

DECISION

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

FILE: B-196656

DATE: December 10, 1979

MATTER OF: Chief Judge, Superior Court of the District of Columbia C 1273

DIGEST:

1. In response to request for advisory opinion this Office concurs with Chief Judge, Superior Court of the District of Columbia, that Associate Judge of that court does not have authority to direct a change in classification or otherwise fix the compensation of the position of law clerk, notwithstanding the fact that the Associate Judge is authorized to appoint an individual to the position of law clerk.
2. Associate Judges of the Superior Court of the District of Columbia are limited by the application of sections 910 and 1726 of title 11 of the District of Columbia Code to the selection and appointment of an individual for assignment to the position of law clerk. The classification, including the fixing of the rate of compensation, of the position of law clerk is the responsibility of the Executive Officer of the District of Columbia courts.

This is in response to a letter with enclosures dated October 31, 1979, from The Honorable H. Carl Moultrie I, Chief Judge, Superior Court of the District of Columbia, in which we are asked to render an advisory opinion as to policies set by the Executive Officer of the District of Columbia courts with regard to personnel compensation in compliance with sections 1701, 1702, and 1703 of title 11 of the District of Columbia Code.

In 1970, upon the reorganization of the courts in accordance with the District of Columbia Court Reform and Criminal Procedure Act of 1970, judges were authorized to appoint law clerks. At that time, a policy grade level was established whereby law clerks who were not graduates of law school were classified at the JSP-8 level (Judicial Salary Plan which is equivalent to the General Schedule classification), and those who were graduates of law school at the JSP-10 level. This policy has been in effect since 1971. At the present time an Associate Judge of the Superior Court of the District of Columbia has ordered that a law clerk appointed by him be placed on the payroll as a JSP-10. The law clerk in question, however, is not a graduate of law school, although he expects to graduate from law school in December 1979.

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In requesting an advisory opinion the Chief Judge contends that the matter of fixing compensation for personnel of the Superior Court of the District of Columbia is vested in the Executive Officer, who is responsible to the Joint Committee and the Chief Judge, and thus that Associate Judges lack authority to order a change in any classification policy or to fix compensation, notwithstanding the fact that each Associate Judge has the authority to appoint a law clerk.

In accordance with section 910 of title 11 of the District of Columbia Code each judge of the Superior Court may appoint and remove a personal law clerk and a personal secretary. However there is no corresponding provision authorizing a judge to classify the position and fix the compensation of the person appointed. On the contrary, the separate function of fixing the compensation of nonjudicial employees of the District of Columbia courts is the responsibility of the Executive Officer as prescribed by the following provisions of section 1726 of title 11 of the District of Columbia Code:

"In the case of nonjudicial employees of the District of Columbia courts whose compensation is not otherwise fixed by this title, the Executive Office shall fix the rates of compensation of such employees without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, and such rates shall not exceed the maximum rate prescribed for GS-15 of the General Schedule, * * *.

"In fixing the rates of nonjudicial employees under this section the Executive Officer shall be guided by the rates of compensation fixed for other employees in the executive and judicial branches of the Federal and District of Columbia Governments occupying the same or similar positions or occupying positions of similar responsibility, duty, and difficulty."

This Office has consistently recognized that the laws relating to the appointment of employees and those relating to the classification and compensation are separate and distinct laws with entirely different scopes and purposes. 19 Comp. Gen. 160 (1939), 31 Comp. Gen. 314 (1952).

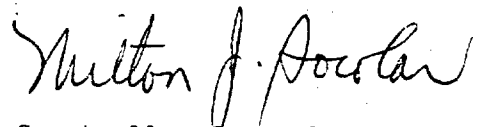
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In regard to the Executive Officer's accountability in the performance of his duties we find a clearly prescribed responsibility defined in the following provisions of section 1703 of title 11 of the District of Columbia Code:

"(a) There shall be an Executive Officer of the District of Columbia courts (hereafter in this chapter referred to as the 'Executive Officer'). He shall be responsible for the administration of the District of Columbia court system subject to the supervision of the Joint Committee and the chief judges of the respective courts as provided in this chapter. He shall be subject to the supervision of the Joint Committee regarding administrative matters that are enumerated in section 11-1701(b). He shall be subject to the supervision of the chief judges in their respective courts: (1) regarding all administrative matters other than those within the responsibility enumerated in section 11-1701(b), and (2) regarding the implementation in the respective courts of the matters enumerated in section 11-1701(b), consistent with the general policies and directives of the Joint Committee."

Since compensation is a matter enumerated in section 1701(b) of title 11 of the District of Columbia Code, it follows that the Executive Officer is subject to the supervision of the Joint Committee concerning compensation matters, and he is also subject to the supervision of the chief judges in their respective courts regarding the implementation in the respective courts of compensation matters and practices. At the same time we do not find any provision that would make the Executive Officer subject to the supervision of an Associate Judge of the Superior Court of the District of Columbia for the purposes of fixing the compensation of nonjudicial employees.

Accordingly, our opinion is that an Associate Judge of the Superior Court of the District of Columbia does not have authority to direct a change in the classification or otherwise fix the compensation of the position of law clerk, notwithstanding the fact that he is authorized to appoint an individual to the position of law clerk.



For The Comptroller General
of the United States