

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

**A. GENERAL INFORMATION**

1. Date

10/12/2017

2. Department

Department of General Services

3. Organizational Placement (Division/Branch/Office Name)

Office of Administrative Hearings

4. CEA Position Title

Division Presiding Administrative Law Judge, Special Education Division

5. Summary of proposed position description and how it relates to the program's mission or purpose.  
(2-3 sentences)

Under the direction of the Deputy Director and Assistant Chief Administrative Law Judge, this position will have full management responsibility for the Special Education Division of the Office of Administrative Hearings. Pursuant to contract with the California Department of Education, this division exclusively conducts due process hearings and mediations for children with disabilities under the Individuals with Disabilities Education Act.

6. Reports to: (Class Title/Level)

Deputy Director/Assistant Chief, Administrative Law Judge

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain):

8. Organizational Level (Select one)

- 1st  2nd  3rd  4th  5th (mega departments only - 17,001+ allocated positions)

**B. SUMMARY OF REQUEST**

**9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.**

The CEA will provide full management responsibility and oversight of the Special Education Division, Office of Administrative Hearings. Pursuant to contract with the Department of Education, this division exclusively conducts hearings and mediations regarding children with disabilities who are entitled to a free and appropriate education under the Individuals with Disabilities Education Act and related state law, and other matters referred this division for hearing. The CEA will manage three Presiding Administrative Law Judges (PALJs) who in turn supervise 30 Administrative Law Judges (ALJs) in regional offices statewide. The CEA will also manage a Staff Services Manager (SSM), 4 Staff Services Analysts (SSAs), and 14 other case managers. Last fiscal year, the division handled approximately 3,900 case filings, with projected annual growth of over 25 percent this year.

The CEA will be responsible for compliance with all requirements of the inter-agency contract with the California Department of Education, including comprehensive quarterly reporting requirements. The CEA will perform the duties required by California Code of Regulations, title 5 section 3096.1. (supervisor of mediators) and 3096.2 (supervisor of ALJs), including certifying that the PALJs, ALJs and Pro Tempore ALJs meet minimum qualifications, reviewing and approving initial training and continuing training of ALJs and Pro Tempore ALJs, and supervising and evaluating the PALJs. The CEA will oversee the Special Education Advisory Committee in compliance with the law and the inter-agency contract, including selecting members, developing agendas and meeting materials, conducting statewide public meeting, and ensuring compliance with the Open Meeting Act. The CEA will attend regular meetings, and maintain regular communication, with the California Department of Education on all matters within the scope of the inter-agency contract. The CEA will actively lead the OAH team in contract negotiations and contract compliance questions. The CEA will attend regular meetings and ensures open communication with other community stakeholders. The CEA will oversee the Special Education Division Calendar and case assignments. The CEA will coordinate and conduct monthly meetings of the PALJs. The CEA will regularly advise the Deputy Director and Director of significant personnel, management, policy and legal issues within the Division. The CEA will assist in resolving personnel, labor relations, reasonable accommodation and workers' compensation issues within the Division.

In addition, the CEA will serve as policy advisor to the Deputy Director and Director on overarching OAH policy issues, described below. The CEA will ensure the Division is compliant with the mission, vision, and values of OAH and the Department of General Services. The CEA will provide subject matter expertise in the division's full scope of operations to develop statewide strategic and performance policies and goals, efficiencies in statewide business processes, and effective inter and intra-agency collaboration.

**B. SUMMARY OF REQUEST (continued)**

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description:

This program is essential to the Department of General Services. The Office of Administrative Hearings (OAH) was created by the Legislature in 1945 as the Central Panel for the State of California. The OAH was placed within the Department of General Services by statute. The conducting of administrative hearings is one of the key lines of business for the Department of General Services.

**B. SUMMARY OF REQUEST (continued)**

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

The CEA will be responsible for the overall management of functions performed by three PALJs in the Special Education Division. Technically, the Division PALJ has no authority to supervise other PALJs as they are all in the same classification (class code 6133). This change is necessary because direct supervision of the nine PALJs (Special Education Divisions and General Jurisdiction Division), as well as the two Division Presiding ALJs, is currently the responsibility of the the Deputy Director and has proved unmanageable.

The CEA will have policy influence over the functions in Special Education. Specifically, the CEA will have full authority for policy development and implementation for case intake standards, processing, hearing procedures, decision issuance, and compliance with the Americans with Disabilities Act in accordance with state and federal law that directly governs Special Education. The other PAJs do not develop such critical and highly sensitive policies.

The CEA will also develop and implement policies and procedures governing how OAH calendars cases, whether mediations are set by the parties or OAH, what days mediations will be made available by OAH, and when pre-hearing conferences will be set, all of which is critical to the Special Education community and the Department of Education. The PALJs do not develop such critical and highly sensitive policies.

The CEA will be a direct report to the Deputy Director, unlike other Presiding ALJs in the Division.

The CEA will provide full management responsibility and oversight of PALJs located in offices across the state.

The CEA will be a key policy advisor to the Director and Deputy Director of OAH, unlike other PALJs in the Division.

### **C. ROLE IN POLICY INFLUENCE**

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

The program is responsible for providing due process and mediation services regarding educational opportunities for all children with disabilities in the State of California. The program continues to grow in both case volume and staff size. The contract with CDE contains significant compliance requirements unique to the Special Education Division.

In consultation with the Deputy Director, the CEA will be responsible for the development and implementation of all policies for the Special Education Division. The applicable law in this area leaves to the states the details of case processing and case management, which the CEA will be responsible for developing and implementing. Policy areas include standards for case opening, processing and compliance with state and federal law; standards for orders and decisions; compliance with the Americans with Disabilities Act at hearings and mediations; accessibility to Special Education forms, notices, orders and decisions. These have a statewide impact on parties and attorneys who appear in Special Education mediations and hearings. For example the policies and procedures on how cases are calendared, including whether OAH sets mediations or whether parties set mediations, what days mediations, pre-hearing conferences and hearings are set affect approximately 4,000 individuals and school districts per year. A change to the calendaring policy can impact how school districts, parents and their attorneys manage cases throughout the state. The Special Education Division conducts the majority of mediations and hearings at the location of the school district involved in the case. The policy developed by the CEA ensuring facilities for mediations and hearings are ADA compliant can impact where a mediation or hearing is held, and thus impact the costs to the parties and witnesses associated with having to travel to a less convenient location in order for the proceeding to meet ADA requirements. The number of days a party has to respond to a motion by another party in a case before the motion is ruled upon is determined by policy developed by the CEA. Developing a policy that takes into account whether a party has an attorney who receives notice by electronic method or whether the party is unrepresented and receives notice by mail, or may be non-English speaking, is critical to ensuring that all parties' due process rights are protected. These represent the types of sensitive policies the CEA will be responsible for developing that can have a statewide impact on parties and attorneys in Special Education matters.

The CEA will review legislation and propose new legislation and regulations related to the program. Again, the applicable law in Special Education leaves to the states the process of case management. The CEA, in consultation with the Deputy Director and other OAH staff, will draft the regulations for the Special Education Division. These regulations represent the Division's formal policy and must be in compliance with the substantive law, address in detail how parties and attorneys are to access the dispute resolution process, and be consistent with the Administrative Procedures Act. For example, the regulations address how parties file pre-hearing conference statements and how they may challenge a particular judge. These regulations impact sensitive areas and have statewide impacts on how parties and attorneys manage their cases. The CEA will also be responsible for working with the Department of Education to ensure OAH's regulations are not in conflict with CDE's regulations. The CEA will preside over public hearings on any new regulations and then consider whether any changes are to be made to the regulations before they are passed.

The CEA will be responsible for all aspects of the Special Education Advisory Committee, including but not limited to OAH policies regarding the adoption of recommendations of the Committee in its operations. For example, the CEA will review applications from public members who wish to serve on the committee; determine whether they have a background sufficiently tied to special education and would contribute valuable input; and, ensure that the total membership of the committee is in compliance with statutory requirements for the composition of the committee. The CEA will need to set the agenda for the public meeting, publish all necessary documents and ensure that the process complies with the Bagley-Keene Open Meetings Act. The CEA will chair the Advisory Committee meeting, ensures it is conducted in compliance with the Open Meetings Act and that it is broadcast via Internet to the community. The CEA, in consultation with the Deputy Director, will consider each recommendation made by the committee and provide a response to the Committee and the public as to whether, and why, OAH will or will not adopt a recommended process or policy, or a recommended change to a process or policy.

The CEA will be responsible for proposing changes to and consulting with CDE regarding the inter-agency contracts. There are two inter-agency contracts in the Special Education Division. The inter-agency dispute resolution contract is mandated by law between CDE and OAH. Through this contract, OAH provides a dispute resolution process for disputes between school district and other state agencies, between CDE and school districts or other state agencies, and parents and state agencies, concerning the provision of specific services to the orthopedically handicapped children who are also eligible for special education. Under the Individuals with Disabilities Education Act dispute resolution contract between CDE and OAH, OAH process all administrative disputes between families and education agencies concerning the rights of eligible children under the IDEA. The CEA, in consultation with the Director and Deputy Director, will be responsible for negotiating the terms of each contract, including the scope of work, the rate of reimbursement, training requirements for the Administrative Law Judges and reporting requirements specific to each contract.

**C. ROLE IN POLICY INFLUENCE (continued)**

**13. What is the CEA position's scope and nature of decision-making authority?**

The CEA will have broad decision-making authority over all aspects of the operations of the Special Education Division. The decision making authority extends to program operations including, but not limited to, case-setting standards, case calendaring standards, and standards for decisions. The CEA will investigate and determine the merits of complaints filed with OAH regarding the Division, ranging from conduct of a hearing to the conduct of a case manager. The CEA will be responsible for investigating and deciding the merits of complaints referred to the Special Education Division by CDE. The CEA will decide the training standards for the Division, and certifies compliance with the law and contract regarding training. The CEA will decide how to implement all policy changes within the Division and decide how to implement all changes in the program as required by state or federal law. The CEA will set and implement the hiring standards for all employees of the Special Education Division. The CEA will have ultimate decision making authority over law and motion, case assignments, and second level decision review.

**14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?**

The CEA will be developing and implementing new policies as well as interpreting and modifying existing statewide policies. OAH must conform its operations to the frequently changing state and federal law, and the inter agency contract. The CEA will constantly evaluates the business methods and listens to suggestions from the Special Education Advisory Committee, community members and other stakeholders regarding its hearing and mediation processes and policies.