



**NEW MEXICO JUDICIAL BRANCH
GENERAL PERSONNEL POLICY AND PROCEDURE:
ON-CALL/STAND-BY & CALL BACK PAY**

Inquiries: AOC HRD 505/827-4810

ON-CALL/STAND-BY & CALL BACK PAY POLICY

1. PURPOSE

The purpose of this policy is to establish uniform guidelines for determining when and to what extent employees will be compensated for work performed outside their regular work hours in an On-Call/Stand-By status, and to ensure the compensation is in compliance with the New Mexico Judicial Branch Personnel Rules and the Federal Fair Labor Standards Act. This policy applies to all FLSA Exempt and Non-Exempt employees; it does not apply to Judges, Justices, or At-Will employees.

2. REFERENCES

- A. Department of Labor and the Fair Labor Standards Act (FLSA)
- B. New Mexico Judicial Branch Personnel Rules Part I and Part II

3. DEFINITIONS

- A. **Call-Back** – Any circumstance when an employee is required by an authorized supervisor to physically return to the workplace to perform duties at times when the employee is not scheduled to work. Paid time shall commence at the time the employee begins travel to report to work and ends at the completion of the call back assignment; reasonable travel time to the employee's location prior to the call will be considered paid time as stated in Section 4. F. and 5. D. Call-Back worked hours will be considered time worked for the purpose of determining overtime compensation.
- B. **Department of Labor (DOL)** – The FLSA is a federal statute, regulated and administered by the United States Department of Labor.
- C. **Employee** - A person who holds a permanent or term position within the Judicial Branch excluding a justice or judge or at-will employee.
- D. **Fair Labor Standards Act (FLSA)** – The FLSA is a federal labor law governing and regulating working conditions, record keeping and compensation calculations for covered employees. 29 USC §§201 et seq.



**NEW MEXICO JUDICIAL BRANCH
GENERAL PERSONNEL POLICY AND PROCEDURE:
ON-CALL/STAND-BY & CALL BACK PAY**

Policy No. 2014.NMJB.160

- E. **FLSA Exempt** – An employee who is “exempt” from the FLSA overtime provisions and may be paid or compensated for overtime worked in excess of 80 hours in a pay period at straight time.
- F. **FLSA Non-Exempt** – An employee who is covered by the FLSA overtime provisions and is paid or compensated for actual hours worked in excess of 40 hours in a designated work week at time and one-half.
- G. **On-Call/Stand-By Time** - Time defined as non-duty hours when an employee is required to remain available by telephone or other electronic contact in order to be assessable to return to the workplace within a reasonable and pre-determined time, if called.
- H. **Workplace** – A site for the performance of work. This includes work premises, buildings and grounds for such sites. It also includes the location of any work-related travel between work sites or work-related travel in the course and scope of employment as previously approved by the supervisor.
- I. **Work Week** – Regularly scheduled work hours between 12:01 a.m. on Saturday and 12:00 midnight the following Friday.

3. DESIGNATION, NOTIFICATION AND RESPONSE

The Administrative Authority or designee shall in advance, designate and inform an employee that they are required to be on On-Call/Stand-By status and shall set specific and reasonable time limits for expected employee response. An employee on On-Call/Stand-By status is not restricted or designated to his or her home, duty station or any other location, but must be in electronic or telephone contact and (if needed, for actual on call issues) have computer access in order to respond to emergency or non-emergency situations. Under no reasonable circumstances can employees designated in advance as on On-Call/Stand-By refuse to respond to a call. An employee who fails to respond or who cannot be reached while on compensated On-Call/Stand-By status may be subject to disciplinary action.

Employees who are placed on On-Call/Stand-By status must be able to perform their duties as required under the New Mexico Judicial Branch Drug-Free and Alcohol-Free Workplace Policy and be fit for duty. Employees who are placed on On-Call/Stand-By status may not be impaired or under the influence of alcohol or illegal drugs, controlled substances without a valid prescription; or controlled substances with a valid prescription, which render the employee unable to appropriately perform the employee’s On-Call/Stand-By duties.



**NEW MEXICO JUDICIAL BRANCH
GENERAL PERSONNEL POLICY AND PROCEDURE:
ON-CALL/STAND-BY & CALL BACK PAY**

Policy No. 2014.NMJB.160

4. ON-CALL/STAND-BY PAY

- A. On-Call/Stand-By hours shall be compensated at the rate of 1/8 of the employee's hourly rate of pay, or one (1) hour of pay for every eight (8) hours of On-Call/Stand-By.
- B. The Time Reporting Code (TRC) used in SHARE for reporting this time is "On-Call/Stand-By Hours Worked" (STDBY). The employee should enter the total number of On-Call/Stand-By hours worked using this TRC. The Judicial Entity's Human Resources Administrator will pay out the On-Call/Stand-By hours worked using the SHARE time reporting code "Stand By Hours Paid" (STBYP).
- C. If a Judicial Entity does not yet have the time reporting code "STDBY" or "STBYP" they will calculate the time that should be paid (1/8 of the employee's hourly rate of pay or one (1) hour of pay for every eight (8) hours), and enter it as "Extra Hours Worked" (XHRWK) with a notation in SHARE; unless it is a holiday in which case enter the hours on that day as "Holiday Worked" (HOLWK). The employee or supervisor must be sure to hard enter actual (regular) hours worked into the timesheet in SHARE in addition to the "Extra Hours Worked." To be paid for these hours, contact your Human Resources Administrator so that they may convert these "Extra Hours Worked" into pay.
- D. No On-Call/Stand-By compensation shall be offered for a call-back occurring when the employee is already on the Judicial Entities premises working or during regularly scheduled work hours.
- E. On-Call/Stand-By time, other than actual time spent responding to an emergency is not considered work time for overtime calculation purposes.
- F. Reasonable travel time from the employee's off-premises location to the Judicial Entities premises and back shall be included as part of the actual hours worked and paid, (see the Call-Back Pay definition).

4. CALL-BACK PAY

- A. As soon as an employee reports to work, or if authorized begins to work from an alternate location he or she will go "on the clock" at his or her regular rate of pay.
- B. When an employee responds to an On-Call/Stand-By request to return to work the



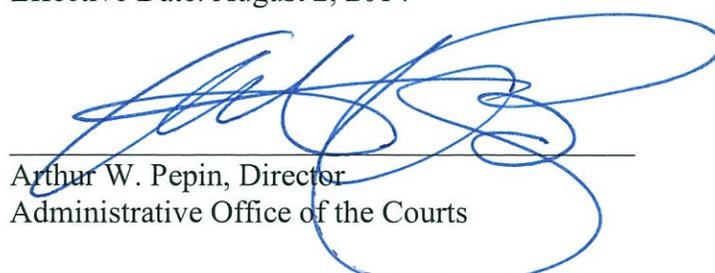
**NEW MEXICO JUDICIAL BRANCH
GENERAL PERSONNEL POLICY AND PROCEDURE:
ON-CALL/STAND-BY & CALL BACK PAY**

Policy No. 2014.NMJB.X

employee will enter this time in SHARE as “Extra Hours Worked” (XHRWK). Call-Back worked will be considered time worked for the purposes of determining overtime compensation.

- C. When Called-Back to work from On-Call/Stand-By status, employees shall be guaranteed a minimum of two (2) hours of pay at the employee’s applicable straight time or overtime hourly rate, as appropriate and based on their FLSA designation.
- D. Reasonable travel time from the employee’s off-premises location to the Judicial Entities premises and back shall be included as part of the actual hours worked and paid.
- E. All actual Call-Back hours worked in excess of the minimum of two (2) hours of pay or 120 minutes will be compensated in fifteen (15) minute increments.
- F. The Judicial Entity may verify calls received, and require employee documentation of the emergency/non-emergency request, including but not limited to: date, time, length of call, issue addressed, customer, reason for the emergency/non-emergency or required work, and signature of employee and supervisor.
- H. Call Back worked will be compensated even if the employee has not worked a full forty (40) hour workweek.
- I. Employees may not be compensated for On-Call/Stand-By and Call Back worked hours for the same time period.
- J. No more than 24 hours may be claimed on any given day, unless the employee is on On-Call/Stand-By on a paid holiday.

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Arthur W. Pepin, Director
Administrative Office of the Courts



Date

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