

Court Duty

Number: F-9

Revision:

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1.0 POLICY

Under certain conditions, the Town of Carolina Beach may grant leave with pay to employees who are subpoenaed as witnesses in a court of law.

2.0 PURPOSE

The Town recognizes that as a public employer its employees may be called upon to testify in a court of law as a part of their official duties or as a result of the position they hold, they may be subpoenaed by a governmental agency as a witness. The Town provides for these circumstances so that employees can fulfill their obligations without having to use their paid time off to do so.

3.0 SCOPE

This policy applies to all employees.

4.0 DEFINITIONS

- 4.1 **Benefit-Eligible** - Full time and part-time employees who are eligible for coverage and participation in the Town's benefit programs in addition to legally mandated coverage. See **Policy on Position Types**.
- 4.2 **Other (not Benefit-Eligible) Employee** - An employee assigned to a position designated roster, seasonal temporary, or special project, who is eligible for salary and mandated benefits only. See **Policy on Position Types**.

5.0 ORGANIZATIONAL RULES

- 5.1 A benefit-eligible employee subpoenaed as a witness in a court of law as part of his official duties may be granted leave with full pay without charge against annual leave for the period necessary to present testimony. A part-time benefit eligible employee will be paid for all the hours he is required to be in court regardless of his actual work schedule for the day(s). A non-benefit-eligible employee subpoenaed as a witness in a court of law as part of his official duties will be paid his hourly rate for the period necessary to present testimony. For all employees the following conditions must be met:
 - A. The testimony must be in connection with usual official duties.
 - B. The employee must have been subpoenaed (or directed by the proper Town authority) to appear in an official or non-official capacity as a witness for the Federal Government, the State Government, or a political subdivision thereof.
- 5.2 Benefit-eligible employees granted Court Duty Leave to testify must return to work when released by the court. If the court duty requires only a partial day, the employee is expected to report for work for the remainder of the day if normally

scheduled to work. The employee must notify the supervisor when he has been released by the court. If the benefit-eligible employee wants the remainder of the day off, with permission of the supervisor, the employee may take vacation leave for the remainder of the day.

- 5.3 Other employees must return to work when released by the court if scheduled to work. If the Court Duty requires only a partial day, the employee is expected to report for work for the remainder of the day if normally scheduled to work. The employee must notify the supervisor when he has been released by the court.
- 5.4 An employee who serves as a witness in private litigation may either take vacation leave, leave without pay or compensatory time for the period necessary. An employee testifying in private litigation **is not** eligible to receive Court Duty Leave.
- 5.5 The employee is entitled to keep any compensation awarded by the court for testifying except for the limitations on Police Officers as described below:
 - A. Police Officers testifying in an official capacity are prohibited by North Carolina General Statute 7A-314 from receiving witness fees in State Court. They are entitled to travel for testifying at a State Court outside the county of residence.
 - B. Police Officers are entitled to and may receive compensation for testifying in Federal Court.

6.0 PROCEDURES

- 6.1 Upon being subpoenaed by the court to testify, the employee should inform his supervisor and make arrangements for the time off. The employee will provide a copy of the subpoena to the supervisor.
- 6.2 After the employee has testified, on the first day back at work, the employee will complete a Leave Request Form for the actual work hours absent. The employee will attach a proof of appearance to the Leave Request Form and give to his supervisor.
- 6.3 The supervisor is responsible for ensuring the Leave Request Form is properly completed, the appropriate signatures are obtained and the form is given to the appropriate departmental timekeeper for further processing.

7.0 APPENDIX, APPENDICES

- Leave Request Form