

## **3 FAM 3450 COURT LEAVE**

*(TL:PER-477; 08-08-2003)*  
*(Office of Origin: DIR)*

### **3 FAM 3451 AUTHORITY**

*(TL:PER-477; 08-08-2003)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & Civil Service Employees)*

—5 U.S.C. 6322.

—Public Law 91-563

### **3 FAM 3452 GENERAL**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & 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 attending court in a nonofficial capacity as a witness on behalf of the United States, District of Columbia, State and local government. Employees are also entitled to court leave when they appear as a witness in a nonofficial capacity on behalf of a private 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**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & Civil Service Employees)*

In view of the importance of trial by jury as an American system of justice, State, USAID, USIA, Commerce and Agriculture will follow the policy of not asking that their employees be excused from jury duty, except in cases of real necessity. Any employee may, of course, request exemption for compelling personal reasons on the employee's own initiative.

An employee who is under proper summons from a State or Federal court to serve on a jury should 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**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*

*(Applies to Foreign Service & 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. When there is a partial conflict between hours of employment and jury service, a jury fee cannot be prorated, but for those hours of jury service which do not entitle one to court leave, the employee can receive a jury fee.
- c. A night shift employee who performs court service during the day is granted court leave for regularly scheduled night tour of duty and is entitled to the night differential.

### **3 FAM 3455 USE OF ANNUAL LEAVE**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

- a. If an employee is on annual leave when called for jury service, court leave should 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**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & 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**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & 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 should return to duty during such period or suffer a charge against annual leave.

### **3 FAM 3458 JURY FEES**

#### **3 FAM 3458.1 State or Municipal Court**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & Civil Service Employees)*

If an employee is absent from regularly scheduled duties to serve as a juror in a State or municipal court, the employee should 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 amount that would be otherwise due 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.

#### **3 FAM 3458.2 Regularly Scheduled Workweek**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & 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.

### **3 FAM 3458.3 Non-Workdays**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

Full-time and part-time per annum employees who perform jury service on a non workday are entitled to retain the fees received for such service.

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 non workday outside the employee's regular tour of duty, for which non workday a Federal salary is not paid.

### **3 FAM 3458.4 Part-Time Employees**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*

*(Applies to Foreign Service & 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 be paid any jury fees for that day.

### **3 FAM 3458.5 Holiday**

*(TL:PER-258; 4-10-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*

*(Applies to Foreign Service & 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/she would have been excused from regular duties on the holiday.

### **3 FAM 3458.6 Leave Without Pay**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & 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 United States**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & 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**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & Civil Service Employees)*

When an employee is called as a court witness in an official capacity, whether on behalf of the Government or a private party, the employee is in an official duty status and entitled to regular compensation without regard to any entitlement to court leave. See 22 CFR Part 172, response to subpoenas.

#### **3 FAM 3459.3 Witness Compensation Claims**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & Civil Service Employees)*

Any employee who is required to appear as a party or 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**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & 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 is to be carried on court leave. The employee's regular salary is paid during the time the employee is absent as a witness.

### **3 FAM 3459.5 Non-Government Witness**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & 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 Overtime**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & Civil Service Employees)*

a. An employee who serves as a witness for the United States or the government of the District of Columbia on days for which the employee would have been entitled to receive overtime compensation had he/she rendered service in a civilian position is entitled to the overtime compensation he/she would have received on those days.

b. An employee who performs travel between the hours of 7 a.m. and 9 a.m. to pick up evidence from headquarters to be produced in a court where the employee appears as a witness for the United States on a non workday outside the basic 40-hour workweek is entitle to callback overtime of two hours.

### **3 FAM 3459.7 Fees**

*(TL:PER-258; 4-10-95)*  
*(Uniform State/USAID/USIA/Commerce/Foreign Service Corps/USDA)*  
*(Applies to Foreign Service & Civil Service Employees)*

a. Employees who serve as a witness on behalf of the United States, the government of the District of Columbia, a State or local government shall be paid their regular salary and the time served as a witness cannot be deducted from their 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. Neither shall employees be paid witness fees when testifying in a judicial proceeding to which any one of the above governments is a party. However, employees shall receive travel expenses and per diem in lieu of subsistence expenses when serving as a witness on behalf one of the above governments.

b. Employees who are called as a witness for the United States, the District of Columbia or a State or local government while absent from their duties on leave without pay for the entire period they serve as a witness may accept and retain witness fees.

c. Employees who testify in their official capacity on behalf of a party other than the U.S. or District of Columbia governments are 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 are accounted for through the employing agency and deposited as miscellaneous receipts.