

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-57 (rev. 8), “EMPLOYEE PARTICIPATION IN LEGAL OR LEGISLATIVE
PROCEEDINGS OR JURY SERVICES”
AUGUST 1, 2020

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TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

NUMBER: PD-57 (rev. 8)

DATE: August 1, 2020

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SUPERSEDES: PD-57 (rev. 7)
April 1, 2015

EXECUTIVE DIRECTIVE

SUBJECT: EMPLOYEE PARTICIPATION IN LEGAL OR LEGISLATIVE PROCEEDINGS OR JURY SERVICES

AUTHORITY: Tex. Gov't Code §§ 493.001, 493.006(b), 659.005, 660.002–.003; *General Appropriations Act*, Acts 2019, 86th Leg., R.S., art. IX, part 5, Travel Regulations; 34 Tex. Admin. Code § 5.22 (Comptroller of Pub. Accounts, State of Texas Travel Guidance); BP-02.08, “Statement of Internal Controls”

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

EMPLOYMENT AT WILL CLAUSE:

This directive **does not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of this directive at any time.

Nothing in this directive limits the executive director’s authority to establish or revise human resources policy. This directive guides the operations of the TDCJ and **does not** create a legally enforceable interest for employees or limit the executive director’s, deputy executive director’s, or division directors’ authority to terminate an employee at will.

POLICY:

The TDCJ encourages its employees to fulfill their duties as witnesses in legal or legislative proceedings or as jurors. Time reporting, leave administration, state travel expense reimbursement, and witness fees for the appearances shall be in accordance with this directive.

DEFINITIONS:

The following terms are defined for the purpose of this policy and are not intended to be applicable to other policies or procedures.

“Expert Witness” is a person who is qualified by knowledge, skill, experience, training, or education to provide a scientific, technical, or other specialized opinion about the evidence or fact issue.

“Incidental Expense” is an expense incurred while traveling on official state business. The term does not include: (a) a meal, lodging, or transportation expense, including a tax on a meal; (b) a personal expense; (c) an expense a person would incur regardless of whether the person is traveling on official state business; or (d) a tip or gratuity.

“Legal Proceeding” is a matter before a court, administrative board or tribunal, commission, administrative law judge, hearing officer, or other body with the legal authority to hear and decide cases and to render binding judgments on them, including all phases of litigation.

“Plaintiff” is a party or member of a party who initiates a lawsuit against the TDCJ.

“Travel Expense” is a meal, lodging, transportation, or incidental expense.

“Witness” is a person who gives testimony, under oath or affirmation, in a legal proceeding.

“Witness Fee” is money paid for various expenses incurred as a result of appearing in a legal or legislative proceeding.

PROCEDURES:

I. Legal Proceedings

A. General Provisions

1. A TDCJ employee is eligible to report time as time worked and receive reimbursement for travel expenses in accordance with state law and the TDCJ Travel Guide when required to attend a legal proceeding in their official capacity as a TDCJ employee, including an appearance as a witness or expert witness.

An employee shall report as time worked only the time attributable to required activities related to an appearance in a legal proceeding in their official capacity as a TDCJ employee. The time that may be reported as time worked in accordance with this directive shall be limited to the following:

- a. The time required for an employee to travel to and from the location of the proceeding; and
- b. The time required for an employee to be present at the proceeding, including time spent conferring with counsel.

Employees shall advise their warden or department head prior to an appearance in a legal proceeding for time reporting purposes and to allow for adequate staffing.

2. Reimbursements for Travel Expenses

- a. Reimbursements for travel expenses are paid from TDCJ appropriations in accordance with the standard rules governing travel expenses. An employee is eligible to receive reimbursement only for expenses incurred during the time that may be reported as time worked in accordance with this directive and the TDCJ Travel Guide.
- b. A TDCJ employee may receive reimbursement for travel expenses connected to an appearance as a witness in a legal proceeding from the state or the judicial body, but not from both the state and the judicial body.

3. Witness Fees

- a. A TDCJ employee appearing as a witness in an official capacity in a legal proceeding may not accept a witness fee for the appearance.

If a TDCJ employee who appears as a witness in an official capacity in a legal proceeding receives a check as payment for this service, the employee shall forward the check to the TDCJ Cashier's Office, P.O. Box 4015, Huntsville, Texas 77342.

- b. An employee who attends a legal proceeding not related to the TDCJ shall not be entitled to report the time as time worked or receive travel expense reimbursement. The employee's supervisor shall allow the employee to take leave in accordance with PD-49, "Leaves Other than Medical and Parental." The employee may accept a witness fee for the appearance.

B. Employee Plaintiffs

The following applies when an employee is a plaintiff in a legal proceeding against the TDCJ.

1. Only an employee plaintiff's testimony that is required by the Office of the Attorney General is considered official business. The plaintiff may report the time as time worked and is eligible to receive reimbursement for travel expenses in accordance with Section I.A. The plaintiff's supervisor shall release the plaintiff during working hours to present testimony.

2. All other activities of an employee plaintiff related to a legal proceeding against the TDCJ are not considered official business. The plaintiff is not entitled to report the time as time worked or receive state travel reimbursement. The plaintiff's supervisor shall allow the plaintiff to take leave in accordance with PD-49.

II. Legislative Proceedings or Other Hearings

For the purpose of this directive, appearances in legislative proceedings do not include appearances as a lobbyist. TDCJ employees, including full-time, part-time, and contract employees, are prohibited from serving as paid lobbyists for any individual, firm, association, or corporation. For additional information, refer to PD-23, "Employee Political Activity and Participation in Employee Organizations."

A. Appearance Requested by the Legislature or the TDCJ

An employee's appearance before a legislative committee or in an administrative action is considered official business and shall be reported as time worked if the employee's appearance is requested by the legislature or the TDCJ. The employee shall advise the employee's warden or department head prior to the appearance to provide sufficient notice to ensure adequate staffing. Reimbursement for travel expenses shall be allowed for this service. The employee shall not accept reimbursement for travel from both the TDCJ and the legislature. The employee may not accept a witness fee for this appearance.

B. Appearance Not Requested by the Legislature or the TDCJ

Time spent by an employee appearing in a legislative hearing or other administrative action is not considered official business if the employee's appearance is not required by the legislature or the TDCJ in the employee's official capacity as a TDCJ employee. This time is not considered time worked and the employee is not eligible for reimbursement for travel expenses. The employee may receive a witness fee for this appearance.

III. Jury Service

A deduction may not be made from the salary of a TDCJ employee because the employee is called for jury service, and the employee is allowed to accept compensation for such service. Administrative leave for jury service shall be granted in accordance with PD-49.

Bryan Collier
Executive Director