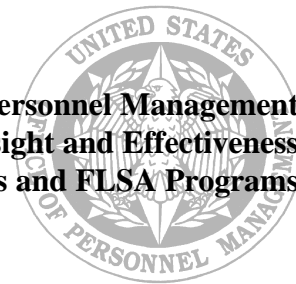


**U.S. Office of Personnel Management  
Office of Merit Systems Oversight and Effectiveness  
Classification Appeals and FLSA Programs**



**Chicago Oversight Division  
230 South Dearborn Street, DPN 30-6  
Chicago, Illinois 60604**



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

**Appellant:** Appellant

**Agency classification:** Labor Relations Specialist  
GS-233-12

**Organization:** U.S. Department of Agriculture  
Farm Service Agency  
Management Office  
Personnel Division  
Employee and Labor Relations Branch  
city and state

**OPM decision:** Labor Relations Specialist  
GS-233-12

**OPM decision number:** C-0233-12-01

signed  
Frederick J. Boland  
Classification Appeals Officer

June 29, 2000

Date

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision constitutes a 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 conditions and time limits specified in the Introduction to the Position Classification Standards, appendix 4, section G (address provided in appendix 4, section H).

**Decision sent to:**

appellant  
address  
city and state

Ms.  
Chief, Personnel Division  
Management Office  
Farm Service Agency  
U.S. Department of Agriculture  
address  
city and state

Ms. Donna Beecher  
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**

The appellant contests his agency's decision to classify his position, number PD422A12, as Labor Relations Specialist, GS-233-12. The position is located in the U.S. Department of Agriculture, Farm Service Agency (FSA), (location) Management Office, Personnel Division, Employee and Labor Relations Branch, (city and state). He believes his position description accurately reflects his duties but feels his work warrants more credit than his agency allowed.

## **Position information**

The appellant is one of approximately 61 employees in the (location) Management Office, Personnel Division. The division is directed by a GM-14 Personnel Officer and is divided into four branches: the Employee Development Branch, the Employment Branch, the Classification and Organization Branch, and the Employee and Labor Relations Branch. The appellant's position is located in the Employee and Labor Relations Branch, which is made up of 13 staff members. The branch has another GS-12 Labor Relations Specialist, five GS-12 Employee Relations Specialists, three GS-10 Occupational Health Nurses, and two GS-7 Employee Relations Assistants. The appellant reports to the GS-13 branch chief, a Supervisory Employee Relations Specialist.

The appellant works with and assists supervisors and managers in 12 FSA state offices, providing advice in the application of labor relations policies, rules and regulations. These duties account for approximately 25 percent of his time. He provides instruction to state office management officials in the negotiation and administration of labor agreements and advice simultaneously on contracts in six states, New York, New Mexico, Puerto Rico, North Dakota, Oklahoma and Kansas. He also coordinates with headquarters on national issues that affect the multiple unions served by the (location) Management Office. Work of this nature constitutes approximately 25 percent of his time. The appellant spends most of his time, approximately 50 percent, representing the agency in third party proceedings. During the past year, his third-party representation has included 25 unfair labor practices (ULPs), 12 arbitration cases, a certifying election, and three appearances before the Federal Services Impasses Panel (FSIP).

## **Analysis and findings**

### **Series and title determination**

The appellant's duties fall within the definition of work included in the Labor Relations (LR), GS-233, occupational series. This series covers positions like the appellant's that involve the administration, supervision, evaluation, or performance of technical work concerned with agency management's dealings with labor organizations representing Federal employees.

The prescribed title for non-supervisory GS-233 positions is *Labor Relations Specialist*.

## **Grade determination**

The *Labor Relations Series, GS-233*, classification standard, dated June 1976 contains grade-level criteria expressed under two factors: *Nature of Assignment* and *Nature of Responsibility*. Each of the factors groups its criteria by grade level. A position must meet all the criteria for a particular grade level under both factors to be assigned that grade.

Work demanding less than a substantial (at least 25 percent) amount of time is not considered in classifying a position. Similarly, acting, temporary worker, and other responsibilities that are not regular and continuing are not considered in classifying positions. (Temporary assignments of sufficient duration, though, are sometimes recognized in accordance with agency discretion by temporary promotion if higher graded duties are involved, by formal detail, or by performance recognition.)

### **Factor 1:- Nature of assignment**

*This factor measures the scope and complexity of the work assignments, as well as the extent of knowledge of labor relations and personnel management principles, methods, and techniques required to do the work.*

The appellant states,

I am involved in planning and carrying out studies of major problem areas in personnel management, specifically labor relation programs, and am relied upon to develop significant improvements in policy and procedures in the labor relations arena. We assist management in establishing and maintaining partnership councils, and represent the agency before third party review of Agency action. We advise management when it is advisable to settle a complaint before we proceed with the litigation in which we act as agency representative. We deal with Union officials who have (and routinely exercise) influence at the Departmental level.

As agency representative, I have represented the Agency before Panel Chairs of the Federal Service Impasses Panel, Administrative Law Judges employed by the Federal Labor Relations Authority, FLRA investigators, mediators of the Federal Mediation and Conciliation Service, and arbitrators engaged in administrative settlements. It is my name which goes on such settlements, and my signature which binds the Agency in cases which may have not only Agency-wide but cross-agency impact nationwide. Administering such settlements requires extremely complex research, thorough knowledge, decisive ability to make decisions, extreme skills in both conciliation and argument, the judgment required to know the appropriate method to achieve Agency goals, and the determination to carry through an adopted course of action in the face of opposition often amazingly parochial and perverse. I influence and formulate Agency strategy to deal with these potentially explosive issues...

The appellant already has credit at the GS-12 level for performing a wide variety of difficult assignments that require extensive training and experience in LR theories, principles, and practices and a broad understanding of management objectives and implications of the agency's labor relations program. He already has credit for exercising a high degree of judgment and originality in resolving complex and controversial problems, often requiring substantial modification and adaptation of guidelines and application of innovative approaches for specific situations.

In response to our request for examples of work or studies which the appellant personally conducted that he believes significantly exceeded in difficulty of GS-12 expectations involving the resolution of complex and controversial problems, he cited an administrative convergence initiative that would establish a support services bureau within FSA. Under this effort, the appellant described providing advice to state office officials as to how implementation of the convergence would impact them. Another example in his appeal cited a two-year study which he conducted regarding the dispute over usage and amounts of official time allowed to union officials to conduct union business, where the union wanted more time allowed, while management wanted less in order to minimize costs. He stated that the facts and figures that resulted from this study helped management to carry their point in negotiation. He also cited as a recent example researching FSIP and Federal Labor Relations Authority (FLRA) decisions to provide state office managers in Mississippi with information to support their contract position regarding what amount of time to give union officials to carry out their duties, and whether to pay associated travel or per diem costs.

The examples the appellant cites do not exceed the GS-12 level criteria given in the classification standard. A GS-12 Labor Relations Specialist may serve as the principal spokesman in negotiations and in third party proceedings. Typical problems dealt with by GS-12 Specialists, whether in negotiations, agreement implementation, third-party proceedings, or other day-to-day contacts with union and management representatives as described in the standard, share the following characteristics, none of which the appellant's work examples significantly exceed:

- Precedent decisions and guidelines on controversial issues are often inapplicable or conflicting;
- Controversial issues frequently involve large numbers of employees, rather than just a few;
- Issues frequently have a potentially serious impact on mission accomplishment, the organization's budget, etc.;
- Problems to be resolved (e.g., unfair labor practice charges, and grievances under a negotiated procedure) often are complex in that they involve several inter-related sub-problems that must be considered in order to arrive at a satisfactory solution to the larger question;
- The local organization is considered by the unions to be a "lead" activity there or in the agency as a whole, requiring the specialist to be especially aware of the kinds of issues that would serve as undesirable precedents for bargaining at other activities.

Consequently, the complexity and sensitivity of problems the appellant encounters are fully recognized at the GS-12 level.

The appellant's assignments do exceed some of the GS-12 grading criteria under Factor 1, such as moderate organizational size, but do not exceed most other criteria. For example, GS-12 level work, in contrast to work at lower grade levels, involves engaging unions in more of an adversarial context, where unions are likely to take a hard-line position on a variety of issues and that require the use of third-party procedures for resolution. GS-12 Specialists typically deal with union officials who have the advice and assistance of professional, highly knowledgeable, and sophisticated representatives from a national headquarters staff in negotiations and third-party proceedings. The GS-12 Specialist may have to overcome not only union resistance, but also resistance by management to engage in constructive bilateral consultation and cooperation.

To receive higher level credit, the appellant's work must significantly exceed all the criteria under the factor called for at the GS-12 level, which it does not.

We evaluate this factor at the GS-12 level.

## **Factor 2: Nature of responsibility**

*This factor covers the kind and degree of supervision received, the degree of judgment and independence required, and the nature of the person-to-person contacts involved in Labor Relations Specialist positions.*

The appellant states,

The level of responsibility attached to the position of Labor Relations Specialist in the (location) City Management Office, Personnel Division, Employee and Labor Relations Branch, has changed and evolved significantly in complexity over the last few years. Since the issuance of Executive Order 12871, the Labor Relations Specialist has become responsible for entirely new and uncharted areas of labor relations, which include Partnership Councils, Interest Based Bargaining, and permissive areas of bargaining under Section 7106(b) of the Statute. These were areas unheard of, unthought of, and entirely excluded from labor relations consideration in the past. We are now, in effect, formulating nationwide agency responses to Union initiatives as they arise. We are blazing a new trail, here.

Secretary Glickman's memo of September 16, 1998, mandating adherence to the Executive Order, ensures that the position's level of responsibility no longer falls into the cookie cutter confines of the attached position description. A copy of this memorandum is attached. Union officials with whom I deal on a daily basis are being entertained by the highest level of Agency personnel from the Administrator down and the level of contacts and advice given are at that level in my position.

For example, a Union official from AFGE Local 3354 in St. Louis, responsible for bargaining units in that location and in the Kansas and Oklahoma State Offices, visits with Mr. Aldaya directly, instead of with the local managers. I assist Mr. Aldaya in writing a letter to distribute to the Partnership Council in St Louis, or to respond to other concerted Union initiatives with nationwide impact. Similar examples could be multiplied.

In Kansas City we provide advice and guidance on a national level to all of the eleven unionized states and three other major unions. We are the contact point for all levels of management in these fourteen Unions. I do not think this level of responsibility can be properly evaluated under a classification standard written in June 1976 prior to the implementation of an Executive Order which has made labor relations so much more complex. In the past few years the whole profession of labor/management relations has been reinvented. The old days of isolated and unsophisticated unions dealing with an agency able to assert its election not to bargain over permissive subjects under Section 7106(b) of the Statute are gone forever. As a Labor Relations Specialist I am responsible

for complex mediation and facilitation along with the more traditional responsibilities of negotiation and the role of liaison between management and labor.

In these days of "do more with less" we have become a flatter organization. The day to day operations of the labor relations program are the responsibility of the Labor Relations Specialist. I independently give advice and guidance to all levels of management officials and State Executive Directors and plan the labor relation activities. Given the complexity of the issues that I am involved with and the numerous higher level contacts that are required there is no time to confer with the Branch Chief on decisions made in the labor relations arena, nor could that official possibly do the job if the decisions made by me on a daily basis had to be subject to constant review and approval.

Advice and guidance from Labor Relations at Agency headquarters is not available since each labor relations program is completely diverse depending on the level of sophistication of the Union officials and the subject matter specific to that Union. You can check with Debra Donnelly, who I am sure will tell you that she has her hands full just keeping up with her own unions. There is neither time nor need to consult with higher authority. I make my own decisions, and influence those of Agency managers nationwide...

As the GS-233 standard notes, labor relations is a dynamic and rapidly evolving part of personnel management in the Federal service. All Labor Relations Specialists work in such an environment. The appellant states that he must now participate in expanded areas of labor relations described above, in addition to traditional negotiation. Executive Order 12871 directs agencies to bargain over "numbers, types and grades, methods, means and technology," which is to be expected in a dynamic and evolving environment. The appellant describes labor relations work following the implementation of Executive Order 12871 as "new and unchartered." However, the impact of this order on his own work, while increasing its scope, has not elevated his responsibilities.

For example, the specific work examples he provides, such as a draft grievance response regarding a performance rating, a draft of a settlement agreement regarding establishment of new performance standards and extension of a performance improvement plan (PIP), and comments to a serviced organization on a draft agreement, addressing both the basic ground rules and each of the specific agreement articles, are typical GS-12 Specialist assignments. As the standard describes other GS-12 LR Specialists, the appellant carries out difficult and complex assignments independently. He remains in touch with the managers based on his awareness of their needs and does not clear recommendations with his supervisor. He must, however, keep his supervisor informed regarding sensitive issues and other matters of expressed interest. His level of independence, therefore, does not exceed the GS-12 level.

The appellant states that he is "... at a grave disadvantage when compelled to deal with Union officials and third-party reviewers of much higher relative stature." The individuals with whom he regularly interacts, including union officials whom he describes as being entertained by the highest level of agency personnel, are contacts typical of the GS-12 level. At the GS-12 level, personal contacts include consultation and negotiation with management officials and district or regional representatives of the national headquarters of unions; frequent advice and assistance to top management of the serviced organization on unusually difficult and highly controversial problems; and discussions with representatives of policy-making agencies such as the U.S. Office of Personnel Management, and Office of the Assistant Secretary of Labor/Labor Management

Relations. Such contacts are expected to be in person, not written, and to concern controversial issues and the application of conflicting or vaguely applicable precedents to difficult problems. As such, the appellant's contacts do not exceed the GS-12 level.

To receive higher level credit under this factor, the appellant's work must significantly exceed all the criteria called for at the GS-12 level; however, this is not the case.

We evaluate this factor at the GS-12 level.

## **Decision**

The position is properly classified as Labor Relations Specialist, GS-233-12.