

Biller District

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File: Court Leave



UNITED STATES POSTAL SERVICE
475 L'Enfant Plaza, SW
Washington, DC 20260

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OFFICE OF
PRESIDENT

ARTICLE	19
SECTION	516.31
SUBJECT	COURT LEAVE

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Gentlemen:

As you may be aware, the Postal Service's court leave regulations have been called into question in certain discrimination suits brought against the Postal Service. Most recently, in Stup v. Bolger, Civil Action No. 83-0205-A (February 7, 1984), a district court held that our denial of compensation to an employee testifying on behalf of a Title VII plaintiff was inequitable. While we believe that our court leave regulations are legally sound, and that the decision in the Stup case does not require any change in those regulations, we recognize an element of unfairness in not providing compensation for plaintiffs' witnesses in such cases. Accordingly, the Postal Service proposes to expand the definition of court leave contained in section 516.31 of the Employee and Labor Relations Manual, as follows (substantive changes underscored):

516.31 Definition. Court leave is the authorized absence from work status (without loss of, or reduction in, pay, leave to which otherwise entitled, credit for time or service, or performance rating) of an employee who is summoned in connection with a judicial proceeding, by a court or authority responsible for the conduct

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of that proceeding, to serve as a juror or to serve as a witness in a nonofficial capacity on behalf of a state or local government or in a nonofficial capacity on behalf of a private party in a judicial proceeding to which the Postal Service is a party or the real party in interest. The court or judicial proceeding may be located in the District of Columbia, a state, territory, or possession of the United States, including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. Judicial proceedings contemplate any action, suit, or other proceedings of a judicial nature, but do not include administrative proceedings such as hearings conducted pursuant to 650, Adverse Personel Action-Grievance and Appeal (Nonbargaining).

Consistent with this revision, the Postal Service also proposes to change the following related sections of the court leave regulations:

516.1 Absences for Court or Court Related Service

Nature of Service	Court Leave	Official Duty	Annual Leave or LWOP
II. Witness Service (C) on behalf of private party (2) not in official capacity			
(a) <u>USPS a party</u>	<u>X</u>		
(b) <u>USPS not a party</u>			X

516.331 Pay Status Requirement. Court leave is granted only to eligible employees who, except for jury duty, service as a witness in a nonofficial capacity on behalf of a state or local government, or service as a witness in a nonofficial capacity on behalf of a private party in a judicial proceeding to which the Postal Service is a party or the real party in interest, would be in work status or on annual leave. An employee on LWOP when called for such court service, although otherwise eligible for court leave, is not granted court leave, but may retain any fees or compensation received incident to court service.