

1 **Rule 4-405. Juror and witness fees and expenses.**

2 Intent:

3 To develop a uniform procedure for payment of juror and witness expenses.

4 Applicability:

5 This rule shall apply to all trial courts of record.

6 Statement of the Rule:

7 (1) Fees.

8 (1)(A) The courts shall pay the fee established by statute for all jurors of the courts of  
9 record. The courts shall pay the fee established by statute for witnesses subpoenaed by  
10 the prosecutor or by an indigent defendant in criminal cases in the courts of record and  
11 in actions in the juvenile court. The courts shall pay no fee to a witness appearing for a  
12 hearing that was canceled or postponed with at least 24 hours notice to the parties,  
13 excluding Saturdays, Sundays, and holidays. The parties shall notify witnesses when a  
14 hearing is canceled or postponed.

15 (1)(B) ~~For purposes of Utah Code Section 78-46-28, a~~ A subsequent day of  
16 attendance shall be:

17 (1)(B)(i) for a witness, attendance on a subsequent day of the hearing regardless of  
18 whether the hearing is continued to a contiguous business day, but only if the hearing  
19 was actually called on the first day; and

20 (1)(B)(ii) for a juror, attendance on a subsequent day during the juror's term of  
21 availability, as defined in Rule 4-404(3)(B), regardless of whether attendance is for the  
22 same trial.

23 (1)(C) A witness requesting payment shall present a subpoena on which appears the  
24 certification of the attorney general, county attorney, district attorney or legal defender of  
25 the number of days the witness attended court, as defined in subsection (1)(B).

26 (2) Mileage. The courts shall reimburse the cost of travel at the rate established by  
27 statute for those jurors and witnesses to whom the court pays a fee. A witness in a  
28 criminal case or juvenile court case traveling from out of state to whom the court pays a  
29 witness fee shall be reimbursed the cost of round trip airfare or round trip travel at \$.20  
30 per mile, as determined by the court.

31 (3) Meals and refreshments.

32 (3)(A) Meals for jurors shall be provided if the case has been submitted to the jury  
33 and the jury is in the process of deliberating the verdict or if the jury is sequestered. A  
34 lunch meal may be provided to jurors impaneled to try a case if it is anticipated that the  
35 matter will not be concluded by 2:00 p.m. on the final day of trial and the trial judge finds  
36 that provision of a lunch meal will assist in expediting the conclusion of the trial.

37 (3)(B) A witness in a criminal case or a juvenile court case traveling from outside the  
38 county to whom the court pays a witness fee may be reimbursed for meals.

39 (3)(C) Payment for meals for jurors and eligible in-state witnesses shall not exceed  
40 the rates adopted by the Department of Administrative Services.

41 (3)(D) Refreshments may be provided to a jury during the course of trial, upon order  
42 of the judge. Payment for refreshments shall not exceed \$3.00 per person per day.

43 (4) Lodging. Lodging for jurors shall be paid if the judge orders the jury sequestered,  
44 if the juror must travel more than 100 miles one-way from the juror's residence to the  
45 courthouse and the judge orders that lodging be paid, or if the judge orders that lodging  
46 be paid due to inclement weather. A witness in a criminal case or juvenile court case to  
47 whom the court pays a witness fee traveling from outside the county shall be provided  
48 lodging only upon a determination by the court executive that returning to the point of  
49 origin on the date in question places a hardship upon the witness or that the  
50 reimbursement for travel for repeat appearances is greater than the cost of lodging.  
51 Unless unavailable, lodging costs shall not exceed the rates adopted by the Department  
52 of Administrative Services.

53 (5) Method and record of payment.

54 (5)(A) The payment of juror and witness fees and mileage shall be by check made  
55 payable to the individual, or the court may reimburse the county or municipal  
56 government for the payment of the fee or mileage allowance.

57 (5)(B) The court shall pay eligible expenses of jurors directly to the vendor. Jurors  
58 shall not be required to incur the expense and seek reimbursement. The court may pay  
59 the eligible expenses of witnesses directly to the vendor or may reimburse the witness  
60 or the county or municipal government for the expense.

61 (5)(C) Jurors. Jurors must present a summons for payment for the first day of  
62 service. If a juror does not present a summons, the clerk may certify that the juror was

63 summoned. The clerk shall file the summons and shall record the attendance of jurors  
64 for payment, including subsequent days of service.

65 (5)(D) Witnesses in criminal cases and juvenile court cases. Witnesses in criminal  
66 cases and juvenile court cases must present a subpoena for payment. If the subpoena  
67 is issued on behalf of an indigent defendant, it shall bear the certificate of defense  
68 counsel that the witness has appeared on behalf of the defendant at state expense  
69 ~~pursuant to Utah Code Section 78-46-26~~, regardless of the number of days for which  
70 the witness is eligible for payment. If the subpoena is issued on behalf of the  
71 prosecution, the prosecutor shall certify the number of days for which the witness is  
72 eligible for payment. The clerk shall file the subpoena and record of attendance. If a  
73 witness does not present a subpoena, the clerk may record the witness' attendance and  
74 mailing address that is certified by the prosecutor or defense counsel.

75 (5)(E) The clerk of the court shall enter the payment due the juror or witness in the  
76 State Accounting System (FINET) within 10 calendar days after receipt of certification.  
77 The state will mail the payment to the juror or witness within 3 days. The clerk of court  
78 shall maintain both a list of undeliverable juror and witness checks and the checks. A  
79 payment is considered abandoned one year after it became payable and will be sent to  
80 the Division of Unclaimed Property pursuant to ~~the~~ Utah Code ~~Section 67-4a-301~~.

81 (6) Audit of records. At least once per month, the clerk of the court or a designee  
82 shall compare the jurors summoned and the witnesses subpoenaed with the FINET log  
83 of payments. Any unauthorized payment or other irregularity shall be reported to the  
84 court executive and the audit department of the Administrative Office of the Courts. The  
85 Administrative Office of the Courts shall include the audit of juror and witness payments  
86 within the scope of their regularly scheduled audits.

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