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§ 930.208 Restoration.

Parts 352 and 353 of this chapter governing reemployment rights and restoration to duty after military service or recovery from compensable injury, also apply to reemployment and restoration to administrative law judge positions.

§ 930.209 Detail and assignment to other duties.

(a) An agency may not detail an employee who is not an administrative law judge to an administrative law judge position.

(b) An agency may assign an administrative law judge (by detail or otherwise) to perform duties that are not the duties of an administrative law judge without prior approval of OPM only when—

(1) The other duties are not inconsistent with the duties and responsibilities of an administrative law judge;

(2) The assignment is to last no longer than 120 days; and

(3) The administrative law judge has not had an aggregate of more than 120 days of those assignments or details within the preceding 12 months.

(c) On a showing by an agency that it is in the public interest to do so, OPM may authorize a waiver of paragraphs (b) (2) and (3) of this section.

(d) An agency may detail an administrative law judge from one administrative law judge position to another in the same agency, without the prior approval of OPM, provided the detail is in accordance with regular civil service procedures.

§ 930.210 Pay.

(a) OPM will place each administrative law judge position in one of the three grades or levels of basic pay, AL–3, AL–2 or AL–1, of the Administrative Law Pay System established for such positions under 5 U.S.C. 5372 in accordance with the regulations and procedures in this section. AL–3 will have six rates of basic pay, A, B, C, D, E, and F, ranging respectively in 5 percent intervals from 65 percent of level IV of the Executive Schedule (EX–IV) to 90 percent of EX–IV. AL–2 will have one rate of basic pay equal to 95 percent of EX–IV. AL–1 will have one rate of basic pay equal to 100 percent of EX–IV.

(b) An agency may not grant a monetary and honorary award under 5 U.S.C. 4503 for superior accomplishment by an administrative law judge in the performance of adjudicatory functions.

(c) AL–3 is the basic pay level for administrative law judge positions filled through competitive examination under OPM Examination Announcement No. 318, as provided in section 930.203 of this part.

(d) Subject to the approval of OPM, agencies may establish administrative law judge positions at pay levels AL–2 and AL–1. Administrative law judge positions may be placed at such levels when they involve significant administrative and managerial responsibilities.

(e) Judges must serve at least 1 year in each AL level, in an equivalent or higher level in positions in the Federal service, before advancing to the next higher level and may advance only one level at a time.

(f) Except as provided in paragraph (g) of this section, upon appointment to an administrative law judge position placed in AL–3, an administrative law judge shall be paid at the minimum rate A of AL–3, and shall be automatically advanced successively to rates B, C, and D of that level upon completion of 52 weeks of service in the next lower rate, and to rates E and F of that level upon completion of 104 weeks of service in the next lower rate. Time in a nonpay status is generally creditable service in the computation of a waiting period only in so far as it does not exceed 2 weeks per year for each 52 weeks of service. However, time in a nonpay status is also fully creditable if absence is due to military service, as defined in 5 U.S.C. 8331(13), or due to receipt of injury compensation under chapter 81 of title 5, United States Code.

(g) Upon appointment to a position at AL–3, an administrative law judge will be paid at the minimum rate A, unless the administrative law judge is eligible for a higher rate B, C, D, E, or F because of prior service or superior qualifications, as follows—

(1) An agency may offer an administrative law judge applicant with prior Federal service a higher than minimum rate, without obtaining the prior approval of OPM in order to pay the

rate that is next above the applicant's highest previous Federal rate of pay, up to the maximum rate F.

(2) An agency may offer an administrative law judge applicant with superior qualifications a higher than minimum rate if it first obtains approval from OPM to offer such a higher rate to an applicant who is within reach on a certificate of eligible administrative law judge applicants in order to pay that rate of pay that is next above the applicant's existing pay or earnings up to the maximum rate F. ''Superior qualifications'' for applicants includes having legal practice before the hiring agency, having practice in another forum with legal issues of concern to the hiring agency, or having an outstanding reputation among others in the field. OPM will approve such payment of higher than minimum rates for applicants with superior qualifications only when it is clearly necessary to meet the needs of the Government.

(h) Subject to the approval of OPM, and on the appropriate recommendation of the employing agency, an agency may on a one-time basis, advance an administrative law judge in a position at AL–3 with added administrative and managerial duties and responsibilities one rate beyond that allowed under current pay rates for AL–3, up to the maximum Rate F.

(i) Upon appointment to an administrative law judge position placed at AL–2 or AL–1, administrative law judges will be paid at the established rates for those levels.

(j) In making initial pay adjustments for administrative law judges from positions paid under the General Schedule to positions paid under the new pay system established under 5 U.S.C. 5372, the rate of basic pay for any such judge shall, upon conversion to the new pay system, be at least equal to the rate that was payable to that individual immediately before such conversion.

(k) Except as provided in paragraph (l) of this section, on the first day of the first applicable pay period beginning on or after February 10, 1991, administrative law judges will be converted from the General Schedule to AL–3, 2, and 1 as follows:

General schedule	AL
GS–15, Steps 1–2–3–4	AL–3, Rate A.
GS–15, Steps 5–6	AL–3, Rate B.
GS–15, Steps 7–8–9	AL–3, Rate C.
GS–15, Step 10	AL–3, Rate D.
GS–16, Steps 1–2–3	AL–3, Rate C.
GS–16, Steps 4–5–6	AL–3, Rate D.
GS–16, Steps 7–8	AL–3, Rate E.
GS–16, Step 9	AL–3, Rate F.
GS–17, Steps 1–5	AL–2.
GS–18	AL–1.

(l) In making the initial conversion from the General Schedule pay rates to the new AL pay system for administrative law judges, effective on the first day of the first applicable pay period beginning on or after February 10, 1991, those GS–15 and GS–16 administrative law judges receiving the 8 percent interim geographic adjustments authorized by Schedule 9 of Executive Order 12736 of December 12, 1990, will convert as follows:

General schedule	AL
GS–15, Steps 1–2	AL–3, Rate A.
GS–15, Steps 3–4–5	AL–3, Rate B.
GS–15, Steps 6–7	AL–3, Rate C.
GS–15, Steps 8–9–10	AL–3, Rate D.
GS–16, Steps 1–2	AL–3, Rate C.
GS–16, Steps 3–4	AL–3, Rate D.
GS–16, Steps 5–6–7	AL–3, Rate E.
GS–16, Steps 8–9	AL–3, Rate F.

(m) Agencies must document all pay changes made in accordance with this section by completing a Standard Form 50, or equivalent, in the usual manner and forwarding an extra copy directly to the Office of Administrative Law Judges, Career Entry Group, U.S. Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

[56 FR 6210, Feb. 14, 1991, as amended at 57 FR 1369, Jan. 14, 1992]

§ 930.211 Performance rating.

An agency shall not rate the performance of an administrative law judge.

§ 930.212 Rotation of administrative law judges.

Insofar as practicable, an agency shall assign its administrative law judges in rotation to cases.