



FILE: B-70371

DATE: JUL 13 1976

MATTER OF: Jury Service Fees - Government Employees
in Federal Courts

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- DIGEST:
1. Computation of jury service fee payable to Federal Government employees whose period of jury service in Federal courts overlaps in part their normal workday shall be based on jury service fee of \$20 prorated over standard 8-hour workday, that is \$2.50 for each hour of jury service outside hours employees worked or would have worked but for jury service. 53 Comp. Gen. 407 (1973) modified.
 2. In computing excess hours of jury service in Federal court over number of employee's working hours in day, fractional hours shall be rounded off, one-half hour or more being considered one hour.
 3. When end of employee's scheduled workday coincides with beginning of Federal jury service, there is no necessity to prorate jury fee. Any travel time between duty station and court is to be considered as court leave.

The Deputy Director, Administrative Office of the United States Courts, by letter of December 29, 1975, has requested modification of our decision in 53 Comp. Gen. 407 (1973) concerning the payment of jury fees to Federal employees on a prorated basis when the hours of jury service in a Federal court overlaps the employee's working hours and are in excess of the hours the employee would be required to work. We have been requested to modify the method of computing the prorated fees so as to eliminate certain administrative problems which have resulted from implementation of the decision. In this connection we have also been requested to determine how fractional hours are to be treated in the computations and to advise whether proration is required when the beginning of the jury service coincides with the end of the employee's normal working hours but does not overlap.

In 53 Comp. Gen. 407, supra, we overruled prior decisions which prohibited the payment of jury fees by Federal courts to Federal employees where the period of jury duty overlapped any portion of the employee's duty status period. In the cited decision, we held that an employee is entitled to a proportionate part of the jury fee for each hour of jury service performed, in a

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court of the United States or the District of Columbia, outside of the hours of duty the employee worked, or, but for jury service would have been required to work on that day. The decision allowed the jury fees for the employees involved to be prorated and paid in the proportion that the hours served on jury duty after the commencement of the half-day holiday bears to the total hours of jury duty on that day.

In so deciding, we recognized that the prorating of jury fees might cause some administrative difficulties. The letter of December 29, 1975, from the Administrative Officer of the U.S. courts advised us that the clerks of the Federal courts have encountered numerous problems in the application of the formula for computing jury fees set forth in 53 Comp. Gen. 407 and that the formula results in an hourly rate which varies inversely with the number of hours of compensated jury service. The Administrative Office proposes that the formula be modified to permit proration of jury service fee on the basis of the ratio of the number of hours of jury service not overlapping the workday to the standard 8-hour day rather than to the actual hours of jury service. The effect of the proposed modification would be to establish a fixed rate of \$2.50 per hour (\$20 divided by 8 hours) for each hour of jury service beyond the employee's normal workday. According to the Administrative Officer, this method would simplify the computations required in determining the fees payable to Federal employees on jury duty.

Under the present formula, an employee excused from work for 8 hours who performed 10 hours of jury service would receive two-tenths of the jury service fee, or \$4. However, an employee who was excused for only 2 hours of an 8-hour workday, but who performed 4 hours of jury service, would receive two-fourths of the jury service fee, or \$10. Thus, although each employee in the examples above performed 2 hours of jury service beyond his normal workday, each would receive a different fee. Under the proposed formula each employee would receive the same amount, namely \$5, for the 2 hours of jury service beyond the normal workday. The proposed formula appears to offer a more equitable and consistent result.

After careful consideration of the above two methods of proration, we are of the opinion that the proposed formula is both consistent with the intent of our decision in 53 Comp. Gen. 407

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(1973) and easier and more practical to administer. We therefore approve the proposed change in the method of computing jury service fees.

In computing the excess hours of jury service over the number of an employee's working hours in a day, a fractional hour shall be rounded off, one-half hour or more being considered one hour. Where the end of an employee's scheduled workday coincides with the beginning of jury duty, such as when the employee's workday ends at 3 p.m. and the jury service begins at exactly that time, there is no necessity to prorate. The time required to travel between the duty station and the court is to be considered as court leave.

Our decision 53 Comp. Gen. 407 (1973) is modified and amplified as indicated above.

R.F.KELLER

Deputy

Comptroller General
of the United States