



Judicial Council of California . Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 23, 2010

Title	Agenda Item Type
Trial Courts: Final Report of Court Executive Officer Compensation Study	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 10.603	July 1, 2010
Recommended by	Date of Report
Administrative Office of the Courts	March 26, 2010
Jody Patel, Regional Administrative Director	Contact
Northern/Central Regional Office	Pam Reynolds, 916-263-1462 pam.reynolds@jud.ca.gov

Executive Summary

The Administrative Office of the Courts (AOC) recommends that the Judicial Council amend the rule that outlines the authority and duties of the presiding judge. The amended rule requires the development of policies and procedures related to the setting and modification of the court executive officer's total compensation package to ensure appropriate accountability and transparency. This final report concludes the work of the working group that was convened in September 2009 to study court executive officer compensation.

Recommendation

The Administrative Office of the Courts recommends that the Judicial Council, effective July 1, 2010, amend rule 10.603 of the California Rules of Court to:

1. Require the presiding judge to approve, in writing, the total compensation package offered to the court executive officer (CEO) and any subsequent changes to the CEO's compensation package;

2. Require the presiding judge to establish a documented process for setting and approving any changes to the CEO's total compensation package in a fiscally responsible manner consistent with the court's budget; and
3. Clarify that the presiding judge may not delegate to the CEO the duties related to setting or approving any changes to the CEO's total compensation package; however, the presiding judge, while remaining responsible for these duties, may delegate them to another judge.

The text of the amended rule is attached at pages 4–5

Previous Council Action

On April 23, 2009, in response to a special audit of the Superior Court of Placer County, the council directed the AOC to “conduct an analysis of executive management compensation in the California trial courts and present recommendations on fiscal procedures or rules of court that will ensure appropriate fiscal accountability.” An interim report provided to the council on December 15, 2009, outlined the activities to date and identified the next steps, which included presentation of a final report to the council in April 2010.

Rationale for Recommendation

Amending rule 10.603 will ensure appropriate fiscal accountability and transparency regarding trial court executive compensation. To ensure accountability, the proposed amendment to (c)(5)(B) requires the presiding judge to approve, in writing, the court executive officer's initial total compensation package (salary and all benefits) and any subsequent changes to that compensation package.

To ensure accountability and transparency, the proposed amendment to (c)(6)(C) requires the presiding judge to establish a documented process for setting and approving any changes to the court executive officer's total compensation package in a fiscally responsible manner. The process established for setting and approving any changes to the executive officer's total compensation package must take the court's established budget into consideration.

To prevent a conflict of interest, the proposed amendment to rule 10.603(d) clarifies that the presiding judge may not delegate to the court executive officer the duties listed in (c)(5)(B) and (c)(6)(C) related to setting and changing court executive compensation. Under this proposed amendment, the presiding judge still has the authority to delegate the duties listed in those sections to another judge but remains responsible for those duties.

Comments, Alternatives Considered, and Policy Implications

This proposal was circulated for comment as part of the winter 2010 comment cycle. This proposal was also reviewed by the Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee (TCPJAC/CEAC) Joint Rules Working Group. Two comments were received and are attached at page 6. One commentator agreed with the proposal, and one

commentator, the TCPJAC/CEAC Joint Rules Working Group, agreed with the proposal with the modification/understanding that the rule would not prevent a court from entering into a multiyear contract with a CEO. The amended rule does not prohibit a court from entering into a multiyear contract with a CEO. Therefore, the AOC does not recommend modifying the proposed rule. While the rule does not prohibit a multiyear contract, the AOC suggests that, to ensure appropriate fiscal accountability, a court may want to consider including a provision that would allow modification of any multiyear contract in the event of unforeseen financial problems.

This proposal does not address the conflict of interest that could result from linking CEO salary changes to wage increases reached in labor negotiations. As noted in the Interim Report on Court Executive Officer Compensation Study presented to the council on December 15, 2009, this issue has been forwarded to the TCPJAC/CEAC Presiding Judges/Court Executive Officers Rules and Roles Analysis Working Group to consider whether the rules of court related to presiding judge and court executive officer duties should be amended to address the potential conflict of interest resulting from linking CEO salaries to wage increases reached in labor negotiations. The working group met on April 6 to continue discussions regarding proposed changes to the rules of court that are anticipated to be presented for approval to post for public comment in December 2010. The AOC will develop a model personnel policy that complements any rule change addressing this issue.

Implementation Requirements, Costs, and Operational Impacts

Trial courts must develop a documented process for setting and approving any changes to the CEO's total compensation. Included with this report as Attachment A is a model personnel policy that courts can use in whole or in part with their current processes when setting, reviewing, and modifying CEO total compensation.

The proposed rule amendment should not result in any additional costs.

Attachments

1. Cal. Rules of Court, rule 10.603, at pages 4–5
2. Chart of comments, at page 6
3. Attachment A: Sample Model Policy—Court Executive Officer Compensation

1 Rule 10.603. Authority and duties of presiding judge

2
3 (a)–(b) ***

4
5 (c) Duties

6
7 (1)–(4) ***

8
9 (5) *Personnel*

10
11 (A) The presiding judge must provide general direction to and
12 supervision of the court executive officer, or, if the court has no
13 executive officer, perform the duties of the court executive
14 regarding personnel as specified in rule 10.610(c)(1).

15
16 (B) The presiding judge must approve, in writing, the total
17 compensation package (salary and all benefits) offered to the
18 court executive officer at the time of the executive officer's
19 appointment and any subsequent changes to the executive
20 officer's total compensation package.

21
22 (6) *Budget and fiscal management*

23
24 The presiding judge must:

25
26 (A) ***

27
28 (B) Establish responsible budget priorities and submit budget requests
29 that will best enable the court to achieve its goals; ~~and~~

30
31 (C) Establish a documented process for setting and approving any
32 changes to the court executive officer's total compensation
33 package in a fiscally responsible manner consistent with the
34 court's established budget; and

35
36 (~~E~~–~~D~~) ***

37
38 (7)–(11) ***

39
40 (d) Delegation

41
42 The presiding judge may delegate any of the specific duties listed in this rule
43 to another judge, ~~or~~, Except for the duties listed in (c)(5)(B) and (c)(6)(C),

1 the presiding judge may delegate to the court executive officer any of the
2 duties listed in this rule that does not require the exercise of judicial
3 authority; to the court executive officer. The presiding judge remains
4 responsible for all duties listed in this rule even if he or she has delegated
5 particular tasks to someone else.

W10-2**Authority and duties of the presiding judge: setting and modifying executive officer total compensation** (amend California Rules of Court, rule 10.603)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Michael M. Roddy Executive Officer Superior Court of San Diego County	A	No specific comment.	No response required.
2.	TCPJAC/CEAC Joint Rules Working Group	AM	Approve with modification/understanding that the rule would not preclude a court from entering into multiyear contracts with their Court Executive Officer.	As stated in the report, the amendment would not prohibit a court from entering into a multiyear contract with the CEO that is consistent with the provisions of the rule.

Policy: Court Executive Officer Compensation

Contact: [Insert appropriate court contact]

Contents:

- 1.0 Overview**
- 2.0 Setting Compensation of Newly Appointed Court Executive Officer**
- 3.0 Reviewing and Adjusting Compensation**
- 4.0 Documentation of Compensation Process**
- 5.0 Exceptions and Revisions to Policy**

1.0 Overview

This policy sets forth a comprehensive approach to setting, reviewing, adjusting, and documenting the total compensation package (salary and all benefits) for the court executive officer (CEO).

2.0 Setting Compensation of Newly Appointed Court Executive Officer

The presiding judge is responsible for setting the total compensation package for the court executive officer and for approving any changes to the compensation package.

In setting the court executive officer's initial total compensation package, the criteria to be considered by the presiding judge should include the following:

- Availability of funding
- Scope of the key functions and responsibilities
- Size of the court (number of judicial officers and employees)
- Prior relevant job experience
- Recent market evaluation of comparable positions (compensation surveys, as described in section 3.0, below)
- [court to add any additional factors]

The total compensation package for a newly appointed court executive officer is outlined in the offer letter. It is also documented in a court-established personnel action form that includes information pertaining to the criteria considered in establishing the initial compensation package. [Note: For courts that have a written employment contract with their CEO, the total compensation package is identified in that contract.]

3.0 Reviewing and Adjusting Compensation

The presiding judge will review the court executive officer's total compensation [on an annual basis] [on a periodic basis, as established by court policy]. The presiding judge may delegate the compensation review process to a committee that will report its conclusions and recommendations to the presiding judge.

SAMPLE MODEL POLICY

Attachment A

In reviewing the total compensation package, the presiding judge [or designee] should consider any applicable criteria listed in section 2.0, in addition to performance appraisals received by the court executive officer. The presiding judge may also conduct a compensation survey, including a market comparison of the following factors, among others:

- Base salary
- Retirement benefits
- Medical benefits
- Other compensable benefits
- Cash allowances
- Paid time off
- [court to insert any additional factors]

Appropriate comparators may include other superior courts that are similar in size, operating budget, and geographic area [court to insert any additional factors].

Any adjustments to compensation must be approved in writing by the presiding judge.

4.0 Documentation of Compensation Process

The process of setting, reviewing, and adjusting court executive officer compensation must be documented and the documentation must be included in the court executive officer's personnel file. The documentation must include:

- Written authorization by the presiding judge of the initial total compensation package and of any compensation adjustment
- Written conclusions and recommendations of any committee appointed by the presiding judge to review compensation
- Performance appraisals, if any
- Compensation surveys, if any
- [court to insert any additional items]

5.0 Exceptions and Revisions to Policy

All requests for exceptions or revisions to this policy must be in writing, directed to the presiding judge, and any exceptions or revisions to this policy must be approved, in writing, by the presiding judge.