

MEMORANDUM

State of Alaska
Department of Administration
Division of Personnel

To: Dianne Kiesel
Director

Date: May 23, 2006

Through: Sarah Brinkley
Class Studies Supervisor

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Subject: Public Guardian and Public Guardian Associate

Preamble:

Alaska State Employees Association (ASEA) requested a review of the Public Guardian job class for proper salary alignment on July 12, 2002, in accordance with Article 17.02 of the GGU bargaining agreement. It is unknown if a salary alignment review was conducted, as there is no written record contained within the class specification file. No modifications were made to the job class until a maintenance request was filed in July 2004, by the Office of Public Advocacy (OPA) requesting a broadening of the Minimum Qualifications. The requested changes were approved and posted November 5, 2004. The OPA manager requested a full study of the Public Guardian by the Classification Section, shortly thereafter. The full review was granted, with the condition that the Public Guardian Associate class be included in the study. Staffing shortages within the Classification Section delayed the study until August 31, 2005.

Study Scope:

This study is limited to the fifteen positions currently allocated to the Public Guardian and Public Guardian Associate job classes.

Study Method:

A telephone conference with two representatives of the OPA and the Classification section was held to define the scope of the study, the expectations of OPA, and to arrange a presentation by one or more occupational consultants.

In accordance with the approved Classification Study Plan, the objectives of the study were to:

- 1) analyze and define the body of work of Public Guardians and Public Guardian Associates;
- 2) create class specifications that clearly describe and distinguish each class and provide appropriate minimum qualifications; and
- 3) analyze the revised classes for internal alignment and determine appropriate salary ranges.

Current Position Descriptions (PDs) for all positions subject to this study have been received within the Classification Section. An Occupational Consultant Presentation was arranged for January 17, 2006.

The position descriptions submitted for the study were analyzed to develop questions for occupational interviews intended to provide more complete information about each of the subject positions and the incumbents' perceptions of their work. An effort was made to contact each of the incumbents. Positions in Anchorage and Fairbanks were interviewed by telephone, and face-to-face interviews were conducted with Public Guardians in Juneau.

Definitions and Distinguishing Characteristics were drafted for both job classes following the interviews, and copies were distributed via e-mail. As a result of recommendations and comments received, the Definitions and Distinguishing Characteristics were refined, revised, and incorporated in drafts of the complete specifications.

Job Class History:

Public Guardian job class was created May 20, 1985. No modifications were made to the specification until 2004 when the Minimum Qualifications were broadened in an attempt to gain larger applicant pools for recruitment efforts.

The Public Guardian Associate class was created in April 1995 to gain paralegal and technical support for Public Guardians, and help provide relief for their growing caseloads.

CLASS ANALYSIS:

Public Guardian Associates, acting under direct supervision of a Public Guardian, assist with court-ordered responsibilities of guardianship and conservatorship to wards and protected persons. Employees in this job class are characterized by the wide variety of paraprofessional tasks they perform in support of Public Guardians. Public Guardian Associates are frequently assigned such administrative tasks as gathering information about clients, completing applications for clients' benefits, making the initial preparations to sell property, and preparing written reports. Incumbents perform accounting tasks necessary to develop client budgets, control client access to his or her assets, and negotiate payments plans with collection agencies. These positions advocate on behalf of clients, to secure and maintain access to suitable housing, to protect clients from eviction if possible, and to secure adequate representation for situations that involve criminal matters.

Work assignments are made difficult by the fact that many adult clients served suffer from chronic mental illness, developmental disabilities, or age-related dementia. Public Guardian Associates extend the capabilities of Public Guardians by locating and arranging essential services for their clients.

Public Guardian Associates are distinguished from Social Service Associates in that the Social Service Associates work primarily in remote areas and/or are training-based positions, whose duties emphasize crisis intervention and counseling services, provided in a social services environment. Public Guardian Associates strive to provide clients assistance in making decisions needed to secure food, clothing, shelter, transportation and medical assistance.

Public Guardian Associates are distinguished from Vocational Rehabilitation Assistants I, in that positions providing vocational rehabilitation assistance carry out substantive technical aspects of

services to individuals with disabilities; while, Public Guardian Associates bear a legal responsibility for clients' wellbeing and arrange for essential services.

Public Guardians acting by court appointment, and under general direction, protect the rights and manage the affairs of incapacitated persons (wards). Public Guardians exercise legal authority and responsibility to ensure the ward's wellbeing; managing the ward's finances and estate and making necessary care and medical decisions. Public Guardians are custodians and substitute decision makers for individuals who have been determined by the court to be incapacitated to the extent they are unable to make their own decisions.

Public Guardians are appointed by the Court to bear legal responsibility for specific incapacitated individuals by ensuring that their fundamental needs are met and their belongings are protected. Incumbents arrange for such essential client needs as food, clothing, lodging, transportation, and medical care.

Positions allocated to Public Guardian are similar to Social Workers, in that positions in both job classes must counsel their clients and attempt to guide them toward making acceptable decisions. Public Guardians are distinguished from Social Worker classes, in that Public Guardians must also act as surrogate decision-makers and override the clients' wishes when the clients' own decision-making would place them at risk of harm.

Public Guardians differ from Vocational Rehabilitation Counselors, in that the counselors apply considerable knowledge of medical aspects of disabilities, the behavioral and social sciences, and formal training in counseling techniques to assist individuals with disabilities in achieving employment. By contrast, Public Guardians must have knowledge of the nature and extent of their clients' disabilities in order to ensure that benefits are obtained and proper medical treatment is given, guardians but do not accumulate this knowledge to as great an extent as the counselors. Vocational Rehabilitation Counselors' responsibilities extend only to the vocational area; while Public Guardians are responsible for ensuring that clients' needs are met in all major life domains, including housing, finances, medical care, protection of legal, civil, and human rights, and habilitation.

Class Title:

No change to the title for either subject job class is necessary.

Minimum Qualifications:

Five years experience providing professional level client casework to children, adults, or persons with a mental illness, developmental disability, traumatic brain injury, age-related dementia, or other form of disability. *The required experience includes work such as a Social Worker, Children's Services Specialist, or Vocational Rehabilitation Counselor with the State of Alaska or the equivalent elsewhere.*

OR

Six years of technical or paraprofessional experience assisting with professional level client casework to children, adults, or persons with a mental illness, developmental disability, traumatic brain injury, age-related dementia, or other form of disability. *The required experience is met by service as a Public Guardian Associate, Social Services Associate, or Vocational Rehabilitation Assistant with the State of Alaska or the equivalent elsewhere.*

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Substitution:

Educational experience gained at an accredited college may be substituted for up to four years of the required work experience (3 semester hours or 4 quarter hours equals one month of work experience).

Class Code:

The class codes for both the Public Guardian (P4260) and Public Guardian Associate (P4259) remain unchanged. These job classes are appropriately placed in the Special Social Services (P42XX) job family.

Fair Labor Standards Act

No position allocated as a Public Guardian or Public Guardian Associate for the State of Alaska satisfies the criteria executive exemption under the Fair Labor Standards Act (as amended April 23, 2004), as none of these positions directly supervises two or more employees. Neither do these positions satisfy the criteria for professional exemption under the Act.

The US Department of Labor has ruled that the criteria for administrative exemption “is intended to be limited...to employees whose work involves servicing the business itself” and is inapplicable to employees whose work relates to the “production” operations of the business. The ruling goes on to state that the exemption was not intended to cover “ongoing, day-to-day case management services”. The work of Public Guardians and Public Guardian Associates for the State of Alaska, involves day-to-day case management for clients and the accurate accounting of their financial resources and property except when conservatorship of such assets has been expressly assigned to some other person. Positions in the subject job classes review clients’ status rather than managing the employer’s customer’s business. These positions do not satisfy the criteria for administrative exemption under the Fair Labor Standards Act. All employees currently allocated as Public Guardians and Public Guardian Associates for the State of Alaska are therefore overtime eligible.

Position Allocation:

All positions subject to this study remain allocated to their currently assigned job class. See the accompanying allocation memo.

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.

Public Guardians (P 4260 – SR16) are a professional job class, and are assigned to the Special Social Service (P42XX) job family. No documentation is on file showing the rationale for the class’s original range assignment, so this analysis is not built upon a comparison to and contrast with previous range analysis, as is often the case in class studies. For this analysis the analyst noted that job classes within that job family are so specialized as to afford few good job comparisons to Public Guardians for salary alignment purposes. The search for reasonable comparison classes was broadened.

The Disability Adjudicator I (P4240 – SR18) provides one possible comparison. Incumbents analyze and adjudicate Initial, Continuing Disability, and Reconsideration claims. Adjudication of these claims is considered difficult because of the diversity and complexity of issues involved. This is the same diversity and complexity commonly found in cases managed by Public Guardians. Both job classes need ingenuity to develop factual information that can be analyzed to evaluate a particular client or case. The judgment required of each to make substantive and subjective determinations while following existing guidelines requires considerable subject matter knowledge. Incumbents must have the discipline to recognize the individuality of circumstances that surround each specific case.

Public Guardians analyze clients' eligibility for benefits and file the necessary forms to secure those benefits on nearly a daily basis. Such actions invite comparison of the Public Guardian to high level Eligibility Technicians (belonging to the Social Work and Public Assistance job family – P41XX). Eligibility Technicians, however, bear no legal responsibility for the well-being of the client. Comparison between Eligibility Technicians and Public Guardians does not provide enough similarity for salary alignment analysis.

The broad range of duties required of Public Guardians, the level of knowledge needed to assess client needs, and the complexity of day-to-day work performed is comparable to that of a Social Services Specialist III (P4118 – SR18). The work of the two classes differ, in that while the Social Services Specialist III provides direct social services to the client, the Public Guardian takes on the role of advocate, and speaks for or negotiates for clients. In cases requiring legal representation, the guardian arranges representation for the client. Incumbents of both job classes provide intensive and highly skilled services in cases with complex social problems, such as those involving clients with chronic mental illness or developmental disability.

The level of independent action found in Public Guardian positions is rarely found in other job classes below salary range 18. Incumbents are required to make daily decisions that carry a high consequence of error. The Public Guardian is regularly required to prioritize a plethora of competing issues, several of which can have lasting impact on a client's quality of life.

Unlike the Disability Adjudicator I, Services Specialist III, or any of the classes within the Eligibility Technician job class series, the Public Guardian is on call around the clock. The Public Guardian's responsibility does not stop at the end of the day. If a client becomes ill or is in an accident, the incumbent must go to the hospital or otherwise contact medical personal to decide what treatment will be given. The nature of the essential services provided by persons in this class allows little freedom from being on call.

Salary range assignment below range 18 does not provide adequate compensation for the unending legal responsibilities of Public Guardians. Salary range advancement to SR18 is justified.

Public Guardian Associates (P4259 – SR12) perform technical/paraprofessional level work in support of Public Guardians. Like the Public Guardian, no written record of the initial salary alignment analysis is contained in the specification file.

The Public Guardian Associate class is most directly comparable to the Social Services Associate II (P4106 – SR12). SSA-II incumbents assist professional staff by performing activities in support of a variety of social services programs; such as obtaining services for clients identified by the individual assessments and case plans, routine case monitoring, preparing and filing court documents, and obtaining supporting information as directed by the professional staff.

Public Guardian Associates compile medical, social, and financial information for professional staff, and for Guardianship and/or Conservatorship reports to the court. PGAs also complete annual reviews for clients' entitlement programs such as Supplemental Security Income and Adult Public Assistance; and complete client applications for programs such as Energy Assistance and the Permanent Fund Dividend.

Public Guardian Associates and Social Services Associates II share a comparable level of responsibility with regard to routine support duties. The primary roles of these positions differ, in that Social Services Associates II supports direct services to clients through Social Services Specialists, while Public Guardian Associates support advocacy efforts by Public Guardians on behalf of clients. In addition to this regular, routine work, and as further evidence of his or her supportive role, the PGA may attend court hearings in place of the Public Guardian, when issues of guardianship or conservatorship are being decided. The PGA also arranges appropriate legal services for clients when necessary. While these additional duties require a higher level of responsibility, they do not occur with sufficient frequency to have a direct bearing on the salary alignment for the job class. The currently assigned salary range remains appropriate. Public Guardian Associate remains aligned at salary range twelve (SR12).

Conclusions:

Public Guardian is a professional job class. Incumbents are appointed by the court to protect the rights and managing the affairs of incapacitated persons (wards). Public Guardian Associates provide technical level support to Public Guardians, and extend their capabilities.

The salary range assigned Public Guardian is not properly aligned. The salary range for Public Guardian is reassigned at range eighteen (SR18).

The work load of the Public Guardian Associate has increased, but the salary range controlling characteristics of the class have not changed. Public Guardian Associate remains properly aligned at range twelve (SR12).

Attachments:

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