

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

San Francisco Oversight Division  
120 Howard Street, Room 760  
San Francisco, CA 94105-0001

**Pay Category Appeal Decision**  
**Under section 5103 of title 5, United States Code**  
**And Job Grading Appeal Decision**  
**Under section 5346 of title 5, United States Code**

**Appellant:** [Name of appellant]

**Agency classification:** Cook Supervisor  
WS-7404-08

**Organization:** [Appellant's organization/location]  
Immigration and Naturalization Service  
U.S. Department of Justice

**OPM decision:** Covered by the Federal Wage System  
Cook Supervisor  
WS-7404-08

**OPM decision number:** C-7404-08-01

Carlos A. Torrico  
Classification Appeals Officer

September 11, 2002  
Date

As provided in section 511.612 of title 5, Code of Federal Regulations, and section S7-8 of the *Operating Manual: Federal Wage System*, 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), and section 532.705(f) of title 5, Code of Federal Regulations.

**Decision sent to:**

**Appellant:**

[Appellant's address]

Immigration and Naturalization Service  
U.S. Department of Justice

**Agency:**

Mr. Steven A. Park  
Chief  
Classification and Automation Policy  
Immigration and Naturalization Service  
U.S. Department of Justice  
425 I Street NW  
Washington, DC 20536

Director of Personnel  
U.S. Department of Justice  
JMD Personnel Staff  
1331 Pennsylvania Avenue NW, Suite 1110  
Washington, DC 20530

Ms. Christine Hanner  
Assistant Center Director, Human Resources  
and Career Development Division  
Immigration and Naturalization Service  
U.S. Department of Justice  
P.O. Box 30070  
Laguna Niguel, CA 92607

Ms. C.J. Kasch  
Assistant Commissioner  
Office of Human Resources and Development  
Immigration and Naturalization Service  
U.S. Department of Justice  
800 K Street NW, Room 5000  
Washington, DC 20035

## **Introduction**

On February 26, 2002, the San Francisco Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a pay category and job grading appeal from [the appellant]. On June 6, 2002, the Division received the agency's complete administrative report concerning the appeal. The appellant's position is located in the [appellant's organization/location], Immigration and Naturalization Service (INS), U.S. Department of Justice. The position is presently classified as Cook Supervisor, WS-7404-08. However, the appellant believes the position should be classified under the General Schedule as Assistant Food Service Administrator, GS-1667-10, or WS-9. In 1994 the appellant filed an appeal with the U.S. Department of Justice who sustained the current classification. Prior to appealing to OPM, he attempted to file another appeal with his agency. In a letter to him dated January 22, 2002, the Department of Justice determined that no substantive changes had occurred in the position since the previous decision, and sustained the classification. We have accepted and decided this appeal under sections 5103 and 5346 of title 5, United States Code (U.S.C.).

This appeal decision is based on a careful review of all information furnished by the appellant and his agency. In addition, to help decide the appeal an OPM representative conducted telephone interviews with the appellant and his supervisor. Both the appellant and his supervisor have certified to the accuracy of the appellant's official job description (JD) [number].

## **Job information**

The appellant serves as assistant management operations officer for the [installation] food service department. The [installation] is comprised of five departments under the supervision of the Officer in Charge. The mission is to expedite the release or removal of deportable/removable aliens, and while detained and waiting their disposition, provide them adequate housing, meals, and medical care. The appellant's department is responsible for providing meals and the operation of the food supply service of the storeroom, kitchen, dining room, meat shop, and bakery, which supports the mission of feeding the detainees. The appellant's department is comprised of one Food Service Administrator, GS-1667-11, one Cook Supervisor (the appellant), six Cook (Leaders) WG-7404-8, and 30 to 40 detainee workers who perform cooking duties.

## **Pay System and Occupation Determination**

Section 5103 of 5 U.S.C. requires that OPM determine finally the applicability of section 5102 of title 5. Thus a pay category determination is the first step in the position classification process. Section 5102(c)(7) exempts from the General Schedule (GS) employees in recognized trades or crafts, or other skilled mechanical crafts, or unskilled, semiskilled, or skilled manual-labor occupations, and other employees in positions having trade, craft, or laboring experience and knowledge as the paramount requirement. The *Introduction to the Position Classification Standards* defines paramount requirement as the essential, prerequisite knowledge, skills, and abilities needed to perform the primary duty or responsibility for which the position has been established. Whether a position is in a trade, craft, or manual labor occupation depends primarily on the duties, responsibilities, and qualification requirements; i.e., the most important, or chief,

requirement for the performance of a primary duty or responsibility for which the position exists. If a position clearly requires trade, craft, or laboring experience and knowledge to perform its primary duty, the position is under the Federal Wage System (FWS).

The appellant's primary duty involves overseeing work involved in the preparation of regular or special diet foods and meals. This work requires the knowledge and skill to design and prepare decorated foods and aesthetic food arrangements. Work of this type falls under the Federal Wage System (FWS). It is covered by the 7400 job family, which is defined as work "involved in the preparation and serving of food." The 7404 Cooking occupation includes jobs involved in cooking regular or special diet foods and meals. The FWS Job Grading Standard for Cook, 7404, (dated February 1992) covers work involved in the preparation of foods and meals, using standardized recipes and menus and personal knowledge and experience to measure, assemble, and mix ingredients; regulate cooking temperatures; and add seasoning to foods, as well as specialized knowledge and skill to design and prepare decorated foods and aesthetic food arrangements. Consequently, we find the appellant's job to be exempt from the General Schedule and appropriately placed under the FWS. The appellant's required paramount knowledge, skills, and abilities needed to perform his primary responsibilities meet the definition for placement in the 7404 Cooking occupation. Therefore his job is exempt from the General Schedule.

### **Title and Standard Determination**

The appellant spends all his work time exercising technical and administrative supervision over Cook (Leaders) and detainee workers. As such, the appealed position must be evaluated according to the Federal Wage System Job Grading Standard (FWS JGS) for Supervisors (dated December 1992). The occupational code of a FWS supervisory job is normally the same as the code for the kind of work that is supervised, and jobs are identified by the job title of the selected occupation followed by the title of *Supervisor*. We find that his job meets the standard for being a wage supervisor and is properly titled Cook Supervisor. The work will be evaluated by reference to the grading criteria in the FWS JGS for Supervisors as discussed below.

### **Grade determination**

The FWS JGS for Supervisors uses three factors to grade jobs: (1) *Nature of supervisory responsibility*, (2) *Level of work supervised*, and (3) *Scope of work operations supervised*. It also provides for an upward or downward adjustment to the initial grade based on certain circumstances determined through application of the standard. The appellant believes his agency erred in not making an upward adjustment to his grade. The agency credited WG-8 for Factor II and Level B for Factor III, and the appellant agreed during our interview with his agency's crediting of those factors. After careful review, we concur with the agency's determination on Factors II and III, thus we have only addressed Factor I below.

### *Factor I, Nature of supervisory responsibility*

This factor considers the nature of the supervisory duties performed and the type and degree of responsibility for control over the work supervised. The standard describes four different supervisory situations.

Supervisors in Situation #2 are responsible for supervising workers directly or through subordinate leaders and/or supervisors in accomplishing the work of an organizational segment or group. Supervisors in Situation #2 establish priorities and work sequences, and plan work assignments based on general work schedules, methods, and policies set by higher level supervisors. They coordinate work with related work functions controlled by other supervisors, participate with their superiors in the initial planning of current and future work schedules, prepare budget requests and determine staffing needs, investigate work related problems (e.g., excessive costs or low productivity), implement corrective actions to resolve work problems, plan and establish overall leave schedules, determine training needs of subordinates, and set performance standards. Like Situation #2, the appellant has the authority and responsibility to carry out most of the planning, work direction and administrative duties listed above including planning and coordinating work, resolving problems, setting performance standards and rating employees, determining training needs, etc. He prepares work reports and records and ensures that the Cook (Leaders) maintain reports on sanitation, temperature, and daily cleaning schedules

Supervisors in Situation #3 are responsible for the overall direction and coordination of subordinate work activities and functions. Supervisors in Situation #3 differ from supervisors in Situations #2 primarily in that the work operations are of such scope, volume, and complexity that they are (1) carried out by subordinate supervisors in two or more separate organizational segments or groups, and (2) controlled through one or more levels of supervision.

The standard explains that credit for a supervisory situation may only be given if the job fully meets those aspects described. If a job meets some but not all of the characteristics of a supervisory level, it has to be credited with the next lower situation level. In the appellant's case, his supervisory situation does not meet Situation #3 because his work operations are not of the scope, volume, and complexity to require subordinate *supervisors* in two or more separate *organizational segments or groups*. An organizational segment or group is defined as (1) a part of a larger organization, which is typically identified separately on official organizational charts (e.g., unit, section, branch, or division), and (2) an organization that has work operations of such scope that it must be directed through one or more levels of supervision. The appellant's position does not meet Situation #3 because he is not responsible for the overall direction and coordination of the Food Service Department, and his work does not require subordinate supervisors for two or more organizational segments or groups. His unit is only one organizational segment, and he supervises subordinate leaders in his department, not subordinate supervisors.

Situation #2 is assigned for Factor I.

### *Initial grade determination*

To determine the initial grade of the job being evaluated, the standard refers to the grading tables that are provided for each of the four supervisory situations defined under Factor I. In the appellant's case the table for Situation #2 applies. By reference to that table (Situation #2), where Factor II is assigned WG-8, and Factor III meets B, the initial grade of the appellant's job is WS-8.

### *Upward grade level adjustment*

Upward grade adjustments are indicated in the following situations:

#### 1. Borderline jobs

The grade of a supervisory job must be adjusted upward from the initially determined grade when both of the following conditions are met.

- The job being graded substantially exceeds the supervisory situation (Factor I) which was credited in applying the grading table; and
- The Level of Work Supervised (Factor II) which was credited in applying the grading table is not the highest level of work performed by subordinate workers for which the supervisor has full technical accountability.

Neither condition is met in the appellant's case. His supervisory situation fully meets but does not exceed the situation credited under Factor I (Situation #2), and he does not supervise any workers higher than the grade credited under Factor II.

#### 2. Work situations which impose special or unusual demands on the supervisor

In some situations, the nature of the work operations supervised, the mission to be accomplished, or other circumstances impose special demands on the supervisor involved. Special staffing requirements may impose on the supervisor a substantially greater responsibility for job design, job engineering, work scheduling, training, counseling, motivating, and maintaining security than that which is normally encountered. "Staffing" situations, such as those at correctional institutions, may involve exceptionally difficult attitudinal, motivational, control, and security problems. An upward grade adjustment may be made in determining the grade of a supervisor directly responsible or indirectly responsible (through subordinate supervisors) for work operations involving such exceptional conditions that affect the majority of the subordinate workforce when all of the following are present:

- The special staffing circumstances, rather than being temporary or intermittent in duration, affect the responsibilities of the supervisor on a permanent and continuing basis;
- Job assignments, work tasks, training, security measures, and other supervisory actions must be tailored to fit these special circumstances for individual workers; and

- Counseling and motivational activities are regular and recurring, and are essential to the effective handling of the special work situation.

The appellant's job does not fully meet the intent of the special staffing situation. While security measures are required to monitor detainees working in the dining facility and kitchen, and oversight of that staff is on a continuing basis, the [installation] is not a correctional institution where inmates are serving sentences for lengthy periods of time. Rather, detainees are awaiting deportation and are held at the [installation] generally up to 29 days. During that time they are used to supplement the installation's food service workforce. Given their limited stay, we found no indication that counseling and motivation activities are appropriate, necessary or essential to handling the detainee staff, as it would be at a Federal correctional facility.

#### *Duties Performed in the Absence of a Superior*

The standard indicates that when a supervisor acts in the absence of a superior, the supervisor is graded on the basis of the supervisor's regular duties and responsibilities. No additional grade should be added for serving in the absence of the superior.

The appellant and his supervisor agree that the appellant acts only in the absence of his supervisor. We found no evidence that the appellant performs as a full assistant on a full-time basis, nor has direct day-to-day line authority over all personnel and work operations for which his superior is responsible. Therefore, this adjustment factor may not be credited.

#### *Summary*

Based on the preceding analysis, we have determined that the appellant's position does not warrant any upward grade level adjustment. Consequently, our initial grade determination becomes the final grade of WS-8.

#### **Decision**

The appellant's job is covered by the Federal Wage System and is properly graded as Cook Supervisor, WS-7404-8.