



Memorandum of Understanding between Deschutes County and The Deschutes County District Attorneys' Association Regarding Implementation of 3 Tiers of Deputy District Attorney Classifications

This Memorandum of Understanding ("MOU") is entered into by and between Deschutes County (the "County") and the Deschutes County District Attorneys' Association ("DCDAA"). The County and DCDAA are parties to the *Collective Bargaining Agreement Between Deschutes County and the Deschutes County District Attorneys' Association* ("Agreement"). The purpose of this MOU is for Deschutes County and DCDAA to come to an agreement providing the County discretion to implement three (3) tiers of Deputy District Attorney Classifications.

The County will implement the three classification tiers for Deputy District Attorneys:

Deputy District Attorney I:

This level reflects newly hired Deputies without substantial criminal trial experience. General responsibilities include misdemeanor and traffic case preparation including examining investigation reports to determine whether further investigation is needed or which criminal charges should be issued through reviewing and analyzing evidence, police reports and related documents intake, and case negotiation. Entry level juvenile and domestic violence cases may be assigned. Preparation of legal memorandums, motions, proposed court orders and other related legal documents for filing with the court. Appears in court for arraignments, release hearings, plea proceedings, sentencing hearings and other proceedings that the court may schedule for the above types of cases; entry level felony arraignments and hearings will be assigned as necessary. Must be prepared to advocate or respond to opponent and to inform the court of the State's position on matters as well as supporting or contrary authority. Deputies at this level should expect to work with more senior level Deputies to develop and improve skills and knowledge. Deputies proven through time and experience may be assigned greater responsibilities including special case assignments and opportunities to appear at Grand Jury or assisting a DDA II or III as a second chair for trial.

Other Criteria:

- In a typical workweek, Deputies in Tier I will spend the majority of their work time on the prosecution of Class A, B or C Misdemeanor (lead charge) cases, based on their assigned caseload.

Deputy District Attorney II:

This level reflects Deputies who are primarily assigned to and who have demonstrated capacity to prosecute non-person, or less complex person-to-person felony level case work. General responsibilities are expanded to include screening, issuing, appearing at Grand Jury and trial work involving felony cases, including felony traffic cases. This level includes those prosecuting primarily less complex felonies such as theft, burglary, robbery, UUV, PCS, etc. Advanced juvenile and domestic violence cases may be

included as part of this caseload. Deputies at this level determine and direct the preparation of affidavits, and search or arrest warrants for their cases. Prepares and presents cases for grand jury, as assigned, by preparing documents, conducting hearings, interviewing witnesses, advising grand jury on legal instructions and law, and completing indictments, warrants, or other documents as required. Assigned to Specialty Courts and other limited duration special projects as needed. May mentor DDA I attorneys and include them as second chairs for hearings and trial. Deputies at this level should expect to work with more senior level Deputies to continue to master skills and may occasionally be presented with complex cases, major felonies, or special case assignments as their skill develops.

Other Criteria:

- In a typical week, Deputies in Tier II spend a majority of their work time on the prosecution of non-Measure 11 Class B and C felonies or Misdemeanor (lead charge) cases not described in the Deputy District Attorney III Tier described below, based on their assigned caseloads.

Deputy District Attorney III:

This level reflects seasoned Deputies who are primarily assigned to prosecute and who have demonstrated capacity to prosecute complex, challenging, and serious crimes in any category including violent crimes against persons, complex frauds, complex drug matters, rape, murder, assault I, automobile homicides, robbery I, economic crimes involving unusual complexity or large dollar amounts and any governmental corruption case. This level includes senior deputies with juvenile court and Circuit Court major case responsibilities and may include SAUSA federal cross-designations. Deputies may provide on-call support to police agencies during non-office hours and may be assigned to act as the primary attorney on homicides including advising law enforcement at homicide scenes. Performs related duties as assigned. May mentor and lead work assignments for DDA I and II attorneys and include them as second chairs for hearings and trial. Deputies at this level are expected to have mastered criminal trial skills and are expected to assist in the training of less seasoned Deputies.

Other Criteria:

- In a typical week, Deputies in Tier III spend a majority of their work time on the prosecution of the types of crimes specified above in the Deputy District Attorney III description, based on their assigned caseloads.
- Knowledge and skill to interpret and apply legal principles and procedures to the review of PCR claims, Death Investigations, Public Record Requests and BOPPs Hearings.

Pursuant to this MOU, the County will follow the implementation and appeal process detailed below in transitioning current employees in the current Deputy District Attorney classification to the new 3 (three) tier Deputy District Attorney classification structure and associated pay grades and pay steps agreed to in the successor Agreement, which is effective July 1, 2023. In this regard, the parties agree as follows:

1. Job Evaluation and Tier Implementation Process:

Supervisor Review: The supervisor will review the employee's current scope of duties, assigned roles and responsibilities, case load, and case assignments. The employee's work history, job duties, experience, and qualifications will be analyzed, and a recommendation made for placement into the appropriate Deputy District Attorney tier.

Internal Review: Supervisor's review, recommendation, and supporting documentation will be reviewed by a management panel. Employees and supervisors may be contacted for clarification or follow-up information via written response or in-person meeting.

Placement: After the internal review is conducted, the management panel will review the results for each employee and confirm tier placement. The employee will then be notified of the decision and the effective date of the implementation.

Implementation: The employee will be placed on the salary range associated with their tier placement. Placement onto the salary range will occur at the closest step without a loss of pay.

Appeal Process: An appeals process will be made available to permit an employee to seek reconsideration of their classification tier assignment. Appeals will relate only to the classification tier assignment; employees may not appeal their step placement, the policy and implementation process, or decisions made concerning the policy and implementation process. Forms to initiate an appeal will be provided to employees upon request. All appeals must be received by the District Attorney within thirty (30) calendar days of receiving the notification of their tier assignment.

2. Tier Placement Appeal Process:

The process used to determine an employee's appropriate classification involves substantial review of the responsibilities associated with scope of duties, assigned roles, case load assignments, and complexity of assigned work. The review does not consider such factors as qualifications that are not required for the work of the position, quality of performance, volume of work assigned, anticipated future responsibilities, length of service, or any personal characteristics associated with the individual such as race, ethnicity, gender, etc.

All employees who wish to appeal their classification tier assignment must adhere to the following process:

- a. Review the Deputy District Attorney classification tiers and the Job Evaluation and Tier Implementation Process outlined above.
- b. Complete the Employee Classification Tier Appeals Form (Attachment B).
 - i. Include detailed rationale for the appeal.
 - ii. Attach any supporting documents that may be relevant.
 - iii. Submit the appeals package to the District Attorney by the submission deadline. Appeals received after the submission deadline will be considered late and not be eligible for consideration.
- c. Internal Review Process.
 - i. Employee's appeal will be reviewed by the District Attorney in consultation with Human Resources.
 - ii. Review of the initial placement and all appeal materials will be completed to assess appropriate classification tier placement.
 - iii. Employee may be asked to provide additional information, clarification, or follow-up via written response or in-person meeting.

- d. Final Decision Implemented.
 - i. After reviewing all relevant information, HR, in consultation with the District Attorney, will make a decision regarding the appeal. This decision will be communicated to you in writing and will outline the reasons for the decision.
 - ii. The effective date for any change in status due to this appeal process will be stated in the final decision. All appeal decisions shall be final and not subject to the grievance process as outlined the DCDAA Collective Bargaining Agreement.
3. Should any provision or provisions of this MOU be construed by a court of competent jurisdiction to be void, invalid or unenforceable, such construction shall affect only the provision of provisions so construed, and shall not affect, impair, or invalidate any of the other provisions of this MOU which shall remain in full force and effect.
4. The provisions of this MOU are contractual and are not mere recitals. All terms, provisions and conditions of the MOU shall be binding upon and inure to the benefit of the parties and to their respective heirs, executors, administrators, agents, representatives, successors and assigns.
5. This MOU shall be governed by and interpreted in accordance with the laws of the State of Oregon.
6. This MOU may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by email delivery of a ".pdf" format data file or a similar format, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page is original thereof.
7. Any dispute concerning the terms and conditions of this MOU brought by the County or DCDAA on behalf of its represented employees will be resolved under the terms of Article 7- Grievance Procedure of the Agreement.
8. Except and unless specifically modified by this MOU, all terms and conditions of the Agreement shall remain in effect. To the extent any of the terms of this MOU conflict with those in the Agreement, the term and conditions of this MOU shall prevail for so long as it is in effect.
9. The parties acknowledge that they have had the opportunity to consult with their own legal counsel before signing and that they have either consulted with their own legal counsel regarding the terms and consequences of this MOU or have voluntarily elected not to consult with an attorney before signing.

[SIGNATURE PAGE TO FOLLOW]

BY SIGNING BELOW EACH OF THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ THIS FIVE-PAGE MEMORANDUM OF UNDERSTANDING, THEY UNDERSTAND AND AGREE TO ITS TERMS AND THE CONSEQUENCES THEREOF, AND THAT THEY HAVE SIGNED IT KNOWINGLY AND VOLUNTARILY.

Agreed to on this _____ day of June, 2023.

Signatures:

Nick Lelack, Deschutes County
Administrator

Date _____

Michael Swart, DCDA President

Date

Stephen Gunnels, Deschutes County District Attorney

Date

DCDAA Classification Tier Placement Appeal Process – 2023 ATTACHMENT B

An appeals process has been established to permit an employee to seek reconsideration of their classification tier assignment resulting from the implementation of a three-tier classification structure in the Deputy District Attorney job family. The appeal relates only to the classification assignment, not step placement or the policy and implementation decisions made by the District Attorney and the County. All appeals must be received within 30 calendar days of receiving the notification letter.

The process used to determine an employee's appropriate classification involves substantial review of the responsibilities associated with scope of duties, assigned roles, case load assignments, and complexity of assigned work. The review does not consider such factors as qualifications that are not required for the work of the position, quality of performance, volume of work assigned, anticipated future responsibilities, length of service, or any personal characteristics associated with the individual such as race, ethnicity, gender, etc.

INSTRUCTIONS: All employees who wish to appeal their classification tier assignment must adhere to the following process:

- Review the classification tier placement guidelines.
- Complete the Employee Classification Tier Appeals Form (page Two)
 - Include detailed rationale for the appeal.
 - Attach any supporting documents that may be relevant.
 - Submit the appeals package to the District Attorney by the submission deadline.
- Internal Review
 - Employee's appeal will be reviewed by the District Attorney in consultation with Human Resources.
 - Review of the initial placement and all appeal materials will be completed to assess appropriate classification tier placement.
 - Employee may be asked to provide additional information, clarification, or follow-up via written response or in-person meeting.
- Decision
 - After reviewing all relevant information, HR, in consultation with the District Attorney, will make a decision regarding the appeal. This decision will be communicated to you in writing and will outline the reasons for the decision.

The effective date for any change in status will be stated in the final decision. Appeals received after the submission deadline will be considered late and not be eligible for consideration. All appeal decisions shall be final and not subject to the grievance process as outlined the DCDAA Collective Bargaining Agreement.

DCDAA Classification Tier Placement Appeal Process – 2023
Employee Classification Tier Appeals Form
Deadline: Within 30 calendar days of receiving the notification letter.

(Fillable-Enabled Form)

Employee Name:			
Contact #/E-mail:		Supervisor:	
Reason for Appeal:	<input type="checkbox"/> Misclassification	<input type="checkbox"/> Other:	
Rationale for Appeal <i>(attach additional sheets, as necessary):</i>			
What Classification Tier is a more appropriate match?			
Employee Signature:		Date:	
Supervisor Comments:			
Supervisor Signature:		Date:	

Once your supervisor has reviewed and commented, please submit your appeals package to the District Attorney by the deadline.