



United States  
Office of Personnel Management

# **DIGEST OF SIGNIFICANT CLASSIFICATION DECISIONS AND OPINIONS**

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## Note to Readers

The guidance in this issue is still applicable and useful in classifying positions in the Federal government. However, there may be references to names and addresses of organizations within the U.S. Office of Personnel Management that have changed, names of individuals no longer employed at the Office of Personnel Management, or documents such as the Federal Personnel Manual that no longer exist.

For the December 1997 HRCD-4 release, the Office of Classification Appeals and Fair Labor Standards Act Programs made minor, nonsubstantive edits to Digest issues 1 through 19. For example, acronyms and abbreviations were spelled out in many places, references to law and regulation were expanded, typographical errors were corrected, leading zeros were added to 3-digit series numbers, outdated prefaces have been deleted, and the issuance date were added to the header of each page. Because of the change from the original paper version to an electronic format, the page numbers in Digest issues 1 through 19 and other references, such as the General Schedule classification standards and Federal Wage System job grading standards, now available electronically may have changed. In issues 1 through 19, where there is a reference to a page, we either eliminated the page reference or updated the page number with the page number of the electronic version. Beginning with issue 20, pages references are to the electronic version only. Please note that pages numbers may change when a file is printed depending on the format and printer used.

The Office of Classification Appeals and Fair Labor Standards Act Programs is responsible for the content of the Digest. We be reached by telephone at 202-606-2990, by fax at 202-606-2663, or by email at [adomsoe@opm.gov](mailto:adomsoe@opm.gov) [fedclass\\_appeals@opm.gov](mailto:fedclass_appeals@opm.gov).

Digest issues are also available on the Office of Personnel Management's website and electronic bulletin board. The website address is <http://www.opm.gov/classapp> and the ~~electronic bulletin board is OPM ONLINE. Using a modem, dial OPM ONLINE at 202-606-4800. Long distance telephone charges may apply.~~ [OPM ONLINE was discontinued July 1999. The *Digest* can also be found on OPM's CD-ROM entitled General Schedule Position Classification and Federal Wage System Job Grading Standards, which is issued by OPM's Classification Programs Division.]

**Standard:** [Research Grade-Evaluation Guide](#)

**Factor:** N/A

**Issue:** Classification action vs. performance-based action

### **Identification of the Classification Issue**

The issue arose after a research scientist was reduced in grade from GS-14 to GS-13 by reclassification of his position. The employing agency took the action following a determination by a research grade-evaluation panel that the incumbent's position no longer supported its GS-14 classification when the Research Grade-Evaluation Guide was applied.

The employee appealed the downgrade to a Merit Systems Protection Board (MSPB) regional office, contending that the downgrade was a performance-based action in which he was denied the protections required by chapter 43 of title 5, United States Code, including the right to appeal the action to MSPB. The agency contended that the downgrade was a position classification action in which the employee received grade retention and was, therefore, not appealable to MSPB.

### **RESOLUTION**

A position may be changed to a lower grade through a position classification action for either of the following reasons: (1) application of a new Office of Personnel Management classification standard, or (2) correction of classification error. Change to a lower grade due to erosion of duties may also be effected as a position classification action unless the action is subject to reduction-in-force (RIF) procedures. (See Federal Personnel Manual Supplement 351-1.) None of these reasons was cited by the agency as the basis for reclassifying the employee's position, and MSPB determined that none of them applied.

The grade of the position may also be reduced if management removes duties and responsibilities. However, the removal of duties is considered to be a reorganization, and the agency must follow reduction-in-force procedures unless the agency reassigns all affected incumbents to vacant positions at their same grades. These circumstances did not apply in the appellant's case.

The agency stipulated that the appellant's performance of his duties was the "primary factor" in the evaluation which led to the grade reduction. A performance-based action may be taken under either chapter 43 or chapter 75 of title 5, United States Code. Under chapter 43, an

employee has a substantive right to an opportunity to improve his performance. No such opportunity was afforded the appellant. Under chapter 75, an employee is entitled to various procedural protections set forth at section 7513. The appellant did not receive any of these procedural protections before the action was taken. The administrative judge found that "Such complete denial of adverse action procedures constitutes harmful procedural error which would warrant reversal of an action under chapter 75." He ordered the agency to cancel the reduction in grade and to restore the appellant to the GS-14 grade level.

It should also be noted that retained grade is intended to provide protection for employees whose positions are downgraded through reclassification or reduction-in-force. An employee who is downgraded because of poor performance is not entitled to retained grade.

**Standard:** [Financial Management Series, GS-0505](#) (June 1963)

**Factor:** N/A

**Issue:** Series coverage

### **Identification of the Classification Issue**

The series coverage of the Financial Management Series, GS-0505, has previously been discussed in Digest Number 5, dated September 1984, and Number 9, dated January 1987. However, two recent appeals indicate that there may still be some confusion among agency classifiers concerning the intended coverage of the GS-0505 series.

#### **Case #1**

This case resulted from the Office of Personnel Management's adjudication of a position classification appeal. The agency had placed the appellant's position in the GS-0505 series based on the determination that the appellant's principal duties involved managing the financial resources of a major organization of the agency. The Office of Personnel Management audit revealed that the appellant's duties involved supervising the work of subordinate budget analysts and an accounting technician who were involved in formulating and executing the organization's budget. The appeal decision addressed the issue of whether the appellant's duties were broad enough to be covered by the Financial Management Series, GS-0505.

#### **Resolution**

While the appellant's position involved some responsibility for three of the required functions of financial management (budgeting, accounting, and managerial-financial reporting), the Office of Personnel Management determined that two of these functions, accounting and managerial-financial reporting, did not match the intent of the GS-0505 criteria in that they did not involve the scope or level of complexity described in the standard. First, the accounting function was being performed by one GS-7 Accounting Technician who was responsible for assisting in the management control of funds by reviewing documents to ensure that funds were used for appropriate purposes and to prevent over-obligations. The appellant did not have responsibility for the broader professional accounting duties described in the GS-0505 standard, such as planning an accounting program within delegated limits; developing, devising, and/or adapting accounting systems; analyzing the results and interpreting the effects of transactions upon the financial resources of the organization; applying accounting concepts to solve problems, render advice, or to meet other needs of management; and managing a total

accounting program, including supervision of subordinate accountants, accounting technicians, voucher examiners, payroll clerks, and similar supporting personnel. Second, while the appellant's responsibility for managerial-financial reporting involved the production of a number of recurring budget and financial reports, she was not responsible for reports on nonfinancial data such as program operation evaluation, statistical, and other work performance reports as described in the GS-0505 standard.

The Office of Personnel Management concluded that the limited scope and complexity of the work supervised by the appellant precluded classification of the position in the GS-0505 series. Because the appellant's responsibilities involved directing, coordinating, and supervising the work of subordinate budget analysts and advising managers on budgetary matters, the appellant's position was properly classified in the Budget Analysis Series, GS-0560.

## **Case #2**

This case resulted from an appeal to an Office of Personnel Management region. The agency had classified the appellant's position in the GS-0505 series despite the fact that the appellant was not responsible for two of the six typical accounting function components listed under the Components of the Work of Financial Managers section of the standard, and was only marginally responsible for two other components. The most important of the accounting components not performed by the appellant was management of a total accounting program, including supervision of accountants and other supporting technician and clerical positions. A separate finance and accounting organization, not under the appellant's supervision, provided operational accounting services. The agency concluded that, because the appellant and his staff maintained a "systemic relationship" with the finance and accounting organization and used operational accounting data in developing information for decision-making alternatives in the management and execution of the organization's mission, the appellant's position contained the essential characteristics of financial management as reflected in the GS-0505 standard.

## **Resolution**

The Office of Personnel Management found that it is the intent of the GS-0505 standard to exclude positions that do not have management authority over all of the critical elements of a financial management system. Any other kind of relationship with activities carrying out the key functions of financial management does not require the kind of managerial authority necessary to design, establish, and maintain a broad and integrated system of financial management characteristic of positions in the GS-0505 series. Without such authority, a manager cannot effectively integrate all of the critical functions into a cohesive system of financial management that contributes to the overall management of the organization. Inclusion of positions in the GS-0505 series that do not have supervisory responsibility for all of the critical functions would be tantamount to redefining the coverage of the series.

Moreover, to be credited with any one of the key functions (i.e., accounting, budgeting, and managerial-financial reporting) a position must have responsibility for all of the components listed in the standard for the function, or for equivalent components. Otherwise, the position would not encompass the full scope of financial management activities required by the standard. Thus, the Office of Personnel Management found that the appealed position was excluded from the GS-0505 series.

**Standard:** [Introduction to the Position Classification Standards](#) (August 1991)

**Factor:** N/A

**Issue:** Classification of mixed-grade positions

### **Identification of the Classification Issue**

The issue arose in connection with an agency request for reconsideration of an Office of Personnel Management region's adjudication of a classification appeal. The appellant contended that his position should be classified at the GS-12 level based on his performance of GS-12 work for a significant percentage of his time. Both the agency and the Office of Personnel Management region agreed, in evaluating and grading the appellant's completed cases from the preceding year, that he was performing work at the GS-12 level for more than 25 percent of his time. On this basis, the Office of Personnel Management region granted the appeal.

The agency, in its request for reconsideration, contended that in order for the GS-12 work to be grade-controlling, it should be performed for a majority of time, i.e., more than 50 percent. The guidance in the Introduction to the Position Classification Standards allows for the highest level of work to be grade-controlling if it is performed 25 percent of the time. The agency argued that this guidance is restricted by the additional requirement that the higher level knowledge and skills be required in recruiting for the position if it becomes vacant. The agency noted that, since the appellant's position was originally recruited at the GS-11 level and would be filled at that grade again if it were vacated, the 25 percent rule did not apply. The agency also noted that the performance standards for the GS-11 and GS-12 positions were identical, thus indicating that there was no appreciable difference in knowledge requirements at the two grades.

### **Resolution**

The Introduction to the Position Classification Standards allows for work that is performed for less than a majority of time to be grade-controlling if the following conditions are met:

- The work is officially assigned to the position on a regular and continuing basis;
- It is a significant and substantial part of the overall position (i.e., occupying at least 25 percent of the employee's time); and



--The higher level knowledge and skills needed to perform the work would be required in recruiting for the position if it became vacant.

Work which is temporary or short-term, carried out only in the absence of another employee, performed under closer than normal supervision, or assigned solely for the purpose of training an employee for higher level work cannot be considered paramount for grade level purposes.

The first condition excludes from consideration higher level work that is not a recurring part of the position, e.g., work that is performed on a special project basis and is not expected to be repeated. The third condition excludes from consideration higher level work that does not truly require the higher level knowledge and skills normally associated with the grade. There are two basic principles underlying this requirement. First, in almost all cases an increase in the complexity of the work assigned is accompanied by an increase in the knowledge and skills needed to perform it. Second, the requirement applies to the work actually assigned and performed, rather than to management's intent when the position was originally advertised and filled or any redistribution of duties that may occur after it is vacated.

When the incumbent of a GS-11 position is regularly being assigned GS-12 level work for at least 25 percent of the time, it is reasonable to conclude that the employee is applying the level of knowledge and skills associated with that grade, since these would be required for continued successful performance of that work. If the employee were to leave the position, and the position were to be recruited for exactly as previously constituted, with the same percentage of higher graded duties, it is again reasonable to conclude that the higher level knowledge and skills would be required. Although management has the option of dropping the GS-12 duties from the position when vacated and recruiting for the job at the GS-11 level, it would then no longer be the same job. Hence, projections of this nature are not a valid basis for denying an upgrade. The 25 percent rule in regard to grade-controlling duties applies to the work being performed at the time the position is evaluated, and is not mitigated by management's original intent in filling the position or any projected restructuring upon vacancy. Further, similarity of performance standards at different grade levels cannot be taken as an indication of the degree of knowledge required, as these documents are not designed to reflect or measure relative job complexity. Therefore, the position was correctly classified at the GS-12 level.

The Introduction also points out that position management considerations are important responsibilities of agency managers and supervisors. They are responsible for organizing the work in an efficient, cost-effective manner and for ensuring that the skills and abilities of employees are used to the fullest extent possible. Assignment of work that results in a higher grade based on duties performed less than a majority of time generally is neither efficient nor cost effective.

**Standard:** [General Attorney Series, GS-0905](#)

**Factor:** Nature of Cases or Legal Problems

**Issue:** Determining what constitutes "very large sums of money"

### **Identification of the Classification Issue**

Following a personnel management evaluation of an installation, an Office of Personnel Management region downgraded a General Attorney position. The region evaluated the first factor in the GS-0905 standard, Nature of Cases or Legal Problems, at Type II and concluded that none of the Type III features was met. The incumbent then filed a classification appeal with the Office of Personnel Management Classification Appeals Office, contending that the region had made an improper adjustment of the standard by its interpretation of the phrase in the third feature of Type III which states, "Cases or problems of this type frequently involve, directly or indirectly, very large sums of money (e.g., about a million dollars) . . . ." Because a great deal of inflation had occurred since 1959, the region adjusted the 1959 dollar amount in the example to the equivalent current dollar value.

### **Resolution**

The Classification Appeals Office ruled that the region had properly interpreted the standard, and that this interpretation did not change the standard. The reference in the standard to "about a million dollars" is not a criterion but, instead, is merely an example of "very large sums of money." It is not reasonable to conclude that what was considered a very large sum of money in 1959, when the standard was issued, was an absolute to be applied without sound classification judgment. Thus, the figure in the standard should be adjusted for inflation.

The Classification Appeals Office also noted that the third feature of Type III refers to cases or problems which *frequently* involve very large sums of money and/or are frequently vigorously contested by extremely capable legal talent. Thus, the reference to very large sums of money is only a portion of the description of cases that meet the criteria in the third feature under Type III. The appellant had been responsible for only one case which involved a contract worth about a million dollars. The case was not contested by "extremely capable legal talent," and there was not nationwide interest in the case. Therefore, the appellant's cases did not meet either the intent of the third Type III feature or the example cited of very large sums of money. Because the appellant's cases also did not meet the criteria in feature 1 or 2 of Type III, Type II was credited.

**Standard:** N/A

**Factor:** N/A

**Issue:** Effective date of new or revised classification standards

### **Identification of the Classification Issue**

The issue arose in connection with an agency request for reconsideration of an Office of Personnel Management region's adjudication of a classification appeal. The agency, in denying a requested upgrade, applied a classification standard that was superseded a few months after the agency had decided the appeal. The Office of Personnel Management region, in adjudicating the appeal, applied the new standard to the same work samples that had been reviewed by the agency in its initial evaluation of the position, and subsequently granted the employee's appeal. The agency argued that since this work had been assigned and performed before the new standard was issued, it could not be evaluated using that standard, and that the Office of Personnel Management should have considered only the work that was performed after the date of issuance of the new standard.

### **Resolution**

Any Office of Personnel Management classification policy or standard supersedes its predecessor on the date of issuance, unless otherwise stated. There is no legal or regulatory basis for limiting the application of a new standard to work performed after the date of issuance. (Changes in grade that result from application of a new standard are not processed retroactively, however, and an employee who is promoted has no back pay entitlement.) The classification of a position typically involves considering the range of work performed over a period of time sufficient to capture cyclical duties or normal variations in the complexity of the work. Therefore, limiting the application of a new standard in this way would effectively preclude its use for a significant length of time.

Agencies are generally allowed 6 months from the date of issuance to apply new classification standards to encumbered positions. However, new standards are to be applied immediately to vacant positions and requests for reclassification of encumbered positions using the most recent work samples available, regardless of whether the work was completed before or after the date of issuance.

**Standard:** [Grade Level Guide for Instructional Work](#)  
(March 1989)

**Factor:** N/A

**Issue:** Evaluation of instructor positions also engaged in course development work

### **Identification of the Classification Issue**

The issue arose in an Office of Personnel Management region's consideration of an appeal. The appellant provided remedial reading and study skills training to military recruits, and spent most of her time delivering a 2-week reading course which she had developed. The appellant argued that application of Part I of the Grade Level Guide for Instructional Work, which covers instructor work, should result in classification at the GS-11 level because she developed and modified courses, ranging from basic to advanced, demonstrated techniques to instructors (1-day training given semiannually) and designed courses for trainees who had reading and/or learning disabilities. The appellant asserted that these courses were equivalent to the upper-division undergraduate level. The agency determined that the instructional work, evaluated by Part I, did not exceed the GS-7 grade level, but that the development of short self-contained courses to teach basic skills, evaluated by Part II (instructional specialist work), supported classification at the GS-9 level.

### **Resolution**

The Office of Personnel Management found that the instructor duties were the primary function of the position and the paramount reason for its existence at the school. The instructional specialist duties were incidental and performed almost exclusively in support of the appellant's own courses. Thus, the position was evaluated by application of Part I of the Grade Level Guide for Instructional Work.

The Office of Personnel Management determined that the limited complexity of the course content (remedial reading) and the brevity of the courses were comparable to the short, repetitive courses found at the GS-7 grade level, e.g., beginning typing, and operation, repair, and maintenance of uncomplicated equipment. However, because the appellant was responsible for the content and modification of the courses, those duties warranted evaluation to a higher grade level. The appellant's maintenance and development of course content, normally found at the GS-11 level, were performed for courses significantly less complex than envisioned at that level, e.g., courses covering advanced technical systems such as

maintenance and repair of major aircraft systems. The course changes she developed were minor and did not entail the frequent updating of knowledge and course content found at the GS-11 level. Only 10 percent of the remedial reading students had not completed high school. Teaching these students did not present the complicated, specialized, or persistent learning difficulties for learning disabled students envisioned at the GS-11 grade level. Therefore, while the course maintenance and development duties were similar to GS-11 level work, these duties failed to meet the full intent of the standard at that level. Because of the circumscribed nature of the courses taught, the Nature of Assignment minimally met the GS-9 level.

The position's Level of Responsibility was similar to the GS-11 level, e.g., freedom from supervisory control in subject matter material selection and course modification. However, the circumscribed nature of the courses taught did not permit the depth of content analysis of subject matter material or the breadth of training and text material development envisioned at the GS-11 level. Therefore, notwithstanding the delegation of course content control to the appellant, the Level of Responsibility did not exceed the GS-9 grade level. The Office of Personnel Management concluded that the position was properly classified at the GS-9 level by application of Part I of the Grade Level Guide for Instructional Work.