

MEMORANDUM

State of Alaska
Department of Administration
Division of Personnel

To: Mila Cosgrove
Director

Date: December 1, 2005

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Subject: Deputy Chief Administrative Law Judge Study

Preamble:

In the spring of 2004, through passage of Senate Bill 203 the Office of Administrative Hearings was established within the Department of Administration. Subsequently, new job classes for the Chief Administrative Law Judge and Administrative Law Judges I – II were established, and positions were established and filled. In early October 2005, the new Office of Administrative Hearings requested establishment of an additional, supervisory level in the partially exempt Administrative Law Judge class series to oversee staff, handle the most complex case assignments and assist the Chief with management and administration of the Office. The Office's need to fill the position was high, and the Administrative Services Director agreed to reprioritize the Department's class study requests so that this study might be fast-tracked and receive immediate attention.

Study Scope:

This study focuses on a single position (PCN 021051) submitted for reclassification to a new, partially exempt, supervisory job class for the Office of Administrative Hearings.

Study Method:

The Department submitted proposed draft Administrative Law Judge III class specifications and an updated position description in early October 2005. After preliminary review of the materials and a general review of the Office's history, website and current job classes, a markup of the Office's proposed class specification was returned to the agency for comment. This analyst interviewed the Chief to clarify the Office's needs and the intent behind this proposed class. Following a second round of review and edits by both sides, the Chief accepted as final the class specifications for Administrative Law Judge III. An internal alignment analysis was conducted and preliminary findings were distributed to Personnel management and the Chief. The Chief provided written comments on the internal alignment analysis, and a related discussion was held among the Commissioner's Office, the Chief, and the Director of Personnel. Thereafter, the Commissioner's Office requested that we establish this position as the Deputy Chief Administrative Law Judge rather than an Administrative Law Judge III. Unlike the proposed Administrative Law Judge III job class, the Deputy Chief will be established as a single-position class.

The class specifications for the Administrative Law Judge III were set aside; after further review of the existing class specifications for the Chief Administrative Law Judge and other related job classes, draft specifications for the proposed Deputy Chief were provided to the Chief for review. Comments were received and final edits were made to the specifications. The Office submitted a revised position description for 021051, the position was allocated against the new specifications, the FLSA determination was made, and the range established based on the original internal alignment analysis and the Chief's comments about that analysis. During documentation of the study process, insufficient justification for one portion of the proposed minimum qualifications was noted, and that portion stricken from the final specifications.

History of Job Class:

The Deputy Chief Administrative Law Judge job class is being newly established effective December 1, 2005, to meet recently identified needs in the Office of Administrative Hearings, including adjudicating the Office's most complex cases, coordinating operations of the Anchorage office, and assisting the Chief with the Office's adjudicative and administrative functions.

Class Analysis:

The Deputy Chief Administrative Law Judge was proposed to serve as an adjudicative advisor and conduct the Office's most complex cases, supervise the Anchorage office, assist in the management and administration of the Office of Administrative Hearings' functions, and act for the Chief in his/her absence. Currently the Office staffs two locations, Juneau and Anchorage. The Chief is located in Juneau, and supervises an Administrative Law Judge II, two Is and a paralegal, and will supervise this new Deputy Chief position. The Deputy Chief will oversee Anchorage operations and supervise a team of an Administrative Law Judge II, one I, and two Law Office Assistant Is. After being in operation this past calendar year, the Office determined that there simply existed more management-level and supervisory work than the Chief alone could reasonably handle, and thus this right-hand position was proposed to Classification.

The state's classification plan provides for the grouping of positions into job classes when they are sufficiently similar with respect to duties and responsibilities, degree of supervision exercised and received, and entrance requirements so that: 1) the same title can be used to clearly identify each position; 2) the same minimum qualifications for initial appointment can be established for all positions; 3) the same rate of basic pay can be fairly applied to all positions; and 4) employees in a particular class are considered an appropriate group for purposes of layoff and recall. Job classes should be constructed as broadly as is feasible as long as the tests of similarity are met.

One aim of this study was to identify the appropriate portions of work currently assigned to the Chief, for which the Deputy Chief could provide assistance. This managerial, supervisory position is designed to serve as a bridge between the Chief and staff and among other things is anticipated to both bring greater order to staff, and strengthen the Office's peer review practice, thus ensuring greater likelihood of consistent application and interpretation of statutes, regulations, and established legal precedent by staff. The Deputy Chief is expected to devote a considerable percentage of time to conducting the Office's higher level, most difficult administrative hearings and preparing related decisions. Establishment of this position will thus

relieve the Chief of much time-consuming case work and allow the position to focus more exclusively on planning, establishing, and implementing policies and procedures governing the Office, as was the original intent of the Chief class. Although the Administrative Law Judges' focus is also on conducting formal hearings and recommending decisions on claims related to governmental programs, the Deputy Chief is distinguished from this job class series by its additional responsibility for assisting the Chief with policy development and implementation, management and supervision of office operations, and by experience in complex case management and knowledge of highly technical legal subjects.

Class Title:

A class title should be the best descriptive title for the work. It is intended to concisely and accurately convey the kind and level of work performed and should be brief, easily recognized, gender neutral, and understood by potential applicants.

“Deputy Chief Administrative Law Judge,” while somewhat of a mouthful, is in keeping with established State naming practices for classes for which a primary intent is provision of assistance to the agency's principal head.

Minimum Qualifications:

The minimum qualifications established for a job class must relate to the knowledge, skills, and abilities needed to perform the work and must not create an artificial barrier to employment of individuals in protected classes. Required training should be limited to the basic formal training that customarily prepares individuals for work in the field. Experience requirements are intended to ensure new employees can successfully perform the work after a period of orientation or familiarization. Required experience should be directly related to the actual duties of positions in the class and should not be equivalent to the work to be performed.

By law, professional staff of the Office of Administrative Hearings must be currently licensed to practice law in Alaska. The minimum qualifications for both the Chief and the Administrative Law Judges II require that applicants have been licensed to practice for the previous five years; after considerable discussion among Classification staff, the Deputy Chief's requirement shall also be set at five years. The Deputy Chief's requirement for experience in administrative law was elevated somewhat beyond the Chief's, due to the Deputy's predominant focus on conducting hearings versus the Chief's principal duty of oversight of the entire Office's policies, practices and functions. Since a statutory requirement of the Office is review of other State agencies' hearing-related regulations, it is reasonable to require prior experience in this area. And finally, supervision and training of legal professionals and support staff is a critical if relatively moderate-sized aspect of the job, and prior experience ensures the incumbent is prepared.

Class Code:

A Class Code is assigned based on the placement of the job class in the classification schematic of Occupational Groups and Job Families. Occupational Groups are made up of related Job Families and encompass relatively broad occupations, professions, or activities. Job Families are groups of job classes and class series that are related as to the nature of the work performed and typically have similar initial preparation for employment and career progression.

The Deputy Chief Administrative Law Judge job class is assigned the class code of P7234, within the P72xx job family, “Administrative Law Judges, Adjudicators and Hearing Officers.” This family exists under the broader umbrella of the P7xxx “Legal, Judicial and Law Enforcement” occupational grouping. Since the Chief is assigned P7231 and ALJs I – II are assigned P7232-7233, using P7234 most closely ties the new job class to those others.

Fair Labor Standards Act

The single position in this study is covered by the minimum wage and maximum hour provisions of the Fair Labor Standards Act of 1938, as Amended (FLSA). While exemption from the provisions of the Act are determined based on the specific circumstances of an individual employee on a work-week basis, there are general aspects of the classes and their influence on the exemptions for employees in bona fide executive, professional, or administrative positions that can be addressed in general.

The primary duty of the Deputy Chief to conduct administrative hearings and other proceedings in complex legal cases requires advanced knowledge in a professional field acquired by prolonged specialized education and experience. Therefore an employee occupying this full-time salaried position would meet the *professional* criteria for exemption from the FLSA’s overtime provisions.

Internal Alignment:

The salary range of a job class is determined based on internal consistency within the state’s pay plans, in accordance with merit principles, with the goal of providing fair and reasonable compensation for services rendered and maintaining the principle of “like pay for like work.” In evaluating internal consistency, the difficulty, responsibility, knowledge, skills, and other characteristics of a job are compared with job classes of a similar nature, kind, and level in the same occupational group and job family or related job families.

Few truly relevant comparison classes exist for the Deputy Chief Administrative Law Judge. Greatest similarities are apparent within the Office of Administrative Hearings, in the work of the Chief and the lead Administrative Law Judges II.

Senate Bill 203 not only established the Office of Administrative Hearings, but set in statute the salary range of the Chief Administrative Law Judge to be “a monthly salary that is not less than Step A nor more than Step F, Range 27, of the salary schedule in AS 39.27.011(a) for Juneau Alaska.” The Chief is appointed by the Governor, is subject to confirmation by the legislature, and reports on the Office’s functions directly to the Governor, legislature and on budget matters directly to the two finance committees. The primary duty of this position is to plan, establish and implement policy and procedures governing the administrative and adjudicative functions of the Office.

Administrative Law Judges II (R24) are the advanced level in their 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. Administrative Law Judges II provide peer review to the Administrative Law Judges I, and provide training to State adjudicative staff.

Situated between these two classes, the Deputy Chief job class shares elements of the responsibilities assigned to each. Like the Administrative Law Judges II, the Deputy is primarily responsible for the conduct of administrative hearings on behalf of numerous State agencies. However, those cases assigned to the Deputy are often of greater complexity than those handled by the Administrative Law Judges, and require greater depth of experience in administrative law and broader technical legal knowledge. Additionally the Deputy is assigned supervisory responsibility over Administrative Law Judges II and other staff, which is typically recognized with a two-range difference in the State classification system. The Deputy serves in an assistive capacity to the Chief in the management and administration of the Office's functions, and acts on behalf of the Chief in his/her absence. Based on these comparisons, the Deputy Chief job class is reasonably assigned to range 26.

Position Allocation:

PCN 021051 conducts hearings for complex administrative cases resulting from contested claims against State programs, characterized by a lack of clear precedents, difficult policy issues and the potential for significant ramifications. This position is assigned supervision of an office of both professional and support staff. The Deputy assists the Chief with planning, policy development, coordination and execution of the Office's administrative and adjudicative functions. As a technical advisor, the Deputy provides peer review to Administrative Law Judges and assists in the development and presentation of training to administrative adjudicators both within and outside of the Office. Finally, this position assists with the Office's statutorily required duty to monitor the administrative proceedings of other State agencies and review their draft regulations.

Based upon the new class specs, this position is appropriately allocated to the Deputy Chief Administrative Law Judge class at range 26, within the partially exempt service. The position meets the professional criteria for exemption under the Fair Labor Standards Act and is not eligible for overtime.

Conclusions:

The Office of Administrative Hearings requested establishment of an additional, supervisory level in the partially exempt Administrative Law Judge class series to oversee staff, handle the most complex case assignments and assist the Chief with management and administration of the Office. After thorough discussion at several levels, a single-position Deputy Chief Administrative Law Judge job class was established to meet these needs.

Effective December 1, 2005, PCN 021051 is allocated to the Deputy Chief Administrative Law Judge class.

Attachments:

Final class specifications

cc: Terry Thurbon, Chief Administrative Law Judge
Office of Administrative Hearings
Department of Administration

Eric Swanson, Director

Division of Administrative Services
Department of Administration

Management Services – General Group

Technical Services – General Group

Employee Services

Employee Records (original PD, FLSA worksheet & copy of memo)