

## DoD Financial Management Regulation Volume 8, Chapter 5 September 2008

### 0517 COURT LEAVE

051701. General. Employees are authorized court leave with pay when summoned in connection to serve as a juror or as a witness in a nonofficial capacity on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party. See **5 U.S.C. 6322, 5537, and 5515**.

051702. Annual Leave. If an employee is on annual leave when called for jury duty or witness service, then court leave shall be substituted. No charge shall be made to annual leave for the court service.

051703. Requirements. An employee who is under proper summons from a court to serve on a jury should be granted court leave for the entire period, regardless of the number of hours per day or days per week the employee actually serves on the jury during the period. Jury service for which an employee is entitled to court leave does not include periods when the employee is excused or discharged by the court, either for an indefinite period, subject to call by the court or for a definite period in excess of 1 day. Therefore, an employee may be required to return to duty or be charged annual leave if excused from jury service for 1 day or even a substantial part of a day. The employee may not, however, be required to return to duty if it would cause a hardship.

051704. Intermittent Employees. Intermittent employees are not eligible for court leave (**5 U.S.C 2105**).

051705. Nonexempt Employees. Nonexempt employees shall not have their pay reduced under FLSA due to court leave for jury duty or witness service during their regularly scheduled tour of duty (**5 U.S.C. 6322**).

051706. Documentation. When an employee is called for court service (as a witness or juror), the court order, subpoena, or summons, if one was issued, must be presented to the supervisor as far in advance as possible.

051707. Jury Duty Service Payment. Employees who perform jury duty service on behalf of:

A. a state or local court is paid jury duty fees; or

B. the United States or District of Columbia government are not paid jury duty fees (**5 U.S.C. 5537**).

051708. Witness Service Payment. An employee who performs witness service on behalf of:

A. A state or local government in a nonofficial capacity is paid witness fees.

B. A private party in a nonofficial capacity to which the United States, District of Columbia, or a state or local government is a party is not paid witness fees.

051709. Certificate of Attendance. The employee cannot retain fees received for jury duty and witness service performed in chapter 5, subparagraphs 051707.A and 051708.A. The employee must submit fees received for jury or witness service by money order or personal check to the employing activity. A certificate of attendance from the clerk of the court must also be submitted. The certificate shows inclusive dates of jury duty or witness service and amount of fees the court paid to the employee. The certificate of attendance separately should identify fees and allowances. Fees received by the employee are collected while allowances are not collected. If the certificate of attendance does not identify allowances separately, then all moneys are considered fees and shall be collected. The employee may keep reimbursements for expenses received from the court, authority, or party that caused the employee to be summoned and may keep fees that exceed the employee's compensation for the days of service. An employee serving on a jury in a state or local court who waives or refuses to accept jury fees is still liable to the U.S. Government for the fees he or she would have received.

051710. Retention of Fees. Fees should not be paid for jury duty or witness service performed in chapter 5, subparagraphs 051707.B and 051708.B. If fees are paid to an employee while serving in a nonofficial capacity, then the employee cannot retain those paid fees. Such fees must be turned in to the customer service representative (CSR) at the employing activity. An employee may keep reimbursements for expenses received from the court, authority, or party that caused the employee to be summoned.

051711. Official Capacity. Employees who perform witness service in an official capacity on behalf of the United States or District of Columbia government, a state or local government, or a private party shall not be paid witness fees nor shall the time served as a witness be charged to court leave or annual leave. The time shall be recorded as official duty. If any fees are paid, then they must be turned in to the employing activity.

051712. Nonofficial Capacity. Employees who testify in a nonofficial capacity on behalf of a private party to which the United States, the District of Columbia, a state, or local government is not a party are not entitled to court leave. The employee must take annual leave or LWOP. He or she is entitled to the fees and expenses related to such witness service.

051713. Holiday. When a holiday occurs during the time an employee is on jury duty or witness service, the employee can keep the jury duty or witness service fee paid for the holiday.

051714. Nonworkday. If an employee is called to jury duty on a nonworkday, then the employee may keep the fees paid.

051715. Submission of Fees. Moneys submitted to the payroll office from the CSR for fees collected by employees for jury duty or witness service shall be accounted for on a DoD **(DD) Form 1131** (Cash Collection Voucher). Under **5 U.S.C. 5515**, the appropriation and accounting classification that paid the employee's salary while on jury duty or witness service will be credited with these moneys.

051716. Employee Absence. See Table 5-5 for employee absences for court or court-related services.

051717. Payroll Deduction. Fees not submitted in a timely manner are subject to payroll deduction. Payroll deductions to collect the fees will be made in the next regular pay period.