

Frequently Asked Questions Expert Witness Reporting Form

When is the report due?

The report is due September 24, 2009.

Where do I send the report?

Return the completed report to: Arlene D. Staller, J.D.
Office of Legal Affairs
The University of Texas Health Science Center at Houston
UCT 1460

What period of time does the report cover?

Expert witness services provided between September 1, 2008, and August 31, 2009, must be reported.

Who has to complete an Expert Witness Reporting Form?

This form must be completed by any faculty or non-classified staff who meet all of the following criteria:

- Full-time, non-classified employee who is a member of the faculty or staff; and
- Employee's duties include teaching, research, administration or performing professional services, including professional library services; and
- Employee received compensation for service as an expert or consulting witness in a lawsuit or lawsuits in which **the State of Texas (including state agencies) was one of the parties in the case,** and
- The compensation was for services rendered during the latest fiscal year (September 1, 2008, through August 31, 2009).

If the State of Texas or a state agency is not a party in the case, the case should not be reported.

What is a Consulting or Testifying Expert Witness?

A consulting or testifying expert witness is any non-fact witness whose name must be disclosed during litigation as required by the Texas Rules of Civil Procedure. (Fact witnesses do not file this report.)

A **testifying expert** is an expert, as defined by the Texas Rules of Evidence, who is called to testify in a deposition or at trial.

A **consulting expert** is an individual who has been consulted, retained or specially employed in anticipation of a lawsuit or in preparation for trial, but who does not testify. Not all individuals who served as consulting experts are required to complete an expert witness reporting form. An individual who was retained as a consulting expert must complete a report only if his or her name was disclosed to the opposing party in accordance with state or federal law during the course of the lawsuit. State and federal law require disclosure of consulting experts only if their opinions are relied upon by a testifying expert in reaching his or her opinion. Faculty or staff members retained as consulting experts may wish to contact the attorney who retained them to determine whether their name was disclosed during the lawsuit.

Frequently Asked Questions
Expert Witness Reporting Form
(Continued)

Do I have to complete an expert witness form if I testified as a fact witness?

No. Only individuals who received compensation as a consulting or testifying expert are required to file a report.

Do I have to complete an expert witness form if I was retained as an expert in a criminal, juvenile or administrative hearing?

You only have to file a report if you are compensated as a consulting or testifying expert when the State of Texas (including a state agency or public institution) is one of the parties being sued and the compensation was received during the reporting period.

What if I do not know the information necessary to complete the expert witness form?

If you do not have records of the information needed to complete form, you should contact the attorney who retained you as an expert witness. He or she will have the information.

Why are we required to complete this form?

Effective September 1, 1999, state law requires public colleges and universities to gather and report data to the Texas Higher Education Coordinating Board regarding service by certain faculty and non-classified staff as consulting or testifying expert witnesses in lawsuits in which the State of Texas is a party. A form must be completed for each lawsuit in which expert witness services were rendered. The law enacted is Section 61.0815, Texas Education Code.

Does the Coordinating Board's report identify employees by name?

The report to the Coordinating Board provides information regarding the number of hours spent by employees serving as expert witnesses without identifying individual employees.

TEXAS ADMINISTRATIVE CODE

Chapter 5, Subchapter A

4.12. 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.
 - (3) 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.
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Texas Education Code

§ 61.0815

REPORT ON HIGHER EDUCATION EMPLOYEES SERVING AS EXPERT WITNESSES IN CERTAIN SUITS.

- (a) In this section, "member of the faculty or professional staff of an institution of higher education" means a person who is employed full-time by an institution of higher education as a member of the faculty or staff and whose duties include teaching, research, administration, or the performance of professional services, including professional library services. The term does not include a person employed in a position 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.
- (b) Not later than November 1 of each year, the board shall submit to the governor and to the presiding officer of each house of the legislature a written report regarding compensated service by members of the faculty or professional staff of institutions of higher education as consulting or testifying expert witnesses in suits in which the state is a party during the preceding state fiscal year. The information in the report shall be reported without identifying specific individuals. The report must specify:
- (1) the amounts of time spent by the faculty or professional staff members in connection with that service; and
 - (2) the names, cause numbers, and outcomes of the cases in which that service was rendered, including the amounts of:
 - (A) any judgments entered against the state;
 - (B) any prejudgment or post judgment interest awarded against the state; and
 - (C) any attorney's fees of another party ordered to be paid by the state.
- (c) The attorney general and the president of each institution of higher education shall collect all necessary data for inclusion in the report required by this section.
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