

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>	EFFECTIVE DATE 04/12/1999	NUMBER 02.01.103
	SUBJECT EMPLOYEE APPEARANCES IN COURT AND ADMINISTRATIVE PROCEEDINGS	
		SUPERSEDES 02.01.103 (11/27/89)
		AUTHORITY MCL 791.203; Michigan Civil Service Commission Rules; Department of Management and Budget Procedure 1230.01
		ACA STANDARDS NONE
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**POLICY STATEMENT:**

Employees shall be released from scheduled work and compensated for appearances in court and administrative proceedings as set forth in this policy.

**RELATED POLICIES:**

- 02.01.107      Jury Duty
- 02.02.101      Administrative Leave

**POLICY:**

GENERAL INFORMATION

- A. Exclusively represented employees shall be governed by their collective bargaining unit agreement where in conflict with this policy.
- B. This policy does not apply when an employee is called to appear for jury duty or is selected to serve on a jury. These issues are addressed in PD 02.01.107 "Jury Duty".
- C. For purposes of this policy, "court" includes any judicial or administrative tribunal.
- D. Except if appearing on behalf of the Department, an employee appearing in court as an expert witness shall not be compensated by the Department for the court appearance or reimbursed for any expenses incurred. The appearance shall be considered outside employment as set forth in PD 02.03.105 "Outside Employment Compensated/Uncompensated".
- E. If an employee leaves State employment and is subsequently required to appear in court as a result of his/her prior employment with the Department, s/he shall be reimbursed by the Department for lodging, meals and mileage expenses incurred as a result of the court appearance under either of the following circumstances:
  - 1. S/he is required to appear in court as a defendant in a civil proceeding in which s/he is represented by the Department of Attorney General.
  - 2. S/he is requested to appear in court as a witness on the Department's behalf.

Also included are appearances for depositions and required meetings with the Department of Attorney General to prepare for a deposition or court appearance. The former employee shall be reimbursed at the same rate(s) established in the Department of Civil Service Standardized Travel Regulations for employees.

EMPLOYMENT RELATED COURT APPEARANCES

- F. An employee shall be considered "on duty" when appearing in court as a result of employment with the

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Department, except under the following circumstances:

1. When appearing as a plaintiff/petitioner in a civil or administrative proceeding;
  2. When appearing as a witness for a plaintiff/petitioner in a civil or administrative proceeding, unless subpoenaed to appear;
  3. When appearing as a defendant in a criminal case;
  4. When appearing as a witness for the defendant in a criminal case, unless subpoenaed to appear; or,
  5. When appearing as a grievant, grievant's representative, or grievant's witness while participating in the employee grievance process.
- G. An employee considered "on duty" shall receive wages (including overtime) in the same manner as if s/he was on his/her regular work assignment. The employee also shall be reimbursed by the Department for expenses required by the appearance on the same basis as any other assignment away from the employee's "official work station", as defined in and in accordance with the Standardized Travel Regulations.
- H. Any witness fees or expense reimbursement received by an employee considered "on duty" shall be turned over by the employee to the appropriate business/finance office to be placed in the State's general fund.

#### Department of Civil Service Hearings and Arbitrations

- I. An employee appearing as a grievant, grievant's representative, or grievant's witness while participating in the employee grievance process as a result of employment with a state agency is entitled to administrative leave for actual time spent at the hearing and reasonable travel time, not to exceed eight hours of leave per day. The employee shall not be entitled to overtime compensation or reimbursement by the Department for lodging, meals, or mileage expenses.

#### WITNESS IN A CRIMINAL CASE UNRELATED TO EMPLOYMENT

- J. An employee subpoenaed to appear as a witness in a criminal case unrelated to his/her employment with the Department is entitled to administrative leave for actual time spent in court and reasonable travel time, not to exceed eight hours of leave per day. The employee shall not be entitled to overtime compensation or reimbursement by the Department for lodging, meals or mileage expenses.
- K. An employee granted administrative leave under this section shall be allowed to keep any expense reimbursement received from the court, but any witness fees received from the court shall be turned over by the employee to the appropriate business/finance office to be placed in the State's general fund.
- L. An employee who elects to use annual, deferred or personal leave, compensatory time, or lost time in lieu of administrative leave for a court appearance shall be allowed to keep witness fees and expense reimbursement received from the court.

#### OTHER COURT APPEARANCES

- M. Any court appearance other than those covered by "on duty" time or administrative leave as set forth above shall be charged to annual, deferred or personal leave, compensatory time, or lost time, as appropriate. This includes employees who are plaintiffs/petitioners in a civil or administrative proceeding, witnesses for plaintiffs/petitioners in a civil or administrative proceeding who were not subpoenaed to appear, and defendants in a criminal case. Employees may retain witness fees and expense reimbursement received from the court. No expenses shall be reimbursed by the Department.

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### NOTIFICATION OF COURT APPEARANCE

- N. An employee who has been notified that s/he is to appear in court shall inform his/her supervisor of the appearance as soon as possible but no later than two business days after receiving the notice. If the employee receives written notification from the court, including a subpoena, s/he shall provide a copy to his/her supervisor. When a court appearance is cancelled or ends earlier than scheduled, the employee shall contact his/her supervisor and report to work as scheduled.
- O. An employee "on duty" or on administrative leave shall provide his/her supervisor with adequate written verification of the actual number of hours s/he was required to spend at court and his/her reasonable travel time to and from court. The verification shall be provided upon the employee's return to work after the court appearance or at the end of the pay period, whichever is sooner. Any hours not covered by duty time or administrative leave shall be charged to annual, deferred or personal leave, compensatory time, or lost time, as appropriate.

### "ON DUTY"/ADMINISTRATIVE LEAVE COURT APPEARANCES OTHER THAN DURING REGULARLY SCHEDULED WORK TIME

- P. If a court appearance is to occur other than during an employee's scheduled work hours, and the employee would be considered "on duty" or would be entitled to administrative leave for the court appearance, the employee's supervisor shall attempt to change the work hours to coincide as much as possible with the scheduled court appearance, consistent with the Michigan Civil Service Commission Rules and contractual provisions.
- Q. If a schedule change cannot be made, the employee may request equivalent time off on the day(s) immediately prior to or immediately after the court appearance. The amount of time off shall not exceed the amount of time spent at court and reasonable travel time. The request shall be granted if it is reasonably believed to be necessary in order for the employee to perform his/her duties in an alert manner. The employee's work shift shall be considered when making this determination.
- R. Any time off pursuant to Paragraph Q shall initially be charged to annual, deferred or personal leave, compensatory time, or lost time, as appropriate. If upon return from the court appearance, the employee provides his/her supervisor with adequate written verification of the actual number of hours s/he was required to spend in court and his/her reasonable travel time to and from court, administrative leave shall be authorized for the hours indicated, not to exceed eight hours of leave per day.

### OPERATING PROCEDURES

- S. Wardens and the Deputy Directors of Field Operations Administration (FOA) and Administration and Programs (A&P) shall ensure that within 60 days of its effective date procedures implementing this policy directive are developed. Wardens shall forward procedures to the appropriate Regional Prison Administrator for approval. The operating procedure developed by the A&P Deputy Director shall cover all Central Office employees.

### AUDIT ELEMENTS

- T. A Primary Audit Elements List has been developed and will be provided to the Executive Policy Team, Administrative Management Team and wardens to assist with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

BM:OPH:03/22/99