

DAHL

IT'S THE PEOPLE.

NEW MEXICO SUPPLEMENT
2023

ComplianceHR

Note: This Employee Handbook is not intended to apply to any particular employer or to provide legal advice or opinion. Such advice may only be given when related to specific handbooks and specific fact situations. In no circumstances should any employee handbook be adopted and issued to employees before the final draft has been approved by experienced labor counsel. These employee handbook templates generally include policies prompted by federal and state laws in the employee policy context, as well as leave of absence and scheduling policies intended to comply with local laws in major municipalities (i.e., those with 100,000 residents or more). The handbook templates do not include the following: social media policies; drug-testing policies; policies related to municipal laws other than those specified above; or policies specific to government contractors or certain industries. Generally, the templates do not address industry-specific requirements, except where indicated.

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GENERAL INFORMATION

About This New Mexico Supplement

Dahl Consulting (“The Company”) is committed to workplace policies and practices that comply with federal, state and local laws. For this reason, New Mexico employees will receive the Company’s national handbook (“National Handbook”) and the New Mexico Supplement to the National Handbook (“New Mexico Supplement”) (together, the “Employee Handbook”).

The New Mexico Supplement applies only to New Mexico employees. It is intended as a resource containing specific provisions derived under New Mexico law that apply to the employee’s employment. It should be read together with the National Handbook and, to the extent that the policies in the New Mexico Supplement are different from, or more generous than those in the National Handbook, the policies in the New Mexico Supplement will apply.

The New Mexico Supplement is not intended to create a contract of continued employment or alter the at-will employment relationship. **Only the President/Owner of the Company or that person’s authorized representative has the authority to enter into an agreement that alters the at-will employment relationship and any such agreement must be in writing signed by the President/Owner of the Company or an authorized representative.**

If employees have any questions about these policies, they should contact their DAHL representative.

COMMITMENT TO DIVERSITY

Equal Employment Opportunity

As set forth in the National Handbook, the Company is committed to equal employment opportunity and to compliance with federal antidiscrimination laws. We also comply with New Mexico law, which prohibits discrimination and harassment against employees or applicants for employment based on race (including traits historically associated with race, such as hair texture and length, protective hairstyles and cultural or religious headdresses), age (40 and over), color, religion, national origin, ancestry, sex (including pregnancy, childbirth and related medical conditions), sexual orientation, gender identity, spousal affiliation, National Guard membership, status as a smoker or nonsmoker, genetic information, HIV status, physical or mental handicap or serious medical condition.

The Company will not tolerate discrimination or harassment based upon these characteristics or any other characteristic protected by applicable federal, state or local law.

Pregnancy Accommodation

Employees and applicants for employment may request a reasonable accommodation for pregnancy, childbirth or related medical conditions. For purposes of this policy, a reasonable accommodation is a modification or adaptation of the work environment, schedule, rules or job responsibilities that is reached through good faith efforts to explore alternatives and that enables the employee or applicant to perform the essential functions of the job. An accommodation is not reasonable if it imposes an undue hardship on the Company.

Employees or applicants for employment who have questions about this policy or who wish to request a reasonable accommodation under this policy should contact their DAHL representative.

PAY PRACTICES

Lactation Accommodation

The Company will provide flexible break time to accommodate an employee desiring to express breast milk for the employee's child. Nursing mothers can elect to take time to express breast milk during their regularly scheduled meal and/or rest breaks. If the break time cannot run concurrently with the meal and/or rest breaks already provided to the employee, the break time will be unpaid for nonexempt employees and will not be counted when determining whether an employee has worked overtime hours. Where additional breaks are required, employees should work with their supervisor regarding scheduling.

The Company will provide a space, other than a bathroom, that is private, clean and in close proximity to the employee's work area for the employee to express breast milk.

Employees should provide reasonable notice to the Company that they intend to use break time for expressing breast milk upon returning to work.

The Company will not demote, terminate or otherwise take adverse action against an employee who requests or makes use of the accommodations and break time described in this policy.

TIME OFF AND LEAVES OF ABSENCE

Vacation/Paid Time Off (PTO)

The Company will pay employees for any accrued but unused paid time off (PTO) at termination of employment.

Domestic Abuse Victims Leave

Employees who are victims of domestic abuse may take up to 14 days of leave per calendar year, with a maximum of eight hours per day, for the purpose of:

Obtaining a protection order or similar judicial relief;
Meeting with law enforcement officials;
Consulting with attorneys or district attorneys' victim advocates; or
Attending court proceedings related to the employee or the employee's family member.
For purposes of this policy, "family members" includes the employee's minor child or a person for whom the employee is a legal guardian.

Time off will be without pay, except that exempt employees may be paid, as required by applicable law. Additionally, employees may use any accrued sick leave or other available paid time off for leave under this policy. Health coverage and eligibility for other benefits will continue during the leave of absence.

Employees or their representative must provide notice within 24 hours of taking leave. The Company may also require verification of the need for leave, such as:

A police report indicating that the employee or a family member was a victim of domestic abuse;

A copy of an order of protection or other court evidence produced in connection with an incident of domestic abuse, but the document does not constitute a waiver of confidentiality or privilege between the employee and the employee's advocate or attorney; or

The written statement of an attorney representing the employee, a district attorney's victim advocate, a law enforcement official or a prosecuting attorney that the employee or employee's family member appeared or is scheduled to appear in court in connection with an incident of domestic abuse.

The Company will keep information regarding domestic violence leave strictly confidential and disclose the information only with the employee's consent or as required by law.

The Company will not retaliate or tolerate retaliation against any employee who seeks or obtains leave under this policy, nor will the Company interfere with, restrain or deny an employee the right to domestic abuse leave.

Sick Leave to Care for Relatives

Employees may use paid sick leave provided by the Company for absences due to the illness, injury or medical appointment of a covered relative, on the same terms the employees are able to use the sick leave benefits for their own illness or injury. For purposes of this policy, sick leave means time off that is paid by the Company and due to illness, an injury or receiving care from a health professional. Sick leave does not include leave under the federal Family and Medical Leave Act.

Covered relatives include the employee's spouse or domestic partner, as well as the employee's parent, grandparent, great-grandparent, child, foster child, grandchild, great-grandchild, sibling, niece, nephew, aunt, or uncle by blood, marriage, or legal adoption.

The Company will not discharge, threaten to discharge, demote, suspend or otherwise retaliate or discriminate against an employee because the employee requests or uses sick leave to care for a covered relation in accordance with this policy or for opposing, filing a a complaint about or cooperating with an investigation or prosecution of any policy or practice that the employee, in good faith, believes violates the law allowing use of sick leave to care for covered relatives. The Company will not consider an employee's use of sick leave to care for a covered relative as a factor in the employee's performance evaluation. Employees with questions or concerns regarding this policy or who would like to request a leave of absence under this policy should contact their DAHL representative.

Paid Sick Leave [Accrual Method]

The Company provides paid sick leave to eligible employees in compliance with New Mexico's Healthy Workplaces Act ("HWA").

Eligibility

All employees (including full-time, part-time and temporary employees) who work in New Mexico for the Company are eligible to receive paid sick leave from the Company.

Accrual and Carryover of Paid Sick Leave

Eligible employees begin to accrue paid sick leave on their first calendar day of employment with the Company or their date of coverage under the HWA, whichever is later.

Paid sick leave accrues at a rate of one hour for every 30 hours worked. For accrual purposes, exempt employees are assumed to work 40 hours per workweek unless the employee's normal workweek is less than 40 hours, in which case paid sick leave accrues based upon that normal workweek. Nonexempt employees accrue paid sick leave on all hours worked, including overtime hours, but do not accrue paid sick leave when using paid sick leave or other paid leave benefits such as PTO.

Employees may carry over up to 64 hours of accrued but unused paid sick leave from one benefit year to the next. The Company does not pay out any unused sick leave at the end of the benefit year in lieu of carryover.

The applicable "benefit year" for purposes of this policy is the employee's anniversary date.

Using Paid Sick Leave

Eligible employees may begin to use paid sick leave immediately upon accrual.

Eligible employees may use a maximum of 64 hours of paid sick leave per benefit year.

Employees may use paid sick leave in increments of one hour or more to cover all or part of a workday.

Use of paid sick leave must be recorded to the DAHL representative. To the extent allowed by applicable law, the Company reserves the right to require the use of paid sick leave for one of the reasons specified below. Employees are not required to search for or find a replacement worker to cover the period during which they use paid sick leave.

Covered Reasons for Use

Eligible employees may use paid sick leave only during times that they cannot work for the following reasons:

- Because of the employee's or the employee's family member's mental or physical illness, injury or health condition;
- For the medical diagnosis, care or treatment of the employee's or the employee's family member's mental or physical illness, injury or health condition;
- For preventive medical care for the employee or the employee's family member;
- For meetings at the employee's child's school or place of care related to the child's health or disability; or
- For absences necessary due to domestic abuse, sexual assault or stalking suffered by the employee or a family member of the employee, provided that the purpose of the leave is for the employee to do any of the following or obtain services or assist a family member with any of the following:
 - Obtain medical or psychological treatment or other counseling;
 - Relocate; or
 - Prepare for or participate in legal proceedings.

For purposes of this policy, a covered "family member" includes the employee's spouse or domestic partner or a person related to the employee or their spouse or domestic partner as:

- A child (including a biological, adopted or foster child, a stepchild or legal ward or a child to whom the employee or employee's spouse or domestic partner stands in loco parentis);
- A parent (including a biological, foster, step or adoptive parent or legal guardian or a person who stood in loco parentis when the employee or their spouse or domestic partner was a minor child);
- A grandparent;
- A grandchild;

- A biological, foster, step or adopted sibling;
- A spouse or domestic partner of a family member; or
- An individual whose close association with the employee or the employee's spouse or domestic partner is the equivalent of a family relationship.

Notice Required

When the need for paid sick leave is foreseeable (meaning that the employee is aware of the need to use leave seven or more days in advance), employees must provide seven days' advance oral or written notice of the need for leave. Employees must also make a reasonable effort to schedule the use of paid sick leave in a manner that does not unduly disrupt Company operations. If the need for paid sick leave is unforeseeable, employees must provide notice of the need for leave, either orally or in writing, as soon as practicable.

To provide notice of the need to use paid sick leave, employees should contact their DAHL representative. When possible, the request must include the absence's expected duration.

In all circumstances, employees are responsible for specifying that the time off is for paid sick leave reasons (as opposed to, for example, vacation), so that the absence may be designated as a paid sick leave absence.

Verification of Absence

For absences of two or more consecutive scheduled workdays, the Company may require employees to provide verification that their use of paid sick leave was for an authorized purpose. Employees must submit any required documentation within 14 days following their return from leave. Depending on the circumstances, verification may include a doctor's note (for the employee's own or family member's health condition); police report, court document, or court order of protection (indicating domestic violence, stalking, etc.); and/or other verification as permitted by applicable law.

The Company will keep confidential the medical or other personal information about an employee or employee's covered family member and treat such information in accordance with applicable laws.

Discipline for Unprotected Use of Paid Sick Leave

Discipline – up to and including termination – may be taken against an employee who uses paid sick leave for a purpose not covered by, or in a manner not consistent with, the HWA. In addition, discipline – up to and including termination – may be taken against an employee who violates this policy's requirements concerning requesting, using, recording, verifying, and/or documenting use of paid sick leave.

Effect on Other Rights and Policies

The Company may provide other forms of leave for employees to care for their own or a family member's medical conditions or for issues related to domestic violence under

certain federal, state and municipal laws. In certain situations, leave under this policy may run at the same time as leave available under another federal, state or municipal law, provided eligibility requirements for that law are met.

It is the employee's responsibility to apply for any applicable benefits for which the employee may be eligible as a result of an absence under this policy. However, An employee cannot use paid sick leave to supplement any partial wage replacement benefits received, such as the Short-Term Disability benefits offered by the Company.

Rate of Pay for Paid Sick Leave

Employees will be paid for paid sick leave at the same hourly rate and with the same benefits, including health care benefits, that they normally earn during hours worked, and in no case less than the applicable minimum wage.

Separation From Employment and Rehire

The Company does not pay employees for accrued but unused paid sick leave at any time, including upon separation from employment for any reason.

If an employee's employment with the Company ends and the employee is rehired within 12 months of employment ending, the employee's previously accrued but unused paid sick leave will be reinstated and made immediately available for use.

No Discrimination or Retaliation

So long as the Notice provisions outlined above are followed, the Company will not count an employee's use of paid sick leave as an absence or occurrence that may result in discipline under any Company policy.

The Company will not interfere with, restrain or deny an employee's rights under the HWA and will not discriminate or retaliate against an employee for exercising those rights. The Company will not discriminate or retaliate against an employee who reasonably alleges violations of the HWA or raises concerns about violations of the HWA.

Paid Leave [Bernalillo County, NM]

The Company provides paid leave to eligible employees in compliance with the requirements of the Bernalillo County, NM Employee Wellness Act, also known as the Paid Time Off Ordinance ("BCEWA").

Eligibility

Employees (including full-time, part-time, seasonal or temporary non-exempt employees) who work in unincorporated areas of Bernalillo County, NM, and who are employed by the Company for at least 56 hours in a year, are generally eligible to accrue paid leave. The following employees are not eligible for paid leave under this policy:

- Individuals employed in a bona fide executive, administrative or professional capacity;
- Supervisors, forepersons and superintendents;
- Students who are regularly enrolled in primary or secondary school and working after school hours or during school vacations;
- Interns working for academic credit in connection with a course of study at an accredited school, college or university;
- Per diem employees; or
- Employees who have received a certificate from the New Mexico Labor Commission for individuals whose earning or productive capacity is impaired by physical or mental disability or injury or any other disability.

Accrual and Use of Paid Leave

Eligible employees begin to accrue paid leave on October 1, 2020, or upon their first day of employment, whichever is later. Eligible employees accrue paid leave at the rate of one hour of paid leave for every 32 hours worked up to a maximum of 56 hours per anniversary year. Exempt employees will be assumed to work no more than 40 hours in a week.

Eligible employees may begin using accrued paid leave on December 30, 2020 or on the 90th calendar day following their date of employment with the Company, whichever occurs later. Eligible employees may use up to 56 hours of paid sick time in a anniversary year.

Employees will not be required to find a replacement as a condition of using accrued paid leave.

Requesting Paid Leave

To provide notice of the need to use paid leave, employees or a family member, caretaker or medical professional acting on the employee's behalf should contact their DAHL representative by email and specify that they are using paid leave. When possible, the request should include the expected duration of the absence. When the need for leave is foreseeable, such as when an employee has a scheduled medical appointment, employees should provide notice of the need for leave as soon as practicable.

Employees should, if possible, schedule the use of paid leave in a manner that does not unduly disrupt Company operations.

Rate of Pay

Leave is paid at the same hourly rate and with the same benefits, including any health care benefits, an employee normally earns during hours worked.

Leave Carryover

Accrued, unused paid leave may be carried over from year to year, up to a maximum carryover amount of 56 hours per anniversary year.

The Company does not offer pay in lieu of actual paid leave.

Confidentiality

The Company will keep confidential the information it obtains related to an employee's reasons for taking paid leave. Such information will not be disclosed except with the permission of the affected employee or as necessary to validate insurance claims or accommodation requests, in a manner consistent with the Americans with Disabilities Act.

Effect on Other Rights and Policies

The Company may provide other forms of leave for employees. In certain situations, leave under this policy may run at the same time as leave available under another applicable law, provided eligibility requirements for that law are met. The Company is committed to complying with all applicable laws. Employees should contact their DAHL representative for information about other leave rights.

Separation From Employment

Compensation for accrued and unused paid leave is not provided upon separation from employment for any reason. If an employee is rehired within 12 months after separation, previously unused paid leave hours, up to a maximum of 56 hours, will be reinstated.

Retaliation

The Company will not threaten, retaliate or tolerate retaliation against any employee because the employee uses paid leave in accordance with this policy, alleges (in good faith) a violation of the BCEWA or otherwise exercises their rights under the BCEWA.

Jury Duty Leave

The Company encourages all employees to fulfill their civic responsibilities and to respond to jury service summons or subpoenas, attend court for prospective jury service or serve as a juror. Under no circumstances will employees be terminated, threatened, coerced, or penalized because they request or take leave in accordance with this policy.

Employees must provide their supervisor with notice of any jury summons or subpoena within a reasonable amount of time after receipt and before their appearance is required. Verification from the court clerk of having served may also be required.

Time spent engaged in attending court for prospective jury service or for serving as a juror is not compensable except that exempt employees will not incur any reduction in

pay for a partial week's absence due to jury duty. Employees who are absent from work while participating in the jury selection process or while serving as a juror will not be asked or required to use any annual, vacation or sick leave during the absence,

Time Off to Vote

The Company encourages all employees to fulfill their civic responsibilities and to vote in all public elections. Most employees' schedules provide sufficient time to vote either before or after working hours.

Employees whose work hours begin two or more hours after the polls open or end three or more hours before the polls close are considered to have sufficient time outside of work to vote. Employees whose work schedules do not allow sufficient time may take up to two hours of time off to vote, without loss of pay.

The Company may specify when leave can be taken. The Company may also, in its discretion, adjust work schedules to allow sufficient time outside of work hours for voting, but will do so in a manner that does not result in employees being paid less than their standard wages for a full workday.

The Company asks that employees provide reasonable advance notice of the need for time off to vote so that the time off can be scheduled to minimize disruption to normal work schedules. Proof of having voted may be required.

Military Leave

National Guard

In addition to the military leave rights set forth in the National Handbook, employees who are members of the National Guard of New Mexico or any other state also enjoy the rights, privileges and responsibilities set forth in the federal Servicemember's Civil Relief Act whenever they are called to state active duty for a period of 30 or more consecutive duty days or called to federally funded duty in an operational role for homeland security. Employees who are National Guard members of New Mexico or any other state are also entitled to the rights, privileges and responsibilities set forth in the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) whenever they are called to state or federal active duty for a period of 30 or more consecutive duty days.

U.S. Armed Forces, National Guard, Civil Air Patrol and Organized Reserve

Regular full-time and part-time (i.e., nontemporary) employees who leave their position (other than a temporary position) with the Company in order to serve in the armed forces of the United States, National Guard of New Mexico or any other state, civil air patrol or organized reserve will be reinstated upon return from military service, so long as they:

Gave advance written or verbal notice to the Company of their obligation or intention to perform service in the uniformed services, unless notice was precluded by military necessity or was otherwise impossible or unreasonable;
Apply for reemployment within 90 days of release or within two years of service-related hospitalization and convalescence;
Have not had a cumulative period of absence from the Company for more than five years in order to serve in the uniformed services;
Were honorably discharged or released from active service, are entitled to a certificate of service or, if an officer, terminated service without dishonor; and
Are still qualified to perform the duties of the job.
Employees will be reinstated to their prior position or a position of like seniority, status and pay. Employees will be reinstated without loss of seniority and will be entitled to participate in insurance and other benefits offered by the Company to employees who return from a leave of absence. Reinstatement may be denied, however, if the Company's circumstances have changed making reinstatement impossible or unreasonable.

The Company will not terminate employees returning from leave under this policy, without cause, within one year following the date of reemployment.

Volunteer Emergency Responder Leave

Employees who are volunteer emergency responders will be allowed up to 10 business days of time off per calendar year for the purpose of responding to an emergency.

For purposes of this policy, a volunteer emergency responder means a member in good standing of a volunteer fire department, an emergency medical service, a search and rescue team or law enforcement agency or who is enrolled by the state or a political subdivision of the state for response to an emergency or disaster.

Employees must make reasonable efforts to notify the Company on each occasion when they will be late or absent from work to respond to an emergency or disaster. In addition, the Company may require an employee to provide a written verification from the office of emergency management or a state or local official managing an emergency or disaster of the dates and time that the employee served as a volunteer emergency responder.

Leave under this policy will be unpaid except that exempt employees may be paid, as required by law.

The Company will not discriminate, or tolerate discrimination, against any employee who takes time off under this policy.

SAFETY AND SECURITY

Smoke-Free Workplace

The Company prohibits smoking, including the use of e-cigarettes, in the workplace and within a reasonable distance from any entrances, windows or ventilation systems. Employees wishing to smoke must do so in established outdoor smoking areas during scheduled work breaks.

Employees that observe other individuals smoking in the workplace in violation of this policy have a right to object and should report the violation to their DAHL representative. Employees will not be disciplined or retaliated against for reporting smoking that violates New Mexico law or this policy.

Employees who violate this policy may be subject to disciplinary action up to and including termination of employment.

Cell Phone Use / Texting While Driving

As set forth in the National Handbook, the Company prohibits employees from using cellular phones for business reasons while driving or for any reason while driving for work-related purposes or driving a company-owned vehicle. Employees should also be aware that using a handheld mobile communication device to read, view or manually type a text message (including e-mails) is a violation of New Mexico law, in addition to being a violation of company policy.