

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date

2/27/2020

2. Department

California Law Revision Commission (CLRC)

3. Organizational Placement (Division/Branch/Office Name)

Executive Management Team

4. CEA Position Title

Chief Deputy Director

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)

CLRC proposes to allocate the above position to the CEA category. The Chief Deputy Director will be responsible for administration and policy development for an important new CLRC program, which was created in the 2019-20 State Budget – CLRC will be conducting an open-ended substantive review of the Penal Code, for the purpose of recommending and drafting specific statutory reforms.

6. Reports to: (Class Title/Level)

Executive Director, CLRC (Exempt)

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain):

8. Organizational Level (Select one)

- 1st
- 2nd
- 3rd
- 4th
- 5th (mega departments only - 17,001+ allocated positions)

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

The CEA will have responsibility for the creation and administration of a major new program, the Committee on Revision of the Penal Code. That Committee will conduct a high-profile substantive review of existing law on the punishment of crimes and the rehabilitation of criminal offenders. The Committee will draft and recommend specific statutory reforms to increase the fairness of the existing system and reduce the rate of incarceration, without compromising public safety. The resulting changes are likely to have major statewide effects on the social and fiscal costs of incarceration.

The program is being created from the ground up and must begin effective operation immediately. Creation of the program will require substantial administrative work and the development of new policy on how the Committee will operate. The necessary operational policies will address all of the following:

- The relationship between the Committee, the Governor, the Legislature, stakeholder groups, academic experts, and the general public.
- The process by which the Committee will prioritize its work.
- The process by which the Committee will conduct its work.
- The collection and analysis of empirical data.
- The safeguarding of highly personal and legally-protected data that will be gathered for empirical analysis.

The duties of the CEA will be:

- Developing and implementing the policies described above.
- Administration of the Committee (e.g., budget, personnel, facilities, etc).
- Supervising and overseeing the work of the legal staff who support the Committee (Attorney IV and Attorney).
- Providing legal services, of the most difficult nature, in direct support of the Committee.
- In addition, the CEA will perform similar duties for the existing CLRC.

The CEA will report to the CLRC's Executive Director. The work performed by the CEA will be the product of close coordination with the Executive Director and the Chair of the new Committee.

The CEA will act as the Executive Director in his absence.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: For the last 66 years, the CLRC has been responsible for studying problems in the law (on topics that have been specifically authorized by the Legislature) and recommending statutory reforms to solve them. Over that period of time, more than 90% of the CLRC's recommendations have been enacted into law, affecting more than 25,000 code sections. Among other accomplishments, the CLRC drafted the Evidence Code, Family Code, and Probate Code.

When the Governor decided to conduct a major substantive review of the Penal Code and recommend reforms, he assigned that function to the CLRC. He directed the creation of a new and independent body, to be operated as part of CLRC's staffing and budget (which were both augmented).

The new program effectively doubles the CLRC's existing workload. It will also significantly heighten public scrutiny of the CLRC's work. Criminal justice reform is a politically sensitive topic, with major social and fiscal consequences.

Success with this new program will require the development of a new set of policies and procedures.

It would be very easy for this program to fail, if it were to become bogged down in the immense scope of its authorized work or in the polarized politics that surround the topic. Careful planning and good judgment will be required to guide the new body onto a successful and enduring path.

If the new program were to fail, it is quite possible that the failure would impair the work of the existing CLRC. Part of what accounts for the CLRC's high level of success over the years is its reputation for carefulness and fairness. If that reputation were tarnished, the whole agency could suffer. That is why it is critical, especially in the early years of the new program, that it be overseen by a person with the judgment and expertise that the CEA would bring.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

Under the existing organization structure, the CLRC is managed by the Executive Director (an exempt position) and the Chief Deputy Counsel, CLRC ("management team"). The Chief Deputy Counsel's classification has been identified for elimination when it becomes vacant (per Pay Letter 1608, the position has been footnoted 24). The Chief Deputy Counsel reports directly to the Executive Director

The management team is responsible for the administration of the agency, the establishment and maintenance of policy, and the direct supervision of the agency's rank and file attorneys. Both managers also perform legal work, of the most difficult nature, in support of the CLRC's mission.

On January 1, 2020, the Committee on Revision of the Penal Code was created as part of the CLRC. See Gov't Code § 8280; 2019 Cal. Stat. ch. 25, § 2.

Two full-time attorneys will be added to the staff to support the new program (an Attorney IV and an Attorney).

This will effectively double the CLRC's responsibilities and the size of its rank and file legal staff. The addition of the CEA would help to address this significant increase in responsibility and staffing, in two significant ways:

(1) The CEA would oversee the administration and policy development for the new program. This would provide an important resource to the CLRC's launch of the new program and its maintenance over time.

(2) The creation of the CEA, at the requested salary, would eliminate severe salary compaction that would otherwise result from the hiring of an Attorney IV to support the new program. The Attorney IV classification's salary is significantly higher than that of the existing Chief Deputy Counsel.

Creating the CEA to manage the work of the Attorney IV would eliminate that compaction, because the CEA salary would be requested at 5% higher than that of an Attorney IV.

This would enable the CLRC to maintain its existing management team structure of the Executive Director and a Chief Deputy, to oversee CLRC's expanded responsibilities and staffing.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

(1) The CEA will need to develop policy for managing the relationship between the new Committee and the public. There is expected to be keen public interest in the work of the Committee, from a wide range of grassroots groups and professional organizations. All of those groups will want to be heard and have their views taken into account by the Committee.

The volume of public input anticipated could easily swamp the resources of the new Committee if it is mismanaged. The CEA will need to develop systems for managing the input in a way that gives the Committee the information that it needs without overwhelming it. The policy will also need to ensure that public groups perceive that their views are being taken seriously.

(2) The CEA will need to develop policy for acquiring empirical data. This will involve obtaining comprehensive records from the Department of Justice and the Department of Corrections and Rehabilitation. Those records contain sensitive personal information that is protected by general privacy law and laws specific to the records themselves.

(3) The CEA will need to develop policy on how to store and use such data without compromising its security. This will be complicated by the likelihood that CLRC will work with third party data processing contractors to structure and analyze the data.

(4) The CEA will need to develop a governmental relations policy. This policy will determine how the Committee communicates with the Governor, Legislature, and other affected public entities (CDCR, DOJ, law enforcement, counties, etc.)?

(5) The CEA will need to develop a public relations policy. Historically, the CLRC has received very few press inquiries. That is likely to change once the new program has launched. There is likely to be regular and intense press interest in the Committee's work. This policy will determine who will handle such inquiries and what posture to take in answering them.

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

Working in close collaboration with the Executive Director and the appointed Chair of the new Committee, the CEA would develop policy for the new Committee. The CEA would also have administrative responsibility for components of the new program.

As a lead attorney working in support of the new Committee, the CEA would have advisory input into the Committee's decision making process. CLRC experience shows that such input by staff attorneys can have a significant effect on the recommendations made by the CLRC. That would likely also be true for the new Committee, in which case, the CEA would indirectly influence policy that affects tens of thousands of people statewide.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

The CEA will be involved in developing policy for a newly created body. While the CEA can use the CLRC's existing policies as a starting point, there will undoubtedly need to be significant changes made to reflect the special character of the new Committee's mission.