

3 FAM 3450 COURT LEAVE

(CT:PER-598; 06-19-2007)
(Office of Origin: HR/ER/EP)

3 FAM 3451 AUTHORITY

(CT:PER-598; 06-19-2007)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)
(Applies to Foreign Service and Civil Service Employees)

- 5 U.S.C. 6322
- 5 U.S.C. 5515
- 5 U.S.C. 5527
- 5 U.S.C. 5751

3 FAM 3452 GENERAL

(CT:PER-598; 06-19-2007)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)
(Applies to Foreign Service and Civil Service Employees)

Court leave is the authorized absence, without charge to annual leave or loss of compensation, of an employee from official duty for jury duty or for *appearance* as a witness in a nonofficial capacity on behalf of *any* party in any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party.

3 FAM 3453 POLICY

(CT:PER-598; 06-19-2007)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)
(Applies to Foreign Service and Civil Service Employees)

- a. In view of the importance of trial by jury as an American system of justice, State, USAID, *Broadcasting Board of Governors (BBG)*, Commerce and Agriculture, *as a matter of policy, will not ask* that their

employees be excused from jury duty, except in cases of real necessity. *Such a policy does not prohibit the employee from requesting* an exemption for compelling personal reasons on the employee's own initiative.

- b.* An employee who is under proper summons from a State or Federal court to serve on a jury *must* be granted court leave of absence with pay for the entire period, from the date stated in the summons on which the employee is required to report to the court to the time the employee is discharged by the court, regardless of the number of hours per day or days per week the employee actually serves on the jury during the period. However, the term of the jury service does not include time during which the employee is excused or discharged by the court for any indefinite period subject to call by the court or for a definite period in excess of one day.

3 FAM 3454 ELIGIBILITY

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

- a. Court leave for jury duty may be granted to any full-time or part-time employee (this does not include intermittent employees).
- b. Part-time employees called into jury service during their tour of duty may receive the compensation of their position without charge to annual leave. *The employee may receive a jury fee* for those hours of jury service *that* do not entitle *the employee* to court leave.
- c. A night shift employee who performs court service during the day *will be* granted court leave for regularly scheduled night tour of duty and is entitled to the night differential.

3 FAM 3455 USE OF ANNUAL LEAVE

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

- a. If an employee is on annual leave when called for jury service, court leave *must* be substituted. An employee cannot substitute annual leave for court leave to avoid forfeiture of annual leave.

- b. An employee on annual leave under advance notice of separation from service due to reduction-in-force and who is summoned as a juror, is entitled to have otherwise proper court leave substituted for annual leave but not to extend beyond the date administratively fixed for separation.

3 FAM 3456 PAY STATUS REQUIREMENTS

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

Court leave is available only to an employee who, except for jury duty, would be on duty or on leave with pay. Employees on leave without pay status who are called to jury duty may receive the per diem allowance for each day's attendance in court and for the time necessary to travel to and from court.

3 FAM 3457 INTERIM EXCUSE FROM JURY DUTY

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

Where no hardship would result, an employee entitled to court leave on account of jury service who is excused from jury duty for one day or a substantial part of a day *must* return to duty during such period or *be charged* annual leave. *Return to duty should not cause a hardship to the employee, for example, because of the distance of the court from the employee's residence or place of duty, the unavailability of public transportation during nonrush hours, or the employee's work schedule (e.g., night work). Telework provides another option for return to duty for employees with a telework agreement.*

3 FAM 3458 JURY FEES

3 FAM 3458.1 State or Municipal Court

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

- a. If an employee is absent from regularly scheduled duties to serve as a juror in a State or municipal court, the employee *shall* collect all fees payable on account of the jury service and forward them to the appropriate fiscal office; otherwise, payroll deductions will be made from due compensation. The appropriate fiscal office will apply the jury fees received by the employee against, but not to exceed, the *pay* that would otherwise *be payable to the employee* for the period of absence on jury duty. The employee is permitted to keep any excess of the jury fee over the amount of compensation due.
- b. *An employee may retain any monies provided for reimbursement for meals and transportation expenses.*

3 FAM 3458.2 Regularly Scheduled Workweek

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

An employee eligible for court leave *may* not accept jury fees for service as a juror in a Federal or District of Columbia court where the jury service is performed during the regularly scheduled administrative workweek. *Any fee collected for service must be reimbursed to the employing agency.*

3 FAM 3458.3 Nonworkdays

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

- a. Full-time and part-time per annum employees who perform jury service on a nonworkday are entitled to retain the fees received for such service.
- b. The employee may accept and keep any allowances for mileage and subsistence authorized by law to cover actual expenses incident to the

jury service. A per diem employee who performs jury duty in a State court is entitled to retain jury fees, provided court service is performed on a nonworkday outside the employee's regular tour of duty, for which nonworkday a Federal salary is not paid.

3 FAM 3458.4 Part-Time Employees

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

A part-time employee with a regularly scheduled tour of duty who performs jury duty that does not conflict with hours of employment may retain the usual fees for jury service. If, however, the part-time employee performs jury service in a court of the United States during any of the hours in which the part-time employee is in a pay status in a Federal position, the part-time employee may not *accept payment of* any jury fees for that day.

3 FAM 3458.5 Holiday

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

Fees for jury service on a holiday falling within the employee's basic tour of duty may be retained by the employee, provided that, had the employee not been on jury duty, he *or* she would have been excused from regular duties on the holiday.

3 FAM 3458.6 Leave Without Pay

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

An employee who is in leave without pay status when called for jury service, either in Federal or State court, may retain jury fees and per diem allowed for each day's attendance in court and for the time necessarily occupied in going to and from the court.

3 FAM 3459 WITNESSES

3 FAM 3459.1 Witness on Behalf of the United States

(CT:PER-598; 06-19-2007)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)
(Applies to Foreign Service and Civil Service Employees)

Regular and temporary full-time or part-time employees (but not substitute or intermittent employees) are granted court leave and paid their regular salaries during periods of necessary absence while serving as witnesses for the United States.

3 FAM 3459.2 Witness in Official Capacity

(CT:PER-598; 06-19-2007)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)
(Applies to Foreign Service and Civil Service Employees)

When an employee is called as a court witness in an official capacity, whether on behalf of the *U.S.* Government or a private party, the employee is in an official duty status and entitled to regular compensation, *including any overtime*, without regard to any entitlement to court leave. *Witnesses in their official capacity are also entitled to callback overtime for any travel performed outside of the basic 40-hour workweek to pick up evidence from headquarters to be produced in court.* See 22 CFR Part 172, response to subpoenas.

3 FAM 3459.3 Witness *in* Compensation Claims

(CT:PER-598; 06-19-2007)
(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)
(Applies to Foreign Service and Civil Service Employees)

Any employee who is required to appear as a party or *a* witness in the prosecution of third-party compensation claims is an active duty employee while so engaged.

3 FAM 3459.4 Witness in Nonofficial Capacity

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

When an employee appears 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, the employee *shall* be *granted* court leave. The employee's regular salary is paid during the time the employee is absent as a witness.

3 FAM 3459.5 Nongovernment Witness

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

When an employee's appearance in court as a witness is not on behalf of any party in connection with a judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party, and not in an official capacity, any absence from duty must be charged to either annual leave or leave without pay.

3 FAM 3459.6 Fees

(CT:PER-598; 06-19-2007)

(Uniform State/USAID/BBG/Commerce/Foreign Service Corps/USDA)

(Applies to Foreign Service and Civil Service Employees)

- a. An employee who serves as a witness on behalf of the United States, the Government of the District of Columbia, or a State or local government, shall be paid the employee's regular salary, and the time served as a witness cannot be deducted from the employee's annual leave. The employee shall not be paid witness fees when serving in such a capacity whether the court is in or outside the District of Columbia. Employees shall not be paid witness fees when serving in such a capacity or when testifying in a judicial proceeding to which any one of the above governments is a party. However, an employee shall receive travel expenses and per diem in lieu of subsistence expenses when serving as a witness on behalf of one of the above governments.*
- b. An employee who is called as a witness for the United States, the District of Columbia or a State or local government while absent from his or her*

duties on leave without pay for the entire period he or she serves as a witness, may accept and retain witness fees.

- c. An employee who testifies in his or her official capacity on behalf of a party other than the U.S. or District of Columbia governments is required to collect the authorized witness fees and allowances for expenses of travel and subsistence. All amounts so collected above the employee's actual expense must be paid to the employing agency and deposited as miscellaneous receipts.*