

# City of Mission Viejo

## Personnel Policy

**Subject: JURY DUTY LEAVE AND SUBPOENAED/COURT-ORDERED WITNESS LEAVE**

**Statement of Intent:**

To provide guidelines for approving jury duty, witness, and various other types of leave in accordance with applicable federal, state, and local laws, regulations, and ordinances.

**Policy:**

1. Employees may attend jury duty in accordance with their legal obligations to do so. Employees who are summoned to jury duty will be placed on a leave of absence for the actual time that they are required to serve. Jury duty shall be on a leave of absence without pay, unless otherwise stated below.
2. Employees, except hourly/seasonal/temporary employees, may receive jury pay and/or unpaid time off under the following circumstances:
  - a. They are entitled to receive jury pay, in the amount of their regular pay, for up to a maximum of thirty (30) work days of jury duty. Eligible employees will receive the jury pay, less any fees for service received from the court. Upon receipt of payment from the court, the employee must provide a copy of the payment check stub to the City. The jury service fees will be deducted from the employee's pay in a subsequent pay period. (Compensation for mileage, subsistence, or similar auxiliary allowances shall not be considered as a service fee and shall be retained by the employee). However, this provision will not be applied in a manner that will conflict with any exemption under the Fair Labor Standards Act.
  - b. Any jury service beyond thirty (30) work days will be a leave of absence without pay. Employees may choose to substitute accumulated leaves and compensatory time in place of the leave without pay.
  - c. Hourly/seasonal/temporary employees may receive unpaid time off for jury duty.
3. Employees may receive witness pay and/or unpaid time off under the following circumstances:
  - a. Employees are entitled to receive their regular pay when required to appear in court or in other judicial or administrative proceedings as a witness to comply with a valid subpoena or court order in connection with a City matter. Eligible employees will receive their regular pay during their appearance, provided that any appearance fees are remitted to the City. (Compensation for mileage, subsistence, or similar auxiliary allowances shall not be

considered as an appearance fee and shall be retained by the employee). However, this provision will not be applied in a manner that will conflict with any exemption under the Fair Labor Standards Act.

- b. Any employee, including an hourly/seasonal/temporary employee, who is subpoenaed to appear, or appears in court because of civil or administrative proceedings that they initiated, is not entitled to receive compensation for time spent related to those proceedings. Employees may choose to substitute accumulated leaves and compensatory time in place of the leave without pay. The time spent in these proceedings is not considered work time. Notwithstanding the above, an employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission is entitled to paid release time.
4. Employees may receive leave for court attendance under the following circumstances:
    - a. Any employee, including an hourly/seasonal/temporary employee, who is a victim of a crime may take unpaid leave from work to attend judicial proceedings related to that crime, if the employee provides the City notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the City, within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court/governing agency that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime. Employees may choose to substitute accumulated leaves and compensatory time in place of the leave without pay.
    - b. Any employee, including an hourly/seasonal/temporary employee, who is a victim of a crime listed in Labor Code section 230.5(a)(2)(A), may take unpaid leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue, if the employee provides the employer reasonable advance notice. If advance notice is not feasible, the employee must provide the City within a reasonable time after the leave is taken, certification from a police report, a district attorney or court, or from a health care provider or victim advocate, that the employee was a victim of any of the crimes listed in Labor Code section 230.5(a)(2)(A). An employee who is a spouse, parent, child, sibling, or guardian of such a crime victim is also a victim who is entitled to this leave if the above notice or certification requirements are met. Employees may choose to substitute accumulated leaves and compensatory time in place of the leave without pay.

5. Employees may receive leave for victims of domestic violence, sexual assault, stalking, or other crimes to obtain restraining orders or injunctive relief under the following circumstances:
  - a. Any employee, including an hourly/seasonal/temporary employee, who is a victim of domestic violence, sexual assault, stalking, or other crime may take unpaid leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or their child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. Employees may choose to substitute accumulated leaves, compensatory time, or HST Paid Sick Leave in place of the leave without pay.
  
6. Employees may receive leave for victims of domestic violence, sexual assault, stalking, or other crimes to obtain medical attention or counseling or safety planning under the following circumstances:
  - a. Any employee, including an hourly/seasonal/temporary employee, who is a victim of domestic violence, sexual assault, stalking, or other crime, may take unpaid leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to the City within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. Employees may choose to substitute accumulated leaves, compensatory time, or HST Paid Sick Leave in place of the leave without pay.

7. Upon receipt of a notice of jury duty, court order or subpoena, the employee shall promptly notify their supervisor.
8. An employee shall give the department head, or a designee, reasonable advance written notice of the obligation to appear at the courthouse for jury duty or to attend a court hearing.
9. In instances where time off is needed to obtain relief in connection with a case involving domestic violence, reasonable advance notice of the court appearance is also required unless an emergency or unscheduled court appearance is necessary. If time off is taken for this purpose due to an emergency or unscheduled court appearance, the employee must provide the department head, or a designee, with written evidence that the employee has appeared in court. Such written evidence should be from the court or prosecuting attorney and must be provided within fifteen (15) days following the absence.
10. To the extent permitted by law, the employee, at the request of the department head, or a designee, shall ask that the jury commissioner and/or judge permit the employee to remain at work and be available on one (1) hour telephonic notice.
11. When jury duty or a court appearance does not require full-time attendance on any day, the employee will contact the City to determine the feasibility of the employee returning to work that day.
12. The employee shall report for work on those days when excused from jury or court duty, on days that he/she can work at least three (3) hours of his/her regular work shift, and on those days as otherwise directed by the appropriate supervisor. Special arrangements, on a case by case basis, will be made for those employees who do not work a normal work schedule, which is from 8:00 a.m. to 5:00 p.m., Monday through Friday.
13. Employee will submit, at least weekly, to the Payroll Office a "Certification of Jury Service" form (or other similar form) provided by the court detailing the days of the employee's jury service or court appearance along with a completed City of Mission Viejo Request for Leave of Absence form. The Payroll Office will coordinate jury pay and witness pay and return the employee to regular pay status when applicable.

**Administration:**

In accordance with City of Mission Viejo Municipal Code chapter 2.60 "Personnel System", this Personnel Policy is deemed to have a direct financial impact on the City. City Council approval is required prior to initial implementation and for any subsequent amendments.

Implemented: Resolution No. 89-92, September 11, 1989.

Amended: Resolution No. 09-52, November 2, 2009.  
Amended: Resolution No. 14-06, January 20, 2014.  
Revised: By City Council on June 22, 2021, to be Effective July 1, 2021 –  
Resolution No. 21-19.