

OFFICE OF PERSONNEL MANAGEMENT
MERIT SYSTEMS OVERSIGHT AND EFFECTIVENESS
DALLAS OVERSIGHT DIVISION
CLASSIFICATION APPEAL DECISION

Under section 5112(b) of title 5, United States Code

Appellant: [appellant's name]

Position: Supervisory Asylum Officer, GS-930-13
Position Number: SE147F

Organization: [location] Asylum Office
Office of the Director of International Affairs
Immigration and Naturalization Service
[location]

Decision: Supervisory GS-930-13
Title to be determined by the agency.
(Appeal denied)

OPM Decision Number: C-0930-13-04

/s/ Bonnie J. Brandon
Bonnie J. Brandon
Classification Appeals Officer

12/5/96
Date

Copy of decision sent to:

[appellant's name and address]

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Introduction

The position is assigned to the Asylum Branch of the Office of the Director of International Affairs for the Immigration and Naturalization Service (I&NS). The appellant serves as director of the asylum program field office located in Houston, Texas. The agency has determined the position to be properly classified as Supervisory Asylum Officer, GS-930-13. The appellant believes the position should be classified at the GS-14 grade level and filed an appeal with this office under the provisions of chapter 51 of title 5, United States Code. This is the final administrative decision of the Government, subject to discretionary review only under the conditions and time limits specified in sections 511.605 and 511.613 of the Code of Federal Regulations.

Position Information

There are eight field offices located throughout the country responsible for adjudicating asylum and withholding of deportation applications. The [location] office is responsible for a ten-state area. The appellant serves as the on-site program director and the focal point for the program within the area of jurisdiction. She supervises the day-to-day operations and ensures that I&NS resources are properly utilized in support of the program. The asylum officers review applications for asylum, schedule and conduct interviews, assess information, and make determinations based on relevant statutes, regulations, operating instructions, and case law. They conduct interviews in nine cities within their geographic area.

The [location] office was authorized a total of 24 positions. The record indicates the appellant currently has a staff of 19 employees, including a Supervisory Asylum Officer, GS-930-13, and a Support Unit Supervisor, GS-301-11. There are seven nonsupervisory GS-12 Asylum Officers assigned to one unit and nine nonsupervisory employees assigned to the support unit. These include one Congressional Liaison Specialist, GS-301-07/9; one Computer Specialist, GS-334-07/9; one Immigration Information Officer, GS-1802-07/8; and six Asylum Clerks, GS-303-04/5. An Administrative Officer, GS-341-09, reports directly to the appellant. We understand that tentative selections have been made and background investigations are pending for three Asylum Officer and two Asylum Clerk positions.

Information has been provided that the office has recently been allocated six additional positions including one Supervisory Asylum Officer, GS-13; one Quality Assurance/ Training Supervisor, GS-13; two Asylum Officers, GS-11/12; one Lead Asylum Clerk, GS-6; and one Asylum Clerk, GS-4/5. The first supervisory position has been announced and the QA/Training Supervisor announcement was expected shortly.

The position description is adequate for classification purposes.

Series and Title Determination

The GS-930 Hearings and Appeals Series includes positions that involve the adjudication of cases that typically include the conduct of formal or informal hearings that accord appropriate due process, arising under statute or under regulations of an agency when the hearings are not subject to the Administrative Procedure Act. The work 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 appellant does not question the series or title of her position. We agree that the GS-930 series is appropriate. As there are no prescribed titles, the agency may construct a title using the instructions contained in the Introduction to the Position Classification Standards. The Supervisory designation is appropriate.

Grade Level Determination

The General Schedule Supervisory Guide provides evaluation criteria for determining the grade level of supervisory positions in grades GS-5 through GS-15. This guide uses a factor-point method that assesses six factors: program scope and effect, organizational setting, supervisory and managerial authority exercised, personal contacts, difficulty of typical work directed, and other conditions. The appellant's duties and responsibilities meet the criteria for coverage by this guide; i.e., require accomplishment of work through combined technical and administrative direction of others, constitute a major duty occupying at least 25 percent of the position's time, and meet at least the lowest level of Factor 3.

Factor 1 - Program Scope and Effect

a. Scope addresses the general complexity and breadth of the program directed and the work directed, the products produced, or the services delivered. The geographic and organizational coverage of the program within the agency structure is included under scope.

Level 1-3a discusses directing a program segment that performs technical, administrative, protective, investigative, or professional work. The program segment and the work directed typically have coverage which encompasses a major metropolitan area, a State, or a small region of several States.

Level 1-4a describes directing a segment of a professional, highly technical, or complex administrative program involving development of major aspects of key agency scientific, medical, legal, administrative, regulatory, policy development or comparable highly technical programs.

The appellant is responsible for a staff involved in administrative work, making decisions to support or deny claims for asylum under the appropriate laws for an office serving a ten-state area. We find the complexity of the work and the geographic coverage meets the 1-3 level for scope. The work does not involve development of major aspects of key agency policy or programs, as described at Level 1-4.

b. Effect addresses the impact of the work, the products, and/or the programs described under scope on the mission and programs of the customer, the activity, other activities in or out of government, the agency, other agencies, the general public, or others.

For effect, Level 1-2b indicates that the services support and significantly affect field office operations and objectives. In a field office providing services to the general public, furnishing a portion of such services, often on a case basis, to a small population of clients meets this level. The size of the population serviced by the field office is the equivalent of all citizens in a portion of a small city. Depending on the nature of the service provided, however, the serviced population may be concentrated in one city or spread over a wider geographic area.

At Level 1-3b, the activities, functions, or services accomplished directly and significantly impact a wide range of agency activities, the work of other agencies, or the operations of outside interests (e.g., a segment of a regulated industry), or the general public. Furnishing a significant portion of the agency's line program to a moderate-sized population of clients meets this level. The size of the population served is the equivalent of a group of citizens and/or businesses in several rural counties, a small city, or a portion of a larger metropolitan area.

The asylum function was removed from the jurisdiction of the I&NS District Offices and established as a separate organization at the Washington level approximately six years ago. As indicated, the Houston office is responsible for a ten-state area, i.e., [state names]. The asylum officers conduct interviews in nine cities within that geographic area, i.e., [city names]. The appellant must cooperate with the appropriate District Office operations in those cases involving fraud and stowaways. Denied asylum cases may be challenged within the Immigration courts; therefore, cooperation with the immigration judges is needed in transferring records, etc. While some of the work activities and services may involve coordination and/or cooperation with district office areas within the I&NS, we do not find that the asylum services provide a significant portion of the agency's line work as described at the 1-3 level.

The appellant's organization serves a very limited portion of the general public, i.e., aliens applying for asylum. While the number of potential clients is difficult to determine, the Statistical Abstract of the United States, 1994, shows a total of less than 120,000 refugees and asylees for the U.S. in 1992, according to I&NS furnished statistics. This number would be served by eight field offices. The appellant has shared workload statistics that show case receipts for FY 94 and 95 at 2,290 and 3,726, respectively. In the first six months of

FY 96, 11,779 cases were received, primarily due to reaching agreement in a law suit filed by the American Baptist Church. The [location] office currently has a backlog of more than 19,000 cases, an increase of 12,000 since the end of FY 95, and completes an average of 200 cases per month. While we understand that a case may consist of one individual or a family, we do not find the population served exceeds that typical of Level 1-2. Effect is comparable to the 1-2 level.

To assign a factor level, the criteria dealing with both scope and effect must be met. As the position does not fully meet the 1-3 level for both aspects, Level 1-2 is credited for 350 points.

Factor 2 - Organizational Setting

This factor considers the organizational situation of the position in relation to higher levels of management.

Level 2-1 is credited when a position is accountable to a position that is two or more levels below the first SES, flag or general officer, or equivalent or higher level position in the direct supervisory chain. The appeal record indicates that the appellant reports to a GS-14 Supervisory Asylum Officer who in turn reports to the GS-15 Director of the Asylum Program. We have since learned that the Director of the Asylum Program position, which had been vacant, was recently filled by an SES manager. Therefore, Level 2-2 and 250 points are credited.

Factor 3 - Supervisory and Managerial Authority Exercised

This factor covers the delegated supervisory and managerial authorities which are exercised on a recurring basis. To be credited with a level under this factor, a position must meet the authorities and responsibilities to the extent described for the specific level. Where authority is duplicated or not significantly differentiated among several organizational levels, a factor level may apply to positions at more than one organizational level.

Level 3-1 defines the basic requirements for coverage by the Guide. Level 3-2 requires that, in addition to meeting level 3-1, the position must meet one of the paragraphs: a, b, or c. Paragraph a discusses production-oriented work and b describes situations where work is contracted out. Neither is appropriate for the appellant's position. At Level 3-2c, the position must have responsibility for carrying out at least three of the first four, and a total of six or more of the following 10 authorities and responsibilities.

1. Plan work to be accomplished by subordinates, set and adjust short-term priorities, and prepare schedules for completion of work;
2. Assign work to subordinates based on priorities, selective consideration of the difficulty and requirements of assignments, and the capabilities of employees;

3. Evaluate work performance of subordinates;
4. Give advice, counsel, or instruction to employees on both work and administrative matters;
5. Interview candidates for positions in the unit; recommend appointment, promotion, or reassignment to such positions;
6. Hear and resolve complaints from employees, referring group grievances and more serious unresolved complaints to a higher level supervisor or manager;
7. Effect minor disciplinary measures, such as warnings and reprimands, recommending other actions in more serious cases;
8. Identify developmental and training needs of employees, providing or arranging for needed development and training;
9. Find ways to improve production or increase the quality of the work directed;
10. Develop performance standards.

The appellant is responsible for planning, scheduling, and directing work assignments based on I&NS requirements, workload, resources, etc. She makes work assignments directly to the asylum officers and determines circuit ride assignments. We understand that the asylum officers' proposed decisions are first reviewed by the first-level supervisor and then by the appellant for final signature. The appellant evaluates the performance of the two first-line supervisors and the administrative officer and serves as reviewing official for nonsupervisory employees. She provides oral and written guidance to staff on technical procedures and keeps employees informed of overall I&NS policies and procedures, both technical and administrative. The appellant is responsible for recommending corrective or disciplinary action, resolving minor employee complaints, conducting formal and informal training, and advising headquarters staff concerning employee's job performance and training needs. There is a quality assurance program in place, established by the headquarters office, using field office reports as measuring tools. The quality assurance process requires a minimum of four hours of training or self-study per week, and the appellant assists in the preparation of and/or provides training for staff members to stay current on changes in the laws, regulations, country conditions, etc. She reviews all case work to assure timely completion, technical quality, and consistency. We understand the performance work plans are standardized for the asylum officer positions, with some local variation allowed in the productivity elements. The appellant does have responsibility for the development of performance standards for the support positions. We find nine of the above responsibilities are creditable, i.e., 1, 2, 3, 4, 5, 6, 8, 9, and 10. The appellant has authority to recommend, not effect, disciplinary actions; therefore, responsibility 7 is not credited. The responsibilities of this position fully meet the 3-2c level.

Level 3-3 envisions the delegation of greater and more diverse supervisory and management authorities used in supervising a substantially greater workload, requiring use of multiple subordinate supervisors, team leaders, group leaders, etc., to help the manager direct and coordinate the work of the organization. The organization, program segments, and workload directed must be of sufficient size and complexity to require and provide opportunities for fully exercising these responsibilities on a recurring basis.

To be credited at the 3-3 level, paragraph a or b must be met. Paragraph a describes exercising delegated managerial authority for a series of long-range work plans and schedules, assuring implementation of goals and objectives by subordinate organizations, and working closely with high-level program officials in development of overall goals and objectives for assigned functions or programs. The appellant's position is primarily involved in the day-to-day supervision and direction of the field office. This level is not appropriate for the subject position.

Paragraph b may be credited when the position exercises all or nearly all of the delegated supervisory authorities and responsibilities described at the 3-2c level and at least 8 of the following 15 additional responsibilities:

1. Using any of the following to direct, coordinate, or oversee work: supervisors, leaders, team chiefs, group coordinators, committee chairs, or comparable personnel; and/or providing similar oversight of contractors;
2. Exercising significant responsibilities in dealing with officials of other units or organizations, or in advising management officials of higher rank;
3. Assuring reasonable equity (among units, groups, teams, projects, etc.) of performance standards and rating techniques developed by subordinates or assuring comparable equity in the assessment by subordinates of the adequacy of contractor capabilities or of contractor completed work;
4. Direction of a program or major program segment with significant resources (e.g., one at a multimillion dollar level of annual resources);
5. Making decisions on work problems presented by subordinate supervisors, team leaders, or similar personnel, or by contractors;
6. Evaluating subordinate supervisors or leaders and serving as the reviewing official on evaluations of nonsupervisory employees rated by subordinate supervisors;
7. Making or approving selections for subordinate nonsupervisory positions;
8. Recommending selections for subordinate supervisory positions and for work leader, group leader, or project director positions responsible for coordinating the work of others, and similar positions;

9. Hearing and resolving group grievances or serious employee complaints;
10. Reviewing and approving serious disciplinary actions (e.g., suspensions) involving nonsupervisory subordinates;
11. Making decisions on nonroutine, costly, or controversial training needs and training requests related to employees of the unit;
12. Determining whether contractor performed work meets standards of adequacy necessary for authorization of payment;
13. Approving expenses comparable to within-grade increases, extensive overtime, and employee travel;
14. Recommending awards or bonuses for nonsupervisory personnel and changes in position classification, subject to approval by higher level officials, supervisors, or others;
15. Finding and implementing ways to eliminate or reduce significant bottlenecks and barriers to production, promote team building, or improve business practices.

Responsibility 3 is not creditable. This responsibility refers to an organization where first level supervisors exercise the formal authority to develop standards. The resulting variation in standards would significantly add to the complexity and difficulty of the supervisor's responsibility for equitable performance specifications throughout the organization. The appellant's two subordinate supervisors each direct different work, e.g., asylum officer and clerical/technical support work. The performance standards for the asylum officer positions are standardized for the agency and the appellant, rather than the first line supervisor, develops the standards for the support positions.

Responsibility 4 is not credited. The appellant's budget is not of the multimillion dollar level indicated in the guide.

Responsibility 8. While the appellant indicates she can recommend selection for subordinate supervisory positions, selection authority for these positions is retained by the Executive Associate Commissioner. While the appellant makes a recommendation through her supervisor, the direct recommendation is made at a higher supervisory level. This responsibility cannot be credited.

Responsibility 9. First level supervisors attempt to resolve complaints from employees on an informal basis. The appellant has authority to resolve grievances at the first step. The position description indicates the appellant can resolve minor employee complaints. The example the appellant provided was of an employee grievance regarding overtime. This responsibility refers to resolving more serious complaints. This responsibility is not credited.

Responsibility 10 cannot be credited. The record indicates the appellant may recommend, but not approve, serious disciplinary actions, such as suspensions. The appellant indicated she had recommended dismissal of an employee and issued verbal and written warnings to another employee serving at a probationary period.

Responsibility 11. While the appellant's operating expense budget includes an amount for training, there is no indication that nonroutine or controversial training has been requested or approved. As indicated, training for Asylum Officers is primarily provided in-house. The country conditions training may involve controversial topics, but is appropriate to familiarize the officers with the issues they may encounter in making case determinations. The appellant provided examples of computer training for the ADP person, letter writing for the Congressional liaison, personnel-related courses for the administrative officer, etc. This responsibility is not credited.

Responsibility 12. There is no contractor performed work that is an integral part of the basic mission as referenced in the standard. This responsibility is not credited.

Responsibility 14. The appellant can recommend awards for nonsupervisory staff. The headquarters allocates positions to the field offices and the appellant cannot change the mix of officer and support positions without permission. The asylum officer positions are at a structured career ladder, as are the asylum clerk positions. Given this structure and its restrictions, we do not find the appellant can recommend changes in position classification with any reasonable expectation of adoption. This responsibility is not credited.

The appellant does not significantly and regularly exercise a majority of the authorities listed under Level 3-3b. We credit this factor at Level 3-2c for 450 points.

Factor 4 - Personal Contacts

This is a two-part factor which assesses the nature and purpose of personal contacts related to supervisory and managerial responsibilities.

Subfactor 4A - Nature of Contacts

This subfactor covers the organizational relationships, authority, or influence level, setting, and difficulty of preparation associated with making personal contacts involved in supervisory and managerial work. To be credited, the level of contacts must contribute to the successful performance of the work, be a recurring requirement, have a demonstrable impact on the difficulty and responsibility of the position, and require direct contact.

Level 4A-2 describes contacts with members of the business community or the general public; higher ranking managers, supervisors, and staff of program, administrative, and other work units and activities throughout the field activity, installation, or major organization level

of the agency; representatives of local public interest groups; case workers in congressional district offices; technical or operating level employees of State and local governments; etc.

The 4A-3 level describes frequent contacts with high ranking military or civilian managers, supervisors, and technical staff at bureau and major organizational levels of the agency; with agency headquarters administrative support staff; or with comparable personnel in other Federal agencies; key staff of public interest groups (usually in formal briefings) with significant political influence or media coverage; journalists representing city or county newspapers or comparable radio or television coverage; congressional committee and subcommittee staff assistants below staff director or chief counsel levels; etc. Contacts include those which take place in meetings and conferences and unplanned contacts for which the employee is designated as a contact point by higher management. They often require extensive preparation of briefing materials or up-to-date technical familiarity with complex subject matter.

The appellant serves as the principal on-site I&NS asylum program field representative for the 10-state area of jurisdiction. As such, she is the focal point for communication and coordination with other I&NS offices. She responds to congressional, other agency, and public inquiries concerning asylum case work and questions about field office procedures and operations. She serves as liaison with officials of the I&NS district offices, State and local governmental agencies, voluntary agencies, and representatives of the media concerning asylum matters which may be complex and controversial. The appellant has made presentations to various legal groups and organizations regarding the asylum program and case processing, requiring extensive preparation. We find this comparable to the 4A-3 level.

There is no indication that the position requires the frequent contacts of the level described at 4-4, e.g., regional or national officers of organizations of national stature; key staff of Congressional committees, elected or appointed representatives of State and local governments; journalists of major metropolitan, regional, or national media; SES or Executive Level heads of bureaus and higher level organizations in other agencies. Level 4A-3 is credited for 75 points.

Subfactor 4B - Purpose of contacts

Level 4B-2 indicates the purpose of contacts is to ensure that information provided is accurate and consistent; to plan and coordinate the work directed with that of others outside the subordinate organization; and/or to resolve differences of opinion among managers, supervisors, employees, contractors, or others.

Level 4B-3 states the purpose of contacts is to justify, defend, or negotiate in representing the organizational unit directed; in obtaining or committing resources; **and** in gaining compliance with established policies, regulations, or contracts. At this level, contacts usually

involve active participation in conferences, meetings, hearings, or presentations involving problems or issues of considerable consequence or importance to the program managed.

Level 4B-4 indicates the purpose is to influence, motivate, or persuade persons or groups to accept opinions or take actions relating to advancing the fundamental goals and objectives of the program or segments directed, or involving the commitment or distribution of major resources, when intense opposition or resistance is encountered due to significant organizational or philosophical conflict, competing objectives, major resource limitations or reductions, or comparable issues. At this level, persons contacted are sufficiently fearful, skeptical, or uncooperative that highly developed communications, negotiation, conflict resolution, leadership, and similar skills must be used to obtain the desired results.

The appellant's contacts are for the purpose of providing and sharing information, soliciting support for the program objectives, and defending the asylum program's determinations. While considerable communication skills, persuasion, and tact are required, we do not find the regular contacts involve the degree of intense opposition or resistance contemplated at the 4-4 level. Level 4B-3 is credited for 100 points.

Factor 5 - Difficulty of Work Supervised

This factor measures the difficulty and complexity of the basic work most typical of the organization directed, as well as other line, staff, or contracted work for which the supervisor has technical or oversight responsibility, either directly or through subordinate supervisors, team leaders, or others. This work must characterize the nature of the basic (mission oriented) nonsupervisory work performed and constitute 25 percent or more of the workload (not positions or employees) of the organization. The instructions indicate that trainee level positions be credited at the full performance level.

As indicated previously, six of the nonsupervisory employees occupy clerical support positions and should be excluded from consideration. Seven of the remaining positions are full performance level GS-12. The GS-13 first-level supervisor also performs some of the more complex case work duties. We find that the grade level of the asylum officer work constitutes more than 25 percent of the workload of the organization. We credit factor level 5-7 for 930 points.

Factor 6 - Other Conditions

This factor measures the extent to which various conditions contribute to the difficulty and complexity of carrying out supervisory duties, authorities, and responsibilities. Conditions affecting work for which the supervisor is responsible may be considered if they increase the difficulty of carrying out assigned supervisory or managerial duties and authorities.

Factor level 6-4a indicates that supervision requires substantial coordination and integration of at a number of major work assignments, projects, or program segments of professional,

scientific, technical, or administrative work comparable in difficulty to the GS-11 level. Such coordination may involve work comparable to one of five examples given. One of these examples discusses reviewing and approving the substance of reports, decisions, case documents, contracts, or other action documents to assure that they accurately reflect the policies and position of the organization and the views of the agency. We find the appellant fully meets this level.

The Guide lists three situations to meet Factor Level 6-5. Level 6-5a indicates that supervision and oversight requires significant and extensive coordination and integration of a number of important projects or program segments of professional, scientific, technical, managerial, or administrative work comparable in difficulty to the GS-12 level. Supervision at this level involves major recommendations which have a direct and substantial effect on the organization and projects managed. For instance, the supervisor makes major recommendations in at least three of the areas listed.

- significant internal and external program and policy issues affecting the overall organization, such as those involving political, social, technological, and economic conditions, as well as those factors cited in the first item of factor Level 6-4a;
- restructuring, reorienting, recasting immediate and long range goals, objectives, plans, and schedules to meet substantial changes in legislation, program authority, and/or funding;
- determinations of projects or program segments to be initiated, dropped, or curtailed;
- changes in organizational structure, including the particular changes to be effected;
- the optimum mix of reduced operating costs and assurance of program effectiveness, including introduction of labor saving devices, automated processes, methods improvements, and similar;
- the resources to devote to particular programs (especially when staff-years and a significant portion of an organization's budget are involved);
- policy formulation, and long range planning in connection with prospective changes in functions and programs.

The appellant is responsible for direction and supervision of the day-to-day operations of the field office. She may develop local procedures and methods to meet the specific circumstances of her office, but she does not have the responsibility for making the kind of recommendations effecting significant program areas as described at the 6-5a level.

Level 6-5b describes supervision of work at the GS-13 level or above involving extreme urgency, unusual controversy, or other comparable demands due to research, development, test and evaluation, design, policy analysis, public safety, public health, medical, regulatory, or comparable implications. The appellant does not supervise at a sufficient amount of work at this level.

Level 6-5c describes managing work through subordinate supervisors who each direct substantial workloads comparable to the GS-11 level. Such work requires similar coordination as that described at Level 6-4a for first-line supervisors. At this time, only one subordinate supervisor directs work at or above this level; therefore, Level 6-5c is not appropriate.

The instructions for this factor indicate that credit should be given for the highest level which the position fully meets. Level 6-5 is not met by any of the three options, therefore, Level 6-4a is credited for 1120 points.

Decision:

There is a total of 3275 points credited which falls within the point range for the GS-13 grade level (3155 - 3600). We find the position properly classified as GS-930-13. The title is at the discretion of the agency with a Supervisory designation.