

U.S. Office of Personnel Management
Office of Merit Systems Oversight and Effectiveness
Classification Appeals and ELSA Programs



Washington Oversight Division
1900 E Street, N.W.
Washington, D.C. 20415

Classification Appeal Decision
Under Section 5112 of Title 5, United States Code

Appellant: [name]

Agency classification: Equal Employment Specialist
GS-260-12

Organization: Equal Employment Opportunity and Cultural
Diversity Office
[agency]
Department of Defense
Arlington, Virginia

OPM decision: Equal Employment Specialist
GS-260-12

OPM decision number: C-0260-12-02

Richard Quasney
Classification Appeals Officer

July 29, 1998 _____ Date

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision constitutes a classification certificate that is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the Government. The agency is responsible for reviewing its classification decisions for identical, similar, or related positions to ensure consistency with this decision. There is no right of further appeal. This decision is subject to discretionary review only under the conditions and time limits specified in title 5, U.S. Code of Federal Regulations, sections 511.605, 511.613, 511.614, as cited in the Introduction to the Position Classification Standards, appendix 4, section G (address provided in appendix 4, section H).

Decision sent to:

[appellant]

[agency personnel officer]

Mr. William Duffy
Chief, Classification Branch
(CPMS-ASFP)
Defense Civilian Personnel
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Introduction

On March 30, 1998, the Washington Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a position classification appeal from [appellant], who is employed as an Equal Employment Specialist, GS-260-12, in the Office of Equal Employment Opportunity and Cultural Diversity, [agency], in Arlington, Virginia. [Appellant] requested that his position be classified as Equal Employment Specialist, GS-260-13. This appeal was accepted and decided under the provisions of section 5112 of title 5, United States Code.

An on-site position audit was conducted by a Washington Oversight Division representative on July 1, 1998, supplemented by interview with the appellant's first-line supervisor, [name], on July 17, 1998. This appeal was decided by considering the audit findings and all information of record furnished by the appellant and his agency, including his official position description, number T7093, classified by the servicing personnel office as Equal Employment Specialist, GS-260-12, on November 21, 1997.

General Issues

The appellant's position description is somewhat overstated in relation to the duties he actually performs. For example, in terms of the Duties and Responsibilities section, the appellant does not participate "in all phases of planning, managing, and evaluating the agency EEO program," as he does not have continuing responsibilities in the areas of complaints processing or the special emphasis programs for Hispanic Employment, Asian Pacific American Employment, or the Federal Women's Program. Further, the appellant's supervisor did not confirm that the appellant has had any recent involvement in planning and presenting EEO supervisory or counselors' training. There is no indication that the appellant provides "leadership and administrative supervision" to EEO advisory committees, technical assistants, or other designated EEO staff, or that he directs the agency's upward mobility program. Similarly, the narrative descriptions under the various factors in the position description refer to some of these same elements and generally portray the position as having a greater degree of authority and complexity than can be supported by the actual work performed.

Position Information

The appellant serves as the program manager for the Persons with Disabilities, Disabled Veterans, and Black Employment Programs. In this capacity, he coordinates the development of the associated portions of the agency's Affirmative Employment Plan, to include preparing statistical information on workforce composition and recruitment trends and developing program objectives and milestones, and represents the agency on Departmental committees related to these special emphasis areas. He participates in technical assistance visits to field activities by conducting on-site interviews, reviewing management and personnel practices, and providing managers feedback and advice on identified issues and problems. He participates in recruitment trips to colleges and universities, works with individual managers and the personnel office on structuring upward mobility positions to advance minorities, receives and forwards applications from qualified minorities to the personnel office for consideration, and reviews selected recruitment actions for high-grade positions as assigned. Other

duties, such as processing complaints and providing counseling services, are performed very infrequently and generally in the absence of other responsible staff.

Series Determination

The appellant's position is properly assigned to the Equal Employment Opportunity Series, GS-260, which covers positions concerned with developing, administering, evaluating, or advising on the Federal Government's internal equal employment opportunity program within Federal agencies, including managers or coordinators of special emphasis programs. Neither the appellant nor the agency disagrees.

Title Determination

The authorized title for nonsupervisory positions in this series is Equal Employment Specialist. Neither the appellant nor the agency disagrees.

Standard Determination

The position was evaluated by application of the grade-level criteria provided in the standard for the Equal Employment Opportunity Series, GS-260, dated November 1980.

Grade Determination

This standard is written in the Factor Evaluation System (FES) format, under which factor levels and accompanying point values are to be assigned for each of the following nine factors, with the total then being converted to a grade level by use of the grade conversion table provided in the standard. The factor point values mark the lower end of the ranges for the indicated factor levels. For a position to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor level description. If the position fails in any significant aspect to meet a particular factor level description, the point value for the next lower factor level must be assigned, unless the deficiency is balanced by an equally important aspect that meets a higher level.

Factor 1, Knowledge Required by the Position

This factor measures the nature and extent of information an employee must understand in order to do the work, and the skills needed to apply that knowledge.

At Level 1-7, the work requires comprehensive and thorough knowledge of equal employment opportunity laws, regulations, and court decisions; knowledge of the organizational structure and management policies and practices of the agency, including personnel regulations and practices; and skill in identifying EEO problems and developing concrete action plans to solve these problems and to advise managers on appropriate courses of action to eliminate barriers to equal employment opportunity.

The knowledge required by the appellant's position is comparable to Level 1-7. The knowledge requirements stated above basically express those required by the position in performing such duties as providing advice to management on the resolution of EEO problems, assisting in recruitment efforts, and developing program objectives and milestones for the assigned affirmative action program areas.

The position does not meet Level 1-8. At that level, the work requires mastery of the concepts, principles, and methods of Federal EEO to develop broad guidelines or regulations or to conduct projects to resolve complex systemic problems of broad scope. This involves expert knowledge of the legal framework in which the program operates to develop guidelines and regulations where accepted methods and principles are questioned or challenged, and a high level of consulting skills to advise managers on broad, complex, and sensitive EEO issues and to identify systemic barriers to EEO and develop practical solutions.

The organizational context within which the appellant operates basically precludes crediting this level. The appellant does not work, for example, at the Departmental level or at a larger agency where he would be developing regulations or guidelines for use by other EEO specialists in subordinate bureaus or activities. Although [agency] has a number of field locations, the EEO program is centralized with no subordinate EEO offices over which the central office would exercise policy or program control. Further, there is no indication that the appellant advises managers on, and develops concrete solutions to, EEO problems of the difficulty, sensitivity, and magnitude expressed at this level, i.e., systemic barriers to equal employment opportunity that permeate the agency. The appellant advises individual supervisors on problems within their units, but is not in a position to be advising top agency management on widespread or particularly sensitive EEO issues, such as major class action complaints or other EEO matters that have attracted public attention.

Level 1-7 is credited.

1250 points

Factor 2, Supervisory Controls

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the employee's responsibility, and the review of completed work.

At Level 2-4, the supervisor sets the overall objectives and resources available and works with the employee in developing deadlines and approaches to unusual problems. The employee plans and carries out the work, advising the supervisor of major unexpected problems or significant controversies. Completed work is reviewed for fulfillment of objectives within established target dates.

The appellant's level of responsibility meets Level 2-4. The appellant receives assignments from the supervisor in terms of general objectives and time frames. He carries out the assigned projects independently, but the supervisor keeps apprised of progress and status through frequent staff

meetings, other informal contacts with the appellant, and the review of draft correspondence. Completed work is reviewed for fulfillment of expectations within established time frames.

The position does not meet Level 2-5. At that level, the supervisor provides administrative direction only, with assignments made in terms of broadly defined missions or functions. This may include setting budget and personnel limits on the employee's program or project or setting broad policy goals and objectives. The employee is responsible for independently planning, designing, and carrying out the work. Results of the work are considered technically authoritative. If the work is reviewed, the review concerns such matters as fulfillment of program objectives or the overall effect of the program.

Implicit in this level is a degree of program management responsibility that is not present in the appellant's position. The appellant is not responsible for a broad program or functional area wherein he would have the latitude to determine and design the types of activities to be undertaken. Rather, his assignments are either recurring or are specifically assigned or approved by the supervisor as projects. For example, the supervisor develops the schedule for technical assistance visits to field locations, and decides whether particular special emphasis program events will be held or initiatives undertaken. Further, the appellant does not work under the general administrative oversight that is associated with this level. That type of supervision, where only budgetary and personnel resources and general policy direction are provided, is predicated on delegated responsibility and authority for a program or function. In contrast, the appellant receives continuing technical oversight from the supervisor, through regular staff meetings and review of all draft correspondence and other written material before it is released from the office.

Level 2-4 is credited.

450 points

Factor 3, Guidelines

This factor covers the nature of the guidelines used and the judgment needed to apply them.

At Level 3-4, guidelines include laws, Executive Orders, policy statements, and agency directives, and broadly-stated procedural manuals. The employee uses initiative and resourcefulness in extending or redefining these guidelines in such assignments as, for example, the development of guidelines, criteria, and methods for carrying out an EEO program.

The appellant's use of guidelines meets Level 3-4. This basically credits the appellant's responsibility for developing affirmative employment plan objectives and action items for the assigned special emphasis program areas.

The position does not meet Level 3-5. At that level, guidelines consist of laws, court decisions, and policy statements that require extensive interpretation. The employee must use considerable judgment and ingenuity in interpreting these guidelines to develop new policies and guidelines covering equal employment opportunity areas.

The appellant does not work at an organizational level (e.g., at the Departmental level or at the Equal Employment Opportunity Commission) such that he would be doing the original interpretation of new laws or court decisions and developing corresponding agency policies and guidelines.

Level 3-4 is credited.

450 points

Factor 4, Complexity

This factor covers the nature, number, variety, and intricacy of the tasks or processes in the work performed, the difficulty in identifying what needs to be done, and the difficulty and originality involved in performing the work.

At Level 4-4, employees perform complete assignments with widely varying duties. For example, they may perform comprehensive analyses of broad policies and practices of complex organizations, such as compliance reviews of employers concerning a broad range of activities (e.g., hiring, promotion, and treatment of employees).

The complexity of the appellant's work is consistent with Level 4-4. Although the appellant does not analyze broad policies and practices in the sense intended above, he performs work of comparable variety and difficulty in the coordination of the assigned special emphasis program areas insofar as this function involves setting goals and monitoring progress related to the hiring and promotion of the targeted groups, participating in special recruitment efforts, planning and coordinating events, and representing the agency on associated Departmental committees.

The position does not meet Level 4-5. At that level, employees perform complete assignments individually or as a team leader involving the resolution of highly complex problems. Decisions regarding what needs to be done include major areas of uncertainty in planning projects, determining the scope of the project, determining applicable precedents, laws, or regulations to apply, and determining the most effective approach and methodology. This uncertainty is due to the complexity of the organizations serviced, the vastness of the facts involved, the ambiguity of conditions, or the absence of or conflict between laws, regulations, or precedents. At this level, employees make major or precedent setting technical decisions, establish criteria for deciding future cases of the same type, or change fundamental policies and practices of major institutions.

Neither the appellant's projects nor his organizational situation are characterized by this degree of complexity. His projects do not involve major areas of uncertainty in determining the scope of the work or the most effective approach and methodology, since they are largely cyclical or repetitive with ample precedents upon which subsequent work can be based (e.g., affirmative employment plans are updates of previous versions, recruitment trips involve basically the same types of presentations). Likewise, the projects do not involve this degree of uncertainty in planning the work since much of this function is assumed by the supervisor (e.g., developing the schedules and agendas for technical assistance visits). The appellant's work is largely coordinative and does not involve making technical

decisions that would be regarded as precedent setting, or that would have the effect of changing fundamental policies or practices of the agency.

Level 4-4 is credited.

225 points

Factor 5, Scope and Effect

This factor covers the relationship between the nature of the work, and the effect of the work products or services both within and outside the organization.

At Level 5-4, employees conduct projects to solve broad, difficult, and complex EEO problems through systematic factfinding, analysis, and consulting efforts. The work results in the resolution of a wide variety of problems ranging from individual complaints to elimination of systemic barriers to EEO, such as policies or widespread practices in a segment of a Federal agency. The work affects the equal employment opportunity of many persons.

The scope and effect of the appellant's work is comparable to Level 5-4. His coordination of the assigned special emphasis program areas represents a systemic approach to improve representation for those targeted groups, and the technical assistance provided to managers affects the equal employment opportunity of minorities and women throughout the agency.

The position does not meet Level 5-5. At that level, employees conduct projects or studies designed to eliminate major barriers to equal employment opportunity in large segments of the Federal workforce. The work results in major changes in the employment policies and practices of large Federal agencies or a major segment of such an organization. Typically, the work affects the rights or economic welfare of all classes of employees or job applicants in the agency.

Through the conduct of technical assistance visits to field locations, the appellant is involved in examining the workforce climate and perceptions of equal opportunity at each site and making recommendations to the local management on improving workforce relations. However, there is no indication that the appellant is involved in eliminating any major barriers to equal employment opportunity on an agencywide basis, as opposed to attempting to improve representation through more targeted and proactive recruitment efforts. Level 5-5 presupposes the existence of some major institutional obstacles affecting equal access to employment or advancement that can only be eliminated through large-scale changes in the agency's policies and practices. Neither the appellant nor his supervisor cited any examples of any such efforts being undertaken by the appellant.

Level 5-4 is credited.

225 points

Factor 6, Personal Contacts

This factor includes face-to-face and telephone contact and other dialogue with persons not in the supervisory chain.

At Level 6-3, personal contacts are with persons outside the employing agency such as attorneys, EEO specialists from other agencies, or union officials, or with employees and managers within the same agency when these contacts are moderately unstructured, such as in adversarial situations where the employee is providing consulting services to agency managers.

The appellant's personal contacts match Level 6-3, in that he has frequent contacts with counterparts in other DoD components and at the Departmental level, and with agency managers in a consulting capacity.

The position does not meet Level 6-4. At that level, contacts are with high-ranking officials from outside the employing agency, such as heads of other Federal agencies, heads of national civil right organizations, or national officials of large unions.

There is no indication that the appellant has any contacts with individuals of this degree of prominence.

Level 6-3 is credited.

60 points

Factor 7, Purpose of Contacts

This factor covers the purpose of the contacts identified under Factor 6.

At Level 7-3, the purpose of the contacts is to negotiate on procedural points, conduct formal interviews, or to persuade individuals.

The purpose of the appellant's contacts matches Level 7-3, in that contacts with agency managers credited under Level 6-3 are for the purposes of persuading them to take actions that will increase representation of minorities and "negotiating" with them to resolve individual problems encountered during technical assistance visits.

The position does not meet Level 7-4. At that level, the purpose of the contacts is to negotiate resolutions to highly controversial or major issues, or to justify or defend decisions (as opposed to recommendations) on major controversial issues. The issues may involve major changes in the policies or practices of the organization or very large sums of money; the other parties may strongly contest the position of the negotiator; and the matters being negotiated may involve multiple broad and complex issues and are basic to the policy positions being taken by the agency.

The appellant's assigned functional responsibilities do not include negotiating resolutions to issues with this degree of controversy or magnitude (e.g., settlement of a major class action complaint involving large sums of money and subsequent changes in fundamental agency policies and practices governing hiring and promotion), or justifying and defending decisions on such matters.

Level 7-3 is credited.

120 points

Factor 8, Physical Demands

This factor covers the requirements and physical demands placed on the employee by the work assignment.

The position matches Level 8-1, which covers sedentary work.

Level 8-1 is credited.

5 points

Factor 9, Work Environment

This factor considers the risks and discomforts in the employee's physical surroundings or the nature of the work assigned and the safety regulations required.

The position matches Level 9-1, which describes a typical office setting.

Level 9-1 is credited.

5 points

Summary

<u>Factors</u>	<u>Level</u>	<u>Points</u>
Knowledge Required	1-7	1250
Supervisory Controls	2-4	450
Guidelines	3-4	450
Complexity	4-4	225
Scope and Effect	5-4	225
Personal Contacts	6-3	60
Purpose of Contacts	7-3	120
Physical Demands	8-1	5
Work Environment	9-1	<u>5</u>
Total		2790

The total of 2790 points falls within the GS-12 point range (2755-3150) on the grade conversion table provided in the standard.

Decision

The appealed position is properly classified as Equal Employment Specialist, GS-260-12.