



DIGEST -

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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November 28, 1978

Subject card

B-123698
B-191044

Mr.
Administrative Assistant
to the Chief Justice
Supreme Court of the United States
Washington, D.C. 20543

Dear :

This is in response to your letter of November 24, 1978, requesting our opinion as to whether your position as Administrative Assistant to the Chief Justice is covered under the provisions of the Annual and Sick Leave Act of 1951, as amended, which is codified in Chapter 63 of Title 5, United States Code. ||

You state that at the time of your appointment in 1972 you were advised by Court staff that you were "eligible for the normal leave system," and that "I have followed that course." We understand this to mean that you have worked a regular tour of duty and that you have earned and used annual and sick leave on the assumption that you are covered by the 1951 leave act. In addition, you have provided our Office with copies of two legal memoranda from the General Counsel, Administrative Office of the U. S. Courts, which support your position.

The Annual and Sick Leave Act of 1951, as amended, 5 U.S.C. 6301 - 6311, provides that the Act shall apply to all civilian officers and employees of the United States, with certain specified exceptions. Individuals who are excluded from coverage, among others, are employees of either House of Congress or of the two Houses, and officers in the executive branch or in the Government of the District of Columbia who are appointed by the President and whose rate of basic pay exceeds the maximum rate of GS-18. 5 U.S.C. 6301(2). ||

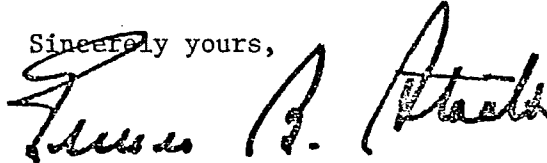
Until the enactment of Pub. L. 95-519, 92 Stat. 1819, there was no specific exemption in the leave act for heads of legislative agencies such as the Librarian of Congress, even though the salary of that office exceeded the rate of a GS-18. Nor was there a specific exemption for Federal judges. However, our Office has held that Federal judges who had not theretofore been subject to a leave system were excluded from coverage of the 1951 leave act. X

Oct 25, 1978

Public Law 95-519 amended the leave act to specifically exclude from its coverage officers in the legislative or judicial branch who are appointed by the President.

Appointments to the position of Administrative Assistant to the Chief Justice are made by the Chief Justice of the United States and that position does not fall within one of the specific exclusions from the leave act. Accordingly, we concur in the view of the General Counsel, Administrative Office of the U. S. Courts, that as the incumbent of the position in question you are covered under the provisions of the leave act. ||

Sincerely yours,



Comptroller General
of the United States