

Policy Guidelines for Definition of “Employee” at La. R.S. 11:1503(4)

La. R.S. 11:1501 et seq. provides for the membership in Clerks’ of Court Retirement and Relief Fund (“LCCR”). La. R.S. 11:1503(4) defines as “Employee,” entitled to enroll in LCCR, the following:

“Employee” means any regular employee of a clerk, minute clerk, and employees of the Louisiana Clerks of Court Association, the Louisiana Clerks’ of Court Retirement and Relief Fund, and the Louisiana Clerks of Court Insurance Fund, who works more than an average of twenty hours per week. Any court reporter employed by either Orleans Parish or East Baton Rouge Parish who was enrolled in the fund on or before July 1, 2001, shall be allowed to remain in the fund as a member or active member of the fund and to become eligible to receive retirement benefits as required by law.

There has been some confusion and inconsistency between the various courthouses as to which employees are validly Clerk of Court employees and should be enrolled in LCCR. This document outlines the policy established by LCCR to define the “regular employee of a clerk” in order to determine who should be properly enrolled in LCCR, in order to have a consistent policy. It will continue to be the policy of LCCR that the employer certify that the list of employees for whom contributions are being made on a periodic basis fits these guidelines for LCCR.

Judicial District Court System

For all employees working at the judicial district court there has been little confusion in the past few years as to the definition of employee as found at LA R.S. 11:1503(4) and all employees regularly employed by the Judicial District Clerk should be included.

Court of Appeal

There has been inconsistency among the circuits as to the classification of employee, i.e. whether someone is an employee of the clerk’s office, and thereby in LCCR, or an employee of the judges, therefore a member of LASERS. It is the policy of LCCR, as of January 1, 2011, that employees of the judges are not considered to be employees of the clerk and that these employees are the following:

1. Judge’s personal secretary
2. Judge’s personal lawclerk
3. Everyone in Central Staff

It is the policy of LCCR, as of January 1, 2011, that everyone else employed at the court of appeal is a clerk’s employee, and therefore a member of LCCR, including, but not necessarily limited to:

1. All personnel working directly in the clerk's office
2. All IT staff
3. All security staff
4. All couriers

In order to avoid confusion in the future, any and all additional positions established at a court of appeal that do not fit in a category named above will generally be in LCCR when that position serves the Clerk of Court or serves both the Clerk of Court and the judges. If any new position is established which serves just a judge, that position should not be included in LCCR.

Supreme Court

Beginning January 1, 2011, the following personnel at the Supreme Court should be considered employees of the Judiciary and therefore not employees of the Clerk:

1. Judge's personal secretary
2. Judge's personal lawclerk
3. Everyone in Central Staff
4. Judicial administrator and all employees under him/her

It is the position of LCCR as of January 1, 2011 that all remaining personnel at the Supreme Court should be enrolled in LCCR unless there is a position that services solely the judges. If a position services the clerk's office or services both the clerk's office and the judge's office, that person should be enrolled in LCCR.

Effect on Current Enrollment

LCCR is cognizant of the fact that not every employee has been enrolled properly based on the policy definition stated above. In all instances of which LCCR is aware, the confusion has been between enrollment in LCCR and in LASERS. Both LCCR and LASERS have confirmed the below policy for employees enrolled in either system as of December 31, 2010:

- 1) An employee currently enrolled in its system may continue to be enrolled in that system regardless of whether the above scheme would dictate a different system.
- 2) If an employee desires to transfer into LCCR or LASERS as dictated by the formula above, that employee shall be allowed to do so under the same terms and conditions by which he or she could move from employment in one system to employment in another as per LA R.S. 11:141 et seq.
- 3) The employee may elect to maintain the membership service credit in the system in which he or she is currently enrolled, and simply apply by new application to join the system in which the above definition would require enrollment.