if the employee has not received a written reprimand for the first of the two consecutive days. However, supervisors shall, if practicable, attempt to notify the employee of his/her AWOL status orally or in writing, as soon as possible, after considering the employee AWOL. Each supervisor shall report all AWOLs to the person having authority to impose formal discipline upon the employee, using the **AWOL/Absentee Report**

form (CD-030601.3). Such notification does not constitute discipline and does not preclude taking appropriate disciplinary action. Sanctions are as follows:

3.
 - 1st Offense – Written Reprimand;
 - 2nd Offense – 3 Day suspension;
 - 3rd Offense – 5 Day suspension; and
 - 4th Offense – Dismissal.

4. Insufficient Leave Requests: It is incumbent upon employees to determine whether they have sufficient leave to cover the request. It is the responsibility of each employee and supervisor to ensure that employees comply with this policy.

A progressive system of sanctions shall be considered by counting the number of unexcused insufficient leave requests during the 12-month period preceding the date of the most recent violation. Sanctions are as follows:

- 1st Letter of Counseling;
 - 2nd Letter of Reprimand;
 - 3rd 1 Day suspension;
 - 4th 3 Day suspension;
 - 5th 5 Day suspension; and
 - 6th Dismissal.

5. Conditional Approval of Leave: In the event that an employee fails to comply with the condition(s) of a conditional approval of leave, or if it is later determined that the employee did not have sufficient leave to cover the request or that leave was granted to an employee based upon false or misleading information provided by the employee, the granting or authorization of leave may be rescinded and the employee may be subject to disciplinary action.

6. Unauthorized Leave Approvals: Incarceration is not a valid reason for an employee to be excused from work responsibilities due to the Department's operations needs and the services employees provide to the state. Accordingly, employees who are held in jail or prison for appropriate lawful arrests and/or convictions for violations of the laws of any city, county, state or nation may not be granted approved leave and shall be carried AWOL during any time the employee is regularly scheduled to work. Exceptions to this policy may be granted by the Secretary of Corrections upon submission of a preponderance of evidence that an arrest in question was a mistake of identity or other administrative error resulting in the inappropriate arrest of an employee.

E. Pattern of Undependability:

1. A pattern of undependability can be determined by reviewing sick leave absences, AWOLs, continued leave shortages in small increments, and tardy records of an employee during the preceding two-year period.

2. A pattern of undependability is recognized by an accumulation of tardies, AWOLs, shortage of leave, or use of sick leave in small increments on a continuing basis. Repeated one or two days sick leave taken in conjunction with regular days off, pay days, holidays or scheduled leave is an indication of a pattern of undependability.
3. Undependability may be established by a review of an employee's attendance records. An employee whose record indicates a pattern of undependability will be counseled and placed on an attendance development plan that will be documented on an **Attendance Development Plan** form (*CD-030601.4*).
4. The Attendance Development Plan may require the employee to provide a doctor's certificate or record of treatment as verification of illness and also requires that all other leave be approved in advance. An employee may still be considered undependable whenever a doctor's certificate is provided and the absence is consistent with the pattern of undependable behavior.

F. Lunch Breaks

1. With the exception of correctional officers and correctional officer specialists, all employees will be required to take a lunch break.
2. Prison facility staff will normally be required to take a thirty (30) minute lunch break.
3. All other offices will be required to take a one (1) hour break lunch break, or unless otherwise approved through an alternative work schedule approved by the employee's supervisor. (All employees must take at least a thirty (30) minute lunch break.)
4. Exceptions allowing an employee to work during their lunch break may be made by the immediate supervisor on a limited basis.

NEW MEXICO CORRECTIONS DEPARTMENT
Documentation of Oral Reprimand

Employee: _____ Assignment: _____

Class: _____ Section: _____

1. Details of situation (charges or complaints and facts): _____

2. Employee remarks/responses (refute charges or present mitigating circumstances):

3. Summary (action or improvement required of employee): _____

I HAVE READ AND RECEIVED A COPY OF THE ABOVE REPORT.

Date: _____ Employee's Signature: _____

Employee received copy but refused to sign: _____

Date: _____ Supervisor's Signature: _____

Date: _____ Department Head's Signature: _____

NEW MEXICO CORRECTIONS DEPARTMENT
Employee Tardy Notice

TO: _____

FROM: _____

This is to inform you that you were tardy by _____ minutes on _____.

Your stated reason for being tardy was _____
_____.

Also, in the past 12 months, you have been tardy on other occasions as follows:

	<u>DATE</u>	<u>MINUTES</u>	<u>REASON GIVEN</u>	<u>ACTION TAKEN</u>
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

White: Personnel; *Yellow*: Employee; *Goldenrod*: Supervisor; *Pink*: Person with authority to take formal action.

NEW MEXICO CORRECTIONS DEPARTMENT
AWOL/Absentee Report

DATE: _____

TO: (Shift Supervisor/Chief of Security/Area Supervisor/Department Head)

FROM: (Shift Supervisor/Chief of Security/Area Supervisor/Department Head)

SUBJECT: _____

This is to advise you that _____ (employee name) failed to report, failed to report on time or was late to work on _____ (date) for the (Specify) _____ Shift.

Employee did call in at _____ a.m./p.m.

Reason for calling in:

Action Taken:

Approved Request for Leave for the period of _____

Approved Request for Leave on the following condition(s) _____

Denied Request for Leave for the following reason(s) _____

Other _____

Employee did not call in – AWOL.

Employee was absent without authorization for 60 minutes or more – AWOL

Employee was absent without authorization for 59 minutes or less – Tardy

Supervisor's Signature: _____

Action Taken:

NEW MEXICO CORRECTIONS DEPARTMENT
Attendance Development Plan

This Attendance Development Plan is entered into on _____ (date) and will be in effect through _____ (date).

I, _____, understand that the purpose of this plan is to improve my attendance and dependability. I further understand that during the next months, my supervisor will closely monitor my attendance and dependability and will review my compliance with the plan monthly.

During the term of this plan, I understand that I will be required to attend work on my regularly scheduled days. I also understand that I will be required to submit a doctor's excuse for all sick leave requested for myself or to care for a member of my family the next working day I return to work. I also understand that requests for annual leave or leave without pay must be approved in advance and in accordance with policy. If a doctor's excuse is not produced for each sick leave absence, or leave requested as stated, and within the timelines imposed, I understand that I will be carried as absent without approved leave (AWOL) and may be subject to disciplinary action in accordance with policy. I also understand that I am required to follow proper call-in procedures. In addition, the following is also required:

I acknowledge that I have received a copy of the Attendance Development Plan and agree to follow the terms and conditions of this agreement. I understand that failure to comply with any portion of this plan shall be grounds for disciplinary action, up to and including dismissal.

Date: _____ Employee's Signature: _____

Date: _____ Supervisor's Signature: _____

Copy: Personnel File

NEW MEXICO CORRECTIONS DEPARTMENT
Attendance Development Plan Review

Date: _____ Supervisor's Name: _____
Comments: _____

Employee's Initials: _____ Employee's Comments: _____

Date: _____ Supervisor's Name: _____
Comments: _____

Employee's Initials: _____ Employee's Comments: _____

Date: _____ Supervisor's Name: _____
Comments: _____

Employee's Initials: _____ Employee's Comments: _____

Date: _____ Supervisor's Name: _____
Comments: _____

Employee's Initials: _____ Employee's Comments: _____

NEW MEXICO CORRECTIONS DEPARTMENT
Acknowledgement of Receipt and Understanding

I, _____, hereby acknowledge that I have received
a copy of, read and understand policy and procedure *CD-030600* and *CD-030601*.

Print Employee's Name

Employee's Signature

Date

Print Supervisor or Personnel Officer's
Name

Signature of Supervisor or Personnel
Officer

Date

PLACE THIS COMPLETED FORM IN THE EMPLOYEE'S PERSONNEL FILE.