

STATE OF CONNECTICUT  
LABOR DEPARTMENT  
CONNECTICUT STATE BOARD OF LABOR RELATIONS

THOMAS J. DAVIS, JR., ESQ.; TERRENCE  
M. O'NEILL, ESQ.; MADELINE  
MELCHIONNE, ESQ.; CARMEL  
MOTHERWAY, ESQ.; AND ROBERT B.  
FISKE, III, ESQ.,

Petitioners,

v.

AFT CONNECTICUT, AFT, AFL-CIO  
Respondent.

C.A. No. SE-32388

**PETITION FOR DECLARATORY RULING**

**Introduction**

Pursuant to Section 5-273-39 of the Regulations of the State Board of Labor Relations (“Board”), Petitioners Thomas J. Davis, Jr., Esq, Terrence M. O’Neill, Esq., Madeline Melchionne, Esq., Carmel Motherway, Esq., and Robert B. Fiske, III, Esq. (collectively, “Petitioners”) bring this Petition for Declaratory Ruling (“Petition”) to protect their right to a union election by secret ballot, and to respectfully request a ruling that they and other members of the proposed bargaining unit, which includes all Assistant Attorneys General employed by the Office of the Attorney General for the State of Connecticut (“Office of the Attorney General”), are exempt from collective bargaining and, thus, prohibited from inclusion in a collective bargaining unit because they are managerial and/or supervisory employees under Conn. Gen. Stat. § 5-270(f) & (g).

### **Petitioners, Employer, and Other Interested Parties**

1. Petitioner Thomas J. Davis, Esq. is an Assistant Attorney General employed by the Office of the Attorney General. Petitioner Davis is classified as an Assistant Attorney General 4 (Practitioner) (hereafter, “AAG-4 Practitioner”). Petitioner Davis’s principal functions include, but are not limited to, the development, implementation and evaluation of goals and objectives consistent with the Office of Attorney General’s mission and policy and the participation in the formulation of agency policy. As set forth in the AAG-4 Practitioner Class Specification, Petitioner Davis is principally responsible for “assist[ing], advis[ing] and consult[ing] with the Attorney General in setting policy, procedure, precedent and legal opinions for the State of Connecticut.” The AAG-4 Practitioner Class Specification is attached hereto as Exhibit A. Petitioner Davis receives “limited direction” from superiors within the Office of the Attorney General, while he is vested with the responsibility of “lead[ing] attorneys, paralegal and clerical employees on an intermittent, project or regular basis.” Exhibit A. As a result, the State of Connecticut’s Department of Administrative Services classifies all AAG-4 Practitioners as “Managerial.” Exhibit A.

2. Petitioner Terrence M. O’Neill, Esq. is an Assistant Attorney General employed by the Office of the Attorney General. Petitioner O’Neill is classified as an Assistant Attorney General 4 (Department Head) (hereafter, “AAG-4 Department Head”). Petitioner O’Neill performs the principal functions of a “full time managerial department head” of the Department of Public Safety. Exhibit A. Petitioner O’Neill is principally responsible for “assist[ing], advis[ing] and consult[ing] with the Attorney General in setting policy, procedure, precedent and legal opinions for the State of Connecticut.” Exhibit A. Petitioner O’Neill receives “limited direction” from superiors within the Office of the Attorney General, and he is “[r]esponsible for

full time management of a group of highly skilled professionals who for the most part work independently,” which “requires the most advanced managerial skills of planning, directing, coordinating, advising and consulting.” Exhibit A. Petitioner O’Neill’s “[s]upervisory responsibilities include assigning cases, advising and consulting on case strategies, assisting in planning litigation, evaluating performance and providing training and career development for subordinates.” Exhibit A. As an AAG-4 Department Head, Petitioner O’Neill “[p]lans, organizes and directs work of a group of attorneys; consults with and advises Attorney General on policies and decisions affecting department and agency operations; may assist with or independently represent the State in most difficult, complex or highest impact cases including those likely to be appealed; may advise and counsel state agencies, departments, boards or commissions on highly sensitive or specialized legal problems; [and] may review draft proposals of legislation[.]” Exhibit A. As a result, the State of Connecticut’s Department of Administrative Services classifies all AAG-4 Department Head as “Managerial.” Exhibit A.

3. Petitioner Madeline Melchionne, Esq. is an Assistant Attorney General employed by the Office of the Attorney General. Petitioner Melchionne is also classified as an AAG-4 Practitioner, and she is assigned as the Deputy Department Head of Public Safety. Petitioner Melchionne’s principal functions include, but are not limited to, the development, implementation and evaluation of goals and objectives consistent with the Office of Attorney General’s mission and policy and the participation in the formulation of agency policy. As set forth in the AAG-4 Practitioner Class Specification, Petitioner Melchionne is principally responsible for “assist[ing], advis[ing] and consult[ing] with the Attorney General in setting policy, procedure, precedent and legal opinions for the State of Connecticut.” Exhibit A. Petitioner Melchionne receives “limited direction” from superiors within the Office of the

Attorney General, while she is vested with the responsibility of “lead[ing] attorneys, paralegal and clerical employees on an intermittent, project or regular basis.” Exhibit A. Petitioner Melchionne also performs performance evaluations of other Assistant Attorneys General, paralegals, and clerical staff. As a result, the State of Connecticut’s Department of Administrative Services classifies all AAG-4 Practitioners as “Managerial.” Exhibit A.

4. Petitioner Carmel Motherway, Esq. is an Assistant Attorney General employed by the Office of the Attorney General. Petitioner Motherway is classified as an Assistant Attorney General 3 (hereafter, “AAG-3”). Petitioner Motherway’s principal functions include, but are not limited to, the development, implementation and evaluation of goals and objectives consistent with the Office of Attorney General’s mission and policy and the participation in the formulation of agency policy. As set forth in the AAG-3 Class Specification, Petitioner Motherway is principally responsible for “performing either the advanced working level or working lead level legal work of the Office [of the Attorney General], including the preparation and representation of the State in the more difficult and complex specialized cases before state and federal agencies and courts, and providing legal advice and services to state agencies, departments, boards, and commissions.” The AAG-3 Class Specification is attached hereto as Exhibit B. Petitioner Motherway “exercises considerable independent judgment” in “provid[ing] legal counsel and services to an agency or a group of boards and commissions with a wide range of legal subjects or problems[.]” Exhibit B. Petitioner Motherway receives “limited direction” from superiors within the Office of the Attorney General. Exhibit B. She is vested with the responsibility of “lead[ing] other Assistant Attorneys General and/or other employees of a lesser grade on an interim or case by case basis” and/or “an established team of Assistant Attorneys General and other employees of a lesser grade on a regular basis.” Exhibit B. As a result, the State of

Connecticut's Department of Administrative Services classifies all AAG-3's as "Managerial."

Exhibit B.

5. Petitioner Robert B. Fiske, III, Esq. is an Assistant Attorney General employed by the Office of the Attorney General. Petitioner Fiske is classified as an AAG-3. Petitioner Fiske's principal functions include, but are not limited to, the development, implementation and evaluation of goals and objectives consistent with the Office of Attorney General's mission and policy and the participation in the formulation of agency policy. As set forth in the AAG-3 Class Specification, Petitioner Fiske is principally responsible for "performing either the advanced working level or working lead level legal work of the Office [of the Attorney General], including the preparation and representation of the State in the more difficult and complex specialized cases before state and federal agencies and courts, and providing legal advice and services to state agencies, departments, boards, and commissions." Exhibit B. Petitioner Fiske "exercises considerable independent judgment" in "provid[ing] legal counsel and services to an agency or a group of boards and commissions with a wide range of legal subjects or problems[.]" Exhibit B. Petitioner Fiske receives "limited direction" from superiors within the Office of the Attorney General. Exhibit B. He is vested with the responsibility of "lead[ing] other Assistant Attorneys General and/or other employees of a lesser grade on an interim or case by case basis" and/or "an established team of Assistant Attorneys General and other employees of a lesser grade on a regular basis." Exhibit B. As a result, the State of Connecticut's Department of Administrative Services classifies all AAG-3's as "Managerial." Exhibit B.

6. Petitioners' employer, and the employer of all other Assistant Attorneys General in the State of Connecticut, is the Attorney General as the chief executive officer of the Office of the Attorney General. Conn. Gen. Stat. § 5-278(a)(1). By statute, the Attorney General has,

among other duties and responsibilities, general supervision over all legal matters in which the State is an interested party. Conn. Gen. Stat. § 3-125 (listing duties of the Attorney General and Assistant Attorneys General).

7. Respondent AFT Connecticut, AFT, AFL-CIO (“Respondent”) is an employee organization.

8. Other interested persons affected by this Petition are the other attorneys employed as Assistant Attorneys General by the Office of the Attorney General who comprise the bargaining unit proposed by Respondent. Upon information and belief, the principal functions of each Assistant Attorney General include at least two of the four categories for the meaning of “managerial employee” set forth in Conn. Gen. Stat. § 5-270(g). See Exhibits A & B. The Class Specifications for Assistant Attorneys General-2 (hereafter, “AAG-2”) and Assistant Attorneys General-1 (hereafter, “AAG-1”) are attached hereto as Exhibit C and Exhibit D respectively. As with the AAG-3’s and AAG-4’s, the State of Connecticut Department of Administrative Services classifies AAG-2’s and AAG-1’s as “Managerial.” Exhibits C & D.

9. Petitioner O’Neill and other members of Petitioner’s proposed bargaining unit also qualify as “supervisory employees,” as their principal job functions include at least two of the four categories for the meaning of “supervisory employee” set forth in Conn. Gen. Stat. § 5-270(f). See Exhibits A & B.

### **Jurisdiction**

10. This Petition is brought pursuant to Section 5-273-39 of the Board’s regulations for Collective Bargaining for State Employees, which states:

“Whenever there is a substantial and immediate threat to rights protected by the Act Concerning Collective Bargaining for State Employees, a person or organization may request a declaratory ruling by the Board with respect to the

applicability to such person or organization of any statute, regulation, or order enforced, administered or promulgated by the Board . . .”

### **Factual Background**

11. On or about August 29, 2016, Respondent filed a document seeking to certify itself as the exclusive bargaining representative for “Assistant Attorneys Generals including departments’ heads.” The filing has been docketed as Case No. SE-32388. Respondent’s proposed bargaining unit consists of every Assistant Attorney General employed by the Office of Attorney General regardless of class, totaling approximately 196 attorneys.

12. At no time during the organizing effort did Respondent or its allies in the agency call a general meeting for all Assistant Attorneys General before filing its petition with the Board seeking to certify itself as the exclusive bargaining representative.

13. Prior to August 29, 2016, attorneys employed as Assistant Attorneys General have never been unionized.

14. As stated in Respondents’ August 29, 2016 filing, upon information and belief, Respondent has provided to the Board signature cards for at least 30% of Assistant Attorneys General expressing interest in the certification of Respondent as the exclusive representative for the proposed bargaining unit.

15. Upon information and belief, Respondent and its representative(s) have informed would-be signatories of union authorization cards that their signed authorization cards would be used only for the purposes of securing a secret ballot election and, thus, not for the purpose of certifying Respondent through an automatic card-check.

16. The Board has scheduled an informal conference on September 13, 2016, to discuss Respondent’s filing.

17. The Petitioners named herein are opposed to certification of Respondent as the exclusive representative for the proposed bargaining unit.

18. Petitioners object to the certification on multiple grounds. First, Petitioners' fundamental and statutory right to oppose unionization will be irreparably impaired if the Board certifies a collective bargaining unit without an election by secret ballot. Second, Petitioners, along with other Assistant Attorneys General, do not have a right to bargain collectively and, thus, may not be included within the proposed bargaining unit as a matter of law because they are managerial and/or supervisory employees within the meaning of Conn. Gen. Stat. § 5-270(f) & (g). Third, Petitioners' fundamental individual rights of free speech and association will be impaired if they are forced to join a union without a secret ballot election.

19. Upon information and belief, there is no employee organization with at least 10% of Assistant Attorneys General that will seek to challenge Respondent's August 29, 2016, filing with the Board. Petitioners can demonstrate, however, that at least 10% of the proposed bargaining unit have signed a petition requesting that any attempt at certification through this Board be accomplished through a secret ballot election. A copy of such petition is attached hereto as Exhibit E.

20. Upon and information and belief, Petitioners' employer, the chief executive officer of the Office of Attorney General, does not intend to object to the composition of the proposed bargaining unit on the ground that Assistant Attorneys General are exempt from collective bargaining as managerial employees pursuant to Conn. Gen. Stat. § 5-270(g).

21. The Attorney General, however, as a defender of the State's laws and the democratic process, has publically stated that a secret ballot election "best respects" the rights of the Assistant Attorneys General that are within Respondent's proposed bargaining unit.



22. Because there is no employee organization that will challenge Respondents' filing, and because Petitioners' employer will not raise the specific challenges set forth in this Petition, Petitioners face a substantial and immediate threat to their rights under the Act Concerning Collective Bargaining for State Employees. See Board Reg. § 5-273-39. Petitioners' right to contest the formation of a union is therefore impaired, and they may be forced into a collective bargaining unit that cannot exist as a matter of law because they and other Assistant Attorneys General are managerial and/or supervisory employees.

### **Substance and Nature of Petitioners' Requests**

#### ***Assistant Attorneys General Are Managerial Employees Exempt from Collective Bargaining***

23. Petitioners first request that the Board issue a ruling that all Assistant Attorneys General employed by the Office of Attorney General are managerial employees within the meaning of Conn. Gen. Stat. § 5-270(g) and are exempt from collective bargaining as a matter of law. In the alternative, Petitioners request that this Board conduct a hearing to determine whether they and other Assistant Attorneys General qualify as managerial employees within the meaning of Conn. Gen. Stat. § 5-270(g).

24. Connecticut General Statute § 5-270(g) exempts employees designated as "managerial employees" from the right to union representation and the right to bargain collectively. State Mgmt. Assoc. v. O'Neill, 204 Conn. 746, 747 (1987). The purpose of § 5-270(g) is to prevent the inherent conflict of interest that exists when managers are included within a collective bargaining unit; to ensure there are enough individuals available to act as managers for the State to provide effective management of state government; and, to ensure that the State has the undivided loyalty of the top level personnel acting on its behalf. O'Neill, 204 Conn. at 755, 757.

25. The definition of “managerial employee” under § 5-270(g) is defined as “any individual in a position in which the principal functions are characterized by not fewer than two of the following: . . . (1) Responsibility for direction of a subunit or facility of a major division of an agency or assignment to an agency head’s staff; (2) development, implementation and evaluation of goals and objectives consistent with agency mission and policy; (3) participation in the formulation of agency policy; or (4) a major role in the administration of collective bargaining agreements or major personnel decisions, or both, including staffing, hiring, firing, evaluation, promotion and training of employees.” Conn. Gen. Stat. § 5-270(g).

26. The exercise of independent judgment is not required for a task to qualify as a “principal function” under § 5-270(g). Department of Public Safety v. State Board of Labor Relations, 296 Conn. 594 (2010) (hereafter “Public Safety”) (trial court erroneously construed § 5-270(g) to require that managerial employees exercise independent judgment in carrying out the “principal functions” listed in § 5-270(g)(2) and (g)(3)). Public Safety explained that no reasonable interpretation of “principal functions” can mean a person in a managerial position must exercise independent judgment in carrying out the enumerated functions in § 5-270(g)(1)-(4). Public Safety, 296 Conn. at 602.

27. The correct interpretation of “principal functions” is that the functions listed in the four categories of § 5-270(g) must be the employee’s “most important, consequential or influential functions.” Public Safety, 296 Conn. at 602. Factors to determine whether something is a “principal function” include “the amount of time that the employees in the position devote to each function, whether an employee’s ability to carry out an enumerated function is a prerequisite for being hired to the position and whether the failure of an employee in the position to carry out an enumerated function would have important consequences to the employer.” Id. at

603. At bottom, “application of the phrase principal functions to any particular position will require an exercise of judgment as to which functions of a particular position are the most important, consequential and influential[;] the phrase clearly and unambiguously does not mean that the employee must exercise independent judgment in carrying out the enumerated functions.” Id.

28. Under Illinois law, which may serve as persuasive authority to this Board, assistant state attorneys are managerial employees as a matter of law because their statutory duties demonstrate a close identification between the actions of the employees and of their employer, a unity of the professional interest with the employer, and an ability to act on behalf of the employer. Office of the Cook County State's Attorney v. Illinois Local Labor Relations Board, 652 N.E.2d 301, 305 (Ill. 1995). In reaching this conclusion, the Illinois Supreme Court remarked that “the authority to make independent decisions and the consequent alignment of the employee’s interests with management’s are hallmarks of managerial status for purposes of labor law.” Id. at 303.

29. In a similar vein, Illinois courts have held that assistant appellate defenders and assistant public defenders are managerial employees. Am. Fedn. of State v. Ill. State Labor Rels. Bd., 75 N.E.2d 1029 (Ill. App. Ct. 2002) (appellate defenders are managerial employees); Chief Judge of the Sixteenth Judicial Circuit v. Illinois State Labor Relations Board, 687 N.E.2d 795 (Ill. 1997) (assistant public defenders employed in Kane County are managerial employees). Several other decisions hold that other types state agency attorneys are managerial employees. See AFSCME, Council 31 v. State, N.E.3d 52, 54 (Ill. App. Ct. 2014) (attorneys for Illinois Commerce Corporation are managerial employees); Salaried Employees of North America

(SENA) v. Illinois Labor Relations Board, 560 N.E.2d 926 (Ill. App. Ct. 1990) (all the attorneys in City of Chicago's law department are managerial employees).

30. Returning to Connecticut law, all Assistant Attorneys General are managerial employees as a matter of fact and as a matter of law as their principal functions include, but are not limited to, the development, implementation and evaluation of goals and objectives consistent with the Office of Attorney General's mission and policy and the participation in the formulation of agency policy. See Conn. Gen. Stat. § 5-270(g)(2), (g)(3). Certain Assistant Attorneys General are also principally responsible for the direction of a subunit or facility of a major division of an agency or assignment to an agency head's staff and/or play a major role in the administration of collective bargaining agreements or major personnel decisions, or both, including staffing, hiring, firing, evaluation, promotion and training of employees. See Conn. Gen. Stat. § 5-270(g)(1), (g)(4).

31. Within the Office of Attorney General, Assistant Attorneys General are classified into separate classes, including, but not limited to, AAG-4's, AAG-3's, AAG-2's, and AAG-1's. The AAG-4 classification is further divided into at least two subclasses: AAG-4 Practitioner and AAG-4 Department Head. See Exhibit A.

32. As set forth in the AAG-4 Class Specification, AAG-4 Practitioners are principally responsible for "assist[ing], advis[ing] and consult[ing] with the Attorney General in setting policy, procedure, precedent and legal opinions for the State of Connecticut." Exhibit A. AAG-4 Practitioners receive "limited direction" from superiors within the Office of the Attorney General, while they are vested with the responsibility of "lead[ing] attorneys, paralegal and clerical employees on an intermittent, project or regular basis." Exhibit A. AAG-4 Practitioners "[r]epresent[] state agencies, officials, employees and agents in most complex civil cases and

appeals before state and federal trial and appeals courts; develop[] case strategies; prepare[] expert testimony; direct[] or independently carr[y] most difficult cases with highest degree of impact on the State and/or country; function[] with a minimum of consultation and review, exercising considerable latitude of judgment; direct[] preparation of or personally prepare[] opinions, regulations, contracts and legislation; [and] may provide legal counsel to agencies, departments, boards or commissions on highly specialized technical legal issues[.]” Exhibit A. As a result, the State of Connecticut’s Department of Administrative Services classifies all AAG-4 Practitioners as “Managerial.” Exhibit A.

33. As set forth in the AAG-3 Class Specification, AAG-3’s are principally responsible for “performing either the advanced working level or working lead level legal work of the Office [of the Attorney General], including the preparation and representation of the State in the more difficult and complex specialized cases before state and federal agencies and courts, and providing legal advice and services to state agencies, departments, boards, and commissions.” Exhibit B. AAG-3’s “exercise[] considerable independent judgment” in “provid[ing] legal counsel and services to an agency or a group of boards and commissions with a wide range of legal subjects or problems[.]” Exhibit B. AAG-3’s receive “limited direction” from superiors within the Office of the Attorney General. Exhibit B. They are vested with the responsibility of “lead[ing] other Assistant Attorneys General and/or other employees of a lesser grade on an interim or case by case basis” and/or “an established team of Assistant Attorneys General and other employees of a lesser grade on a regular basis.” Exhibit B. As a result, the State of Connecticut’s Department of Administrative Services classifies all AAG-3’s as “Managerial.” Exhibit B.

***If Certification Moves Forward, Petitioners' Constitutional and Statutory Rights Will Be Impaired Unless The Board Orders an Election by Secret Ballot***

34. Petitioners also request that if the Board moves forward with Respondents' certification as exclusive bargaining representative for "Assistant Attorneys Generals including departments' heads," an election should be held by secret ballot, so that Petitioners may exercise their right not to join a union as protected by Conn. Gen. Stat. §§ 5-271, 5-272.

35. To the extent the Board intends to certify a collective bargaining unit without an election, it would violate Petitioners' right to campaign against and effectively voice their objections to the formation of a union. Employees enjoy the right to self-organization, Conn. Gen. Stat. § 5-271(a), and employee organizations such as Respondent are prevented from "[r]estraining or coercing employees in the exercise of the rights guaranteed in subsection (a) of section 5-271." Conn. Gen. Stat. § 5-272(b). The Assistant Attorneys General in question also enjoy fundamental freedoms of association and speech guaranteed by the Constitutions of the United States and the State of Connecticut. The relevant provisions of the Connecticut Constitution include Article First, sec. 1, 3, 4, 5, 11, 14, and/or 20.

36. Collectively, these constitutional and statutory rights mean that Petitioners have the right to speak out, campaign, and **VOTE** against the formation of a union. Conn. Gen. Stat. §§ 5-271, 5-272; see also 29 U.S.C. § 157; Guardian Indus. Corp. v. NLRB, 49 F.3d 317, 318 (7th Cir. 1995) (employee has right to oppose union's campaign).

37. The failure of Respondent and its allies to call a general meeting for all Assistant Attorneys General before filing its document with the Board seeking to certify itself as the exclusive bargaining representative, along with rights protected by the First Amendment, is further evidence that a secret ballot election is required.

38. If the Board intends to move forward on the certification process for Respondent to act as the exclusive bargaining representative without an election, Petitioners would be deprived of the foregoing statutory and fundamental constitutional rights.

39. Petitioners respectfully request that the Board issue a declaratory ruling that Petitioners' right to contest the formation of a collective bargaining unit requires an election by secret ballot.

**Petitioners' Prayer for Relief**

40. Petitioners respectfully request that the Board issue a declaratory ruling that all Assistant Attorneys General employed by the Office of Attorney General are managerial employees within the meaning of Conn. Gen. Stat. § 5-270(g) and are exempt from collective bargaining. In the alternative, Petitioners respectfully request a hearing pursuant to Conn. Gen. Stat. § 5-275, so that this Board can be presented with and assess the evidentiary facts necessary to determine whether the Assistant Attorneys General are managerial employees within the meaning of Conn. Gen. Stat. § 5-270(g).

41. Petitioners respectfully request that the Board issue a declaratory ruling that all AAG-4 Department Heads, including Petitioner O'Neill, employed by the Office of Attorney General are supervisory employees within the meaning of Conn. Gen. Stat. § 5-270(f) and are exempt from collective bargaining. In the alternative, Petitioners respectfully request a hearing pursuant to Conn. Gen. Stat. § 5-275, so that this Board can be presented with and assess the evidentiary facts necessary to determine whether the AAG-4 Department Heads and other Assistant Attorneys General are supervisory employees within the meaning of Conn. Gen. Stat. § 5-270(f).

42. If the Board moves forward with Respondents' certification as exclusive bargaining representative for "Assistant Attorneys Generals including departments' heads," Petitioners respectfully request the Board order an election by secret ballot, so that Petitioners may exercise their right to contest the formation of a union as protected by Conn. Gen. Stat. §§ 5-271, 5-272.

Petitioners,

THOMAS J. DAVIS, JR., ESQ.; TERRENCE M. O'NEILL, ESQ.; MADELINE MELCHIONNE, ESQ.; CARMEL MOTHERWAY, ESQ.; AND ROBERT B. FISKE, III, ESQ.,

By their Attorneys,



Timothy C. Cavazza (# 428650)  
Whelan, Corrente, Flanders, Kinder & Siket LLP  
100 Westminster Street, Suite 710  
Providence, RI 02903  
(401) 270-4500  
(401) 270-3760 (fax)

Dated: September 13, 2016



### CERTIFICATION

I hereby certify that on the 13th day of September 2016, I served a copy of this document by certified mail to the all persons and organizations that may be affected by this Petition:

Office of the Attorney General  
55 Elm Street  
Hartford, CT 06106

AFT Connecticut, AFT, AFL-CIO  
c/o Jasmine Vendredi  
Organizer  
35 Marshall Road  
Rocky Hill, CT 06067

Pursuant to Section 5-273-39(d), Petitioners ask the Board for an Order of Notice so that Petitions may post a copy of this Petition in conspicuous places where Assistant Attorneys General customarily assemble, and leave posted for a period of thirty (30) days

  
Timothy C. Cavazza

00021419.DOCX

# **EXHIBIT**

## **A**

**Classified/Non-Examined**

| <b>Class Code</b> | <b>Pay Plan Class Title</b>                            | <b>Eff.Date</b> |
|-------------------|--|-----------------|
| 0403              | MP - 72 ASSISTANT ATTORNEY GENERAL 4 (DEPARTMENT HEAD) | Aug 31, 2007    |
| 0404              | MP - 72 ASSISTANT ATTORNEY GENERAL 4 (PRACTITIONER)    | Aug 31, 2007    |

**PURPOSE OF CLASS:**

In the Office of Attorney General this class is accountable for one of two expert level specialties as either full time managerial department head or highest level specialty practitioner including trial, appellate and/or counsel expertise.

**GUIDELINES FOR CLASS USE:**

Incumbents in this class perform their designated specialties, either Department Head or Practitioner, at the highest levels of expertise. Both the manager and the practitioner assist, advise and consult with the Attorney General in setting policy, procedure, precedent and legal opinions for the State of Connecticut.

**DEPARTMENT HEAD:** Responsible for full time management of a group of highly skilled professionals who for the most part work independently. This requires the most advanced managerial skills of planning, directing, coordinating, advising and consulting.

**EXPERT PRACTITIONER:** Responsible for advising and serving the highest levels of state officials, representing the State of Connecticut in court on the cases of greatest impact with both short range and/or long range implications of a far reaching nature. Use of this parenthetical is limited to no more than fifty (50) percent of the professional classified legal staff of the Office of the Attorney General.

**SUPERVISION RECEIVED:**

Receives general to limited direction from the Attorney General, the Deputy Attorney General, Counsel to the Attorney General or designated Associate or Assistant Attorney General.

**SUPERVISION EXERCISED:**

**DEPARTMENT HEAD:** Provides full time direction to a staff of attorneys, paralegal and clerical employees. Supervisory responsibilities include assigning cases, advising and consulting on case strategies, assisting in planning litigation, evaluating performance and providing training and career development for subordinates.

**PRACTITIONER:** May lead attorneys, paralegal and clerical employees on an intermittent, project or regular basis.

**EXAMPLES OF DUTIES:**

**DEPARTMENT HEAD:** Plans, organizes and directs work of a group of attorneys; consults with and advises Attorney General on policies and decisions affecting department and agency operations; may assist with or independently represent the State in most difficult, complex or highest impact cases including those likely to be appealed; may advise and counsel state agencies, departments, boards or commissions on highly sensitive or specialized legal problems; may review draft proposals of legislation; performs related duties as required.

**PRACTITIONER:** Represents state agencies, officials, employees and agents in most complex civil cases and appeals before state and federal trial and appeals courts; develops case strategies; prepares expert testimony; directs or independently carries most difficult cases with highest degree of impact on the State and/or country; functions with a minimum of consultation and review, exercising considerable latitude of judgment; directs preparation of or personally prepares opinions, regulations, contracts and legislation; may

provide legal counsel to agencies, departments, boards or commissions on highly specialized technical legal issues; may lead other attorneys on a regular or intermittent basis on individual projects or cases; performs related duties as required.

### **MINIMUM QUALIFICATIONS REQUIRED KNOWLEDGE, SKILL AND ABILITY:**

Considerable knowledge of basic law and legal process, legal principles and practice, administrative law, constitutional law, rules of process and rights and obligations of state agencies; considerable knowledge of litigation and appellate process; considerable knowledge of statutory authority of Attorney General and operation and administration of Office of the Attorney General; considerable interpersonal skills; considerable oral and written communication skills.

**DEPARTMENT HEAD:** Considerable knowledge of and ability to apply management principles and techniques.

**PRACTITIONER:** Considerable knowledge in a complex technical legal specialty.

### **EXPERIENCE AND TRAINING:**

#### **General Experience:**

Nine (9) years' experience in the practice of law.

#### **Substitution Allowed:**

Two (2) years as an Assistant Attorney General 3.

### **SPECIAL REQUIREMENT:**

Incumbents in this class must be admitted to practice law in the State of Connecticut.

#### **Note:**

Non-Examined refers to Section 5-219 of the Connecticut General Statutes which permits appointment of candidates to competitive positions without formal examination when a professional license, professional degree, accreditation or certificate is a mandatory requirement for appointment to a class.

This replaces the existing specification for the same class in the same Salary Group MP 72 approved effective September 1, 1999. (Revised to modify Guidelines For Class Use)

0403A 6/12/07 cm

| CC   | Item# | Occup. Group | Bargaining Unit | EEO                              |
|------|-------|--------------|-----------------|----------------------------------|
| 0403 | 1201  | (18)-Legal   | (02)-MANAGERIAL | (1)-Officials And Administrators |
| 0404 | 1201  | (18)-Legal   | (02)-MANAGERIAL | (1)-Officials And Administrators |

**Print**

# **EXHIBIT**

## **B**

# Department of **ADMINISTRATIVE SERVICES** *Class Specification*

Classified/Non-Examined

**Class Code**   **Pay Plan**   **Class Title**

7083

MP - 70   ASSISTANT ATTORNEY GENERAL 3

**Eff. Date**

Sep 1, 1999

## **PURPOSE OF CLASS:**

In the Office of the Attorney General this class is accountable for performing either the advanced working level or working lead level legal work of the Office, including the preparation and representation of the State in the more difficult and complex specialized cases before state and federal agencies and courts, and providing legal advice and services to state agencies, departments, boards, and commissions.

## **GUIDELINES FOR CLASS USE:**

Assistant Attorneys General 3 perform beyond the full range of general legal practice. The qualification for this level includes, but is not limited to, acquiring a great breadth of legal knowledge in order to provide legal counsel and services to an agency or a group of boards and commissions with a wide range of legal subjects or problems, or a great depth of expertise in one or more subject or specialty areas. This is an advanced working level or working lead level class which exercises considerable independent judgment and is assigned legal work which is more difficult than that assigned to the majority of the Office's trial staff, i.e., those likely to lead to appeals or those having a heavy impact (either legal or financial) on the State.

## **SUPERVISION RECEIVED:**

Receives limited direction from an employee of higher grade; usually performs assigned duties independently.

## **SUPERVISION EXERCISED:**

May lead other Assistant Attorneys General and/or other employees of lesser grade on an interim or case by case basis

May lead an established team of Assistant Attorneys General and other employees of a lesser grade on a regular basis.

## **EXAMPLES OF DUTIES:**

As a legal practitioner, performs the more advanced legal work of the Office, including the preparation and representation of the State in the more complex, difficult, or sensitive cases before state and federal agencies and courts, including those likely to be appealed to higher courts; provides lead legal counsel for state agencies, departments, boards, and commissions with legal problems of wide diversity, a required specialty knowledge, or a heavy caseload; may be assigned lead attorney, lead counsel, or lead practitioner responsibilities, special projects, or other related duties on a permanent, regular, or intermittent basis; performs related duties as required.

## **MINIMUM QUALIFICATIONS REQUIRED**

### **KNOWLEDGE, SKILL AND ABILITY:**

Considerable knowledge of basic law and legal process, legal principles and practice, administrative law, constitutional law, rules of process, and rights and obligations of state agencies; considerable knowledge of advanced trial and appellate process; considerable breadth of knowledge in a spectrum of legal issues or considerable depth of knowledge in a highly technical specialty; considerable knowledge of the statutory authority of the Attorney General and a knowledge of the operation of the Office of the Attorney General; considerable interpersonal skills; ability to analyze and draft proposed legislation; considerable ability in oral and written communications.

**EXPERIENCE AND TRAINING:****General Experience:**

Seven (7) years' experience in the practice of law.

**Substitution Allowed:**

Four (4) years of experience as an Assistant Attorney General 2.

**SPECIAL REQUIREMENT:**

Must be admitted to practice law in the State of Connecticut.

**Note:**

Non-Examined refers to Section 5-219 of the Connecticut General Statutes which permits appointment of candidates to competitive positions without formal examination when a professional license, professional degree, accreditation or certificate is a mandatory requirement for appointment to a class.

This replaces the existing title of and specification for the same class in Salary Group MP 67 approved effective October 1, 1987.

7083A 9/1/99 pzd

| CC   | Final# | Occup. Group | Bargaining Unit | EEO              |
|------|--------|--------------|-----------------|------------------|
| 7083 | 255    | (18)-Legal   | (02)-MANAGERIAL | (2)-Professional |

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# **EXHIBIT**

## **C**





## Department of ADMINISTRATIVE SERVICES Class Specification

Classified/Non-Examined

**Class Code**   **Pay Plan Class Title**

0400      MP - 67 ASSISTANT ATTORNEY GENERAL 2

**Eff. Date**

Sep 7, 2010

### **PURPOSE OF CLASS:**

In the Office of the Attorney General, this class is accountable for independently performing a full range of tasks in legal work of the Office, including preparation and representation of the State in cases and/or providing legal advice and services to agencies, departments, boards and commissions.

### **GUIDELINES FOR CLASS USE:**

Assistant Attorneys General 2 perform full professional working level legal work of the Office. They provide legal counsel and services to an agency or a group of boards and commissions. They prepare and represent the State in cases before administrative hearings, state agencies and courts. They may negotiate settlements, carry out appeals, or assist on highly technical or specialized cases. At this level they may develop a depth of knowledge in a specialty area such as tax, child support or medicare reimbursements. Incumbents may conduct complex cases with the advice and counsel of higher level attorneys. Complex cases may be defined as obscure points of law, no clear precedent, cases of first impression, or cases likely to lead to appeal. The complexity of case preparation is related but not limited to extensive research, numbers of witnesses involved, variety of evidence to be gathered, the level of the court, or the type of proceeding.

### **SUPERVISION RECEIVED:**

Receives general to limited supervision of an employee of higher grade.

### **SUPERVISION EXERCISED:**

May lead employees of same or lower grade.

### **EXAMPLES OF DUTIES:**

As a legal practitioner performs legal research and the legal work of the Office, including preparing, analyzing, and reviewing the opinions, regulations, and contracts affecting the State of Connecticut; prepares and represents the State in cases of varying degrees of difficulty and complexity before State agencies and courts; provides legal counsel for State agencies, departments, boards and commissions with a wide range or a heavy caseload of legal problems; performs related duties as required.

### **MINIMUM QUALIFICATIONS REQUIRED KNOWLEDGE, SKILL AND ABILITY:**

Considerable knowledge of basic law and legal process, legal principles and practice, administrative law, constitutional law, rules of process, and statutory authority of the Attorney General; knowledge of rules of statutory construction; knowledge of rights and obligations of State agencies; considerable litigation and legal counseling skills; considerable oral and written communication skills; considerable interpersonal skills; considerable ability to analyze legal problems, present statements of fact, law and argument; ability to review and/or draft proposed contracts, regulations and legislation.

### **EXPERIENCE AND TRAINING:**

#### **General Experience:**

Three (3) years experience in the practice of law.

**Substitutions Allowed:**

1. For State employees experience as an Assistant Attorney General 1 shall substitute for the General Experience.
2. Experience as a Judicial Law Clerk may substitute for the General Experience.

**SPECIAL REQUIREMENTS:**

1. Must be admitted to practice law in the State of Connecticut.
2. May be required to travel.

**Note:**

Non-Examined refers to Section 5-219 of the Connecticut General Statutes which permits appointment of candidates to competitive positions without formal examination when a professional license, professional degree, accreditation or certificate is a mandatory requirement for appointment to a class.

This replaces the existing specification for the same class in Salary Group MP 67 approved effective August 17, 2007. (Revised to modify Substitutions Allowed)

0400A 2/24/11 cm

| CC   | Final# | Occup. Group | Bargaining Unit | EEO                              |
|------|--------|--------------|-----------------|----------------------------------|
| 0400 | 1644   | (18)-Legal   | (02)-MANAGERIAL | (1)-Officials And Administrators |

**Print**

# **EXHIBIT**

## **D**



Classified/Non-Examined

**Class Code**   **Pay Plan**   **Class Title**

7816      MP - 62   ASSISTANT ATTORNEY GENERAL 1

**Eff. Date**

Aug 17, 2007

**PURPOSE OF CLASS:**

In the Office of the Attorney General this class is accountable for performing entry level to working level legal research and legal work of the Office including assisting in preparation and representation of the State in cases and assisting in providing legal advice and services to agencies, department, boards and commissions.

**GUIDELINES FOR CLASS USE:**

New Assistant Attorneys General 1 receive training in and perform with increasing independence routine legal work of the Office with emphasis on legal research, review and analysis of legal documents and preparation of simple cases and clear cut issues for which there is a clear precedent. At a more advanced level this class is also used for legal representation in simple or moderately complex matters. Over time incumbents in this class may assist in or personally handle cases of moderate complexity and may exercise independent judgment, although at this level most work is reviewed. This is an entry level class which leads to the full working professional level with increased experience and knowledge.

**SUPERVISION RECEIVED:**

Initially works under close supervision of an employee of higher grade; works more independently with acquired experience.

**SUPERVISION EXERCISED:**

May lead employees of a lower grade.

**EXAMPLES OF DUTIES:**

As a legal practitioner performs legal research; assists in performing and eventually independently performs routine and moderately complex legal work including preparing, analyzing and reviewing opinions, regulations and contracts affecting the State of Connecticut; prepares and represents state in routine and moderately complex legal matters before administrative bodies and lower courts; assists in preparing and representing state in more difficult cases before state agencies and courts; may assist in preparing and representing state in appeals; may act independently in these areas as assigned; performs related duties as required.

**MINIMUM QUALIFICATIONS REQUIRED  
KNOWLEDGE, SKILL AND ABILITY:**

Considerable knowledge of basic law and legal process, legal principles and practice, administrative law, constitutional law, rules of process; considerable interpersonal skills; considerable ability in oral and written communications; ability to analyze legal problems.

**EXPERIENCE AND TRAINING:****General Experience:**

A degree from an accredited law school.

**SPECIAL REQUIREMENTS:**

1.

Incumbents in this class must be admitted to practice law in the State of Connecticut within one (1) year of the date of appointment. Pursuant to Section 51-88 of the Connecticut General Statutes, an incumbent who has not been admitted to practice law may not "assume, use or advertise the title of lawyer, attorney and counsel at law, counselor at law, attorney, counselor, attorney and counselor, or an equivalent term, in such a manner as to convey the impression that he is a legal practitioner of law".

2.

May be required to travel.

**CAREER PROGRESSION:**

The next higher class in this career series is Assistant Attorney General 2.

**Note:**

Non-Examined refers to Section 5-219 of the Connecticut General Statutes which permits appointment of candidates to competitive positions without formal examination when a professional license, professional degree, accreditation of certificate is a mandatory requirement for appointment to a class.

This replaces the existing specification for the same class in Salary Group MP 59 approved effective September 1, 1999. (Revised to adjust Salary Group)

7816A 9/19/06 cm

| CC   | Item# | Occup. Group | Bargaining Unit | EEO                              |
|------|-------|--------------|-----------------|----------------------------------|
| 7816 | 1088  | (18)-Legal   | (02)-MANAGERIAL | (1)-Officials And Administrators |

[Print](#)

# **EXHIBIT**

## **E**



To the Attorney General:

We are writing with respect to the effort currently underway for attorneys in this office to organize into a labor union. In order to ensure a fair process, we are requesting that no union be certified without the benefit of an office wide secret ballot election.

Printed Name

Signature

1. Philip Miller
2. Michael Skold
3. Mark Kohler
4. Josephine Graft
5. Rob Decher
6. Mauna Murphy Osborne
7. JANE ROSENBERG
8. DARREN P. CUMMINGS
9. KAREN GANDY
10. Daniel Schaefer
11. Michael W. Lynch
12. Robert Fiske
13. John DiMascio
14. Gary Hawes
15. Christine Jean-Louis
16. Eileen McKel
17. Charles Walsh
18. Martha A. Tuckman

Phil Miller  
Michael Skold  
Mark Kohler  
Joe Graft  
Rob Decher  
Mauna Murphy Osborne  
Jane Rosenberg  
Darren P. Cummings  
Karen Gandy  
Daniel Schaefer  
Michael W. Lynch  
Robert Fiske  
John DiMascio  
Gary Hawes  
Christine Jean-Louis  
Eileen McKel  
Charles Walsh  
Martha A. Tuckman



To the Attorney General:

We are writing with respect to the effort currently underway for attorneys in this office to organize into a labor union. In order to ensure a fair process, we are requesting that no union be certified without the benefit of an office wide secret ballot election.

| Printed Name                | Signature                |
|-----------------------------|--------------------------|
| 1. Zenobia Graham-Days      | Z + H Z                  |
| 2. STEPHEN R. SARNOSKI      | Stephen R. Sarnoski      |
| 3. DeAnn S. Varunes         | DeAnn S. Varunes         |
| 4. Mad-In-Melchior          | Mad-In-Melchior          |
| 5. Neil Patrick             | Neil Patrick             |
| 6. Larrie Adiyemi           | Larrie Adiyemi           |
| 7. CHARLENE W. SPEILER-LYLE | Charlene W. Speiler-Lyle |
| 8. Stephen R. Finkbe        | Stephen R. Finkbe        |
| 9. MATT BEIZER              | Matt Beizer              |
| 10. Robert Dearington       | Robert Dearington        |
| 11. James Caley             | James Caley              |
| 12. Thomas J. Davis, Jr.    | Thomas J. Davis, Jr.     |
| 13. Terrence O'Hall         | Terrence O'Hall          |
| 14. Carmel A. Motherway     | Carmel A. Motherway      |
| 15. Benjamin Zeyon          | Benjamin Zeyon           |





To the Attorney General:

We are writing with respect to the effort currently underway for attorneys in this office to organize into a labor union. In order to ensure a fair process, we are requesting that no union be certified without the benefit of an office wide secret ballot election.

Printed Name

Signature

- |    |                  |   |
|----|------------------|---|
| 1. | Scott Koschitz   |    |
| 2. | Eleanor Muller   | Eleanor Muller  |
| 3. | BETH Z MARGULIES | Beth Z. Margulies   |
| 4. | Antonia Conti    | Antonia Conti   |
| 5. | Peter Huntsman   |  |

To the Attorney General:

We are writing with respect to the effort currently underway for attorneys in this office to organize into a labor union. In order to assure a fair process, we request that no union be certified without the benefit of an office-wide secret ballot election.

1. 

John Wright

2. 

Clare Kindall

3. 

Robert L. Marconi

4. 

Seth Hollander

5. 

Michael C. Wertheimer



To the Attorney General

We are writing with respect to the effort currently underway for attorneys in this office to organize into a labor union. In order to ensure a fair process, we are requesting that no union be certified without the benefit of an office wide secret ballot election.

Printed Name

CAITLIN CADDEN

Signature

A handwritten signature in dark ink, appearing to read "CAITLIN CADDEN", written in a cursive style.