



Policy No. 704	Subject: Appearance as a Witness
Section: Other Policies and Procedures	Revised: 09/2016
Signature: Brandy McOmber, Resource Manager	Version: FINAL

1. DEFINITIONS

- a. Deposition: Testimony taken under oath by an attorney in the presence of the opposing attorney and a court reporter. Not taken in court, but intended for use at the trial. Rules of evidence apply, but at a somewhat less restrictive standard than in court. The attorneys may ask questions which appear to be leading and argumentative. The counselor should answer to the best of their ability, but should feel free to indicate that they do not remember or do not know when that is the case. Counselors and associates should only answer according to their level of expertise and should not enter into discussions that are outside of their degree and vocational focus.
- b. Hearing: A proceeding of relative formality, generally public, with definite issues of fact or of law to be tried, in which parties proceeded against have the right to be heard. It is much the same as a trial and may terminate in a final order.
- c. Subpoena: A process (document) by the court requiring a witness to appear at a designated time and place to give testimony or to submit information on a particular case before the court.
- d. Witness: A person testifying about the facts of a case.
- e. Expert witness: A person testifying to an opinion founded on special study or experience in any branch of science, or making scientific or professional examinations and stating the results. Counselors should not present themselves as an expert witness about their own cases, and should clarify for the court that the testimony is only about observations or discussions in the execution of duties.



2. PROCEDURES

- a. IVRS staff do not give depositions, appear in court, or appear in hearings unless a proper subpoena has been received.
- b. IVRS staff should be honest and objective in their responses. They are not required to have answers to all questions. When appropriate, staff may response “I don’t know” or “I don’t remember”.
- c. Questions with legal implications relating to the appearance of staff as a witness are to be forwarded to the staff attorney.

3. PAYMENT

- a. The mileage rate and witness fees are established by the legislature and are periodically adjusted. Payment is made to the witness, except that there is no payment of witness fees to public employees in the county of their residence. If a witness fee is paid, the counselor is to keep the mileage fee and send a personal check or money order for the witness fee to IVRS.
 - i. In a civil case, to request payment the subpoena is to be taken to the office of the Clerk of Court after appearance.
 - ii. In a Worker’s Compensation hearing, the request for payment is to be made to the attorney who had requested subpoena of the counselor.
 - iii. The same rates and rules apply to both trials and depositions.
- b. Because of the time involved and the potential for conflict of interest, staff do not agree to testify without a subpoena.