

AGENDA ITEM

JANUARY 114
Rules and Regulations
Pertaining to
Confidential
Employees-
Amendments

DATE: December 18, 2009

TO: Members, Board Operations Committee
Members, Board of Governors

FROM: Robert A. Hawley, Deputy Executive Director

SUBJECT: Rules and Regulations Pertaining to the Employment of Confidential Employees:
Amendment to Rule 10 [Salary Rates and Classifications]

EXECUTIVE SUMMARY

Section 10 [Salary Rates and Classifications] of the Rules and Regulations Pertaining to the Employment of Confidential Employees are being amended by this item to change the compensation structure from a grid step system providing fixed step increases on annual performance review dates, to a system giving the Executive Director the discretion to grant a salary increase that the Executive Director deems appropriate in consultation with the Senior Executive overseeing the Confidential Employee. This conforms Confidential Employees to the Executive Staff compensation model rather than the union bargaining unit grid step system.

RECOMMENDATION

State Bar management recommends that the Board Operations Committee and Board of Governors approve the amendment to Section 10 of the Rules and Regulations Pertaining to the Employment of Confidential Employees (Confidential Employee Rules) in the form attached. The following resolution is suggested:

“RESOLVED that the Board of Governor’s Operations Committee recommends that the Board of Governors, and the Board of Governors concurs, that the Rules and Regulations Pertaining to the Employment of Confidential Employees be amended in the form attached hereto effective January 1, 2009.”

BACKGROUND

The terms and conditions of employment for State Bar Confidential Employees are established by Rules and Regulations Pertaining to the Employment of Confidential Employees first adopted in 1982. Confidential Employees are defined in Section 4 (E) of the Confidential Employee Rules and in the Rules and Regulations for the Administration of Employer and Employee relations as follows:

“Confidential Employee shall mean an employee, regardless of classification or job title, who acts in the formulation, determination and effectuation of management policies in the field of employer employee relations or who assists such a person in a confidential capacity.”

The majority of the State Bar’s Confidential Employees are employed in the Offices of Human Resources, General Counsel, and the Executive Director Secretary. Each Senior Executive is assigned a Confidential Employee. There are also Confidential Employees in the Office of Finance’s payroll unit and in other strategic locations throughout the organization where the administration of employer-employee and labor relations occurs.

The key component of Confidential Employee status is that, like management employees, they are excluded from union representation and assist management in addressing union issues. The terms and conditions of employment for Confidential Employees are governed the Confidential Employee Rules adopted and amended by the Board of Governors and administered by the Executive Director.

Under Section 10 [Salary Rates and Classifications], Confidential Employees have been compensated in a manner similar to the union bargaining unit employees. Their compensation has been determined by a salary grid which grants them fixed annual step increases on anniversary dates. This is similar to the compensation structure common to union agreements and that currently exists in the Memoranda of Understanding governing union bargaining unit employees at the State Bar.

Executive Staff are compensated at the sole discretion of the Executive Director. There are salary ranges for each management classification grade. There is no salary grid and no assurance that an annual increase is due in any set amount. Whether an increase will be given and the amount the increase is within the discretion of the Executive Director. The amendment to Section 10 proposed here conforms Confidential Employees compensation to the Executive Staff model.

Currently, Section 10 provides the Executive Director with the authority and discretion to determine classifications, grades, salary ranges, salary increases and other rewards for Confidential Employees. The compensation grid system is inconsistent with this discretion. This amendment is intended to eliminate this inconsistency.

This amendment was announced to Confidential Employees last January in Administrative Advisory 08-04 [Attachment 1]. The amendment is set forth in Attachment 2.

FINANCIAL/PERSONNEL IMPACT

It is not anticipated that there will be a financial impact from this change. Compensation for Confidential Employees will continue to conform to the State Bar budget limitations adopted by the Board of Governors. It is not anticipated that there will be any personnel impact. This change was “vetted” through the Confidential Employees earlier this year and announced to them in Administrative Advisory 08-04.

POLICY ADMINISTRATIVE MANUAL IMPACT

The change to the confidential employee rules, however, these are not contained within the administrative manual or Board Book.