

## SUBPOENAS

A subpoena is an order issued by the Civil Service Commission which directs the recipient either: 1) to appear as a witness at a Civil Service Hearing and testify; or, 2) to provide specified documents to one of the parties to a Civil Service Appeal; or, 3) to do both.

### A. Witness Subpoenas

You may request that the Commission issue a subpoena to compel a witness to appear at the hearing to testify for you. (The witness may also need the subpoena to present to their employer for leave to attend the hearing). A subpoena is a written "Order" from the Commission directing a witness to attend the hearing at the scheduled date and time and location. To obtain a subpoena, you must submit a written request to the Commission listing your witnesses and explaining why each one is important and necessary to prove your case. **Your explanation must include a brief summary of the testimony you believe the witness will give to the Commission.** Also you are required to **send a copy** of your request **to the appointing authority attorney.**

If the Commission approves your subpoena request, the subpoena will be prepared and mailed to you. The Commission does not serve the

subpoena on the witness. It will be **your responsibility** to see the witness is personally served with the subpoena **at least forty-eight (48) hours** prior to the hearing. Personal service does not mean mailed to a witness, put in an office mailbox or in-box, or given to someone else who knows or works with the witness. (A witness may agree to receive the subpoena by other than personal service, but without the witness's agreement such methods are not acceptable).

Be prepared to offer the witness a fee for appearing at the hearing, and for his/her transportation to and from the hearing. You must pay the witness the applicable fee before the hearing unless you and the witness have agreed to a different arrangement. The fee is set by law and is currently set at \$5.00 per day, plus .07 cents a mile round trip. You may call the Commission's Legal Services Office with any questions concerning the fee required for a particular witness. (717) 783-2924

If you are asked to participate in a Pre-Hearing Conference, you will be asked to submit a Pre-Hearing Memorandum that will include a witness list. If you need a subpoena for any of these witnesses, you may include your request for subpoena(s) in your Memorandum. These subpoenas will be given to you at the Conference,

unless you provide other instructions with your request.

### B. Document Subpoenas

If you believe that the appointing authority has documents in its possession that may support your testimony or that of your witnesses, you may request that the Commission issue a subpoena to compel the agency to give you those documents. Such documents might include letters, e-mails, job descriptions, employee performance reviews, or doctor's notes. The Commission will not issue a subpoena to compel either party to create a document that does not already exist.

To obtain a subpoena for a document, submit a **written** request to the Commission for a **Subpoena "Duces Tecum."** In your request, describe the requested document as precisely as you can; explain why the document is relevant and necessary to support your case; explain who has the document; and specify as accurately as possible when the document was created. (A subpoena will usually be limited to documents created within the previous three years). Also send a copy of your subpoena request to the appointing authority. See *Commission Rules Section 105.14a* for more information about Subpoenas.

If the Commission approves your request, the subpoena will be prepared and mailed to you. The Commission does not serve the subpoena. You must serve the subpoena on the person who has the documents, or the head of the agency, or on the attorney who represents the agency. A documents subpoena can be served personally **or by mail.** It is **your responsibility** to serve the subpoena at least five (5) workdays prior to the hearing. The recipient of this subpoena will be given five workdays to respond, so the further in advance of the scheduled hearing date you serve the subpoena, the greater the amount of time you will have to review the documents prior to the hearing. If you wait until the final five days, you may not receive the documents until you arrive at the hearing location.

### **Commission's Rule Concerning Subpoenas:**

#### **4 Pa. Code § 105.14a. Subpoenas.**

(a) *Procedure for requesting subpoenas.*

(1) Subpoenas for the attendance of witnesses or for the production of documents will be issued only upon written application to the Chairperson of the Commission or the Commissioner presiding at

