

**NEW MEXICO MAGISTRATE COURT POLICY DIRECTIVES**  
(Approved by Supreme Court Administrative Order No. S-1-AO-2024-00005)

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1 **POLICY DIRECTIVE NO. 1**  
2 (Reissued February 2024)

3  
4 **POLICY RELATING TO ACCEPTANCE OF PERSONAL CHECKS,**  
5 **RECEIPTING OF MONIES NOT READILY IDENTIFIABLE, AND THE**  
6 **RECEIPTING OF BAIL**  
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8 This policy is issued in accordance with NMSA 1978, Section 35-7-1 to  
9 provide guidelines and directions regarding acceptance of personal checks for the  
10 payment of court costs and fines and the posting of bail.

11 **Personal Checks.**

12 Magistrates may exercise their discretion when accepting personal checks for  
13 the payment of costs and fines, giving careful consideration to their knowledge of  
14 the payer. If an individual has presented a bad check to the court, the court shall not  
15 accept another check from that individual for twelve months. Courts shall send the  
16 AOC a quarterly report on bad checks. Business checks and money orders are  
17 acceptable forms of payment.

18 **Monies Not Readily Identifiable.**

19 Any money received in the mail, which is not readily identifiable (as to  
20 defendant or docket number), must be receipted and deposited in the regular course  
21 of business. The “other” category must be checked on the receipt form and a short  
22 explanatory note must be sent with the deposit ticket to the accounting staff of the  
23 Administrative Office of the Courts (AOC). The accounting staff will need all  
24 available information pertaining to the money that cannot be identified (social

1 security number, address, telephone number, etc.). If possible, provide the  
2 accounting staff with a photocopy of the check or money order. When the payment  
3 is identified, the accounting staff must be notified and the proper accounts credited.  
4 If the payment is identified during the same month as receipted, the clerk will make  
5 an accounting entry to distribute properly the monies received. At the end of the  
6 month, magistrate courts must issue a check to the suspense fund for money that  
7 cannot be identified. If at a later date money deposited in the suspense fund is  
8 identified, the court will have to write a letter to the AOC accounting staff requesting  
9 that a state warrant be generated and sent to the court. The warrant will be sent to  
10 the court for deposit into the Trust Account. If the money does not belong to the  
11 court, the magistrate will issue a check to the proper individual or agency.

12 Money received in the mail, which is owed to the court but is payable to an  
13 agency other than the magistrate court, may either be sent back to the defendant  
14 (accompanied by a letter requesting the defendant to issue a new check to the  
15 magistrate court), or be sent to the payee agency with a request to make the check  
16 payable to the court.

17 If the defendant pays monies owed the magistrate court to another agency, the  
18 court may contact the agency and request that the agency transfer to the court those  
19 monies owed. The defendant continues to be responsible for the payment that is due  
20 the court. The court may give an appropriate extension to allow the defendant time

1 to retrieve the money, but the responsibility of doing that should fall on the  
2 defendant. The court should also process all paperwork necessary to finalize the  
3 pending case.

4 **Bail.**

5 All bail accepted by the magistrate court shall be payable in American  
6 currency, or by cashier's check, certified check, money order, or surety bond only.  
7 No personal or company checks, or foreign checks or currency are to be accepted.

8 All magistrate courts shall review the Cash Bond Record distributed by the  
9 AOC accounting staff on a monthly basis to ensure that appropriate action has been  
10 taken on each bond posted and that bonds are removed from the Cash Bond Record  
11 when six months have elapsed unless the court has entered a written order  
12 documenting good cause for extending the time.

13 All unclaimed cash bonds shall be remitted to the AOC for deposit in the  
14 Magistrate Suspense Fund in accordance with Section 8.11-7 of the Magistrate Court  
15 Administrative Procedures Manual. (See Administrative Procedures Manual for  
16 processing instructions.)

17 This policy applies to all magistrate courts.  
18

1 **POLICY DIRECTIVE NO. 2**

2 (Renumbered and reissued as amended February 2024)

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4 **POLICY RELATING TO OVERAGES/SHORTAGES IN MONIES**  
5 **COLLECTED**

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7 This policy is issued in accordance with NMSA 1978, Section 35-7-1 to  
8 provide guidelines and directions regarding any overages/shortages that may occur  
9 during the collection of monies by the magistrate courts.

10 **Overages.**

11 Whenever overages occur and monies attributable to the overages cannot be  
12 identified, the overages amount collected must be deposited with regular daily  
13 receipts. Any excess money received, which cannot be identified, is to be receipted  
14 and deposited in the state general fund in the regular course of business. An  
15 explanatory letter from the magistrate must accompany the next regular report to the  
16 AOC.

17 **Shortages.**

18 End of Month reports describing the circumstances surrounding any shortage  
19 must be provided to the Chief Judge, CFO and CEO. Shortages over \$10.00 must  
20 be reported with the standardized monthly revenue report.

21 If the aggregate total of all shortages for any magistrate court exceeds One  
22 Hundred Dollars (\$100.00) during any one fiscal year, or if the number of recorded  
23 shortages during a fiscal year exceeds five (5) shortages even though the hundred

1 dollar (\$100.00) limit is not breached, the director of the AOC may request that the  
2 AOC internal auditors perform an audit of the financial records of the court. A  
3 formal response to all audit findings by the magistrate will be required.

4 If the ceiling of One Hundred Dollars (\$100.00) per fiscal year is exceeded  
5 by any magistrate court, or if the aggregate number of shortages during a fiscal year  
6 exceeds five (5), depending on the circumstances, the internal auditors may conduct  
7 a formal audit or a review of court documents. The internal auditor will hold an exit  
8 audit conference with the magistrate, chief judge, and court executive officer and  
9 appraise them of the findings. A response by the Chief Judge and CEO/CFO to the  
10 audit findings must be filed with the AOC within ten (10) working days. The audit  
11 findings and the recommendations for corrective action will be presented to the AOC  
12 director.

13 Any employee may be required to reimburse the State for the amount in  
14 controversy if, after an investigation and formal audit, negligence or impropriety is  
15 shown on the part of the employee. If the director determines adequate measures  
16 are being taken to prevent future shortages, the director may waive the required  
17 payment. If the director waives the required payment, the matter is concluded. If  
18 the director finds negligence or impropriety and does not waive the required  
19 payment, the Supreme Court shall determine whether the employee should  
20 reimburse the State. (See Administrative Procedures Manual for processing

1 instructions.) Any and all improprieties may be referred to law enforcement for  
2 prosecution.

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1 **POLICY DIRECTIVE NO. 3**  
2 (Renumbered and reissued as amended February 2024)

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4 **POLICY RELATING TO LEAVE TAKEN BY MAGISTRATES**

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6 This policy is issued in accordance with NMSA 1978, Section 35-7-1, to  
7 provide guidelines and directions regarding the leave taken by magistrates.

8 A Magistrate judge shall hold no other outside employment that may conflict  
9 with judicial duties. NMSA 1978, § 35-1-36.1. Being a Magistrate is a full time job,  
10 and as elected public servants, magistrate judges must be prepared to put in more  
11 than forty (40) hours per week if required.

12 All magistrates shall notify the district court chief judge of their judicial  
13 district of any absences longer than two days from the office and advise the chief  
14 judge as to whether or not the magistrate judge has been able to arrange for  
15 coverage by another magistrate during the absence so that the chief judge may  
16 prepare an orderly staffing plan as required by Rule 23-109(B)(12) NMRA.  
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1 **POLICY DIRECTIVE NO. 4**  
2 (Renumbered and reissued as amended February 2024)  
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4 **POLICY ESTABLISHING MANDATORY TRAINING REQUIREMENTS**  
5 **FOR MAGISTRATES AND MAGISTRATE COURT CLERKS**  
6

7 This policy is issued in accordance with NMSA 1978, Section 35-7-1, to  
8 provide guidelines and directions regarding training and continuing education for  
9 magistrates and magistrate court clerks.

10 As a qualification for continued employment, and in furtherance of uniting  
11 the magistrate and courts and maintaining consistent procedure, each magistrate and  
12 magistrate court clerk shall attend the Conference sponsored by the Court Education  
13 Institute, unless excused in writing.

14 Each clerk shall receive advance notice of the Conference. If the magistrate  
15 or clerk is unable to attend, a letter stating the reasons for excusal must be submitted  
16 to the Chief Judge, who will forward to the Chief Justice. If the request is denied,  
17 the magistrate or clerk will be expected to attend and participate. If the request is  
18 granted, the person excused will make alternate arrangements with the Court  
19 Education Institute to view the recording of the conference within four months of  
20 the conference.

21 This policy applies to all Magistrates and magistrate clerks.  
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**POLICY DIRECTIVE NO. 5**  
(Renumbered and reissued as amended February 2024)

**POLICY RELATING TO RECORDS INSPECTION REQUESTS**

This policy is issued in accordance with NMSA 1978, Section 35-7-1, to provide guidelines for implementing the Inspection of Public Records Act (IPRA).

All IPRA requests submitted to a magistrate court shall be processed according to the direction of the district court chief judge of the judicial district in which the magistrate court is located.

1 **POLICY DIRECTIVE NO. 6**  
2 (Renumbered and reissued as amended February 2024)  
3

4 **POLICY RELATING TO THE USE OF VOLUNTEERS, INTERNS, OR**  
5 **COMMUNITY SERVICE PARTICIPANTS IN THE MAGISTRATE**  
6 **COURT**  
7

8 This policy is issued in accordance with NMSA 1978, Section 35-7-1, to  
9 provide guidelines regarding the use of volunteers, community service participants,  
10 and paid or unpaid interns in the magistrate courts.

11 **A. Volunteers and Interns.**

12 The magistrate courts may allow volunteers and interns to assist the court  
13 provided that the courts adhere to the following directives. A “volunteer” or an  
14 “unpaid intern” is any person who performs any type of clerical or other work for  
15 the court who is not a judicial branch employee or who is not paid for the work by  
16 funds appropriated to the Administrative Office of the Courts or funds appropriated  
17 to the District courts. A “paid intern” is defined as a person paid for the work by  
18 funds appropriated to the District court. A person assigned to the court under a DWI  
19 local program grant is a court volunteer.

- 20 1. Volunteers and interns must comply with all laws, rules, directives, and  
21 regulations governing court procedure.  
22  
23 2. The judge must have each volunteer sign a waiver before the volunteer or  
24 unpaid intern begins work at the court (Waiver form follows). All signed  
25 waivers must be filed with the district court clerk of the judicial district and  
26 the waiver requirement will be subject to audit.  
27

1 3. Should a volunteer or intern be a party to a case in the magistrate court,  
2 either during service to the court or within a reasonable time thereafter, the  
3 judge must recuse from the case to avoid the appearance of impropriety.  
4

5 4. Volunteers and unpaid interns shall not perform tasks that involve access  
6 to confidential information, such as screening results in DWI cases or  
7 affidavits in support of search and arrest warrants, or that are required to be  
8 performed by a bonded state employee, such as receiving and receipting funds  
9 or issuing notices under seal. Examples of the type of work that volunteers  
10 and unpaid interns may perform include filing of public records and  
11 documents and routine typing of forms or notices that the judge or clerk will  
12 sign and serve. If you have any questions about whether a particular task is  
13 appropriate for a volunteer or intern, please call the district court executive  
14 officer of the judicial district.  
15

16 **B. Community Service Participants.**

17 Paragraphs 1 and 4 above also apply to community service participants.

18 Those persons performing community service for the court are not required to sign  
19 the waiver because statutory immunity from liability is provided by NMSA 1978,  
20 Section 31-12-3. This statute also states that persons performing community service  
21 shall not be entitled to any of the benefits of state employment.

1 **FORM FOR POLICY DIRECTIVE NO. 6**

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3 **WAIVER FOR VOLUNTEERS AND UNPAID INTERNS IN THE**  
4 **MAGISTRATE COURT**

5  
6 I offer to assist the \_\_\_\_\_ County Magistrate Court at my own  
7 risk and with full knowledge and understanding that I will receive no remuneration  
8 from the court or from the judicial branch of New Mexico state government in any  
9 form, that I cannot receive any of the benefits of state employment such as workers'  
10 compensation should I be injured, and that I hold the State of New Mexico harmless  
11 from any claim for damages, injuries or other losses that may arise during the course  
12 of my assistance at the court or as a consequence of my assistance at the court.

13 I further understand that I will work at the pleasure of the magistrate and the  
14 chief judge of the judicial district. I agree to comply with instructions from him or  
15 her or from the chief clerk and to refrain from performing any task that I have not  
16 been specifically permitted or directed to perform.

17 I will comply to the best of my ability with all rules, regulations, directives  
18 and instructions regarding court procedure. I will keep information confidential to  
19 the same extent as court employees are required to do. I am aware that I have no  
20 authority to act as agent for the court or for the State of New Mexico and will not  
21 represent myself to be or purport to be an agent of the court or the State.

1 I willingly sign this waiver to provide assistance to the court for so long as I  
2 am willing to volunteer or unpaid intern or for so long as my services are needed by  
3 the court.

4 \_\_\_\_\_

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6  
7 PRINT VOLUNTEER'S/UNPAID INTERN'S NAME

8 \_\_\_\_\_

9  
10 SIGNATURE

11 \_\_\_\_\_

12 DATE

13  
14 APPROVED BY:

15  
16 \_\_\_\_\_

17 MAGISTRATE

\_\_\_\_\_

DATE

18  
19 \_\_\_\_\_

20 CHIEF JUDGE

\_\_\_\_\_

DATE

21  
22 Complete the following only if the volunteer is assigned to the court through a  
23 DWI local program grant:

24  
25 PAID BY: \_\_\_\_\_

26 ADDRESS: \_\_\_\_\_

27 SUPERVISOR: \_\_\_\_\_