

SYSTEM REGULATIONS

31.05.03 Witnesses in Judicial Actions or Legislative Investigations

April 24, 1996

Revised February 16, 2001

Revised June 14, 2002

Supplements System Policy 31.05

1. APPEARANCE IN AN OFFICIAL CAPACITY

1.1 The Chancellor may authorize an employee to provide testimony in judicial, administrative or legislative proceedings as an official representative of the System.

1.2 Time devoted to testifying as an official representative is normal work time. Employees may not receive witness fees, but may accept a mileage or per diem allowance for expenses incurred while serving as an official representative witness, unless a claim for such expenses is submitted to the System. In no instance will there be a double reimbursement for expenses.

2. TESTIMONY IN A PRIVATE CAPACITY

2.1 TESTIMONY AS AN EXPERT

2.1.1 An employee who appears in judicial, administrative, or legislative proceedings as an expert witness in the employee's private capacity must do so on his/her own time. Earned vacation or earned compensatory time may be used, if available; otherwise, the absence must be charged to leave without pay.

2.1.2 It is the responsibility of the employee to ensure that it is made clear to the court, hearing officer, or entity receiving the testimony that the statements and opinions of the employee are his/her own personal statements and opinions and do not represent in any way an official statement of the System, and that the employee is testifying as a private individual only.

2.1.3 If an employee intends to use unpublished intellectual property belonging to the System in conjunction with providing expert testimony, prior approval must be obtained from the appropriate CEO and the Chancellor.

2.2 TESTIMONY AS A FACT WITNESS WITH PERSONAL KNOWLEDGE

2.2.1 Except in cases where the employee is a party to the lawsuit, an employee will be granted release time to appear in a judicial proceeding in his/her private capacity as a fact witness, i.e., to testify on matters within his/her personal knowledge. An employee may not be dismissed, disciplined, or otherwise penalized for so testifying. An employee may accept witness

fees in addition to his/her compensation as an employee when testifying in such capacity.

3. EXPERT WITNESS ACTIVITY REPORTS

3.1 State law requires public universities to gather and report data to the Texas Higher Education Coordinating Board regarding activities of employees who serve as consulting or testifying expert witnesses in litigation in which the State of Texas is a party.

3.2 Employees who meet *all* of the following criteria are responsible for filing a report on each matter in which services as an expert witness are provided:

- (a) Full-time, non-classified employee who is a member of the faculty or staff;
- (b) Official duties include teaching, research, administration, or performing professional services;
- (c) Receives compensation for services as a consulting or testifying expert witness in litigation; and
- (d) The State of Texas (including any State agency or institution) is a party to the litigation.

3.3 Reporting forms and additional information are available at <http://www.tamus.edu/offices/legal/help/ethics/index.html>.

CONTACT FOR INTERPRETATION: The System Human Resources Office

HISTORY: Last version: February 16, 2001