

Supreme Court of Kentucky

2020-38

ORDER

In Re: Kentucky Court of Justice Hiring Policy

The Office of the State Budget Director reported publicly on May 6, 2020, the precipitous decline in state revenues because of the impact of the novel coronavirus. The economic consequences of job losses, adverse impact on businesses, and significant curtailment of consumer activity across the Commonwealth portends drastically reduced state revenues for the remainder of the current fiscal year and well into the next fiscal year.

Consequently, the Judicial Branch must prepare now for the certainty of significant reductions to its FY 2021 budget and its anticipated FY 2022 budget by finding savings wherever possible in the existing budget. As such, the Supreme Court has identified an immediate hiring freeze as one of several measures aimed at addressing looming budget reductions while preserving the jobs necessary to continue the constitutional and statutory functions of the Kentucky Court of Justice (KCOJ).

Accordingly, under Section 116 of the Kentucky Constitution and Supreme Court Rule 1.010, the Supreme Court hereby ORDERS as follows:

A. General Provisions

- (1) A vacancy is an unoccupied paid position within the KCOJ that the appointing authority intends to fill with a suitable candidate either immediately or within some length of time.
- (2) Vacancies must not be filled unless approved by the Administrative Office of the Courts (AOC) through the Vacancy Request Process. Vacancy Requests must be submitted for consideration to COJVacancyRequest@kycourts.net.
- (3) All Vacancy Requests submitted to AOC before May 15, 2020, must be resubmitted for consideration in accordance with this Policy, unless the vacancy has been filled or an offer of employment has been extended and accepted.

- (4) A detailed justification of need must be included with a Vacancy Request.
- (5) No vacancy will be filled if the position has been unoccupied for six months or more from the date when the Vacancy Request is submitted. Any request for exception to this rule must be submitted for approval by AOC in the manner provided above. Any such request for exception must state clear necessity to justify consideration for filling any position that has been vacant for six months or more.
- (6) For establishing their initial complement, a Vacancy Request from a newly appointed or elected justice, judge, or circuit court clerk is not subject to the limits established in Section B of this Order.
- (7) Because of the anticipated reduction in restricted-fund revenues, no vacancies will be filled if the position is funded in whole or in part by restricted funds.

B. Approval of Vacancy Requests

- (1) Supreme Court
 - (a) A request to fill a vacancy in a Supreme Court Justice's office will be approved only if the Justice has fewer than two positions currently filled.
 - (b) A request to fill a vacancy in the Supreme Court Clerk's office will be approved only if the position is essential to allow for the continuity of operations in the office.
- (2) Court of Appeals
 - (a) A request to fill a vacancy in a Court of Appeals Judge's office will be filled only if the Judge has fewer than two positions currently filled.
 - (b) A request to fill a vacancy in the Clerk of the Court of Appeals' office or Court of Appeals' central office staff will be approved only if the position is essential to allow for the continuity of operations in the office.

- (3) A request to fill a vacancy in a Circuit Court Judge's office will be approved only if the Judge has fewer than one position currently filled.
- (4) A request to fill a vacancy in a Family Court Judge's office will be approved only if the Judge has fewer than two positions currently filled.
- (5) A request to fill a vacancy in a District Court Judge's office will be approved only if the Judge has fewer than one position currently filled.
- (6) A request to fill a vacancy in a Circuit Court Clerk's office will be approved in accordance with the attached 2015 staffing guidelines.
 - (a) A request to fill a general-fund vacancy in a Circuit Court Clerk's office will only be approved if the Circuit Court Clerk has no restricted-fund employees.
 - (b) If the Circuit Court Clerk has an employee in a position that is funded by Drivers' License (DL) restricted funds, the Circuit Court Clerk must move the DL restricted-fund employee with the most seniority, based on Court of Justice continuous years of service, to the general fund vacancy.
 - (c) If the Circuit Court Clerk has no DL restricted-fund employees but has an employee in a position that is funded by Master Commissioner (MC) restricted funds, the Circuit Court Clerk must move the MC restricted-fund employee with the most seniority, based on Court of Justice continuous years of service, to the general-fund vacancy.
- (7) Administrative Office of the Courts
 - (a) An AOC Program or Department requesting to fill a vacancy must list and prioritize all its vacancies on the Vacancy Request form.
 - (b) An AOC Program or Department with a general-fund vacancy may move a restricted-fund employee with the most seniority, based on Court of Justice continuous years of service, to the general fund vacancy.

C. Appeal from Denial of Request

Appeals from AOC's denial of any request made under this provision must be made to the Chief Justice, who will determine whether filling of the vacancy is necessary to continuity of operation of the KCOJ.

This Order is effective May 15, 2020, and until further orders of the court.

Entered this 14th day of May 2020.


CHIEF JUSTICE

All sitting; all concur.

CIRCUIT CLERKS STAFFING GUIDELINES

August 2015

Guidelines for filling vacancies

1. 4.5 FTE or less – fill position
 2. 5 FTE –
 - a. Understaffed - fill position
 - b. Overstaffed – guidelines below will be taken into consideration
 3. More than 5 FTE –
 - a. Understaffed - fill position
 - b. Overstaffed - guidelines below will be taken into consideration
 4. Clerk notified of decision through regular vacancy request process
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Guidelines for reallocation of overstaffed positions from a county

1. 4.5 FTE or less – exempt
 2. 5 FTE –
 - a. Consistently overstaffed over a 3 year period
 - b. Consistently declining caseload over a 3 year period
 - c. Convert vacant full-time position to part-time if criteria in A & B are met
 - d. Will not go below 4.5 FTE
 3. More than 5 FTE -
 - a. Consistently overstaffed over a 3 year period
 - b. Consistently declining caseload over a 3 year period
 - c. Number of physical locations
 - d. If overstaffed less than 2 FTE – position may be reallocated or converted to part-time
 - e. If overstaffed 2 FTE or more – reallocate position(s)
 4. Notify Clerk
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Guidelines for receiving a reallocated position

1. Consistently increasing caseload over a 3 year period
2. Consistently increasing population (compare last three censuses)
3. Compare percentage understaffed over a 3 year period
4. No county shall receive more than 1 FTE in a fiscal year
5. Notify Clerk