

MEMORANDUM

State of Alaska
Department of Administration
Division of Personnel & Labor Relations

To: Nicki Neal
Director

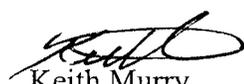
Date: April 8, 2009

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Subject: RCA - Administrative Law Judge

Preamble:

The Regulatory Commission of Alaska submitted a position description for a new position that will supervise the Commission's Hearing Examiners with a request to create a new Administrative Law Judge job class.

Study Scope:

This project covers the single position supervising Hearing Examiners in the Regulatory Commission of Alaska, although the affect of creating the requested new class on existing positions and classes was also considered.

Study Contacts:

Ann Wilde, Commission Section Manager, provided additional information and review of drafts.

Class Analysis:

The submitted position will supervise four Hearing Examiners who conduct hearings and prepare decisions on formal proceedings. The supervisory duties include hiring, training, mentoring, evaluating performance, and handling disciplinary issues. The position will also serve as a technical advisor on commission hearings and will preside over particularly complex and adversarial cases.

The state's classification plan provides for grouping 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 are constructed as broadly as is feasible as long as the tests of similarity are met.

The work of presiding over formal hearings and preparing decisions related to the rights and obligations of persons subject to the laws administered by an agency is characteristic of the Hearing Examiner job class. The differences in difficulty and responsibility indicated by the supervisory authority delegated the position submitted and its responsibility as a technical advisor preclude grouping with the Hearing Examiners for purposes of required qualifications, layoff and recall, and rate of basic pay.

Administrative Law Judges I and II preside over formal administrative hearings for multiple agencies as part of the Office of Administrative Hearings. The submitted position's supervisory authority, lack of responsibility for hearing cases from a variety of agencies, and placement in RCA instead of the Office of Administrative Hearings precludes grouping with the Administrative Law Judges for purposes of titling and rate of basic pay.

The Deputy Chief Administrative Law Judge supervises Administrative Law Judges, serves as technical advisor on administrative hearings, and adjudicates the most complex cases. The Deputy Chief's restriction as a single-position job class and limitation to the Office of Administrative Hearings precludes grouping the submitted position in this class for purpose of titling.

Conclusion:

The submitted position fails to meet the tests of similarity for grouping with the most similar job classes; therefore, a new job class has been created. The work that characterizes the job class is currently only found in the RCA; however, other agencies have Hearing Examiners and could potentially grow to the point where a supervisor/technical advisor position was desired. Since the establishment of positions in other agencies would not affect the responsibilities of the submitted position the class has not been limited to a single position or agency.

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.

To prevent confusion with the positions in the Office of Administrative Hearings, reflect the similarity in the nature of the work, and clearly show the relationship for career progression the new class is created as a second level of a Hearing Examiner series and titled Hearing Examiner II.

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.

The minimum requirements have been set to meet the requirements of AS 42.06.140(b) and the need for an incumbent with expertise in the practice of law.

Class Outline and Codes:

A job class is placed in the Class Outline's schema of Occupational Groups and Job Families based on the nature of the occupation, the initial preparation for employment, and the relationship for career progression. Class Codes are based on a job class' placement in a job family. AKPAY Codes are for use in legacy computer systems which cannot use the six-digit Class Codes.

The Hearing Examiner job class (PI0311) is in the Judges and Adjudicators job family (PI03) in the Legal, Judicial, and Related group. This family includes classes that administer, supervise, or serve as third-party triers of fact in adversarial hearings and is appropriate for the Hearing Examiner II. Hearing Examiner II is assigned Class Code PI0312 and AKPAY Code K0076.

Fair Labor Standards Act

An employee in this class is covered by the Fair Labor Standards Act of 1938, as Amended. Section 13(a) of the Act provides exemptions from its minimum wage and maximum hour provisions. The exemption in Section 13(a)(1) for any employee employed in a bona fide executive, administrative, or professional capacity is defined and delimited by regulations of the Secretary, U. S. Department of Labor. Based on the regulations in effect since August 23, 2004, an employee in a position allocated to Hearing Examiner II meets the criteria for exemption under Section 13(a)(1) as an executive and professional employee and is not eligible for overtime compensation.

The primary duty of an employee in the submitted position is managing the administrative hearings section of the RCA. The duty includes supervision of four full-time subordinates with authority for hiring, advancement, and other changes of status of subordinates. Since such employee is compensated on a salary basis that exceeds the required minimum rate, the employee meets the criteria in 29 CFR §541.100 for exemption from the overtime requirements of the FLSA as an executive employee.

An employee in the submitted position is required to hold a valid license to practice law and adjudicating formal hearings is a recognized part of the practice of law; therefore, such employee meets the criteria in 29 CFR §541.304(a)(1) for exemption from the overtime requirements of the FLSA as a professional in the practice of law.

Salary Analysis:

The salary range of a job class is based on internal consistency within the State's pay plans, in accordance with merit principles, with the goals 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 job family and occupational group.

Hearing Examiner II is in the Judges and Adjudicators job family. The other classes in this job family include:

Code	Rg	Title	Level
PI0301	22	Administrative Law Judge I	Full-proficiency adjudicator, mult agencies

PI0302	24	Administrative Law Judge II	Advanced adjudicator, mult agencies
PI0304	26	Deputy Chief Administrative Law Judge	Supv, tech advisor, mult agencies
PI0305	27	Chief Administrative Law Judge	Senior administrator, mult agencies
PI0311	24	Hearing Examiner	Full-proficiency adjudicator, single agency
PI0355	24	Chief, Workers' Compensation Adjudication	Senior administrator, single agency

The Hearing Examiner II's responsibility for supervising, mentoring, evaluating, and advising Hearing Examiners indicates the Hearing Examiner II should be assigned a higher salary range than the Hearing Examiner's range 24.

The similarity in supervisory authority and technical advisor functions indicates the Hearing Examiner II should be aligned alongside the Deputy Chief Administrative Law Judge, although the Hearing Examiner II's limitation to RCA cases would support assigning a lower range.

Salary Recommendation

Based on the substantial similarity with the Deputy Chief Administrative Law Judge and providing a reasonable difference from the salary of direct subordinates, I recommend the Hearing Examiner II be assigned salary range 26.

Classification Actions:

Hearing Examiner II is established at salary range 26 (Class code PI0312; AKPAY code K0076).

The class title for Hearing Examiner (PI0311) is changed to Hearing Examiner I.

PCN 086093 is a new position established in the Partially Exempt service in accordance with AS 39.25.120(c)(18).

The above classification actions are effective April 8, 2009.

Additional correspondence on the allocation of PCN 086093 is being distributed through the OPD system.

Attachments:

Final class specification
Allocation Worksheet

cc: Linda Perez, Administrative Director
Division of Administrative Services
Office of the Governor

Amanda Ryder, Director
Division of Administrative Services
Department of Commerce, Community, & Economic Development

cc: (cont)

Guy Bell, Director
Division of Administrative Services
Department of Labor and Workforce Development

Ann Wilde, Commission Section Manager
Regulatory Commission of Alaska
Department of Commerce, Community, & Economic Development

Sharon Dick, Human Resource Manager
General Agencies HR Service Center

FROM											TO												
Dept	PCN	Class Title	Class Code	AKPAY Code	Range	Type	FLSA	CDL	A/A	BU	Loc	Class Title	Class Code	AKPAY Code	Range	Type	FLSA	CDL	A/A	BU	Loc	Nature of Action	
01	019006	Hearing Examiner	PI0311	P2380	24	PXFT	N	N	N	XE	EBA	Hearing Examiner I	PI0311	P2380	24	PXFT	N	N	N	XE	EBA	Title Change	
07	071030	Hearing Examiner	PI0311	P2380	24	FACL	Y	N	N	EE	EBA	Hearing Examiner I	PI0311	P2380	24	FACL	Y	N	N	EE	EBA	Title Change	
08	086057	Hearing Examiner	PI0311	P2380	24	PXFT	Y	N	N	XE	EBA	Hearing Examiner I	PI0311	P2380	24	PXFT	Y	N	N	XE	EBA	Title Change	
08	086068	Hearing Examiner	PI0311	P2380	24	PXFT	Y	N	N	XE	EBA	Hearing Examiner I	PI0311	P2380	24	PXFT	Y	N	N	XE	EBA	Title Change	
08	086086	Hearing Examiner	PI0311	P2380	24	PXFT	Y	N	N	XE	EBA	Hearing Examiner I	PI0311	P2380	24	PXFT	Y	N	N	XE	EBA	Title Change	
08	086087	Hearing Examiner	PI0311	P2380	24	PXFT	Y	N	N	XE	EBA	Hearing Examiner I	PI0311	P2380	24	PXFT	Y	N	N	XE	EBA	Title Change	
08	086091	Hearing Examiner	PI0311	P2380	24	PXFT	Y	N	N	XE	EBA	Hearing Examiner I	PI0311	P2380	24	PXFT	Y	N	N	XE	EBA	Title Change	
08	086093											Hearing Examiner II	PI0312	K0076	26	PXFT	Y	N	N	XE	EBA	New Position	