

31.05.03 Witnesses in Judicial Actions or Legislative Proceedings

Reviewed [February 12, 2018](#)

Next Scheduled Review: February 12, 2023

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Regulation Summary

This regulation outlines the duties and responsibilities of employees in seeking permission to testify as witnesses in judicial actions or legislative proceedings in their official capacities, as well as procedures when testifying in their private capacities.

Regulation

1. APPEARANCE IN AN OFFICIAL CAPACITY

- 1.1 The chancellor, on the request of a member chief executive officer (CEO), 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 from a third party for expenses incurred while serving as an official representative witness. A claim for such expenses may also be submitted by the employee directly to the member. In no instance, however, will double reimbursement for expenses be permitted.

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 classified as leave without pay.
- 2.1.2 All expert witness activity must be approved in advance by the member CEO or designee in accordance with System Regulations *31.05.01, Faculty Consulting and External Professional Employment*, or *31.05.02, External Employment*.
- 2.1.3 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.

2.1.4 Employees shall not use unpublished intellectual property belonging to the system in conjunction with providing expert testimony unless prior approval has been obtained from the appropriate CEO and the chancellor.

2.2 Testimony as a Fact Witness with Personal Knowledge

Except in cases where the employee is a party to the lawsuit, an employee may 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 offering such testimony. An employee may accept witness fees in addition to his/her compensation as an employee when testifying in such capacity.

Related Statutes, Policies, or Requirements

[Tex. Gov't Code § 556.006](#)

[System Policy 07.03, *Conflicts of Interest, Dual Office Holding and Political Activities*](#)

[System Policy 07.04, *Benefits, Gifts and Honoraria*](#)

[System Regulation 31.05.01, *Faculty Consulting and External Professional Employment*](#)

[System Regulation 31.05.02, *External Employment*](#)

Member Rule Requirements

A rule is not required to supplement this regulation.

Contact Office

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