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**CITY OF SANTA FE, NEW MEXICO**

**RESOLUTION NO. 2023-17**

**INTRODUCED BY:**

Councilor Amanda Chavez

Councilor Chris Rivera

**A RESOLUTION**

**ESTABLISHING A TWO (2) YEAR PILOT PROGRAM TO SUPPORT THE PHYSICAL AND MENTAL WELLBEING OF EMPLOYEES.**

**WHEREAS**, according to the Centers for Disease Control and a recent study by the Kaiser Family Foundation, New Mexico has an age-adjusted suicide rate nearly double the average of the rest of the country, as well as higher than average rates of anxiety or depressive disorders; and

**WHEREAS**, other municipalities in the United States, including Dallas, Texas and Wake Forest, North Carolina, have implemented wellness programs that permit employees to have approved, paid health leave; and

**WHEREAS**, the New Mexico State Personnel Office (NMSPO), per employee policy, allows employees to request modified work schedules that permit the employee leave for up to two (2) hours total per week for fitness and wellness activities; and

**WHEREAS**, the NMSPO employee policy defines fitness and wellness activities as, “activities that promote physical and/or mental well-being, including physical exercise (for example, bicycling, walking, jogging, yoga, weight training, swimming, tennis, volleyball, softball

1 and racquetball), health risk appraisals, wellness screenings, fitness testing, mindfulness and  
2 meditation exercises, healthy eating classes, nutrition consultation, health behavior change  
3 coaching, and smoking cessation classes;” and

4 **WHEREAS** beginning July 1, 2022, the New Mexico Healthy Workplaces Act (HWA)  
5 required private employers with one or more employees working in New Mexico to provide paid  
6 sick leave to eligible employees for reasons including “mental and physical illness, injury or health  
7 condition;” and

8 **WHEREAS**, according to the New Mexico Department of Workforce Solutions, mental  
9 health therapy and counseling are qualifying reasons for paid sick leave under the HWA; and

10 **WHEREAS**, the City of Santa Fe (City) is making efforts to highlight mental health in the  
11 workplace and wellness resources to all City employees; and

12 **WHEREAS**, the City has personnel rules that govern and provide various forms of leave  
13 (Rules 13.10 through Rule 13.90) (“Personnel Rules”); and

14 **WHEREAS**, the Personnel Rules provide for between 71 hours (in year one of full-time,  
15 non-union employment) and 159 hours (after year 20 of full-time, non-union employment) of sick  
16 leave that may be used for the following reasons:

- 17 1. illness or injury which renders an employee unable to perform the employee’s duties,
- 18 2. medical examination, consultation, or treatment by a licensed practitioner;
- 19 or an
- 20 3. an immediate family member requires the employee’s presence because of injury, illness,
- 21 medical treatment, or death; and

22 **WHEREAS**, the Personnel Rules do not currently provide for “wellness leave” that does  
23 not otherwise qualify as sick leave or paid leave for a weekly wellness program, other than leave  
24 employees elect to take as annual leave; and

25 **WHEREAS**, the mental health and fitness of all City employees make it reasonable and

1 appropriate to implement immediate changes to the Personnel Rules to establish and pilot a  
2 program for wellness leave and a weekly two (2) hour Wellness Program in relation to non-union  
3 employees and for management to propose the same to union employees.

4 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
5 **CITY OF SANTA FE** that changes to the Personnel Rules, as represented in Exhibit A, are adopted  
6 for non-union employees to establish a two-year pilot program from the effective date, which will  
7 include Wellness Leave and a two-hour Weekly Wellness Program for City Employees.

8 **BE IT FURTHER RESOLVED** that the City Manager shall discuss the Personnel Rules  
9 as represented in Exhibit A, with the City's union employees. Should the union accept the terms of  
10 Exhibit A as stated, then the rules shall be in place for the unions as well as non-union employees.

11 **BE IT FURTHER RESOLVED** that the pilot program shall go into effect on July 1, 2023.

12 PASSED, APPROVED, and ADOPTED this 10<sup>th</sup> day of May, 2023.

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16 ALAN WEBBER, MAYOR

17 ATTEST:

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19 

20 KRISTINE MIHELIC, CITY CLERK

21 APPROVED AS TO FORM:

22  
23 

24 ERIN K. MCSHERRY, CITY ATTORNEY

25 *Legislation/2023/Resolutions/2023-17 Mental Health and Wellness Pilot*

## **Exhibit A**

### **RULE 13 LEAVE (Pilot Program)**

#### **Rule 13.91 Wellness Day Leave (Proposed Two-Year Pilot Program Rule).**

Classified full-time and part-time, exempt, and term employees shall be eligible each calendar year for one (1) wellness day. Employees are eligible to request Wellness Day Leave after successful completion of the employee probationary period. This category of leave is designed to be used for mental health and wellness. Such leave should be requested in advance, to the extent possible. Every effort will be made to accommodate an employee's request. Wellness Day Leave should be granted unless granting the requested leave would impair the effective and efficient operation of the department.

1. The Wellness Day Leave must be taken in eight (8) consecutive hour increments or in increments representative of the employee's regular work schedule. For example, a part-time employee would be eligible for 4 hours of wellness leave, an employee who works a 10-hour schedule would be eligible for 10 hours of wellness leave, a firefighter that works a 24-hour schedule would be eligible for 24 hours of wellness leave each calendar year.
2. The Wellness Day Leave must be taken within the current calendar year, or it will be forfeited.
3. Upon separation of employment, employees will not be compensated for the unused Wellness Day leave.
4. The Wellness Day Leave will not be counted toward the earning of Fair Labor Standards Act (FLSA) Overtime or Compensatory Time.
5. Employees and supervisors are required to utilize standard timekeeping processes to document and track Physical and Mental Fitness Leave.

#### **Rule 13.92 Two-Hour Weekly Wellness Program: Physical and Mental Fitness Leave. (Proposed Temporary Rule)**

Classified full-time, exempt, and term employees may be eligible for two (2) hours per week of Physical and Mental Fitness Leave for physical and mental fitness activities. Employees are eligible for this leave after successful completion of the probationary period and required approvals. This is a category of leave designed to promote fitness and wellness.

1. The Physical and Mental Fitness Leave will not be counted toward the earning of Fair Labor Standards Act (FLSA) Overtime or Compensatory Time.
2. Employees may request a modified work schedule by utilizing the standard request process for flexible-work arrangements, which may permit the employee to take up to two (2) leave hours per week of Physical and Mental Fitness Leave for physical and mental wellness purposes.
3. Physical and mental fitness activities are activities that promote physical and/or mental well-being including physical exercise (for example, bicycling, walking, jogging, yoga, weight training, swimming, tennis, volleyball, softball and racquetball), health risk appraisals, wellness screenings, fitness testing, mindfulness and meditation exercises, healthy eating classes, nutrition consultation, health behavior change coaching, and smoking cessation classes.

4. An eligible employee must request and be approved to participate in the Physical and Mental Fitness Leave through the standard flexible work arrangement process. Granting of the employee request is subject to the needs of the City. If the request is approved, it may be withdrawn by the City at any time if allowing the employee to continue would not be in the best interest of the City or have a negative impact on the operations of the City. The denial or rescinding of Physical and Mental Fitness Leave is not subject to grievance procedures or appeal processes.

5. Time needed for travel, taking showers, changing clothes and/or eating lunch must be considered and should be included in the modified work schedule.

6. Employees may elect to forgo a scheduled period of Physical and Mental Fitness Leave. However, missed Physical and Mental Fitness Leave is forfeited for the week and may not be made up at a different time during the week it was missed.

7. While considering and reviewing requests for participation in Physical and Mental Fitness Leave, supervisors should maintain adequate coverage to meet the business needs of the City, should not unfairly shift workloads to other staff members, and should not incur additional associated costs to the City.

8. Participants in this program are responsible for notifying their supervisor should they cease to engage, on a regular basis, in the Physical and Mental Fitness Leave on the days specified on their request.

9. As a condition of participating in the Physical and Mental Fitness Leave, employees irrevocably agree to indemnify and hold the City of Santa Fe harmless from any and all liability and waive any claims, including but not limited to workers' compensation, for any and all injuries caused by or aggravated by activities completed during any Physical and Mental Fitness Leave.

10. Employees and supervisors are required to utilize standard timekeeping processes to document and track Physical and Mental Fitness Leave.

**CITY OF SANTA FE, NEW MEXICO**  
**PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2023-17**  
**(Mental Health and Wellness Pilot Program(s))**

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Mayor and Members of the City Council:

**In relation to Resolution No. 2023-11\_\_ : ESTABLISHING A TWO (2) YEAR PILOT PROGRAM TO SUPPORT THE PHYSICAL AND MENTAL WELLBEING OF EMPLOYEES.**


**I propose the following amendment(s) to**

1. On page 3, line 6, *strike* “date of adoption,” and *insert* “effective date.”
2. On page 3, lines 11 to 12, *strike* “immediately upon approval” and *insert* “on July 1, 2023” in its place.

**This amendment DOES change the caption. \_\_\_\_\_**

**This amendment DOES NOT change the caption.   x**

Respectfully submitted,

  
\_\_\_\_\_  
Amanda Chavez (May 24, 2023 11:37 MDT)  
Amanda Chavez, Councilor

Approved as to Form:

  
\_\_\_\_\_  
Erin K. McSherry, City Attorney

ADOPTED: \_\_\_\_\_ X \_\_\_\_\_

NOT ADOPTED: \_\_\_\_\_

DATE:   5/10/2023  

  
\_\_\_\_\_  
Kristine Mihelcic, City Clerk