

NEW YORK STATE UNIFIED COURT SYSTEM

# JURY INFORMATION FOR EMPLOYERS



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**1-800-NY-JUROR**

**1-800-695-8767**

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## MESSAGE FROM THE CHIEF JUDGE



On behalf of New York State's Unified Court System, thank you for taking the time to review this booklet outlining employers' responsibilities regarding jury service in New York State.

The right to trial by jury is one of the fundamentals of our democracy and it is guaranteed by the constitutions of the United States and the State of New York. It protects litigants, provides a vital link between the legal system and community values, and presents an opportunity for citizens to participate in the administration of justice.

More than half a million jurors serve throughout the New York State court system each year. By law, these jurors must represent a fair cross-section of the community. Potential jurors must include all citizens without regard to race, ethnicity, religion, gender, or economic or employment status.

We are keenly aware of the various inconveniences arising from an employee's absence in the workplace. That is why we have, over the past few years, transformed the jury system by increasing the jury pool and reducing the length of jury service. The cooperation of both employers and employees is essential to keeping our jury system strong. When employers encourage their employees to fulfill their civic obligation and report for jury service, they help protect this fundamental right to trial by jury—a right that both individuals and businesses enjoy.

As Chief Judge and on behalf of all the members of the judiciary, I thank you for your support of the New York State jury system.

A handwritten signature in dark ink that reads "Janet DiFiore". The signature is written in a cursive, flowing style.

**JANET DIFIORÉ**

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## INTRODUCTION

This pamphlet is designed to help explain the rights and responsibilities of employers and employees with regard to jury service in New York State. The same rules apply to trial jury and to grand jury service.

## REPORTING REQUIREMENTS

### Who must report?

There are no automatic exemptions or excuses from jury service in New York State. Everyone who is eligible must serve. You are eligible to serve as a juror in New York State if you are:

- 1) a United States citizen,
- 2) at least 18 years old, and
- 3) a resident of the county to which you are summoned to serve.

In addition, jurors must

- 4) be able to understand and communicate in the English language, and
- 5) not have been convicted of a felony. <sup>1</sup>

### Can jury duty be postponed?

Each juror summoned to serve in Supreme, County, District or City court is allowed one automatic postponement, which can be requested by telephone, mail or, in some counties, by e-mail. The juror may select a date two to six months after being summoned. If the requested date is not available, the juror will be summoned for the closest available date. Requests for

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<sup>1</sup> Persons previously convicted of a felony who have received a Certificate of Relief from Civil Disabilities or a Certificate of Good Conduct may be qualified to serve as jurors.

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postponement should be made at least a week before the scheduled date of appearance. Generally, postponements are not granted on the scheduled appearance date.

### **What happens if a juror does not report for jury duty?**

Jury duty is mandatory. Skipping jury duty can result in civil or criminal penalties. In addition, anyone who skips jury service will be assigned a new date for future jury service.

### **How often does a person have to serve as a juror?**

A person who serves in a State or Federal court in New York—either by reporting in person or by being available to serve via a telephone call-in system—will not normally be required to serve in the New York State courts for at least six years. A juror who serves for more than ten days will not normally be required to serve in the New York State courts for at least eight years. Jurors who physically report to serve in Town and Village courts are not required to serve again for two years.

### **How can an employer be sure that an employee actually served?**

Jurors may request a “proof of service” showing the dates of service. Jurors can show this proof to employers and also to the court in the unlikely event that they are summoned again before the end of two, six or eight years as explained above.

## **JUROR PAY**

### **What is the jury fee?**

The jury fee is \$40 per day for all New York State Courts and for Town and Village courts. Every person who serves as a juror in the New York State Courts or the Town and Village courts is entitled to be paid *at least* the \$40 fee for each day that they report in person for jury service.



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The fee is paid by the State or by the employer depending on the day of service and size of employer. The chart “Who Pays Your Jury Fee?” on pages 4-5 of this pamphlet shows who pays and when. You can also visit the Unified Court System website, [www.nyjuror.gov](http://www.nyjuror.gov) and click on “Who Pays Your Jury Fee?”

### **Which employers must pay the jury fee?**

Employers are encouraged but not required to pay an employee’s full daily wage while the employee is reporting to serve as a juror. Employers of more than 10 employees must pay jurors the jury fee of \$40 or the employee’s wage (whichever is lower) each day for the first three days of jury service. If the juror’s daily wage is less than the jury fee, then the State makes up the difference. The State will pay the jury fee of jurors who work for employers of 10 or fewer employees if the jurors are not paid at least the jury fee by their employers. After three days, the State pays the jury fee to jurors who are not paid at least the jury fee. For jurors who are paid a daily wage that is less than the jury fee the State makes up the difference.

### **Are jurors’ transportation costs paid?**

Jurors are not paid for travel nor are meals or lodging provided except in the rare trial where a jury is sequestered overnight.

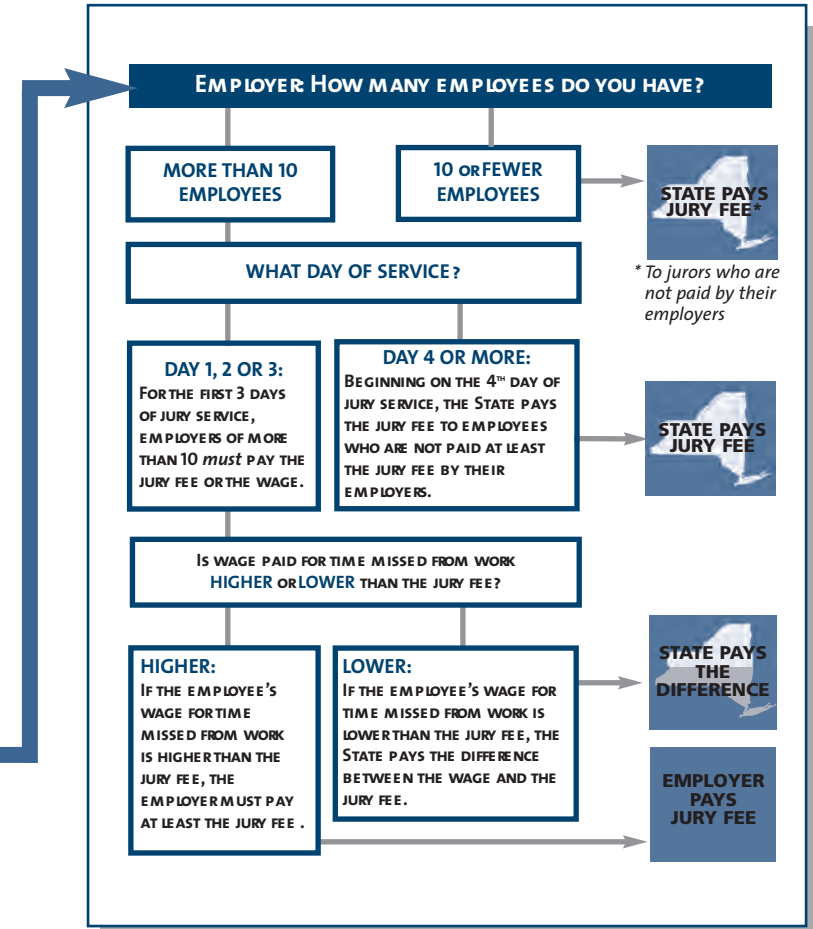
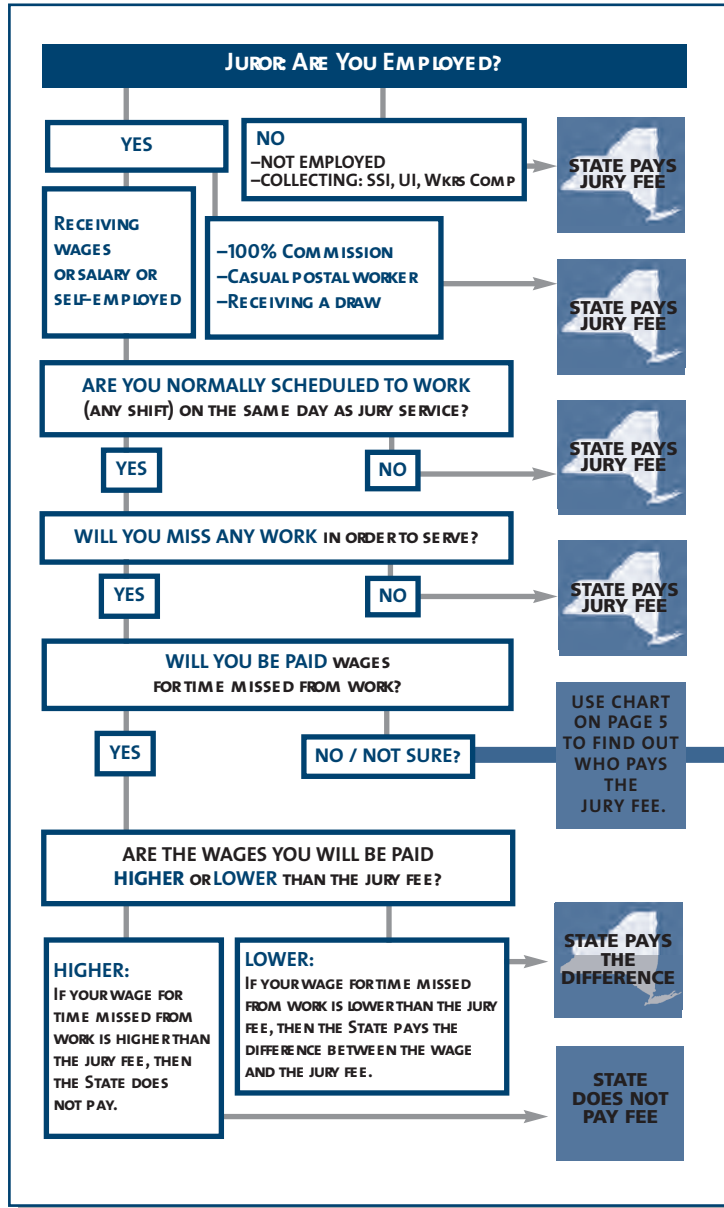
### **Where does it say that employers of more than 10 employees must pay the jury fee for the first three days of service?**

Section 519 of the New York State Judiciary Law covering “Right of juror to be absent from employment,” is reprinted on page 10 of this guide.

### **Are out-of-state employers required to pay New Yorkers who serve as jurors?**

An out-of-state employer with more than 10 employees working in New York State must pay New York employees at least the

# WHO PAYS THE JURY FEE?



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jury fee for the first three days of service. An out-of-state employer who employs a New York resident at an out-of-state location is not required to pay the jury fee.

### **Who is the “employer” of a temporary worker provided by an agency?**

Whoever pays a temporary employee is the employer. If the temporary agency pays the employee and has more than 10 paid employees, then the agency must pay at least the employee’s jury fee for the first three days. A company with more than 10 employees that pays the temporary employee directly must pay at least the employee’s jury fee for the first three days.

### **Who pays the jury fee to a self-employed or unemployed person?**

The State pays the jury fee to persons who are not employed or are self-employed and have 10 or fewer employees, as well as those who are collecting unemployment insurance, workers compensation, public assistance, or disability.

### **Are part-time employees paid for jury service?**

The same rules apply to part-time and full-time employees. Part-timers who miss work due to jury service are paid the jury fee on the same basis as full-time employees. If a part-time employee’s daily wage is less than the jury fee, then the employer must pay that wage as a jury fee and the State will make up the difference. After three days, the State pays the jury fee to part-time employees who are not being paid while on jury service. For those who are paid a wage that is less than the jury fee, the State will make up the difference.

Part-time employees who do not miss work due to jury service are paid the jury fee by the State.

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### **Are evening or night workers paid for jury service?**

Evening or night workers who miss work due to jury service are paid the jury fee on the same basis as are employees who work during the day. Evening or night workers who do not miss time from work, are paid the jury fee by the State. An employer may not require an employee who has reported and served for a full day of jury service to then work a full evening or night shift.

### **Who pays the jury fee for a juror who serves for part of the day and works for part of the day?**

All employees who appear for jury service ready to serve are entitled to receive the jury fee. When an employee serves as a juror for part of the day and works for part of the day, the employer must pay the employee for the time worked. For the first three days of service, employers of more than 10 employees are also obligated to pay the jury fee or the juror's wage for the time missed from work. If the employee's wage for the time missed from work is equivalent to or greater than the jury fee, then the employer is obligated to pay the jury fee. If the employee's wage for the time missed from work is less than the jury fee, then the State will make up the difference between the wage and the jury fee.

### **Who pays the jury fee for employees who work for more than one employer each day?**

The fact that an employee has more than one employer does not relieve each employer of jury fee obligations.

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## **EMPLOYERS' OBLIGATIONS**

### **Must employers allow employees to serve?**

Yes. An employer must allow employees time off from work to serve as jurors. An employer who discharges or penalizes an employee for serving as a juror may be prosecuted by the Office of the Attorney General and subjected to criminal penalties.

### **May an employer change an employee's regularly scheduled hours of work when the employee is scheduled to serve as a juror?**

Schedule changes that are designed to accommodate the employee's obligation to serve are permitted. Schedule changes that penalize an employee may result in prosecution by the Office of the Attorney General and criminal penalties.

### **May an employer require an employee to take vacation or other paid leave while serving?**

No. It is an illegal penalty to force an employee to charge jury duty absence against vacation, personal or sick time. However, an employee may choose paid leave over losing wages. An employer who penalizes an employee for service as a juror by forcing the juror to use paid leave may be prosecuted by the Office of the Attorney General and subjected to criminal penalties.

### **May an employer require an employee who serves as a juror to make up time ?**

No. An employer who forces an employee to work on days when the employee is not normally scheduled to work in order to make up for time lost as a result of jury service may be prosecuted by the Office of the Attorney General and subjected to criminal penalties.

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## **May an employee who is serving as a juror be required to work while serving?**

An employer may not require an employee who has reported or served for a full day of jury service to then work a full evening or night shift.

It is an illegal penalty to force an employee to work a full shift while the employee is serving full days on jury service. Where a day's jury service is completed with less than a full day's court appearance, or where the required reporting to work is for a relatively short period of time, Jury Commissioners exercise their discretion to determine whether the required reporting to work is an illegal penalty.

An employer who penalizes an employee for serving as a juror may be prosecuted by the Office of the Attorney General and may be subject to criminal penalties.

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# NEW YORK STATE JUDICIARY LAW

## ARTICLE 16

### SELECTION OF JURORS

#### § 519. Right of juror to be absent from employment.

Any person who is summoned to serve as a juror under the provisions of this article and who notifies his or her employer to that effect prior to the commencement of a term of service shall not, on account of absence from employment by reason of such jury service, be subject to discharge or penalty. An employer may, however, withhold wages of any such employee serving as a juror during the period of such service; provided that an employer who employs more than ten employees shall not withhold the first forty dollars of such juror's daily wages during the first three days of jury service. Withholding of wages in accordance with this section shall not be deemed a penalty. Violation of this section shall constitute a criminal contempt of court punishable pursuant to section seven hundred fifty of this chapter.

#### § 521. Fees and travel expenses of jurors.

(a) Except as provided in subdivision (b) of this section, trial and grand jurors in each court of the unified court system shall be entitled to an allowance equal to the sum of forty dollars per day for each and every day of physical attendance wherein the court convenes, except that no person who is employed shall be entitled to receive such allowance if, pursuant to section five hundred nineteen of this article, his or her employer is prohibited from withholding the first forty dollars of wages of such person during such period and such person's daily wages equal or exceed forty dollars. If such person's daily wages are less than forty dollars, he or she shall be entitled to receive an allowance hereunder equal to the difference between forty dollars and the amount of his or her daily wages. Such fees and those expenses actually and necessarily incurred in providing food and lodging for jurors shall be a state charge payable out of funds appropriated to the office of court administration for that purpose. (b) No employee shall be entitled to receive the per diem allowance authorized by

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subdivision (a) of this section for any regularly scheduled workday on which jury service is rendered if, on such day, his or her wages are not withheld on account of such service. (c) Notwithstanding any other provision of this section, a trial or grand juror may waive entitlement to the allowance authorized by subdivision (a) of this section. In such event the amount of such allowance shall be available to the chief administrator of the courts solely for the purposes specified in paragraph (m) of subdivision two of section two hundred twelve of this chapter, except that any such amounts not expended in such fashion as of the close of the fiscal year in which they became available shall be transferred by the comptroller to the supplemental jury facilities fund established pursuant to section ninety-four-c of the state finance law.

## **JUDICIARY LAW, ARTICLE 19**

### **CONTEMPTS**

#### **§ 750. Power of Courts to punish for Criminal contempts**

A court of record has power to punish for a criminal contempt, a person guilty of ... subjection of an employee to discharge or penalty on account of his absence from employment by reason of jury or subpoenaed witness service.

#### **§ 751. Punishment for criminal contempts.**

[P]unishment for a contempt, specified in section seven hundred fifty, may be by fine, not exceeding one thousand dollars, or by imprisonment, not exceeding thirty days, in the jail of the county where the court is sitting, or both, in the discretion of the court.



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## **MATERIALS AVAILABLE FOR JURORS IN THE NEW YORK STATE COURTS**

### **PAMPHLETS**

#### *Petit Juror's Handbook and Grand Juror's Handbook*

Available in full online at [www.nyjuror.gov](http://www.nyjuror.gov) and on tape for the visually impaired.

#### *Jury Information for Employers*

Answers questions about employers' obligations when employees are called for jury service.

#### *Jury Pool News*

Quarterly newsletter distributed in jury assembly rooms.

### **JUROR ORIENTATION FILMS**

#### *Your Turn*

An historical overview of the petit jury including specifics about petit jurors' role and responsibilities.

#### *Protect and Uphold*

An historical overview of the Grand Jury including specifics about grand jurors' role and responsibilities.

### **CENTRAL INFORMATION NUMBER:**

**1-800-NYJUROR  
1-800-695-8767**

For basic information about jury service obligations and pay issues, ordering copies of pamphlets or films, and for referral information to specific counties.

### **WEBSITE: [WWW.NYJUROR.GOV](http://WWW.NYJUROR.GOV)**

For basic information about jury service obligations and pay issues, ordering copies of pamphlets, and referral to specific counties.

### **ASSISTIVE LISTENING DEVICES**

Available in all courts.