

## § 703.16

subpoena (collectively referred to in this subpart as a “demand”).

(a) This subpart applies to:

(1) State court proceedings (including grand jury proceedings);

(2) Federal court proceedings; and

(3) State and local legislative and administrative proceedings.

(b) This subpart does not apply to:

(1) Matters that are not related to the Library of Congress but relate solely to an employee’s personal dealings;

(2) Congressional demands for testimony or documents;

(3) Any demand relating to activity within the scope of Title 17 of the United States Code (the Copyright Act and related laws). These are governed by Copyright Office regulations, which provide for different procedures and for service on the General Counsel of the Copyright Office. *See* 37 CFR 201.1, sec. 203, sec. 204, and sec. 205.

(c) The purpose of this subpart is to ensure that employees’ official time is used only for official purposes, to maintain the impartiality of the Library of Congress among private litigants, to ensure that public funds are not used for private purposes, to ensure the protection of Congress’ interests, and to establish centralized procedures for deciding whether or not to approve testimony or the production of documents.

### **§ 703.16 Policy on presentation of testimony and production of documents.**

No Library of Congress employee may provide testimony or produce documents in any proceeding to which this part applies concerning information acquired in the course of performing official duties or because of the employee’s official relationship with the Library of Congress, unless authorized by the General Counsel or his/her designee, or the Director of the Congressional Research Service (CRS) with respect to records and testimony relating to CRS’s work for Congress, or the Law Librarian for records and testimony relating to the Law Library’s work for Congress or materials prepared for other federal agencies covered by evidentiary privileges. The aforementioned officials (hereinafter “deciding officials”) will consider and act upon demands under this part with due re-

## 36 CFR Ch. VII (7–1–11 Edition)

gard for the interests of Congress, where appropriate, statutory requirements, the Library’s interests, and the public interest, taking into account factors such as applicable privileges and immunities, including the deliberative process privilege and the speech or debate clause, the need to conserve the time of employees for conducting official business, the need to avoid spending the time and money of the United States for private purposes, the need to maintain impartiality among private litigants in cases where a substantial government interest is not involved, the established legal standards for determining whether or not justification exists for the disclosure of confidential information and records, and any other purpose that the deciding official deems to be in the interest of Congress or the Library of Congress.

### **§ 703.17 Procedures when testimony and/or documents are demanded.**

A demand for testimony and/or documents by a Library employee must be in writing, must state the nature of the requested testimony and/or specify documents, and must meet the requirements of § 703.15. A demand must also show that the desired testimony or document is not reasonably available from any other source and must show that no document could be provided and used in lieu of testimony. When an employee of the Library receives such a request the employee will immediately forward it, with the recommendation of the employee’s supervisors, to the appropriate deciding official under § 703.22 of this part. The deciding official, in consultation with the appropriate offices of the Library or congressional offices, will determine whether or not compliance with the request would be appropriate and will respond as soon as practicable.

### **§ 703.18 Procedures when an employee’s appearance is demanded or documents are demanded.**

(a) If the deciding official has not acted by the return date on a subpoena, the employee must appear at the stated time and place (unless advised by the deciding official that the subpoena was not validly issued or served or that