Position Description

PD#: D1101580
Replaces PD#: NEW
Sequence#: VARIES

ATTORNEY ADVISOR
GS-0905-15

Servicing Area: DoDEA Headquarters
Agency: VARIES
MACOM: VARIES
Command Code: VARIES
Region: DODEA

Citation 1: OPM PCS GEN ATTY SERIES
PD Library PD: NO
COREDOC PD: NO

Classified By: DIXIE CANSLER
Classified Date: 09/30/2013

FLSA: EXEMPT
Career Program: Financial Disclosure Required: YES **
Functional Code: Requires Access to Firearms: VARIES
DCIPS PD: NO
Interdisciplinary: NO
Competitive Area: VARIES Position Sensitivity: VARIES
Competitive Level: VARIES Emergency Essential: VARIES
Career Ladder PD: NO
Supervisor Code:

Duties:

This position is located in the Defense Legal Services Agency (DLSA) and the duty station is in the Office of General Counsel, Department of Defense Education Activity (DoDEA). The General Counsel of the Department of Defense, who is appointed by the President with the advice and consent of the Senate, is the Chief Legal Officer of the Department of Defense and performs such functions as the Secretary of Defense may prescribe. As such, he or she is the principal legal advisor to the Secretary of Defense and has final authority and responsibility for legal policy determinations and the delivery of legal services within the Department of Defense and its components. The General Counsel is also dual-hatted as the Director, DLSA, which provides a full range of legal services to the Office of the Secretary of Defense, the Defense Agencies, and the Department of Defense Field Activities. The General Counsel, DoDEA, and his/her staff, are under the authority, direction, and control of the General Counsel of the Department of Defense, the Principal Deputy General Counsel, and the Deputy
General Counsel for Personnel and Health Policy. The DoDEA General Counsel and his or her staff are responsible for providing authoritative technical legal guidance and assistance to the Director, DoDEA and his/her staff DoDEA wide.

The incumbent of this position serves as an Attorney-Advisor, with an agency internal title of Assistant General Counsel, Department of Defense Education Activity (DoDEA), under the supervision of the General Counsel and Principal Deputy General Counsel, DoDEA. DoDEA is a major DoD field activity with worldwide scope. DoDEA delivers, in military communities worldwide, exemplary educational programs that inspire and prepare all students for success in a global environment. The Director, DoDEA, has overall responsibility for the provision of primary and secondary education to qualified dependents of Federal personnel served by the school systems established pursuant to 10 U.S.C. 2164 and 20 U.S.C. 921, et seq. The Domestic Dependent Elementary and Secondary Schools (DDESS), located within the continental United States as well as Guam and Puerto Rico, and the Department of Defense Dependents Schools (DoDDS), located in foreign areas, provide a preschool through grade 12 educational program that inspires and prepares all students for success in a global environment. DoDEA is one of the largest, most diverse and geographically dispersed school jurisdictions. All schools in DoDEA are fully accredited and the DoDEA educational program consistently rates at or near the top in comparison with other school systems.

Serves as a Attorney-Advisor by assisting the General Counsel, DoDEA in planning and providing legal assistance, advice, and representation in support of the Director, DoDEA, in all functional areas pertaining to the establishment and operation of DoDEA. Duties include providing legal expertise and support in a multitude of ways: consultations; drafting legal memoranda; interpreting and applying statutes, executive orders, directives, regulations, administrative rulings and court decisions; advising on standards of conduct and conflicts of interest matters; and litigation before administrative bodies and Federal and State Courts. In this regard, issues and cases may involve a highly complex set of facts that require interpretation and application of laws, regulations, and precedent that are not clearly distinguished. Where the Agency’s authority to collect or expend monies may not be explicitly addressed in legislation, the incumbent may have to apply general legal concepts in order to establish precedents.

Provides legal advice in the area of Special Education (SPED) and Education law in direct support of school-level operations and the development DoDEA-wide policies and procedures for critical areas of compliance with the Individuals with Disabilities Education Act (IDEA); Section 504 of the Rehabilitation Act; Federal education statutes; and, student rights (e.g. freedom of speech, search and seizure, student privacy, etc.) under the U.S. Constitution and associated case law.

Conducts extensive research and develops positions and draft policies on SPED and Education law questions in the absence of state law guidance and precedent. Advice provided in this area involves the complex interplay of rules, judicial decisions, and reasoned judgment. Coordinates with relevant DoD and DoDEA offices in the development of DoD and DoDEA policies, procedures, and regulations concerning SPED and Education law issues. Assists DoD and DoDEA SPED offices with legal compliance functions. Duties include providing legal advice and support in a variety of ways, including: consultations; drafting legal memoranda; interpreting and applying statutes, executive orders, directives, regulations, administrative rulings and court decisions. Develops tools and trainings for SPED educators, regular education educators, DoDEA OGC field attorneys, administrators, DoDEA HQ Staff (e.g. SPED & Student Support Services) to aid DoDEA in ensuring the provision of a Free and Appropriate Public Education (FAPE) to students covered by the IDEA or students with disabilities requiring accommodations under Section 504 of the Rehabilitation Act. Assists with the prevention, early resolution, and defense of SPED or Rehabilitation Act litigation.
The incumbent also assists the Department of Justice in representing or, as delegated, represents DoDEA, including DDESS and DoDDS, in judicial proceedings before U.S. District Courts, the U.S. Court of Claims, U.S. Courts of Appeal, and State courts. These cases are typically complex in nature, raise novel and precedential legal issues, and have the potential for significant impact on Agency as well as government-wide policies.

In litigation matters, the incumbent ensures all necessary preparations are accurate and complete. This type of assignment requires working closely with the Office of the General Counsel, DoD and offices of other senior DoD officials, and Department of Justice attorneys.

Furnishes oral and written advice and support to the General Counsel and Principal Deputy General Counsel, DoDEA; Director, DoDEA; and senior DoDEA, DDESS and DoDDS personnel on issues arising under laws and regulations pertaining to Ethics, Freedom of Information Act (FOIA), Privacy Act (PA), education/special education law, and other federal practice areas.

Participates as a lecturer in various training programs. Routinely advises and coordinates the efforts of DoDEA lawyers representing DoDEA in administrative or judicial proceedings.

Advises on, assists, and coordinates the efforts of non-lawyer civilian personnel within the DoDEA system performing other types of management representation duties.

Performs other duties as assigned.

Factor 1. Knowledge Required by the Position

The incumbent must be an experienced, fully qualified attorney, and have a thorough knowledge of law in Special Education law, including, the IDEA and Section 504 of the Rehabilitation Act. The incumbent must also have a thorough knowledge of Education Law, including Federal education statutes; and, student rights (e.g. freedom of speech, search and seizure, student privacy, etc.) under the U.S. Constitution and associated case law. The incumbent must be thoroughly familiar with the legislation and legislative history of DoDEA, DoDDS and DDESS and the impact of other laws relating to the provision of public education in order to respond to the wide variety of questions and issues that arise. He/she must also have extensive experience in representing the federal government in administrative and judicial forums. Incumbent should have a working knowledge of government ethics laws and regulations, the Freedom of Information Act and the Privacy Act, and personnel and labor law. Excellent leadership ability, communication skills and demonstrated professional competence are essential to the position. Incumbent should have knowledge of the functions, relationships, and methods of operation of the military departments. Incumbent must be an active member in good standing of the bar of a State, District of Columbia, U.S. Territory, or U.S. Commonwealth.

Possesses superb intellect, judgment, exceptional industry and discretion. Adapts general legal principles to specific uses and problems; determines how complex legal and policy problems may best be solved. Interprets intent, develops unique arguments, and resolves conflicting guidance to resolve problems. Considers the Constitution, statutes, Federal regulations, judicial and administrative decisions, and agency instructions, directives and regulations, pertaining to the area of legal responsibility when making recommendations and/or decisions.

Factor 2. Supervisory Controls

The incumbent of this position serves under the supervision a Deputy General Counsel, DoDEA, who provides policy guidance and oversight, and who is kept informed of significant issues and cases. In day-to-day work, the incumbent performs assignments for the Director, DoDEA, and staff of the DoDDS/DDESS with guidance from a Deputy General Counsel,
DoDEA. The incumbent works under general guidelines as to approach, legal interpretation and judgment, consistent with existing policies, and possible precedential effect.

Factor 3. Guidelines

Written guidelines employed in incumbent’s decision-making process include the Constitution, statutes, Federal regulations, judicial and administrative decisions, and agency instructions, directives and regulations, pertaining to the area of legal responsibility. The incumbent must interpret intent, develop unique arguments, and resolve seemingly conflicting guidance in order to properly resolve the problems presented.

Factor 4. Complexity

Incumbent is responsible for providing legal advice, conducting legal research, and preparing for and trying cases before various forums. Legal services provided involve a variety of questions concerning civilian personnel and administrative law. Incumbent must conduct extensive research and develop positions on legal questions that often have little or not precedent. Decisions involve consideration of highly involved interplay or rules, judicial decisions, and reasoned judgment. The incumbent must develop written opinions, present cases in formal hearings, and conduct negotiations with civilian employees and their private sector legal representatives.

Factor 5. Scope and Effect

Incumbent may be responsible for developing and presenting the DoD legal position in cases where an adverse decision could impact thousands of employees and involve large sums of money. Under the supervision of a DoDEA Deputy General Counsel, incumbent is responsible for providing routine legal advice to the Director, DoDEA; Area Directors; the Chief, Human Resources Regional Service Center; and DoDDS/DDESS staff as it relates to labor, civilian personnel, and administrative law matters.

Incumbent may be responsible for developing and presenting the DoD legal challenge of a policy or legal interpretation that could impact thousands of employees and involve large sums of money. The consequences of losing such cases could involve millions of dollars in terms of current and future liability and lead to changes in acquisition and fiscal policy throughout the Federal Government. Under the direction of the General Counsel and Principal Deputy General Counsel, DoDEA, incumbent is responsible for providing routine legal advice to the Director DoDEA; Associate Directors, DoDEA; and headquarters DoDEA staff.

Incumbent provides legal advice on matters that have a direct impact on the efficient and effective performance of the client's mission.

Factor 6. Personal Contacts

Personal contacts with client activities include senior officials within the Office of the Secretary of Defense, the Department of Justice, and DoDEA personnel. Other contacts may include officials of state and federal agencies, administrative judges, third party arbitrators, private sector attorneys, court-appointed officials, members of the judiciary, and personnel involved in investigations.

Factor 7. Purpose of Contacts

Contacts are made for the purpose of giving or exchanging information, resolving problems, rendering advice, making recommendations, conducting negotiations, and trying cases.
Factor 8. Physical Demands

The work is primarily sedentary, with some walking, climbing stairs and lifting of objects weighing less than 30 pounds.

Factor 9. Work Environment

Majority of work is performed in an office and/or courtroom setting. Performance of duties may require air travel both within and outside the continental United States.


Evaluation:

Position designated Non-Critical Sensitive

NOTE: In accordance with DoDI 1442.02, paragraph 3.g, the incumbent must be an active member of the highest court of a state, U.S. Commonwealth, U.S. Territory, or the District of Columbia, eligible for the immediate practice of law.