

## **Number 14.6 - COURT AND JURY DUTY/ WITNESS FEES**

**Effective Date:** March 1, 1996

**Applicable To:** All classified employees with the Executive Branch of the State of Vermont.

**Issued By:** Department of Personnel

**Approved By:** William H. Sorrell, Secretary of Administration

### **PURPOSE AND POLICY STATEMENT**

It shall be the policy of the State of Vermont to encourage employees to recognize and perform their civic responsibilities.

The purpose of this policy is to establish the State's policies and practices which provide for a classified employee to be absent from work for court and jury duty, and to provide procedures for the acceptance of related fees by State employees.

### **GENERAL GUIDELINES**

The Court and Jury Duty Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when implementing this policy.

Classified employees who are summoned for court or jury duty shall be excused from work for the time necessary to perform that duty when they furnish timely notice of subpoena or summons to their supervisors. Employees who attend court in connection with their official duties shall not be considered absent from work.

The State expects its employees to serve for jury duty when summoned and will not request that employees be excused from serving except in unusual circumstances which jeopardize service to the public.

The contract allows employees to use accrued leave time for jury duty, however, it is not necessary as employees who serve on jury duty will continue to receive their State wages. State employees serving on jury duty will not receive jury pay from the court.

Employees are entitled to keep their court pay if they use accrued annual leave, personal leave, or compensatory time off for their absence due to court duty.

Employees who request accrued annual leave or compensatory time off to appear as defendants or party-plaintiff in civil or criminal actions shall be granted such time off.

It is the responsibility of employees to notify their supervisors as soon as they are called for court or jury duty.

## **WITNESS FEES**

32 VSA 1559 prescribes when and if State employees may receive witness fees for participation in civil or criminal proceedings. The statute is as follows:

### ***1559. Compensation of law enforcement officers for attendance at proceedings.***

*(a) No full time State police officer, municipal police officer, municipal police officer, game warden or other State employee shall be paid or accept any compensation as a witness in any civil or criminal proceeding to which the State is a party.*

*(b) In any civil proceeding in the State in which a full time State police officer, municipal police officer, game warden or other State employee is subpoenaed as a witness either because of his expert knowledge with regard to his employment area or because of his past official actions the fees due him as a witness shall be paid by the party summoning the witness to the clerk of the court to be paid to the State.*

*(c) These persons shall be compensated for such attendance by their employer according to the terms of their employment.*

Subparagraph (a) is applicable only in cases where the State is a party (i.e., plaintiff or defendant). In such cases, State employees may not accept payment in the form of witness fees, or other compensation for their participation. These employees may, however, be entitled to reimbursement for mileage under the law or contract.

Subparagraph (b) is applicable to civil cases only where the State is not a party and only applies to subpoenaed participation. This section is also limited to circumstances where State employees' participation is needed because of their expertise in their employment area, or because such employees have taken some past official action which is the reason for participation. In these instances, the person(s) summoning the employees should give the witness fee check (and a copy of the subpoena) to the clerk of the applicable court. Employees should not accept the witness fee check in these cases, nor attempt to sign the check over to the court themselves. Employees should, however, accept service of the subpoena. These employees may be eligible under the law or contract for reimbursement for mileage.

Subparagraph (c) is self-explanatory. Employees subpoenaed in the above-referenced types of cases should be compensated according to the terms of the contract which applies to their bargaining unit.