



JURY/WITNESS DUTY

PM-46-05

Section: 46-00, LEAVE WITH PAY

When employees are summoned to report for jury duty, the City of Memphis shall comply with Tennessee Code Annotated, Section 22-4-106 effective January 1, 2009, which states as follows:

22-4-106. Absence from employment – Amount of compensation –

(a) (1) Upon receiving a summons to report for jury duty, any employee shall on the next day the employee is engaged in such employee's employment exhibit the summons to the employee's immediate superior, and the employer shall thereupon excuse the employee from employment for each day the employee's service as a juror in any court of the United States or the state of Tennessee exceeds three (3) hours.

(2) If an employee summoned for jury duty is working a night shift or is working during hours preceding those in which court is normally held, such employee shall also be excused from employment as provided by this section for the shift immediately preceding the employee's first day of service. After the first day of service, when such person's responsibility for jury duty exceeds three (3) hours during a day, the person whose circumstances fall within the parameters of this subdivision (a)(2) shall be excused from the person's next scheduled work period occurring within twenty-four (24) hours of such day of jury service. Any question concerning the application of this subdivision (a)(2) to a particular work shift or shifts shall be conclusively resolved by the trial judge of the court to which the employee has been summoned.

(b) Notwithstanding the excused absence as herein provided, the employee shall be entitled to such employee's usual compensation received from such employment; however, the employer has the discretion to deduct the amount of the fee or compensation the employee receives for serving as a juror. Moreover, no employer shall be required to compensate an employee for more time than was actually spent serving and traveling to and from jury duty. If an employer employs less than five (5) people on a regular basis or if the juror has been employed by an employer on a temporary basis for less than six (6) months, the employer is not required to compensate the juror during the period of jury service pursuant to this section.

(c) It is the duty of all persons paying jurors their fee or compensation for jury service to issue to each juror a statement showing the daily fee or compensation and the total amount of fees or compensation received by



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the juror. Such person also shall provide a juror with a statement showing the number of hours the juror spent serving each day if the juror or juror's employer requests such a statement prior to the service at issue.

(d) (1) No employer shall discharge or in any manner discriminate against an employee for serving _____ on jury duty if such employee, prior to taking time off, gives the required notice pursuant to subsection (a).

(2) (A) Any employee who is discharged, demoted, or suspended because such employee has taken time off to serve on jury duty is entitled to reinstatement and reimbursement for lost wages and work benefits caused by such acts of the employer.

(B) Any employer who willfully refuses to rehire, or otherwise restore an employee or former employee, commits a Class A misdemeanor.

(e) Any employer who violates this section commits a Class A misdemeanor.

(f) For the purposes of this section, "employer" includes, but is not limited to, the state of Tennessee or any local government.

For employees summoned for witness duty, the City of Memphis shall comply with Tennessee Code Annotated Section 24-2-101 *et. seq.* which states in pertinent part as follows:

24-2-101. Duty

Every witness legally bound to appear as herein directed shall appear accordingly and continue to attend from day to day, and from term to term, until discharged by the court or the party who sought the summons; provided, that the continuance of a case shall not be deemed a discharge of witnesses legally bound to appear in the case so continued, and in the event of a continuance, it shall not be necessary to re-summon such witnesses unless they are expressly discharged by the court or by the party at whose instance they were summoned.

Employees occupying regular, full-time positions, including those in their initial probationary period, shall be granted time off from work with pay for jury or witness duty as follows:



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1. When summoned to report for jury duty;
2. When legally subpoenaed as a witness to testify in court cases when the employee is neither the plaintiff nor the defendant;
3. When called as a witness for the City;
4. When sued as an agent for the City.

The City elects for regular, full-time employees, including those in their initial probationary period, to receive while serving on jury or witness duty, their regular compensation without deducting an amount equal to the fee or compensation received by the employee for jury or witness duty.

Pursuant to state law, temporary or part-time employees cannot be denied the right to serve on jury or witness duty. For such employees, compensation is administered as follows:

1. Employees employed for less than 6 months in a temporary or part-time capacity: The City shall hold the position the employee occupies while the employee serves on jury or witness duty. However, the employee shall not receive compensation from their City position during this period of time.
2. Employees employed for more than 6 months in a temporary or part-time capacity: The City shall hold the position the employee occupies while the employee serves on jury or witness duty. However, the City elects for the employee to receive their regular compensation from their City position without deducting an amount equal to the fee or compensation received by the employee for jury duty.

When the City calls or subpoenas a City employee as a witness to appear in court, other than federal court, the following occurs:

1. The employee's regular compensation will be paid.
2. The employee shall not receive a witness fee in addition to the regular compensation.



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3. If the employee is called or subpoenaed by the City on the employee's regular day off, previously approved vacation or bonus day leave, previously approved compensatory leave, or a recognized City holiday, the employee may elect to receive additional compensatory time or pay at the employee's normal hourly rate for the actual time the employee's presence was required on behalf of the City.

When the City subpoenas a City employee as a witness to appear in federal court, the same provisions shall apply except that the employee's regular compensation shall be reduced by the amount of any witness or subpoena fee paid by the City to the employee pursuant to law or rule of court.

When employees are legally subpoenaed as a witness to testify in court cases where the employee is neither the plaintiff nor the defendant or when the employee is sued as an agent for the City, the employee's regular compensation will be paid.

When employees are called to serve on jury duty or as a witness for anyone other than City of Memphis Government, and the service occurs on the employee's regular day off, previously approved vacation or bonus day leave, or previously approved compensatory leave, or on a recognized City holiday, additional compensation or compensatory time shall not be given.

In accordance with Tenn. Code Ann. Section 22-4-106(a)(1), when an employee's service on jury duty exceeds three (3) hours, such employee shall be excused for the entire workday. In all other situations, when the employee's services are no longer required for that day, the employee is required to report to work within a reasonable period of the time actually spent serving and traveling to and from such service, provided it is one of the employee's regularly scheduled work days.

Employees shall be granted time off from scheduled work when they are involved in private court cases when they are the plaintiff or defendant. Employees in these circumstances must elect to use accumulated vacation, bonus days, compensatory time, or to be docked in pay for the time off.