

# Procedure: 4.5.2p3. (III.U.6.b.)

## Court Leave

**Revised:** September 15, 2015

**Last Reviewed:** September 15, 2015

**Adopted:** September 15, 2015 (Removed from Miscellaneous Leave)



### I. PURPOSE:

Any TCSG employee ordered to attend a judicial proceeding in response to a subpoena, summons for jury duty, or other court ordered or court mandated process during scheduled work hours shall be permitted to attend the proceeding.

Pursuant to the provisions of O.C.G.A. §34-1-3, an employee may not be discharged, disciplined or otherwise penalized because of an absence (from work) to attend a judicial proceeding. Further, an employee may not be threatened with any action declared to be unlawful by the provisions of O.C.G.A. §34-1-3. NOTE: NOTE: The prohibitions of this statute and corresponding provisions of State Personnel Board Rule 16 do not pertain to an employee charged with a crime.

### II. APPLICABILITY:

All work units and technical college associated with the Technical College System of Georgia.

### III. RELATED AUTHORITY:

- O.C.G.A. § 20-4-11 – Powers of the Board
- O.C.G.A. § 20-4-14 – TCSG Powers and Duties
- O.C.G.A. §34-1-3
- State Personnel Board Rule 16 – Absence from Work
- TCSG Procedure: 4.1.4p. - Categories of Employment

### IV. DEFINITIONS:

**Court Order:** is an official proclamation issued and signed by a judge (or, as applicable, a panel of judges) that defines the legal relationship between parties to a hearing, a trial, an appeal or other court proceeding.

**Court/Judicial Proceeding** a lawsuit or all or some part of a cause (of action) heard and determined by a court to include any legal action taken at the direction of or by the authority of a court.

**Eligible Employee:** an individual appointed to a full- or part-time salaried position and eligible for State of Georgia-sponsored benefits as outlined in the TCSG Procedure governing Categories of Employment.

**Immediate Supervisor:** a supervisor charged with the responsibility for developing performance plans/expectations and who coaches, develops, and assessed the performance of subordinate employee(s).

**Jury Summons:** a process issued by a court commanding the appearance of an individual to attend and be available for jury duty at a specified place, time, and date. The appearance is mandatory unless a potential juror is excused from appearing.

**Reviewing Manager:** a manager charged with reviewing the performance plans and evaluations prepared by lower level supervisor(s) in his/her direct line of supervision.

**Subpoena:** a court-ordered demand that an individual appear in court or other legal proceeding.

**TCSG Work Unit:** the TCSG System Office, Quick Start Headquarters, Quick Start Regional Office or training center, or an associated technical college.

**V. ATTACHMENTS:** N/A

## **VI. PROCEDURES:**

### **A. General Provisions**

1. Absent the specific exceptions outlined in Paragraphs VI.C.2. and VI.C.3., a full- or part-time salaried employee shall be granted paid court leave for an absence from work on day(s) that he/she is subpoenaed, summoned for jury duty or otherwise ordered to attend a judicial proceeding.
2. It is permissible for paid court leave to be delivered for an out-of-state legal proceeding.
3. Hourly-paid employees and adjunct faculty are not eligible to receive paid court leave for jury duty service or in response to a subpoena or an order to attend a judicial proceeding (e.g., as a witness in a trial/hearing).
4. Given the restrictions outlined in Paragraph VI.C.4., an eligible employee who is not eligible for paid court leave may request annual leave, personal leave, as applicable, compensatory time or leave without pay to attend a judicial proceeding.
5. An eligible employee who is summoned to appear in court or serve on jury duty on a State holiday or on a scheduled day off are not entitled to additional time off.
6. An eligible employee who is a victim of a crime and summoned/subpoenaed to a judicial proceeding shall be granted paid court leave.

### **B. Jury Duty**

1. An eligible employee will be placed on paid court leave and receive his/her normal compensation for scheduled work day(s) his/her presence is required by the court in conjunction with jury duty service. A non-exempt employee will receive his/her salary for the number of

hours he/she would otherwise have worked up to a maximum of eight (8) hours for each day of service. An exempt employee will receive his/her normal salary for all time spent in this activity.

2. An eligible employee will also be compensated for any additional hour(s) that are reasonably necessary to prepare for and/or return from jury duty as determined by his/her immediate supervisor or other TCSG work unit official.

3. Upon receipt of a jury duty summons, an employee must notify his/her immediate supervisor and human resources director of the projected dates of his/her service via e-mail. An employee eligible for paid court leave must also submit a leave request form and attach a copy of the summons.

4. An employee is required to update his/her immediate supervisor and/or as applicable, his/her reviewing manager or other work unit official of his/her jury duty status. An employee is expected to report for work whenever his/her jury duty schedule permits; he/she is released from jury duty; or, when he/she is not required to report for jury duty on a day or days of potential service.

5. Upon completion of jury duty, the TCSG work unit may request the employee to provide documentation from the court verifying dates of attendance/service.

6. An employee who serves on jury duty may retain the nominal daily fee paid by the court for service to offset his/her incidental expenses associated with such service (e.g., gas, food, etc.).

### **C. Court Attendance/Service as a Witness**

1. An eligible employee subpoenaed/summoned to appear in court as a witness or otherwise required to attend a judicial proceeding shall be placed on paid court leave and receive their full salary (for such service) in the same manner as provided in Paragraph VI.B.1. Absent the exception noted in Paragraph VI.C.2., the employee may receive and retain a witness fee and an accompanying mileage reimbursement provided in response to a subpoena.

2. An eligible employee required to appear in court as a witness in a judicial proceeding on behalf of the Technical College System of Georgia is considered to be at work and all time spent in court is considered "hours worked". The employee is also eligible for a travel reimbursement for associated expenses incurred consistent with State of Georgia travel regulations. For this reason, the employee is not eligible to retain a witness fee and an associated mileage reimbursement provided in response to a subpoena. Any payment made to the employee for a witness fee/mileage reimbursement must be submitted to the System office or technical college.

3. An hourly-paid employee or adjunct faculty member is considered to be "at work" when representing the Technical College System of Georgia in a judicial proceeding in response to a subpoena or a court- or agency-ordered appearance. An hourly-paid employee shall be compensated at his/her regular rate of pay for the additional hours worked up to forty (40) in a given work week. If an employee's total hours worked exceeds forty (40) hours, he/she shall receive overtime pay for the additional hours worked calculated at time and a half his/her regular rate. If an adjunct faculty member is unable to hold his/her class(es) on the day(s) his/her presence in court is required, his/her compensation shall not be reduced for having not held class(es).

4. An eligible employee will not receive paid leave to appear in court as a witness or when required to attend a judicial proceeding when he/she:

- a. is charged with a crime;
- b. is a plaintiff or defendant;
- c. voluntarily appears as a witness absent a subpoena;
- d. is a witness in a case arising from or related to his/her outside employment or outside business activity;
- e. is testifying for a fee as an expert witness; or,
- f. has a personal or familial interest in the proceeding.

5. As provided in Paragraph VI.A.5., an eligible employee who is not eligible for paid court leave may request annual leave, personal leave, as applicable, FLSA Compensatory Time or leave without pay to attend a judicial proceeding.

6. After receiving written notice of his/her required appearance in a judicial proceeding (e.g., through a subpoena, summons, or other court order or process), an employee must provide his/her immediate supervisor and Human Resources Director (or designee) with a copy of the written notice. Additionally, the employee must complete a leave request form stating the reason of the requested leave. NOTE: a copy of the documentation should be attached to the leave request form.

7. Employees are required to updated their immediate supervisor and/or as applicable, their reviewing manager or other work unit official of the status of their required service as a witness, etc. Employees are required to report for work when released from their court-ordered appearance to include service as a witness.

8. An employee who is required to appear in an administrative hearing representing the Technical College System of Georgia (e.g., before the Commission on Equal Opportunity, Georgia Department of Labor, the Georgia Board of Workers' Compensation, etc.) is considered to be at work and shall not be placed on Court Leave or on a leave of absence without pay for time spent in this activity or travel to and from the proceeding.

9. Upon completion of the required court attendance/service as a witness, the TCSG work unit may require an employee to obtain documentation from the court verifying date(s) of attendance/service.

## **VII. RECORD RETENTION:**

All employment related documents collected pursuant to this procedure shall be maintained in a manner consistent with the Georgia Archive's Retention Schedule for State Government Paper and Electronic Records.