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*West Virginia Division of Personnel*  
**POLICY**

**WITNESS / JURY SERVICE**

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**I. PURPOSE:** To provide guidelines, procedures, and exceptions to be followed when employees are subpoenaed to serve as witnesses, summoned for jury service, or required to attend an administrative hearing for the agency.

**II. POLICY**

A. In obedience to a subpoena or direction by proper authority, and upon application in writing, an employee shall be granted leave with pay to serve on a jury or appear as a witness before any court or judge; any legislative committee; or any officer, board, or body authorized by law to conduct any hearing or inquiry.

1. An exception shall be if the employee is a litigant, defendant, or other principal party, or has a personal or familial interest in the case or proceeding. In these instances, the employee may be granted annual leave or a leave without pay.
2. This policy shall not be construed to deprive, prohibit, or infringe upon the rights of any employee who is a party to, or a witness in, a grievance proceeding or a court of law proceeding resulting from the course of employment, or to deprive, prohibit, or infringe upon the rights of any employee in their pursuit of personal or civic responsibilities while on annual leave or a personal leave of absence.

B. To be eligible for time off from work without loss of pay or charge to annual leave in response to a summons for jury duty, an employee called to such service shall give a copy of the summons to the immediate supervisor in advance of the requested time off.

1. Failure to submit a subpoena or summons in advance of the employee's absence shall result in the absence being charged to accrued annual leave.
2. Failure to submit a subpoena or summons at all to document the employee's absence shall result in the employee's pay being docked in the next payperiod for an equal amount of time paid during which no work was performed.
3. Subsequent to the submission of a summons, the employee shall be entitled to a leave with pay for the period of absence required to perform such jury duty during the period the employee was scheduled to work. Upon return to work, the employee shall submit an official document from the court showing date(s) and time(s) served.
4. Because the court determines the employee's availability, and while on jury service the employee's presence cannot be depended upon, an employee summoned to serve as a juror shall have, whenever practical, his schedule adjusted and be assigned to day shift for the period of jury service.
  - a. Schedule adjustments are recommended because of the fatigue factor which may contribute to increased errors, security risks, and safety infractions.



- b. The shift supervisor will be responsible for making the necessary schedule adjustments for shift coverage.
  5. When an employee is released from service as a juror prior to the end of the workday, and there is more than one hour remaining in the employee's scheduled workday after allowing for reasonable return travel time, the employee shall immediately report to his supervisor, or if desired, request approval for annual leave.
  6. Employees hired for temporary or intermittent employment shall not be paid for time off when summoned for jury service.
- C. To be eligible for time off from work without loss of pay or charge to annual leave in response to a subpoena or direction from proper authority to appear as a witness in a court or hearing, an employee shall advise his immediate supervisor in advance of the requested time off and provide a copy of the written documentation immediately upon return to work.
  1. Upon return to work, the employee shall submit an official document from the court or hearing officer showing the date(s) and time(s) served.
  2. Failure to submit a subpoena or summons immediately upon return to work shall result in the employee's pay being docked in the next payperiod for an amount of time equal to the time during which no work was performed.
  3. Subsequent to the submission of a subpoena to appear as a witness, the employee shall be eligible for a leave with pay for the period of absence required to perform such duty during his regularly-scheduled workday.
  4. If an employee scheduled for an evening or night shift is subpoenaed to a court hearing by an official member of a court during a workday, the employee may request a schedule adjustment.
    - a. The request for a schedule adjustment should, when practical, be accommodated by the agency as long as there is no increase or decrease in the number of hours in the employee's regular scheduled workweek or the schedule change does not encumber overtime costs to the employer.
    - b. The shift supervisor will be responsible for making the necessary arrangements for shift coverage.
  5. When an employee is released from service as a witness prior to the end of the workday, and there is more than one hour remaining in the employee's scheduled workday after allowing for reasonable return travel time, the employee shall immediately report to his supervisor, or if desired, request approval for annual leave.
  6. An employee, who is subpoenaed to testify as a witness in any court of law or an administrative hearing on the State's behalf, in an official capacity as a State employee, during a regular scheduled workday, shall be eligible for time off without loss of pay or charge to annual leave. Appearances in such cases shall be considered as part of an employee's job assignments.



- D. In addition to any compensation received from the court as a fee or expense related to jury service, employees will receive their regular pay.
- E. Any payments issued to an employee who was absent from work without loss of pay or charge to annual leave, for a court or hearing appearance as a witness on behalf of the State, shall be assigned to the employer for deposit into the agency's personal services account, other than those monies reimbursed for necessary travel or personal expenses. All monies shall be assigned if the employee makes a claim with the State for the incurred expenses.
- F. Hours spent in compliance to a subpoena to serve on a jury or appear as a witness, outside an employee's scheduled workday, are not subject to this policy.

**III. EFFECTIVE DATE:** February 1, 1994.

**IV. POLICY NUMBER:** DOP-P10.

Approved and Issued By:

Robert L. Stephens, Jr., Director of Personnel

Date: January 11, 1994