

MEMORANDUM

State of Alaska
Department of Administration
Division of Personnel

To: Mila Cosgrove, Director
Division of Personnel
Department of Administration

Date: December 30, 2004

Thru: Lee Powelson
Classification Manager
Department of Administration

From: Diane Larocque
Human Resource Specialist

Phone: 465-3837

Fax: 465-2576

Email: Diane_Larocque@admin.state.ak.us

Subject: Administrative Law Judge Study

History

Senate Bill 203 passed by the legislature in 2004 established the Office of Administrative Hearings (OAH). The stated intent of this legislation was to provide an independent panel of investigators to conduct impartial hearings thereby ensuring fair and due process to those parties seeking formal hearings and whose affairs are controlled or regulated by state agencies. Prior to this bill, Hearing Officers and Examiners presided over adjudicative hearings while serving as agency representatives for individual Executive Branch agencies.

Scope

The study was limited to the adjudicative positions located in the Department of Administration, the Department of Revenue, and the Department of Community and Economic Development scheduled to be transferred to OAH effective January 1, 2005.

Method

The Chief Administrative Law Judge (ALJ) from OAH submitted draft class specifications for those positions which were scheduled to be assigned to OAH. Following the review of the draft specifications, DOP interviewed the Chief ALJ, revised the drafts, and returned the revised draft for final review and comment. Positions were allocated, internal alignment and salary comparisons made, and the study was finalized.

Class Concepts

The Administrative Law Judge I is the journey level of the series. Incumbents preside over and conduct formal administrative hearings on behalf of multiple state agencies and prepare recommendations or final decisions on formal proceedings related to agency programs or other government related hearings referred to the Office of Administrative Hearings.

The Administrative Law Judge I performs at the journey level to prepare for and preside at formal hearings, and considers the evidence presented by the parties to the proceeding. Following the hearing and the submission of documentary evidence and briefs, the Administrative Law Judge I issues an initial decision that contains findings of facts and legal conclusions. A portion of completed work is reviewed by higher level Administrative Law Judges and final decisions are adopted by higher level Administrative Law Judges or high level agency decision makers such as Commissioners, boards or commissions.

The Administrative Law Judge I is distinguished from the Administrative Law Judge II by the added responsibility of the Administrative Law Judge II to provide peer review and training to administrative adjudicator staff internally and throughout state government, exercise the authority to adopt final decisions in those cases where authority has been granted, and by the assignment of regular and recurring complex work. Complex work is characterized by those cases lacking clear precedents, involve difficult policy issues, and have the potential for significant ramifications. The occasional performance of higher level duties or the performance of these duties for skill development or under close supervision does not meet the intent of the Administrative Law Judge II job class.

Administrative Law Judge I is distinguished from Hearing Officers and Hearing Examiners by the Hearing Officer and Examiner limitations in jurisdiction, and the assignment of cases specifically related to their agency programs.

The Administrative Law Judge II is the advanced level of the series. Incumbents preside over and conduct formal administrative hearings on behalf of multiple state agencies, and prepare recommendations or adopt final decisions on formal proceedings related to agency programs or other government related hearings referred to the Office of Administrative Hearings. The Administrative Law Judge II provides peer review to the Administrative Law Judges I and training to state adjudicative staff.

The Administrative Law Judge II performs at the advanced level to prepare for and preside over formal hearings. Following the hearing and the submission of documentary evidence and briefs, the Administrative Law Judge II prepares recommended or final decisions on formal proceedings that are subject to the provisions of the laws administered by the agencies. For those cases where authority has been delegated, the Administrative Law Judge II has the authority to adopt final decisions. Assigned work most often involves the more complex cases. Complex cases are characterized by those lacking clear precedents, involve difficult policy issues, and have the potential for significant ramifications. In addition, Administrative Law Judges II provide peer review to Administrative Law Judges I, and training to other state adjudicators, Hearing Officers, and staff.

The Administrative Law Judge II is distinguished from the Chief Administrative Law Judge by the Chief's responsibility for planning, establishing, and implementing policies and procedures governing the administrative and adjudicating functions of the Office of Administrative Hearings.

Administrative Law Judge II is distinguished from Administrative Law Judge I by the limited authority of the Administrative Law Judge I to adopt final decisions, provide peer review and training, and by the assignment of less complex cases.

Administrative Law Judge II is distinguished from Hearing Officers and Hearing Examiners by the Hearing Officer's and Hearing Examiner's limitations of jurisdiction within an agency and the assignment of cases specifically related to that agency's programs.

Analysis

The Office of Administrative Hearings was established under Senate Bill 203. Under mandate of this bill, the newly appointed Chief Administrative Law Judge was assigned the responsibility to organize, administer, and supervise OAH and to hire, supervise, and assign cases to staff.

Unlike hearing officers and examiners in other state agencies, the jurisdiction of Administrative Law Judges cross multiple state agencies and may also include hearings referred from outside state government. Working with a wider range of legal issues and questions results in complex and non-recurring fact patterns requiring incumbents to exercise a high degree of administrative discretion. Positions may also be delegated greater authority to adopt final decisions. The Administrative Law Judge series was created in order to identify and distinguish the work of employees in OAH from hearing officers and examiners located in individual state agencies.

Discussions with the Chief, Administrative Law Judge identified two distinct levels of administrative law work: journey and advanced. The class specifications clearly define and distinguish the work of the series, allow for career progression, and meet the minimum qualifications established by Senate Bill 203.

Internal Alignment

The state's pay plan, as mandated by the state constitution and statutes, is governed by the merit principle and includes "integrated salary programs based on the nature of the work performed." The pay plan is based upon the state's classification plan, provides for fair and reasonable compensation for services rendered, and reflects the principle of "like pay for like work." In achieving this principle, internal consistency is the primary consideration when setting the salary range of a job class. This internal consistency reflects the difficulty, responsibility, knowledge, skills and other characteristics of a job.

Administrative Law Judges I and II are professional positions that complete a body of work involving a similar knowledge base, subject areas, and level of legal expertise. At the same time, there is a difference in complexity factors and the authority exercised between both levels. Minimum qualifications established by mandate indicate that incumbents at the journey level must have been admitted to practice law in this state for at least two years. Minimum qualifications for the advanced level are left to the discretion of the Chief Administrative Law Judge.

Administrative Law Judges I are the journey level in the series. Incumbents face a wide range of complex cases, legal issues, questions, and determinations while presiding over formal hearings

on behalf of multiple state agencies and possibly other government related hearings. Incumbent recommendations for final decisions may be presented directly to Commissioners and Boards.

Possible comparisons include:

Hearing Officers (P1925, SR 21); Worker's Compensation Hearing Officer (P4697, SR 21); Appeals Referee III (P4664, SR 21); Attorney III (P7144, SR 22); Revenue Hearing Examiner (P1268, SR 22); Hearing Examiner (P2380, SR 24); and Attorney IV (P7145, SR 24)

The list of comparable classes includes positions that conduct hearings to decide or recommend decisions on claims concerning government programs or other government related matters. The Hearing Officers and Appeals Referee have limited jurisdiction by presiding over cases specifically related to their agency program. As such, the range of legal issues, questions, and determinations is narrower than those encountered by the Administrative Law Judge I. Whereas Hearing Officers and Appeals Referees handle cases within a narrow range, fact patterns often recur, lessening the complexity of those cases assigned. Some knowledge and understanding of the laws governing and administered by the agency is required.

Revenue Hearing Examiners and Attorneys III are often assigned cases that are more complex due to lack of clear precedents or factual complexity. Incumbents are required to possess sufficient knowledge of general legal principles and their application, state statutes, and federal laws and their judicial interpretation and precedents to perform duties and prepare proposed changes to regulations. At the Attorney III level, completed work is typically reviewed for substantive findings and conclusions. Likewise, Administrative Law Judges I will generally be assigned the less complex cases and will be subject to peer review. Administrative Law Judge I is most closely comparable to the Attorney III.

Attorneys IV are the advanced level in the series. Incumbents work on a wide range of complex cases, legal issues and questions, often times assisting senior staff with the most complex and exceptional cases. The Attorney IV works independently and may provide supervision and training to other attorneys. Likewise, at the advanced level, the Administrative Law Judge II is generally assigned the more complex cases and may be granted a higher level of authority to adopt final decisions. The knowledge, level of complexity and authority are similar to that found at the Attorney IV. The Administrative Law Judge II possesses sufficient knowledge to provide peer review and training to the Administrative Law Judge I and outside staff. Administrative Law Judge II is most comparable to the Attorney IV.

Conclusion

Two new job classes, Administrative Law Judge I & II are established effective January 1, 2005, and assigned to SR 22 and SR 24, respectively.

Attachment

ecc: Eric Swanson, Director
Division of Administrative Services
Department of Administration

Management Services – General

Employee Services – General Recruitment

Technical Services – General

Employee Records (Original memo and PD)