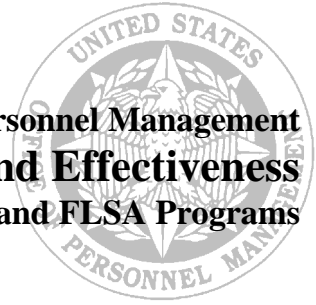


**U.S. Office of Personnel Management
Office of Merit Systems Oversight and Effectiveness
Classification Appeals and FLSA Programs**



1900 E Street, NW, Room 7679
Washington, DC 20415

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

Appellant:	[appellant's name]
Agency classification:	Hearing Officer GS-930-13
Organization:	[location] Regional Office National Appeals Division U.S. Department of Agriculture
OPM decision:	GS-930-12 Title at agency discretion
OPM decision number:	C-0930-12-02

Signed 3/5/98

Jeffrey D. Miller
Director
Classification and FLSA Programs

Date

This reconsideration of an earlier Office of Personnel Management (OPM) decision constitutes a new certificate that is mandatory and binding, under 5 U.S.C. 5111, on all administrative, certifying, payroll, disbursing, and accounting officials of the government. It is subject to discretionary review only under the conditions specified in Part 511, Subpart F, of title 5, U.S. Code of Federal Regulations.

The agency is responsible for reviewing its classification decisions for identical, similar, or related positions to ensure consistency with this decision.

Decision sent to:

[appellant's name and address]

Mr. Roger L. Bensey
Director, Office of Human Resources
Management
U.S. Department of Agriculture
J. L. Whitten Building, Room 316W
1400 Independence Avenue, SW.
Washington, DC 20250

Introduction

This reconsiders an earlier Office of Personnel Management (OPM) decision, dated May 31, 1996, which classified the appellant's position, number NA0541, as Hearing Officer, GS-930-13. The position is located in the [location] Regional Office of the National Appeals Division (NAD), U.S. Department of Agriculture (USDA). The appellant's duty station is [location].

Position Information

The appellant is one of about 23 GS-13 Hearing Officers assigned to the [location] Regional Office, one of three similarly sized regional offices under NAD, which is headquartered in Arlington, Virginia. The [location] Regional Office is headed by a GS-14 Assistant Director.

The appellant conducts evidentiary hearings on appeals of various USDA agency decisions concerning issues such as denial of participation in an agency program, compliance with program requirements, payments to participants, and wetland determinations. He conducts pre-hearing conferences, develops and maintains an official appeal record, rules on motions and objections, and issues decisions under his own signature.

During fiscal year 1997, about 2,500 appeals were heard by NAD Hearing Officers throughout the country. NAD was established as an independent organization within the Office of the Secretary, consolidating separate appeals functions within USDA agencies, as a result of the USDA Reorganization Act of 1994. Its appeals procedures appear under 7 CFR part 11.

Analysis and Findings

Series And Title Determination

The appellant's duties fall within the type of work covered by the Hearings and Appeals, GS-930, series. This series includes positions that involve the adjudication of cases through formal or informal hearings that accord due process, arising under statute or under the regulations of a Federal agency, when the hearings are not subject to the Administrative Procedures Act. The work typically requires the ability to review and evaluate investigative reports and case records, conduct hearings in an orderly and impartial manner, determine credibility of witnesses, sift and evaluate evidence, analyze complex issues, apply agency rules and regulations and court decisions, prepare clear and concise statements of fact, and exercise sound judgment in arriving at decisions.

The GS-930 series has no prescribed position titles. Agencies may designate the official title of positions in such cases. The *Hearing Officer* title used by the agency is consistent with instructions on constructing official titles appearing in the *Introduction to the Position Classification Standards*, Section III, H, 2.

Grade Determination

The GS-930 series has no grade level criteria of its own. Consequently, grade level determinations are made by comparison with a standard for a closely related kind of work. The OPM *Paralegal*

Specialist, GS-950, Series standard, dated August 1986, belongs to the same occupational family as the appellant's position and, though not a perfect match to his work, shares similar characteristics in terms of the required analytical, research, writing, and judgment skills. In contrast to the General Attorney, GS-905, series standard applied by the agency, the Paralegal standard addresses administrative work, rather than professional work. Unlike Attorney work, Hearings and Appeals work lacks professional requirements. It does not require a degree, professional legal education, or admission to the bar. The differences in duties, responsibilities, qualification requirements, and screening processes between the two occupations make the Attorney standard a difficult comparison. Without suitable adjustments for these significant differences, erroneous grading of the work is possible. Consequently, applying the Attorney standard to the appellant's work offers no benefits that cannot be derived from a more suitable standard, like the Paralegal standard, yet poses a greater risk of misgrading.

Though the GS-950 standard accurately portrays the complexities of legal-like work related to the appellant's own, at the higher grade levels other considerations apply that the standard does not adequately address. The standard does not, for example, define a Level 1-8 since it is rarely encountered in Paralegal work. Consequently, another standard must be used. The OPM *Social Insurance, GS-105, Series* standard, dated December 1993, covers administrative work involving analytical knowledge and skills related to those the appellant exercises. Like the appellant, GS-105 employees determine benefit eligibility, analyze incomplete and conflicting data, and employ lay knowledge of professional fields to weigh the testimony of experts. Because it offers criteria germane to the appellant's line of work at the higher grade levels, the GS-105 standard is also referenced in this decision.

The Paralegal Specialist, GS-950, and the Social Insurance, GS-105, standards are in Factor Evaluation System (FES) format. This system requires that credit levels assigned under each factor relate to only one set of duties and responsibilities. Under FES, work must be fully equivalent to the factor-level described in the standard to warrant credit at that level's point value. If work is not fully equivalent to the overall intent of a particular level described in the standard, a lower level and point value must be assigned, unless the deficiency is balanced by an equally important aspect of the work that meets a higher level.

Work demanding less than a substantial (at least 25 percent) amount of time is not considered in classifying a position. Similarly, acting, backup, and other temporary responsibilities that are not regular and continuing are not considered.

Factor 1: Knowledge Required by the Position

This factor assesses the nature and extent of information or facts that employees must understand to do acceptable work (e.g., steps, procedures, practices, rules, policies, theories, principles, and concepts) and the nature and extent of the skills needed to apply those knowledges.

Among his claims, the appellant states:

A careful analysis of the cases I handled in the past year will show that nearly all of the cases involve program critical issues. In every case involving the Agricultural Credit Division of Farm Service Agency (FSA), a program critical issue is raised. These are complex cases where the manner in which the agency makes and services a multi-billion dollar loan portfolio is brought into question. That caseload is made up of borrowers whose credit is not good enough to obtain a loan from a conventional lender. Consequently, the loan making must be more precise, and loan servicing, unlike with a conventional lender, brings into play various means of debt restructuring to try and give the farmer a chance to succeed, while minimizing the loss to the government. Each case is unique, facing difficult challenges, and the agency is trying to service these accounts with a staff that, in some states, is seriously understaffed. Program Division cases of FSA are equally critical. The agency has subsidy type programs which channel huge sums of money into the agricultural community. The farmers generally try to maximize their income by taking maximum advantage of the program. In NAD hearings, if we find repeatedly that the agency either is or is not handling a certain program correctly, it can have a huge impact on literally thousands of farmers and on the agency budget, because it can directly impact the amounts of money those farmers can receive.

Cases with NRCS are also critical, but in a different way. In many of these cases, the agency has been involved in a cost share program of some kind. If, after the fact, the agency decides a practice has not been properly installed, and demands reimbursement from the farmer, that reimbursement demand in some cases is enough to bankrupt the farmer. The agency is also involved in an evaluation of farmland to determine if it is highly erodible or a wetland. These are highly technical, scientific decisions which have a huge impact on significant amounts of farmland nationwide and must be correct. If they are too lax, critical wetland wildlife habitat can be lost. If they are overzealous, farmers can be prevented from being able to efficiently farm in an economically sound manner.

Community Program and Multi-Family Housing loans made and serviced by Rural Development are generally large and complex, involving voluminous regulations, and affecting significant amounts of people. A multi-family housing loan will routinely provide housing for 24 - 48 low income families in a small, rural town. A Water and Waste Disposal loan and/or grant will provide sanitary water or sewage facilities for entire towns across the country. If the agency does not properly handle these loan programs, many people can be adversely affected.

Rural Development also handles single family housing loans. The loans cannot be made to someone who could qualify for a conventional type loan. The amounts of funding available for this program has been significantly reduced, and more emphasis is being placed on loan guarantees. Criteria for loan making has been changed, using income to asset ratios, and loan servicing, while fairly cumbersome, is fairly straight forward. While the outcome of a decision may cause a critical problem for the appellant, and it is certainly incumbent upon the agency to be accurate in how they deal with their customers, I believe we don't often face program critical issues in these cases

I also have had at least two instances where the determinations I issued became precedent setting for the agencies which were directly affected by them. In the Multi-Family Housing case dealing with the owner of 44 rental projects mentioned below, the agency told me at the Hearing that they had the same issue with the same owner in either other states (Oklahoma, Florida, and I believe Virginia), and that the agency was going to wait until it received my determination before issuing their decision letter in those states in accordance with my determination.

Many of the appellant's observations concern the collective effect of thousands of appeals on agency programs. As he notes, large sums of money are paid out in total through loan, subsidy, and cost sharing programs, ultimately affecting farmers, producers, associations, and rural populations nationwide. This decision, though, considers only the direct impact of the cases he personally decides. To ascertain their effect and to determine the level of knowledge required of his position, we examined cases he heard during roughly fiscal year 1997. These totaled about 60 cases, consisting of the following categories:

- 23 cases dealing with agricultural credit, e.g., administrative offset (12 cases) and denials of primary loans (6 cases);
- 15 cases concerning Farm Service Agency (FSA) programs, e.g., disaster payment denials (5 cases) and the mohair program (4 cases);
- 11 cases involving the Natural Resources Conservation Service (NRCS), e.g., overpayment of agency cost share for conservation measures (10 cases); and
- 11 cases associated with Rural Development (RD), e.g., single family housing (6 cases).

As the appellant notes, most of the above 60 cases involve complex matters. They also affect the economic well being of the individuals or small groups that raise the appeal. Few, however, involve program critical issues (those directly affecting the attainment of agency program goals and objectives) or establish criteria or precedents within a program that apply to large numbers of people or award very large sums of money (millions of dollars). Most of the cases demand Level 1-7 knowledge, i.e., they involve complicated matters that only employees with extended hearings and appeals experience have the knowledge to resolve. As at Level 1-7 of the GS-950 classification standard, the cases require in-depth knowledge of the application of various laws, administrative decisions and interpretations, rules, regulations, and policies pertaining to the administration of substantive program areas and require highly developed, specialized skills and proficiency. As detailed in the standard, Level 1-7 knowledge and skills are used to perform duties like the appellant's such as analyzing and evaluating the relevance of technical evidence or questions and researching relevant legislative history, precedent cases, decisions, and opinions. The appellant exercises the advanced technical proficiency implicit at this level to ensure the due process rights of individuals are preserved during hearings, to identify the laws and regulations governing the contested issues, to weigh conflicting evidence and opinions, and to formulate a decision consistent with laws and regulations.

Few of the 60 cases significantly exceed Level 1-7's advanced proficiency requirement. Those that do are highly complex cases that even employees with extended hearings and appeals experience have difficulty resolving. Such cases have special significance and may ultimately involve agency administrator requests for reviews, based on the broader program implications of a decision rather than the facts of an individual case. Some may involve sweeping decisions and attract national attention (e.g., in the *Farmer Borrower Report*), such as those denying subordination of the Government's interest to delinquent FSA borrowers who otherwise might obtain private sector loans. Others may resolve unprecedented issues, affect critical program issues, or address unusually complex problems having broad impact on policy, operations, and large numbers of people. Such significant decisions are typically shared with staff nationwide, e.g., by mention in *NAD Notes*, the Division's in-house publication, which publicized in the past year a number of significant decisions, e.g., concerning credible evidence of crops, the permissibility of subordinating agency liens, the appropriateness of releasing rental proceeds to pay consultant fees, qualifying political subdivisions under the Agricultural Marketing Transition Act, tenants' rights to be included when extending Conservation Reserve Program contracts, and the effect of individual shareholder indebtedness on corporation eligibility for loans.

Because the GS-950 standard does not define Level 1-8, we turn to the GS-105 standard (for the reasons stated under Grade Determination) to illustrate the types of assignments that significantly exceed Level 1-7. The GS-105 standard notes that Level 1-8 work requires mastery of the principles, concepts, laws, and systems involved in program administration and of developments in the field sufficient to interpret and apply new laws and to resolve broad policy issues. It indicates that Level 1-8 employees are typically considered technical authorities in a program area by peers, operations managers, and policy makers and are called upon to perform a key role in resolving issues that significantly affect program administration; that they use their knowledge to formulate and analyze options for agency decision memoranda and new guidelines resulting from legislation, major decisions by courts, changes in other related programs, or management decisions; or to develop rulings involving broad program areas.

Though all of the appellant's 60 cases have some unique aspects, only a few set precedents, establish criteria, or significantly change the manner for handling future cases throughout an agency. Of the cases he cites in response to our request for specific examples of such cases, one concerned the accounting practices of an investment company that co-mingled funds from different multi-family housing projects and charged itself fees. The decision resulting from the August 1996 hearing for this case set precedent for resolving similar cases the agency had pending in three other states.

Another decision resulting from a May 1997 hearing concerned a group of farmers challenging agency audit methods for determining its share of the costs for a salinity control project. Finding the audit methods deficient set a precedent for the agency to follow in auditing projects in other cases and states.

Another case, from a December 1997 hearing, concerned the use of administrative offsets to collect delinquent FSA loan payments from the proceeds of other programs like the production flexibility contract or conservation reserve program. Unpublished regulations, conflicting laws, and the circumstances under which the agency applied the offset demanded expert judgment to resolve the case. The case served as a model for treating about a dozen similar cases pending in the region. (The novelty of this issue, however, is diminished by its consideration in earlier cases within the appellant's and other regions, since Level 1-8 criteria relate to the first time an issue is taken up within the program, rather than a region's or individual's first encounter with it.)

Other cases the appellant mentions either fall well outside the period considered (such as a crop insurance claim case from 1994 or 1995 that established a precedent for the agency to follow in processing similar claims in other states) or lack the significance required at Level 1-8. The few cases evidencing Level 1-8 knowledge, therefore, are uncharacteristic of most of his work assignments. Under certain circumstances and as an exception to normal grading practices, higher level work performed less than the majority of time may govern the grade of a position. Such work must be paramount in influence when filling the position, be regularly and continually assigned, require materially higher qualifications than the principal duties, and demand a substantial (at least 25 percent) amount of time. These few cases, however, do not demand a substantial amount of time and, consequently, the position's grade cannot be based on them.

We evaluate this factor at Level 1-7 and credit 1250 points.

Factor 2: Supervisory Controls

This factor covers the nature and extent of direct and indirect controls exercised by the supervisor, the employee's responsibility, and the review of completed work. Controls are exercised by the supervisor in the way assignments are made, instructions are given to the employee, priorities and deadlines are set, and objectives and boundaries are defined. Responsibility of the employee depends upon the extent to which the employee is expected to develop the sequence and timing of various aspects of the work, to modify or recommend modification of instructions, and to participate in establishing priorities and defining objectives. The degree of review of completed work depends upon the nature and extent of the review, e.g., close and detailed review of each phase of the assignment, detailed review of the finished assignment, spot-check of finished work for accuracy, or review only for adherence to policy.

The appellant believes the degree of independence and authority under which he conducts hearings and signs his own decisions warrants greater credit.

At Level 2-4 (the highest level described in the GS-950 standard), the supervisor sets the objectives, resources, and scope of assignments. Within this framework, the employee independently plans and carries out the work, coordinating activities with professional and legal staff of the agency and with staff of other Federal activities. Employees at this level must use considerable ingenuity to anticipate program or case requirements, develop legal arguments and supporting evidence, resolve conflicting statements, or search for precedents. The supervisor is kept informed of actions involving potentially controversial or far-reaching issues. Completed work is reviewed only in terms of productivity and effectiveness in meeting requirements.

The appellant works in a manner similar to Level 2-4 in most respects. His signatory authority increases the responsibility of his position, but its significance must be assessed in terms of the criteria expressed under this and other relevant factors, such as Factor 5, Scope and Effect. Most other employees at this level lack signatory authority, but their evaluations and conclusions form the basis for final decisions, reports, or letters that a supervisor signs. Consequently, the presence or absence of signatory authority at this level does not, by itself, warrant additional credit. Level 2-4 already credits a high level of independence and responsibility. To significantly exceed it requires greater responsibility than the appellant enjoys.

Level 2-5 is the highest level of independence and responsibility recognized under FES. Since it is an unusual level, it is not defined in either the GS-950 or GS-105 standards. In general, though, it involves the level of authority that typically accompanies responsibility for a significant program or function. Though the appellant has significant technical authority and independently decides cases and signs his own decisions, his supervisor and higher level managers are responsible for administration of the hearings and appeals program. They exercise substantial program control over the appellant's work in such general ways as analyzing department policies and determining their effect on the program, formulating and issuing policy statements governing the program, and establishing procedures to ensure efficient operations among staff.

We evaluate this factor at Level 2-4 and credit 450 points.

Factor 3: Guidelines

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

At Level 3-4 (the highest level described in the GS-950 standard), guidelines are limited to basic legislation, implementing regulations, and agency policies which must be carefully analyzed for general application. Legislative histories or precedent decisions may be ambiguous or conflict. Employees at this level must use initiative and resourcefulness in interpreting and applying guidelines and precedents in non-routine situations without referring questions to others. In a number of situations, employees must rely on past experience to evaluate the applicability of guidelines on issues where conflicting decisions have not been resolved or where factual situations vary so widely that it is highly questionable as to which precedents can be adapted to specific matters.

The appellant's use of guidelines meets but does not significantly exceed Level 3-4. There are many guidelines providing interpretations of the laws and regulations upon which his determination must be based, e.g., agency policy statements, precedent administrative and judicial decisions, Office of General Counsel opinions, and oral and written directives from management. Many of these guidelines are of a very broad nature, requiring a high degree of skill and judgment in adapting them for specific application to cases, which Level 3-4 fully recognizes.

To significantly exceed Level 3-4, the appellant must be frequently involved in the establishment of precedents and the development of or interpretation of guidelines. It is an uncommonly high level and, consequently, not described in the GS-105 standard either. In general, though, employees at Level 3-5 not only apply expert knowledge, but are typically recognized as agency authorities in the development or interpretation of guidance in a national program functional area. They are frequently consulted by managers and employees throughout the agency on extremely complex or highly controversial issues involving conflicting laws or involving novel matters lacking guidelines. The appellant's work does not frequently involve such matters.

We evaluate this factor at Level 3-4 and credit 450 points.

Factor 4: Complexity

This factor covers the nature, number, variety, and intricacy of tasks, steps, processes, or methods 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 varied duties encompassing diverse and complex technical issues or problems. Factual situations vary significantly from assignment to assignment, information from different sources is in conflict, only indirect evidence is available on some issues, and the interpretation of such evidence is disputed. Employees at this level must reconcile conflicting policies and facts, identify and elicit additional information, define problems in terms compatible with laws, policies, and regulations, and weigh facts in order to formulate a legally and factually supportable position.

The complexity of most of the appellant's work is consistent with Level 4-4. The wide range and intricacy of issues involved in cases he decides, the conflicts he resolves, the rules and requirements he untangles, the expert testimony he weighs, and the unusual circumstances he encounters are fully recognized at Level 4-4, which addresses work even experienced employees find difficult and complex.

In contrast, Level 4-5 cases are unusually complex cases that fully experienced employees have difficulty resolving. They are typically the most difficult cases that arise, e.g., ones that establish precedents for deciding future cases throughout an agency. Because such decisions resolve major areas of uncertainty in the application of requirements and the evaluation of appeals, they result in criteria against which future appeals may be assessed. Unlike the appellant, Level 4-5 employees regularly make decisions or recommendations that change agency policies and practices, develop definitive technical positions, generate innovative analyses of contested issues in order to resolve seemingly insoluble disputes, or evaluate new policies and methods and originate interpretations that change the way problems are perceived or solved within an agency.

The GS-950 standard describes Level 4-5 work as that which a technical authority performs when resolving unusually complicated legal issues. For example, the expert may research esoteric statutory, regulatory, court, or administrative precedents, interpret equivocal or discrepant information from varied sources, evaluate ambiguous or confused technical data, and prepare comprehensive reports that serve as the basis for critical legislative, regulatory, judicial, administrative, or other legal arguments, interpretations, or opinions. The work is complicated by such features as disputed factual technicalities, events that must be reconstructed from circumstantial evidence, nuances upon which legal outcomes are determined, or problems that have been particularly resistant to solutions in the past. Cases are likely to extend over a period of years, involve major areas of uncertainty in methodology or interpretation, or involve new legal and technical developments or questions on which decisions rendered in different jurisdictions are at variance.

As noted under Factor 1, some of the appellant's cases involve unusual complexity and require expert knowledge and judgment, but are too few to present a substantial time demand. Consequently, only Level 4-4 credit applies.

We evaluate this factor at Level 4-4 and credit 225 points.

Factor 5: Scope and Effect

This factor covers the relationship between the nature of the work (i.e., the purpose, breadth, and depth of the assignment) and the effect of work products or services both within and outside the organization. Only the effect of properly performed work is considered.

Scope

At Level 5-4 (the highest level described in the GS-950 standard), the purpose of the work is to advise experienced co-workers on highly specialized problems, monitor the consistency of case decisions throughout the agency and recommend the reopening of cases or the issuance of official agency interpretations, or research unsettled issues and develop proposed agency positions.

As at Level 5-4, the purpose of the appellant's work is to review agency determinations upon appeal, determine their consistency with regulation, and require correction of those steps where the agency has faltered. His work scope does not involve the broader coordination demands that would significantly exceed this level.

The GS-105 standard indicates work at Level 5-5 entails the analysis and resolution of broad program problems and issues of critical importance to the agency; planning the development and modernization of large operational support systems; development of agency-wide strategies to improving service or productivity; establishment of innovative operational methods involving other agencies or programs; or the development of significant legislative, regulatory, or broad guidance recommendations affecting program operations. Such efforts, unlike the appellant's work, require coordination of major segments of an agency's operational, policy, and systems components and, in some instances, those of other agencies.

We evaluate Scope at Level 5-4.

Effect

At Level 5-4 of the GS-950 standard, work provides the foundation for precedents that have a broad impact, e.g., by affecting aspects of agency-wide programs (rather than just the individual parties to a case). The appellant's decisions have an equivalent effect, since they involve the operating programs of several agencies within the Department and how they are implemented in various offices and locations throughout the [location] Region. His properly performed work does not typically exceed this level.

Level 5-5 work, described in the GS-105 standard, affects how key agency officials implement programs, the agency's capacity to resolve critical problems, and the timeliness and accuracy with which major legislative initiatives or judicial decisions are implemented. Little of the appellant's properly performed work directly and significantly affects agency attainment of program goals and objectives, how agency administrators implement new initiatives, or otherwise meets Level 5-5's criteria.

We evaluate Effect at Level 5-4.

To receive credit for a factor level, both the scope and effect of the work must meet the level. The appellant's work meets Level 5-4 in both respects. Consequently, we evaluate this factor at Level 5-4 and credit 225 points.

Factor 6: Personal Contacts

Factor 6 includes face-to-face contacts and telephone and radio dialogue with persons not in the supervisory chain. Levels of this factor are based on what is required to make the initial contact, the difficulty of communicating with those contacted, and the setting in which the contact takes place (e.g., the degree to which the employee and those contacted recognize their relative roles and authorities). Contacts credited under Factor 6 must be the same contacts considered under Factor 7.

Level 6-3 personal contacts under the GS-950 standard are generally with claimants, appellants, their attorneys, potential witnesses, and industry representatives in moderately unstructured situations where each contact is different and employees must define the purpose of the meeting and clarify the roles of the various participants. Contacts may be initiated by the employee, the person requesting information or assistance, or another party and frequently involve unstructured, face-to-face meetings.

The appellant's contacts with the various parties involved in a hearing, their attorneys, and agency officials are typically nonroutine, requiring him to establish his role in the hearing process and to define the roles of those with whom he is dealing (e.g., attorneys, witnesses, etc.). As at Level 6-3, the appellant's external contacts vary in purpose and extent according to the parties involved, the issues to be resolved, and the quality of their representation. They require careful development of roles and establishment of authority by the appellant during hearings, as expected at Level 6-3. Also as is characteristic of Level 6-3 contacts, they often involve difficulty in communicating because parties often protect their position and interests by obscuring their true circumstances and situation. None of the appellant's contacts, however, significantly surpass this level (e.g., by frequently occurring in highly unstructured settings with high-ranking officials).

We evaluate this factor at Level 6-3 and credit 60 points.

Factor 7: Purpose of Contacts

This factor addresses the purpose of personal contacts, which may range from factual exchange of information to situations involving significant or controversial issues and differing viewpoints or objectives.

At Level 7-3 of the GS-950 standard, the purpose of contacts is to motivate persons who may be fearful or uncooperative to testify at hearings or in court appearances or to provide critical information, such as that needed to develop aspects of a case or to locate missing witnesses or defendants; to gain voluntary compliance or agreement with persons or groups who have divergent allegiances, interests, or objectives; to convince persons of the correctness of factual, technical, procedural, or other interpretations despite the existence of other differing interpretations and legal positions; or to otherwise influence skeptical or uncooperative persons by the use of tact, persuasiveness, and diplomacy in controversial legal situations.

Similar to Level 7-3, the appellant must be skillful in conducting his hearings and questioning parties who often portray their circumstances in a favorable, but dissembling fashion. Often encountering such uncooperative parties, the appellant must employ skillful questioning and persuasion during his hearings. None of his contacts significantly exceed this level, as would, for example, frequently negotiating the settlement of issues of considerable consequence to the agency.

We evaluate this factor at Level 7-3 and credit 120 points.

Factor 8: Physical Demands

This factor covers the requirements and physical demands placed upon the employee by the work assignment. This includes physical characteristics and abilities and physical exertion involved in the work.

As at Level 8-1, the appellant's work is sedentary. It involves some physical activity such as walking, standing, bending, carrying of light items such as papers, books, and case files, but unlike Level 8-2, it presents no special physical demands. The appellant must travel to hearing sites, transport case files and a personal computer, and arrange furniture and equipment at hearing sites. However, such activity imposes no special physical demands (e.g., considerable walking, stooping, bending, and climbing) that would warrant more than minimal credit.

We evaluate this factor at Level 8-1 and credit 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.

As at Level 9-1, the appellant's work is performed in an office setting. Safety precautions normal to an office working environment are required. The work requires no special precautions that would warrant more than minimal credit (e.g., as when visiting industrial work sites where there is exposure to high noise levels, heat, and fumes and a need to use safety helmets, goggles, coveralls, or similar protective gear).

We evaluate this factor at Level 9-1 and credit 5 points.

FACTOR LEVEL POINT SUMMARY

Factor	Level	Points
1	1-7	1250
2	2-4	450
3	3-4	450
4	4-4	225
5	5-4	225
6	6-3	60
7	7-3	120
8	8-1	5
9	9-1	5
	Total:	2790

The table above summarizes our evaluation of the appellant's work. As shown on page 4 of the standard, a total of 2790 points falls within the GS-12 grade range (2755-3150).

Decision

The proper classification of the appellant's position is GS-930-12, with the title left to agency discretion.