

# MEMORANDUM

**State of Alaska**  
**Department of Administration**  
**Division of Personnel**

**To:** Melanie Millhorn  
Human Resource Manager  
Department of Administration

**Date:** May 23, 2003

**Thru:** Lee Powelson  
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**Subject:** Driver Improvement Specialist (Motor Vehicle Hearing Officer) Study

## **Introduction**

The Department of Administration, Division of Motor Vehicles (DMV) requested a study of the Driver Improvement Specialist (P7762, SR 16) job class to develop a revised class specification emphasizing the increased responsibility of the class to conduct quasi-judicial administrative hearings regarding the licensing, titling, and registration actions taken by the DMV, to consider creation of an entry trainee level, and to review salary placement.

## **Class History**

The Driver Improvement Specialist job class was created on January 1, 1975, as a three level series with an entry trainee level (SR 15); journey working level (SR 16); and working leader in charge of driver improvement in a region (SR 17). The class was designed to “monitor, administer and supervise the statewide driver improvement and traffic safety program.” On May 1, 1976, the series was collapsed into one level called Driver Improvement Specialist, SR 16. Since the series was collapsed, no major changes occurred to the class specification other than minimum qualification revisions and the addition of distinguishing characteristics.

In 1998 the Department of Administration’s Human Resource Office (DOA HRO) conducted a review of the Chief, Driver Improvement and Driver Improvement Specialist job classes, and determined the duties performed by the positions in those job classifications were properly classified. The DMV again asked for reconsideration of this determination, which resulted in the present study. On December 13, 2001, the DOA HRO submitted a memorandum explaining their recommendation regarding the salary placement for this class.

The Chief, Driver Improvement (P7764, SR 19) was created on November 16, 1977, to be the DMV expert in applying statutes, regulations, reviewing driving records, administering demerit points systems, supervising the Driver Improvement Specialists, and acting as the chief hearing officer. The Chief, Driver Improvement job class has not been filled since July 1, 2000, when the incumbent at the time was classified to Driver Licensing Manager. The DOA HRO has recommended abolishment of this class in their December 13, 2001, memorandum.

### **Scope**

This study includes all positions currently allocated to the Driver Improvement Specialist job class, and the Chief, Driver Improvement job class. There are currently three positions in the Driver Improvement Specialist class, all of which are located in Anchorage and supervised by the Driver Licensing Manager (P7761, SR 21).

### **Method**

DMV provided updated Position Descriptions (PDs) for two of the positions. A third PD had been written a couple of months after the PDs submitted for the study; they are all identical. Work review included listening to an audio tape of an actual hearing and interviews with the supervisor and the most experienced incumbent. Division of Personnel's (DOP's) analyst drafted class specifications, received comments from the DOA HRO and DMV, and revised the drafts. DOP allocated positions to the class, conducted an internal alignment analysis for range assignment, and finalized the study.

### **Contacts**

The following individuals were contacted during the course of this study: Kerry Hennings, Driver Licensing Manager; Rebecca Janik, Driver Improvement Specialist; Jim Douglas, Juneau City & Borough Attorney; Tim Terell and Marilyn Kamm, Department of Law Assistant Attorneys General responsible for handling DMV appeals to the Superior Court; and Dan Kassner, Appeals Referee II with the Department of Labor.

### **Class Analysis**

The DMV is required by AS 28.05.131 to provide the public with the opportunity for an administrative hearing whenever license, registration, title, permit, or other related privileges are suspended, revoked, cancelled, limited, restricted, or denied or a vehicle is impounded by the department. The hearing officer is not required by statute to be an attorney, but must be impartial and may not have participated in the decision that is under review. The hearing officer is not required by statute to file a full opinion or make formal findings of fact or conclusions of law, but must state the reasons for the determination and indicate the evidence relied upon. With a few exceptions, hearing decisions are given verbally at the close of the hearing. The hearings are recorded, and are typically conducted telephonically; however, if the hearing officer finds that a telephonic hearing would substantially prejudice the rights of the person involved in the hearing, an in-person hearing is held.

When the job class was created in 1975 there were three levels, all of which were collapsed into one on May 1, 1976. The focus of the work at the time was concentrated on driver improvement programs, identifying individuals having demonstrated hazardous or potentially hazardous driving habits, recommending courses, training, or counseling to correct the specific problems, and conducting administrative hearings. The supervisor confirmed the positions have not been performing driver improvement interviews and associated duties, as the number and variety of hearings have increased due to statutory amendments over the years. This has resulted in the incumbents spending the majority of their time conducting administrative hearings of a variety not present when the series was initially created. Now, a complicating factor is the necessity of having to consider case law to determine if an individual's rights were violated at any time

during the process that ultimately resulted in the licensing action. The hearing officers regularly deal with the legal council of individuals who request hearings; the councils often use the hearing as a screening device to find out about the case before their client must appear in court. Presently, the positions hear a high number of cases a week (as many as nine a day were reported), of which a small percent are appealed to Superior Court. A discussion with the Office of the Attorney General's staff indicated the hearing officers are contacted when an appeal is received to explain to the Office of the Attorney General what was decided in the hearing. The supervisor stated she is not involved in the original hearing; however, she is involved at the appeal level. This involvement entails determining whether an error was made in the hearing officer's decision regarding the case and making a recommendation to the Office of the Attorney General whether to drop the case or proceed with the appeal.

Initially, the hearings consisted of proceedings that focused on demerit point accumulation and noncompliance with insurance laws. Since then, the legislature has enacted additional administrative hearing procedures in such areas as drunk driving offenses and loss of driving privileges for minors. These additional areas are complicated by case law. For instance, while the statute states the hearing is limited to whether the officer had probable cause to believe a person was driving or operating a motor vehicle, case law has required the scope change from considering just this factor to whether the individual's rights were violated at all during the process.

This job class is differentiated from other "hearing officer" related classes such as Hearing Officer, Disability Hearing Officer, Workers' Compensation Hearing Officer, and Appeals Referee by its focus on issues relating to motor vehicle law. When possible, research of case law is performed before the hearing is held; for example, in a driving-while-intoxicated case, research is performed before the hearing about what case law applies when an issue about whether the right to an independent test was or was not given. Hearings such as this are often conducted with facts determined by reports submitted by police and testimony from other individuals. Often tapes of the actual conversations are available. Unlike several other hearing officer classes, the MVHO is not required by statute or policy to issue written decisions for all cases, although there are instances when they do so. Decisions are written for issues such as the denial of titles and vehicle impounds and for some cases containing new issues which require a considerable amount of case law citation; this work is performed less than 30 percent of the time.

As part of this study the Division of Personnel was asked to examine the feasibility of creating an entry level hearing officer for the series. At a minimum, a new employee is given material such as the Hearing Officer's Manual issued by the Department of Law, applicable case law, and other training guides, and is expected to self-study. As time and funding permits, employees are sent to out-of-state training courses. Analysis of the history of newly hired incumbents and existing work indicates there is a reasonable expectation that a new employee would be conducting hearings independently within the year probationary period; therefore, it has been determined an entry level class is not necessary.

The minimum qualifications for the job class were determined by reviewing the qualifications of the current incumbents and other information gathered during the study. The qualifications of the current employees support the minimum qualifications listed in the class specification, and

are further supported by the knowledge, skills and abilities required. While legal knowledge is beneficial and knowledge of case law is required to fully perform the duties of the position, an incumbent is expected to gain this knowledge within the year-long probationary period; the incumbents' level of experience and success in performing the duties of the position indicate a law degree is not necessary to conduct these hearings.

### **Class Concepts**

Motor Vehicle Hearing Officers independently conduct informal adversarial hearings relating to the substantive rights and obligations of individuals subject to the provisions of motor vehicle statutes and regulations. This is a professional level class which renders oral and written decisions on a variety of Division of Motor Vehicle actions, as well as actions relating to license revocations taken by law enforcement officers outside of state government.

Motor Vehicle Hearing Officer is distinguished from Driver Licensing Manager by the Driver Licensing Manager's responsibility for supervising a comprehensive statewide mission involving three basic functions: drivers' licensing, driver improvement and partnership development and support programs.

Motor Vehicle Hearing Officer is distinguished from the Appeals Referee, Disability Hearing Officer, and Workers' Compensation Hearing Officer job classes by the responsibility of these classes to conduct hearings specifically relating to unemployment insurance, Social Security and/or Supplemental Security Income benefits, and Workers' Compensation claims, respectively. Positions in these job classes conduct hearings and prepare written decisions and orders regarding an individual's entitlements under state and federal laws.

Motor Vehicle Hearing Officer is distinguished from the Hearing Officer job class by the Hearing Officer's responsibility for investigating alleged violations of state statutes and regulations. The Hearing Officer job class is responsible for conducting hearings regarding complaints, petitions, or alleged violations and issuing determinations on actions taken by personnel in all State of Alaska agencies and in those outside state government, but within its jurisdiction.

### **Internal Alignment Analysis for Salary Placement**

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 of the pay plan is the primary consideration when setting the salary range of a job class. Such internal consistency reflects the difficulty, responsibility, knowledge, skills and other characteristics of a job. To conduct internal comparisons, job classes of a similar nature, kind and level are selected from the same job family and group or related job families.

Currently the Driver Improvement Specialist job class is within the Law Enforcement family of the Legal, Judicial and Law Enforcement group, a group which includes various Public Safety peace officers, investigators, and fingerprint examiners. Two other DMV job classes are also

included in this group: Driver Licensing Manager (SR 21) and Chief, Driver Improvement (SR 19). As previously stated, The Chief, Driver Improvement is vacant and will be abolished, and the duties and responsibilities of the Driver Licensing Manager are not comparable.

Upon review of the class group and family, it is more appropriate to include the MVHO and other hearing officers under a new family within the Legal, Judicial and Law Enforcement group called Administrative Law Judges, Adjudicators, and Hearing Officers into the P72XX assigned class codes. This new family includes classes of positions which conduct hearings to decide or recommend decisions on claims concerning government programs or other government-related matters and prepare decisions. Positions determine penalties or the existence and the amount of liability, or recommend the acceptance or rejection of claims, or compromise settlements.

For purposes of internal alignment, the predominant factors used when comparing the MVHO with other job classes included the nature, variety and complexity of the work; level of authority and independence; and the knowledge, skills, and abilities required. Job classes used for consideration include hearing officers found within other families and groups, and other classes which are involved with hearings or involved in researching, interpreting and analyzing statutes and regulations. Job classes considered for their similarities to the above factors were found in the Business Regulation and Compliance family (Regulation Specialist II); Labor and Employment Services family (Appeals Referee I & II); Vocational Rehabilitation family (Disability Hearing Officer) and Legal, Judicial and Law Enforcement group (Regulatory Commission Alaska Process Coordinator, Paralegal II, Associate Attorney I).

Because of the similarity in work performed in the area of conducting quasi-judicial hearings, several hearing officer job classes from other job groups were considered, but determined not comparable to the predominant factors used for this alignment analysis. These are Hearing Examiner, Hearing Officer, Workers' Compensation Hearing Officer, and Revenue Hearing Examiner I. The level of complexity and responsibility of these classes is greater in scope than that of the MVHO.

The MVHO's nature of work and level of authority and independence is greater than that of the range 16 classes reviewed (Regulation Specialist II and Paralegal II). These classes are responsible for duties such as conducting research, investigating, preparing reports and drafting legal documents; however, they do not have the level of independence and decision-making authority found in the MVHO. Allocation to SR 16 is not appropriate.

Associate Attorney I (SR 17) is responsible for serving as an associate to one or more attorneys or judicial officers, performing difficult assignments in assisting the legal staff in litigation, providing routine legal information and advice developed by attorneys, drafting reports and correspondence dealing with departmental programs, policies and action under direction of attorneys. Appeals Referee I (SR 17) is an entry trainee level to the unemployment hearing officer series. Both classes have a lower level scope and authority than that of the MVHO; therefore, assignment to SR 17 is not appropriate.

The journey level Appeals Referee II (SR 19) and the Disability Hearing Officer (SR 19) independently conduct hearings regarding a focused area of law (unemployment insurance,

social security disability), weigh testimony, conduct research, and issue written decisions. While the subject matter of the hearings for these two classes is focused to that of a specific area of law such as that of the MVHO, the testimony heard, research materials used, and the requirement that all decisions be written indicate a higher level of complexity than that of the MVHO; therefore, allocation to SR 19 is not appropriate.

The Regulatory Commission Alaska (RCA) Process Coordinator (SR 18) determines the appropriate statutes, regulations, case law or other precedents to be used in support of formal RCA decisions through independent information gathering and review; attends hearings, and pre-hearing conferences and RCA meetings on utility and pipeline proceedings. The level of responsibility; required knowledge, skills, and abilities; and overall scope of this class is most comparable to the MVHO.

The MVHO has greater independence and responsibility than those listed in the SR 16 and 17 classes, but does not have the same level of complexity as that found in the SR 19 classes used in this analysis; therefore, allocation to SR 18 is most appropriate.

### **Conclusion**

The work performed by the incumbents currently classified as Driver Improvement Specialist (P7762) is more accurately described as a single-level class with the new title and class code of Motor Vehicle Hearing Officer (P7210). The correlating Standard Occupational Code for this group is 23-1021, Administrative Law Judges, Adjudicators, and Hearing Officers; EEO4 code B. The scope of the work has changed sufficiently to warrant allocation from salary range 16 to salary range 18. Currently there are no positions performing work as described in the Chief, Driver Improvement (P7764) and Driver Improvement Specialist (P7762) job classes; these classes are abolished. The above changes are effective June 1, 2003.

### **Position Analysis**

PCNs 02-9514, 12-5222, and 12-5223 are currently allocated as Driver Improvement Specialist. The PDs indicate identical work is being performed by all three. The primary duty for all positions is to independently review departmental actions regarding licensing, titling, and vehicle impounds by presiding over quasi-judicial, adversarial, administrative hearings. PCNs 02-9514, 12-5222, and 12-5223 are allocated to Motor Vehicle Hearing Officer effective June 1, 2003. A worksheet listing the classification actions taken on positions included in this study is attached.

Attachments: Motor Vehicle Hearing Officer Class Specifications  
Allocation Worksheet