Administrative Office of the Courts

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Lawsuit filed over leave policy for judicial employees

SANTA FE – The Administrative Office of the Courts (AOC) filed a lawsuit today to stop the Department of Finance and Administration (DFA) from unconstitutionally interfering with the Judiciary's authority to decide its own personnel matters as an independent branch of government.

The lawsuit asks the state Supreme Court to order the executive branch budget agency to resume processing payments for paid time off (PTO) by judicial employees under a policy implemented last year.

"The state court system adopted this approach to employee leave to better serve the public," said AOC Director Karl Reifsteck. "PTO helps courts recruit and retain talented employees. It also promotes a more efficient use of the taxpayer money that the Legislature provides to operate courts."

The PTO policy covers the Judiciary's 2,000 employees, but does not apply to state court judges. The policy was adopted in May 2023, and courts followed it throughout the 2024 fiscal year without requiring additional funding from the Legislature.

The DFA complied with the court-approved policy for more than a year before refusing to process payments for PTO to judicial employees in June because the agency suddenly deemed the policy inconsistent with leave practices followed by the executive branch of government.

"We attempted to work with DFA to resolve this issue amicably, but unfortunately these attempts failed," Reifsteck said. "This left no choice but to file a lawsuit to preserve the Judiciary's authority as a co-equal branch of state government."

Separation of Powers

The DFA "is arrogating approval authority for decisions by a co-equal branch of government," but the separation of powers doctrine in the New Mexico Constitution "forbids such Executive interference in the Judiciary's affairs," according to the lawsuit.

"The Legislature has the authority to appropriate money to adequately fund the two other branches of government," the lawsuit states. "From there, the Judiciary has the authority and

responsibility to use its budget to administer the courts, manage its own personnel, and set its own policies. There is no room in this system for the Executive to tell the Judiciary how it may or may not use monies the Legislature appropriated for the courts."

How PTO works

Judicial workers, like other state government employees, earn hours of leave each pay period. With PTO, however, there is no sick leave and annual leave. All leave is considered PTO. Judicial employees accumulate PTO hours or use them as needed for leave, whether for vacation, medical care, childcare or other approved purposes.

PTO vs. Traditional Leave

- All unused hours in an employee's PTO account roll over from one year to the next. The previous system erased annual leave hours above 240 hours at the start of a new year.

- The traditional leave system limited sick leave buybacks to 50% of an eligible employee's pay rate up to a certain number of hours each year. PTO compensation is at an employee's full pay rate. The hours of PTO eligible for a yearly buyback varies by how long an employee has worked for the Judiciary.

- PTO compensates employees upon retirement for part of accumulated leave at their full hourly salary rate rather than 50% of the rate under the traditional leave system. Depending on an employee's years of service, more hours of PTO may qualify for a retirement buyback than under the previous system.

PTO Saves Money

- PTO creates an incentive for employees to work up to their retirement date and then take a buyout of leave at their hourly salary rate. That saves employers from paying about 40% more for the payroll costs of benefits, including medical insurance.

- The traditional system encourages employees to stop working in advance of their retirement date, but remain on the payroll for weeks to get value from annual or sick leave otherwise lost upon retirement. In some instances, courts might need to hire a replacement because a soon-to-retire employee is no longer working in a critical job. That doubles payroll costs.

PTO is Cost-Effective

- Courts suffer lost productivity and workplace disruptions because of a "use it or lose it" approach to traditional leave. It promotes heavy absenteeism by employees near the end of the calendar year as they burn off leave to avoid losing any. This does not happen with PTO because earned leave hours carry forward from one year to the next.

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