

New Mexico Leave Laws

This material is for general informational purposes only and does not constitute legal advice. For current and accurate guidance, please consult legal counsel in your jurisdiction.

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Paid Time Off (PTO) in New Mexico

Vacation Leave Quota

New Mexico law demands no vacation days.

Private employers in New Mexico are not required to provide paid or unpaid vacation.

However, if an employer chooses to offer vacation leave to its employees, paid or unpaid, it must comply with appropriate state law, established company policy, and the employment contract.

Accruals

The accrual system is not compulsory in New Mexico, but it is widely used by companies.

Employers are generally free to design their vacation accrual system, such as weekly, semi-monthly, or monthly increments. It is usually based on the pay period. The most common pay periods in New Mexico are semi-monthly and monthly.

An employer may apply a policy that caps (restricts) an employee's ability to earn vacation time to a certain number of hours.

Roll Over (Carry Over, Brought Forward)

A Use-It-or-Lose-It policy is allowed.

A “use-it-or-lose-it” employee vacation policy requires an employee to lose any unused vacation time after a specific date, such as the end of the year.

Use-it-or-lose-it policies are not addressed by state statutes, which means that employers may implement them.

Statutory Provisions Addressing Vacation Pay

None.

Accrued and unused vacation time is not considered wages. Employers are not obligated by law to provide vacation pay.

Payment of Accrued, Unused Vacation on Termination

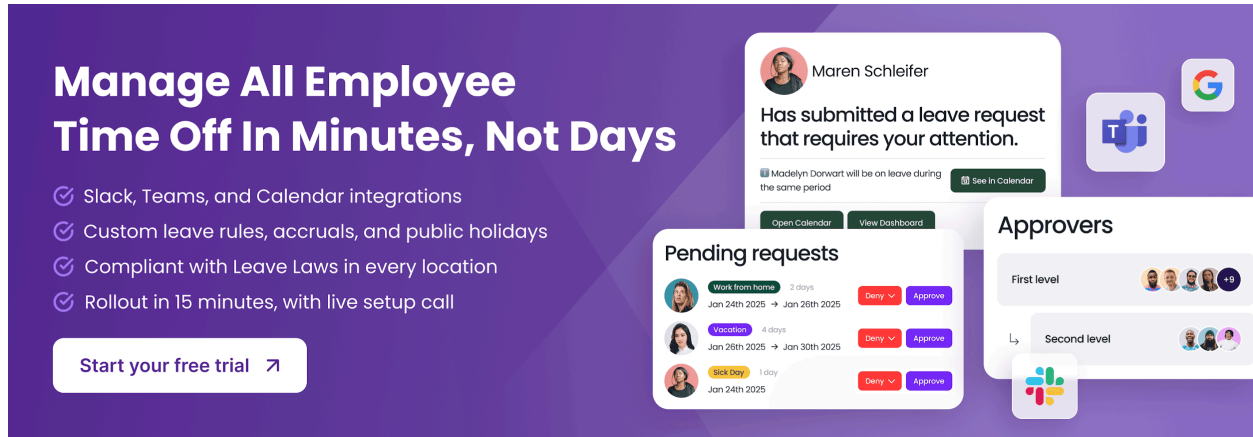
Not required by state law.

Employers are not required by law to pay unused employee benefits. Nevertheless, if an employer has a PTO policy that allows for accruing vacation or other PTO, any unused amount is considered earned wages and must be paid in the final paycheck.

The rules for final pay in New Mexico vary for employees who are terminated versus those who resign.

Payout

An employer pays only if there is a PTO policy that lets employees accrue vacation time or other PTO.



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Employee Request: Maren Schleifer has submitted a leave request that requires your attention. Madelyn Dorwart will be on leave during the same period. [Open Calendar](#) [View Dashboard](#) [See in Calendar](#)

Pending requests:

Request Type	Duration	Period	Deny	Approve
Work from home	2 days	Jan 24th 2025 → Jan 26th 2025	Deny	Approve
Vacation	4 days	Jan 26th 2025 → Jan 30th 2025	Deny	Approve
Sick Day	1 day	Jan 24th 2025	Deny	Approve

Approvers:

- First level: [+9](#)
- Second level: [+9](#)

Sick Leave in New Mexico

Federal law requires 12 weeks of unpaid sick leave. State paid sick law – 1 hour of earned paid sick leave for every 30 hours worked.

Federal Laws – Leave Quota

Federal law requires 12 weeks of unpaid sick leave.

The standard federal Family and Medical Leave Act (FMLA) applies to New Mexico (as it is in all the states in the U.S.A). The leave is job-protected.

Employees qualify for FMLA benefits only if:

- they have been employed for at least 12 months (at least 25 hours per week) or 1,250 hours in the previous year
- they work in a location where at least 50 people are employed by the company (in a 75-mile radius)

The FMLA entitles qualified employees to take up to 12 weeks off for:

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- personal medical reasons – illness or injury
- to care for a close family member (child, spouse, or parent) suffering from a severe illness
- maternity or paternity leave.

Check out our article on [FMLA](#) to learn more.

Payout

FMLA leave is unpaid.

New Mexico Paid Sick Law

1 hour of earned paid sick leave for every 30 hours worked.

New Mexico's paid sick leave law took effect on July 1, 2022.

All employers in New Mexico are mandated by law to offer paid sick leave to their employees. All types of employees, including part-time, seasonal, and temporary ones, are entitled to leave.

Employees earn 1 hour of paid sick leave for every 30 hours worked. Frontloading is permitted, on January 1 each year. Employers can cap (limit) employees' annual sick leave accrual to 64 hours. Accrued but unused paid sick leave can be carried over by employees.

Employees can start accruing and using paid sick leave immediately upon hire, without any waiting period. Leave starts to accumulate either from the start of employment or on July 1, 2022, whichever occurs later.

Employees can use their leave for themselves or a family member for reasons such as:

- Physical or mental illness, injury, etc.
- Diagnosis, care, or treatment for a physical or mental illness

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- Preventive medical care
- Handling the consequences of domestic abuse, sexual assault, or stalking (e.g., moving, counseling, etc.).

Payout

Employers are not obligated to pay out unused sick leave upon termination of employment.

Bernalillo County, New Mexico

All companies with 2+ employees must provide each worker with 1 hour of paid leave for every 32 hours worked, up to a total of 56 hours in 3 years. This leave can be taken for any purpose.

New Mexico's County was the first to pass such a law, followed by Nevada and Maine which have similar laws allowing for "leave for any reason."

Maternity, Paternity, FMLA in New Mexico

Federal Law

12 weeks of unpaid maternity/paternity leave is provided by FMLA.

The Family and Medical Leave Act (FMLA) is a federal law that allows eligible workers to take up to 12 weeks of unpaid, job-protected leave per year for family or medical reasons, including maternity or paternity leave. Unless otherwise authorized by the employer, an employee must take this leave continuously. More information about FMLA eligibility can be found above, under the section *Sick Leave in New Mexico: Federal Laws – Leave Quota*.

The Pregnancy Discrimination Act (PDA) is one more federal law that protects pregnant women. According to the PDA, discrimination against pregnant people is prohibited in all areas of employment: hiring, firing, pay, job assignments, promotions, fringe benefits, training, leave, and health insurance.

Additional State Laws in New Mexico

In addition to Family and Medical Leave Act (FMLA) and the Pregnancy Discrimination Act, New Mexico has the following law regarding Maternity and Paternity Leave:

The New Mexico Human Rights Act

The New Mexico Human Rights Act requires employers with 4 or more employees to protect employees against discrimination related to pregnancy, childbirth, or other related medical conditions.

Pregnancy and childbirth have to be treated as any other type of temporary disability for all employment-related purposes, including benefits such as the receipt of fringe benefits.

Payout

Maternity leave in New Mexico is unpaid.

Bereavement Leave in New Mexico (Funeral Leave)

An employer is not required to provide bereavement leave.

An employer is not legally required to provide any paid or unpaid bereavement leave, or any time off to attend an immediate family member's funeral. However, most employers do provide

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at least 2 days, so if an employer decides to provide bereavement leave, they must follow the bereavement policy or practice they have in place.

Payout

Bereavement leave in New Mexico is unpaid.

Jury Duty Leave in New Mexico

Employers must provide employees unpaid time off for jury duty.

Employers are required to provide employees with unpaid, job-protected leave to report to jury selection or jury duty. Notice requirements do apply, so employees may have to show their employer their jury summons (within a reasonable period of time after receiving it) to be given the necessary leave.

An employer cannot force or request an employee to use their annual, vacation, or sick leave for the time they spend on jury duty.

An employer may not fire, threaten to fire, penalize, or punish the employee in any way due to their jury service.

Payout

The employer pays:

Employers in New Mexico are not required to pay employees for jury duty leave.

The court pays:

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Employees who serve as jurors in New Mexico are paid \$7.50 a day (though juror pay is only a token amount).

Military Leave in New Mexico

All employers in the U.S. must comply with USERRA. There are additional state laws.

Federal law

The Uniformed Services Employment and Reemployment Rights Act (USERRA) is a federal law that applies to employers of all sizes and types in the U.S. USERRA protects employees called to active duty in the U.S. military, including the U.S. Armed Forces, Reserves, and National Guard. USERRA provides reinstatement rights, protection from discrimination, the right to continue group health care benefits for up to 24 months during their leave, and up to 5 years of unpaid leave for military service (with exceptions to this 5-year limit).

New Mexico State Law

Besides the USERRA, New Mexico has its own laws that offer job protections for military personnel, including:

A servicemember from the US Armed Forces, National Guard, or reserves who have been honorably discharged or released from active duty must be restored to their former job (or one with equivalent seniority, status, and pay). The servicemember must apply for reinstatement within 90 days after leaving service or ending hospitalization (unless they were hospitalized for more than a year after discharge).

Upon returning to work, the servicemember cannot lose their seniority and has the right to take part in the employer's insurance and other benefits. They cannot be fired without a valid reason within the first year after reemployment.

Employers cannot reject a job candidate, punish, or terminate an employee based on their membership in the National Guard or stop them from performing their military duties.

Payout

Military leave is unpaid.

Voting Leave in New Mexico

Employers must provide 2 hours of paid time off for voting leave, but only if an employee doesn't have enough time in their non-working hours.

Employers must provide their employees with a maximum of 2 hours off for voting on election day. However, this leave is not necessary for employees whose workday starts more than 2 hours after polls open or ends more than 3 hours before polls close. The employer can choose the hours when the employee can take leave for voting.

The employee who takes this leave cannot be punished.

The law requires workers to be paid for these 2 hours of voting leave.

Advance notice and proof of voting are not required.

Payout

Voting leave is paid by the employer.

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New Mexico State Holidays in 2025

New Mexico law doesn't require private employers to provide employees with paid or unpaid holiday leave.

Private employers in New Mexico don't have to provide paid or unpaid leave for holidays, like almost all states in the U.S.A. Private employers can require all employees to work on holidays. However, the majority of employers in New Mexico do provide at least several paid holidays.

New Mexico officially observes 11 state holidays.

A complete list of holidays celebrated in New Mexico in 2025:

Holiday	Observed in 2025	General Date
New Year's Day 2025	Wednesday, January 1	January 1
Martin Luther King, Jr.	Monday, January 20	3rd Monday in January
Memorial Day	Monday, May 26	Last Monday in May
Juneteenth	Thursday, June 19	June 19
Independence Day	Friday, July 4	July 4

Labor Day	Monday, September 1	1st Monday in September
Indigenous Peoples' Day	Monday, October 13	2nd Monday in October
Veterans Day	Tuesday, November 11	November 11
Thanksgiving Day	Thursday, November 27	4th Thursday of November
Presidents' Day (Observed) (*)	Friday, November 28	Day after Thanksgiving
Christmas Day	Thursday, Dec. 25	December 25

(*) *Presidents' Day is observed on November 23 to 29; it is floating Friday day after Thanksgiving.*

When a holiday occurs on Saturday, it is recognized on Friday; when it falls on Sunday, it is observed on Monday.

2026

Holiday	Observed in 2026	General Date
New Year's Day 2026	Thu, Jan 1, 2026	January 1

Martin Luther King, Jr.

Monday, January 19

3rd Monday in January