

**DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE MANUAL**

TRANSMITTAL SHEET

Release No. 307

SUBJECT: Administrative Series
 Part 370.630 Attendance and Leave
 Chapters 1-9

EXPLANATION OF MATERIAL TRANSMITTED:

These chapters establish Minerals Management Service (MMS) policy concerning the administration of leave and explain applicable regulations.

Director

Remove:

Part 370.630 – Attendance and Leave

Chapter 1 – General Provisions
Chapter 2 – General Provisions for
 Annual and Sick Leave
Chapter 3 – Annual Leave
Chapter 4 – Sick Leave
Chapter 5 – Court Leave
Chapter 6 – Excused Leave
Chapter 7 – Leave Without Pay
Chapter 8 – Family and Medical Leave Act
Chapter 9 – Military Leave

Insert:

Part 370.630 – Attendance and Leave

Chapter 1 – General Provisions
Chapter 2 – General Provisions for
 Annual and Sick Leave
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OPR: Human Resources Officer
Date: October 22, 2008

**Minerals Management Service
Minerals Management Service Manual**

Effective Date: October 22, 2008

Series: Administrative

Part 370.630: Attendance and Leave

Chapter 5: Court Leave

Originating Office: Human Resources Division, Office of Administration and Budget

1. **Definition.** Court leave is the authorized absence, without charge to leave or loss of pay, of an employee from work status for jury duty, or for attending judicial proceedings in a nonofficial capacity as a witness on behalf of a state or local government. The court or judicial proceeding may be located in the District of Columbia, a state, territory, or possession of the United States including Puerto Rico or the Trust Territory of the Pacific Islands. The term judicial proceeding contemplates any action, suit, or other proceeding of a judicial nature, but does not include an administrative proceeding.

2. **Law.** The provisions for granting court leave for jury or witness service (and the designation of certain witness service as official duty status), the provisions for crediting amounts received and the restrictions on receiving fees for this service, and the basic instructions governing travel expenses of witnesses are in sections 5 U.S.C. 6322, 5515, 5537, and 5751, respectively.

3. **Jury Duty.**

A. **MMS Policy.** As a general rule, the MMS will not request that its employees be excused from jury duty except in cases of real necessity.

B. **Employee Eligibility.** Court leave for jury duty is granted to both permanent employees and temporary employees, both full-time and part-time, except for those employed on an intermittent basis.

C. **Use of Annual Leave.**

(1) If an employee is on annual leave when called for jury duty, court leave will be substituted. An employee on annual leave under advance notice of separation from service due to a reduction in force 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 their separation.

(2) Intermittent employees are not entitled to court leave for jury duty but may be granted any annual leave to which they might otherwise be entitled, or may be placed on leave without pay (LWOP) for any absence from duty for such jury service.

D. Pay Status Requirement. An employee on LWOP, although otherwise eligible, may not be granted court leave when called to jury duty since court leave is available only to employees, who except for jury duty, would be on duty or in a paid status.

E. Duration of Jury Duty. An employee who is under proper summons from a court to serve on a jury should be granted court leave of absence with pay for the entire period, regardless of the number of hours per day or days per week they actually serve on the jury during the period.

F. Interim Excuse from Jury Duty. When no hardship would result, an employee entitled to court leave because of jury duty must return to duty or be charged annual leave if they are excused from jury duty for 1 day or at least 4 hours. The employee may not be required to return to duty if it would cause a hardship because of the distance of the court from the employee's residence or place of duty or unless they are assigned to night duty. If the employee does not return to work when excused by the court, except for the above reasons, they will be charged with annual leave.

G. Jury Fees.

(1) Court of the United States or the District of Columbia. An employee entitled to court leave who serves as a juror in a court of the United States or the District of Columbia shall not receive compensation from the court for such services. An employee is entitled to retain the fee for such service on nonworkdays outside the regular tour of duty or a holiday. A part-time employee may receive the fees if the jury duty is performed on a day not included in their regular tour of duty or on a holiday.

(2) State or Local Court. An employee called to jury duty in a state or local court should collect all fees and allowances payable as a result of the jury duty and send a check or money order made payable to the Department of the Interior, MMS, and mail it to the Finance Division, MMS, 381 Elden Street, Mail Stop 2300, Herndon, Virginia, 20170. The MMS applies the jury fees against the amount that would otherwise be payable to the employee for the period of absence on jury duty. The employee can keep any excess of the jury fee over the amount of such compensation (29 Comp. Gen. 302). Failure to remit the jury fee to the Finance Division will result in the amount being deducted from the employee's salary. Employees may retain the fees for jury duty performed outside their regular tour of duty or on a holiday.

(3) Employees not entitled to court leave may retain jury fees received from any court.

H. Travel Expenses.

(1) Employees serving as jurors in a court of the United States are reimbursed by the Department of Justice for transportation, meals, and lodging as authorized by law. They cannot be paid by the MMS for these expenses.

(2) Employees serving as jurors in state courts may retain reimbursement by the court for the actual and necessary expenses for travel but may not, except as indicated above, retain any part of the jury fee even if travel expenses are not otherwise reimbursed by the court (52 Comp.

Gen. 325).

4. Witness Service.

A. Official Duty. Employees are considered to be in an official duty status if they are summoned to:

(1) Testify in an official or nonofficial capacity or produce official records on behalf of the U.S. Government or the District of Columbia.

(2) Testify in an official capacity or produce official records on behalf of a party other than the U.S. Government or the District of Columbia.

B. Court Leave. An employee is granted court leave when summoned to serve as a witness in a judicial proceeding in a nonofficial capacity on behalf of a state or local government or on behalf of a private party when the United States, the District of Columbia, or a state or local government is a party. Court leave is not available when the service in a nonofficial capacity is on behalf of a private party except as indicated above. When court leave is not authorized, the period of witness service is charged as annual leave or LWOP.

C. Fees and Expenses.

(1) Fees.

(a) An employee summoned to testify or produce official records on behalf of the United States or the District of Columbia may not receive fees for such service.

(b) Fees received by employees for service as a witness on behalf of a state or local government or a private party during a period for which they are entitled to court leave or are in an official duty status shall be sent to the Finance Division, MMS, 381 Elden Street, MS 2300, Herndon, Virginia 20170, by check or money order made payable to the Department of the Interior, MMS, for credit against their pay.

(c) An employee called as witness in a nonofficial capacity on behalf of a private party when the United States, the District of Columbia, or a state or local government is not a party, is entitled to retain any amounts received for such service.

(2) Travel Expenses. (See 28 CFR 21.1.)

(a) An employee summoned to testify or produce official records on behalf of the United States or the District of Columbia or to testify in an official capacity or produce official records on behalf of a party other than the United States or the District of Columbia is entitled to travel expenses payable at rates in accordance with the MMS's travel policies, except expenses as authorized will be offset to the extent that travel expenses are paid to the employee by the court, authority, or party which caused the employee to be summoned.

(b) If the employee serves as a witness on behalf of the United States and the case involves MMS activity, the travel expenses are paid from the appropriation available for travel expenses. If the case does not involve the MMS's activity, the employee's travel expenses may be paid by the MMS and reimbursement obtained from the agency properly chargeable.

(c) If the employee serves as a witness to testify in an official capacity or produce official records on behalf of a party other than the United States, the travel expenses are paid from the appropriation available for travel expenses.

(d) Reimbursement for travel expenses within the geographic area of the employee's official duty station is to be submitted on a Claim for Reimbursement of Expenditures on Official Business, SF-1164. Reimbursement for travel expenses outside of the employee's official duty station is to be submitted on a Travel Voucher, SF-1012, with prior approval granted on a Travel Authorization, DI-1020.

(e) An employee called as a witness in a nonofficial capacity on behalf of a state or local government or a private party is not authorized government travel expenses and may retain reimbursement for expenses received from the court, authority, or party which caused the employee to be summoned.