



TEXAS SOUTHERN UNIVERSITY
MANUAL OF ADMINISTRATIVE POLICIES AND PROCEDURES

SECTION: Legal
AREA: Expert Reporting

Policy 08.01.01

SUBJECT: Faculty and Staff Expert Witness Reporting Policy

I. PURPOSE AND SCOPE

It is the policy of Texas Southern University to comply with applicable laws regarding faculty and staff expert witnesses. Texas Education Code Section 61.0815 (Report on Higher Education Employees Serving as Expert Witnesses in Certain Suits) requires that Texas Southern University report annually (no later than September 30 of each year) to the Texas Higher Education Coordinating Board whether any faculty or staff members have served as expert witnesses in lawsuits against the state. (See also 19 Texas Administrative Code, Chapter 5, Subchapter A, 5.12 Expert Witnesses). This policy shall be adhered to in accordance with applicable state law.

II. POLICY PROVISIONS

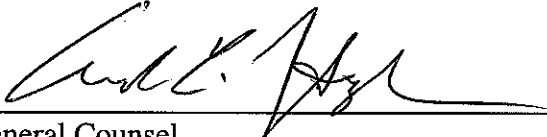
- A. Texas Education Code §61.0815 requires that the University report annually to the Texas Higher Education Coordinating Board whether any faculty or staff members served as expert witnesses in lawsuits against the State of Texas. This law was passed during the 76th legislative session in 1999 following the ruling in *Robert Hoover, et al. v. Dan Morales, et al.*, where the Fifth Circuit Court of Appeals held that a rider in the 1997 Appropriations Act prohibiting state employees from serving as expert witnesses in lawsuits against the State of Texas was unconstitutional. The law requires state employees who serve as consulting or testifying witnesses in lawsuits where the state is a party to report certain information to their employer.
- B. Faculty and Staff who served as an expert or consulting witness in a lawsuit against the state during the current fiscal year (the State of Texas' fiscal year is September 1, through August 31) are required to complete the Faculty Staff Expert Witness Reporting Form (See Addendum A).
- C. The Faculty Staff Expert Witness Reporting Form must be returned to the Office of General Counsel on or before September 1 of each year.
- D. Questions may be directed to the Office of General Counsel at 713-313-7950.

III. REVIEW AND RESPONSIBILITIES

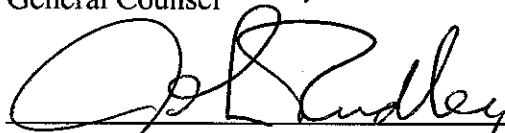
Responsible Party: Office of General Counsel

Review: Every three years, on or before September 1

IV. APPROVAL



General Counsel



President

Effective Date:

7/21/10

**Addendum A
Texas Southern University
EXPERT WITNESS REPORTING FORM**

State law requires public colleges and universities to gather and report data to the Texas Higher Education Coordinating Board regarding service by certain employees as consulting or testifying expert witnesses in lawsuits in which the State of Texas is a party. The report to the Coordinating Board will provide aggregate information only, and will not identify individual employees. The rules adopted by the Coordinating Board are included on the reverse side of this form. Reports should be completed and forwarded to the General Counsel by no later than September 1. The CEO's report must be forwarded to the Coordinating Board no later than September 30, and every year thereafter. Information provided herein may be subject to public disclosure in accordance with the Texas Public Information Act.

THIS FORM SHOULD ONLY BE COMPLETED BY EMPLOYEES WHO MEET ALL THE FOLLOWING CRITERIA:

- ✓ **Full-time, non-classified employee who is a member of the faculty or staff;**
- ✓ **Employee's duties include teaching, research, administration or performing professional services, including professional library services; and**
- ✓ **Employee has received compensation for service as a consulting or testifying expert witness in a lawsuit or lawsuits in which the State of Texas was a party during the preceding state fiscal year (September 1-August 31).**

1. **Employee Name:** _____

2. **Title:** _____

3. **Mailing Address:** _____

4. **Telephone:** _____ 5. **E-mail:** _____

6. **Name of Case:** _____ 7. **Cause No.:** _____

8. **If the name of the case does not include the name of the state agency, provide agency name:**

9. **State agency was:** Plaintiff Defendant 10. **Court:** _____

11. **County where case was filed:** _____ 12. **Judge:** _____

13. **Total hours employee worked as expert witness:** _____

14. Judgment

- Verdict/judgment for State
- Verdict/judgment against State
- Other (describe) _____
- Amount of judgment entered against State: _____

15. Interest awarded

- Amount of pre-judgment interest entered against State: _____
- Amount of post-judgment interest entered against State: _____

16. Attorneys fees

- No attorneys fees ordered to be paid by State
- Attorneys fees ordered to be paid by State: _____

Employee's Signature: _____ **Date:** _____

Please return completed form to the Office of General Counsel, Texas Southern University, Hannah Hall, 3100 Cleburne, Houston, Texas 77004; phone 713-313-7950; fax 713-313-1906 by September 1 of every year.

19 Texas Administrative Code, Chapter 5, Subchapter A**5.12 Expert Witnesses.**

- (a) *Purpose.* Pursuant to Texas Education Code, Section 61.0815, this subchapter sets out guidelines for reporting by higher education institutions to the Coordinating Board on certain employees who serve as consulting or testifying expert witnesses under the conditions specified in the law and in this subchapter.
- (b) *Definitions.* The following words and terms, when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.
- (1) *Consulting or testifying expert witness* - any non-fact witness whose name must be disclosed during litigation as required by the Texas Rules of Civil Procedure.
 - (2) *Institution of higher education* - any public technical institute, public junior college, public senior college or university, medical or dental unit, or other agency of higher education as defined in Texas Education Code, Section 61.003.
 - (3) *Faculty or professional staff of an institution of higher education* - a non-classified, full-time employee who is a member of the faculty or staff and whose duties include teaching, research, administration or performing professional services, including professional library services.
 - (4) *Fiscal year* - the State of Texas' fiscal year, September 1, through August 31.
 - (5) *Non-classified* - an employee whose position is not controlled by the institution's classified personnel system or a person employed in a similar position if the institution does not have a classified personnel system.
- (c) *Reporting.* No later than September 30 of each year, the president of an institution of higher education shall file a written report with the Coordinating Board regarding members of the faculty or professional staff who received compensation for serving as consulting or testifying expert witnesses during the prior fiscal year in lawsuits in which the state is a party.
- (1) Each report shall contain:
 - (A) the number of hours spent by faculty or professional staff members serving as consulting or testifying expert witnesses during the prior fiscal year;
 - (B) the names of the parties, cause number and county where the cause is filed, for each case in which qualifying expert witness services were rendered; and
 - (C) the outcome of the case, including the amount of:
 - (i) any judgment entered against the state;
 - (ii) any prejudgment or post-judgment interest awarded against the state; and
 - (iii) any attorney's fees of another party ordered to be paid by the state.
 - (2) The information regarding the number of hours spent by faculty or staff serving as consultants or testifying expert witnesses shall be reported to the Coordinating Board in the aggregate without identifying specific individuals.

In the event an institution cannot provide the information specified in subsection (c)(1)(C) of this section, the Texas Attorney General's Office shall provide the information to the Coordinating Board.