

Internal Operating Policy 12-05

Submitted by Director to the Georgia Public Defender Standards Council: 5/27/05

Approved by Standards Council: 9/16/2005

Effective: 9/16/2005

Authority: O.C.G.A. § 17-12-5(c) (2)¹

Subject: County salary supplements

The following is the Standards Council's policy on receiving county salary supplements:

Salary supplements: The county contracts that have been negotiated by many of the circuit public defenders provide for salary supplements to be paid through the contract. The contract provides that the salary supplements must be paid directly to the employee by the county governing authority and the county governing authority is responsible for all taxes and benefits associated with the supplement. Some counties have expressed an interest in having the Administrative Office of the Courts (AOC) administer the operating expenditures. These counties were under the impression that the AOC could also handle the supplements as part of the operating expenditures. However, after extensive research and after negotiation with the AOC, the AOC has informed us that salary supplements cannot be paid through an operating contract between a county and AOC nor through a county contract administered by AOC for us. Consequently, we cannot process the salary supplements at the state level either.

For all other judicial branch supplements, this problem does not arise because the supplement is not paid by the State as part of State compensation. Because we cannot process salary supplements through AOC, salary supplements have to be paid directly by the county to the employee. Therefore, the current contractual language does not pose any problems. Nevertheless, in order to avoid the problem that has been raised by some counties that are concerned that paying a supplement would make the employee a county employee, we have revised the salary supplement section of the standard form contract to read as follows (changes in italics):

Section _____ Salary supplements. The County agrees to supplement the salaries of the *state* employees of the Public Defender Office listed in Attachment ___ in the amount indicated in Attachment ___. The salary supplement *for these state employees* is paid directly to the employee by the County and all payroll taxes and benefits associated with the salary supplement are paid

¹ O.C.G.A. § 17-12-5 (c) (2) provides as follows: "(c) The director shall...(2) Develop such rules, policies, procedures, regulations, and standards as may be necessary to carry out the provisions of this chapter and comply with all applicable laws, standards, and regulations, and submit these to the council for approval".

by the County. *The parties to this agreement agree that a state employee who receives a salary supplement pursuant to this Section is a state employee and is under the supervision of the circuit public defender and not of the county and that a state employee who receives a salary supplement pursuant to this Section is not a county employee.* The County shall provide the Public Defender Office with the information concerning the salary supplement required by the State Auditor.

If you have any questions, please contact the Chief Legal Officer at (404) 232-8900.