

SECTION: PERSONNEL
TITLE: WITNESS GUIDELINES
DATE: NOVEMBER 2022
SUPERINTENDENT APPROVAL:



1. **Fact Witness.** Testify as to what you have observed and as to what you have heard. Avoid giving opinion testimony.
2. **Expert Witness.** Give your opinion as to the educational performance of the student. Do not give an opinion testimony, such as who you deem to be the best parent. Also, do not give opinion as to psychological diagnosis, unless you are a school psychologist.
3. **Tell the Truth.** ALWAYS TELL THE TRUTH. It is more important to tell the truth, good, bad, or indifferent. The truth allows the rest of the evidence to fit together in a consistent way.
4. **Be Objective and Dispassionate.** In domestic situations, be as neutral as possible. The parent we trash today may be the parent we deal with tomorrow. Also, use objective measures such as “approximately 50 feet away,” “about 100 pounds,” or “approximately 30 m.p.h.” Don’t use subjective words like “big,” “far,” “high,” “low,” or “fast.”
5. **Do Not Speculate or Guess.** It is okay to have no opinion or to answer, “I do not know.” If you do not remember, simply state that you cannot remember. Even if you think you ought to remember something, do not guess. Only give answers of which you are certain.
6. **Listen Carefully to Each Question.** If there is a convoluted, confusing, or vague question, ask for clarification. Feel free to have the question repeated or explained. Wait briefly before answering in case there is an objection by the other party’s attorney. Take your time and do not give a snap answer without thinking. This will also make it easier for the court reporter to create a record of the court hearing or deposition.
7. **Answer Directly.** Answer only the question that is asked. Do not provide additional information in your answer if the question can simply be answered “Yes” or “No”. You also have the right to explain your answer. It is human nature to try to be helpful and provide the information you think they are looking for. Don’t volunteer information. If they need more, they will ask you for it.
8. **Be Courteous.** Do not argue with the attorney. Be courteous and DO NOT lose your temper. You are the expert because you know what you did, or seen, or heard. The lawyer does not. Rather than argue with or feel intimidated by the lawyer, your job is to patiently explain the truth. Having this mindset will reduce your anxiety and increase your credibility.
9. **Speak Clearly.** Speak clearly and distinctly so that you will be heard. Try to avoid using “uh-huh” or “uh-uh” when giving answers. Also, do not respond by shaking your head in an attempt to communicate “yes” or “no.” Only a clear verbal responses can be recorded on the transcript of the court hearing or deposition.
10. **Jurors.** Stay away from jurors during recesses. Politely but firmly avoid letting jurors talk to you.
11. **Other Witnesses.** Once you have been sworn, do not discuss your testimony with other witnesses.

12. **Be Attentive.** Be alert at all times so that you can hear, understand, and give proper response to each question.
13. **Be Prepared.** Review facts, files, letters, reports, etc. Review attendance records, academic performance, test results, discipline records, teacher's notes, SEP/SEOP conferences, IEP's, parental involvement in school activities, etc.
14. **Bring Subpoena.** Bring your Subpoena with you to the court hearing or deposition.
15. **Understand the Nature of the Legal Proceedings.** What decision is the court going to make? What does the court want to know from you?
16. **Be Conscious of Your Appearance.** Look professional. Dress neatly and conservatively, as if you were going to church. Shorts, tank tops, and hats are not allowed in the courtroom. Do not eat, drink, or chew gum in the courtroom.
17. **Student Records.** If student records are requested, notify your principal or supervisor. Do not give out student records directly unless authorized by the parent or legal guardian (and even then a written consent should be obtained and placed in the student's file). Student records cannot be produced without consent of the parent/legal guardian, a validly issued court order, or subpoena. Take a complete copy of the student's record and offer it to the Judge when you are called to testify. You have the right to review the student records if needed while testifying.
18. **"On Call".** This is when the witness is subject to being called. Please provide the court or the subpoenaing party the current work and home numbers. When "on call," it is imperative that you keep people informed as to where you may be reached.
19. **Talking with Attorneys.** There is no legal duty to talk with an attorney. It is good practice for school district employees to refer the attorney to the school district's legal counsel. Employees have the right to talk with the school district's legal counsel or his/her personal attorney before talking with the attorney for a party. Employees have the right to have the school district's legal counsel or his/her personal attorney present if he/she is going to meet with the attorney or attend a court hearing or deposition. If one chooses to talk with an attorney, the employee should ask what it is that the attorney wants them to testify about. **Employees should not provide letters, affidavits, or other written documentation to an attorney without first consulting with your principal or supervisor and the school district's legal counsel. Also, in most all cases, a valid court order or subpoena should be issued before any written documentation is prepared and given to an attorney.**
20. **Witness Fees.** In all civil cases, the witness fees and compensation shall be paid by the party who causes the witness to attend the court hearing. In Utah, a witness who is legally required to attend court is entitled to \$18.50 for the first day, and \$49.00 per day for each subsequent day. If traveling over 50 miles, \$0.25 for per mile in excess of 50 miles shall be paid. (See Utah Code Ann., Section 78B-1-119).

FOR FURTHER QUESTIONS AND ASSISTANCE, PLEASE CONTACT DISTRICT LEGAL COUNSEL.