

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

Philadelphia Oversight Division  
600 Arch Street, Room 3400  
Philadelphia, PA 19106-1596

**Classification Appeal Decision  
Under section 5112 of title 5, United States Code**

**Appellant:** [appellant's name]

**Agency classification:** Realty Assistant (OA)  
GS-303-5

**Organization:** Land Resources Program Center  
[name] Region  
National Park Service  
U.S. Department of the Interior  
[location]

**OPM decision:** Title Optional (OA)  
GS-1101-5

**OPM decision number:** C-1101-05-01

---

Robert D. Hendler  
Classification Appeals Officer

3/23/01

---

Date

As provided in section 511.612 of title 5, Code of Federal Regulations (CFR), 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* (PCS's), appendix 4, section G (address provided in appendix 4, section H).

Since this decision changes the classification of the position, it is to be effective no later than the beginning of the fourth pay period after the date of the decision (5 CFR 511.702). The servicing human resources office must submit a compliance report containing the corrected position description (PD) and a Standard Form 50 showing the personnel action taken. The report must be submitted within 30 days from the effective date of the personnel action.

### **Decision sent to:**

#### **PERSONAL**

[appellant's name]

National Park Service

[name] Region

Land Resources Program Center

U.S. Department of the Interior

[address]

[location]

[representative's name]

National Representative, 3<sup>rd</sup> District

[union name]

[address]

[location]

[name]

Assistant Regional Director,

Human Resources

[name] Regional Office

National Park Service

U.S. Department of the Interior

[address]

[location]

Ms. Carolyn Cohen

Director of Personnel

U.S. Department of the Interior

Mail Stop 5221

1849 C Street, N.W.

Washington, DC 20240

## **Introduction**

On December 11, 2000, the Philadelphia Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant's name]. Her position is currently classified as a Realty Assistant (OA), GS-303-5. She believes the position should be upgraded. The appellant works in the Land Resources Program Center (LRPC), [name], National Park Service (NPS), U.S. Department of the Interior, [location]. We have accepted and decided this appeal under section 5112(b) of title 5, United States Code (U.S.C.).

## **General issues**

In the appeal letter, the appellant's representative states that the appellant is working outside of her position description (PD) and is doing higher graded duties. He disagrees with how the agency audited the appellant's position and says that the PD and the agency's analysis do not include eleven duties performed by the appellant. The representative submitted a copy of a PD [number], with a proposed classification of Conveyance Examiner, GS-963-6, annotated as having been changed to Legal Instrument Examiner, GS-9, in support of the appeal. He included the appellant's statement that she is performing duties substantially equal, if not identical, to that of the Legal Instruments Examiner. The appeal included documentation of real estate and related courses taken by the appellant.

These statements raise procedural issues that must be addressed. OPM is required by law to classify positions on the basis of their duties, responsibilities, and qualification requirements by comparison to the criteria specified in the appropriate PCS or guide (5 U.S.C. 5106, 5107, and 5112). The law does not authorize use of other methods or factors of evaluation, such as comparison to other positions that may or may not have been classified correctly. Our decision sets aside all previous agency decisions regarding the classification of the position in question.

A PD is the official record of the major duties and responsibilities assigned to a position by a responsible management official; i.e., a person with authority to assign work to a position. A **position** is the duties and responsibilities that make up the work performed by an employee. Title 5, U.S.C. 5106 prescribes the duties, responsibilities and qualifications required by those duties and responsibilities as the basis for determining the classification of a position. The *Introduction to the Position Classification Standards* (Introduction) states that "As a rule, a position is classified on the basis of the duties actually performed." Additionally, 5 CFR 511.607(a)(1), in discussing PD accuracy issues, says that OPM will decide classification appeals on the basis of the actual duties and responsibilities assigned by management **and** performed by the employee. We classify a real operating position, and not simply the PD. The Introduction recognizes that a PD must be supplemented by other information about the organization's structure, mission, and procedures for a proper classification to be made. We will consider the appellant's training and education only to the extent that the knowledge obtained is required and applied in performing her assigned duties.

## **Position Information**

The LRPC plans, organizes, and executes the regional land acquisition program, including acquisition through condemnation, donation, and exchange. The appellant provides general office and program support to one Realty Specialist in the [location] office and other Realty Specialists in field locations. The appellant reports to the Deputy Realty Officer.

The appellant's first and second level supervisor certified the appellant's PD of record ([number]) as current and accurate on January 4 and 5, 2001, respectively. However, the appellant believes that her responsibility for: (1) title quotes, (2) final title opinions (FTO's), (3) condemnation cases, (4) administrative waivers, (5) preparations of deeds assembly, (6) just compensation documents, (7) offers to sell real property, (8) reviewing preliminary title opinion (PTO), (9) certificate of inspection and possession, (10) level 1 survey, and (11) preparation of check request, including the assigning of a contract number, have not been fully credited to her position.

The PD states that the appellant prepares and examines legal instruments and related realty documents required for the acquisition of land, and assures that the documents prepared conform to requirements of applicable Federal, State and local laws. The appellant is responsible for preparing requests for quotations and requisitions in conjunction with orders for preliminary title evidence obtained by title contractors. She prepares and assembles contract offer packages for real property, prepares letters of offer acceptance, and prepares check voucher requests and other documents pertaining to conveyancing the property. The appellant prepares closing assemblies, including purchase contracts, deeds, disclaimers, waivers, payment and closing sheets, memoranda of agreement, exchange agreements, reservations of use and occupancy and title curative documents for submission to title contractors. She prepares assemblies for both PTO's and FTO's for submission to the Regional Solicitor. The appellant performs the 11 tasks in her appeal rationale within these assigned functions.

To help decide this appeal, we conducted an on-site audit with the appellant and an interview with her first level supervisor, [name], on March 15, 2001. In reaching our decision, we reviewed the audit findings and all information of record furnished by the appellant and her agency, including her official PD and work samples that she provided. Our audit confirmed that the PD of record contains the major duties and responsibilities of the appellant's position and we incorporate it by reference into this decision.

### **Series, title, and standard determination**

The agency has placed the appellant's position in the Miscellaneous Clerical and Assistance Series, GS-303, since it performs realty clerical and administrative support for which no other series is appropriate. The appellant's rationale does not directly address series and title coverage. However, her rationale is based on performing duties that she believes are also assigned to Legal Instruments Examining, GS-963, positions in the LRPC.

The Legal Instruments Examining Series, GS-963, includes positions primarily concerned with examining legal instruments and supporting documents to determine whether a requested action complies with certain provisions of various laws. The work requires applying particular regulatory and procedural knowledge that is based on those laws. The GS-963 PCS provides guidance on distinguishing between technical examination and clerical processing. Clerical processing includes receiving, reviewing, and verifying documents; and locating and compiling data or information from files where the end product is an assembled case. The case is then submitted to an examiner for technical evaluation and final disposition.

The duties and responsibilities assigned to a position flow from the mission assigned to the organization in which the position is located. The positions created to perform the assigned mission must be considered in relation to one another. The appellant is not delegated authority or responsibility for the technical review of realty instruments. Other positions in the LRPC, including a Legal Instruments Examiner, GS-963-6 ([number]) and the Realty Specialists the appellant supports are delegated and exercise legal instrument technical review authority.

Based on our fact-finding and review of the record, we find that the appellant performs clerical realty documents processing and not technical examination. When she performs deed assemblies, she assures that the package contains the documents required in the NPS land acquisition procedure manual. She must recognize when documents are missing. The appellant fills in standard forms when processing documents, e.g., the tract, purported owner, and location sent to title companies for title quotes. She must assure that required information is entered on Certificates of Inspection and Possession, Park Superintendents sign waivers for title objections, the Regional Director has signed off on hazardous waste surveys, and land is vested in the United States rather than the agency. The work requires the services of a qualified typist to use office automation (OA) equipment.

The GS-303 series excludes positions that cannot be identified with a specialized series, but are covered by another occupational group that has a general or miscellaneous series. The appellant performs specialized realty support work requiring specialized knowledge of realty instrument processing to positions primarily in the General Business and Industry Group, GS-1100; i.e., Realty Specialists, GS-1170. The General Business and Industry, GS-1101, series covers this work since it includes positions, like the appellant's, that perform work properly classified in the GS-1100 Group for which there is no established series. Because the GS-1101 series does not have published titles, the agency may construct a descriptive title using the titling practices in the Introduction. The title constructed by the agency must include the parenthetical OA to reflect that qualification requirement. Therefore, the position is allocated properly as Title Optional (OA), GS-1101.

Because the appellant's position does not perform GS-963 work, the GS-963 PCS does not contain appropriate criteria for evaluating her work. The Grade Level Guide for Clerical and Assistance Work (Guide) provides criteria for office support and miscellaneous clerical and assistance work within a framework of procedures, precedents, or instructions. Because the appellant performs these functions in support of the regional realty program, we will use it to

evaluate her program work, and the Office Automation Grade Evaluation Guide (OAGEG) to evaluate her OA work.

## **Grade Determination**

### ***Evaluation using the Guide***

The Guide provides general criteria for use in determining the grade level of nonsupervisory clerical and assistance work. Administrative support of the kind described in the Guide is performed in offices, shops, laboratories, hospitals, and numerous other settings in all Federal agencies. The Guide describes the general characteristics of each grade level from GS-1 through GS-7 and uses two criteria for grading purposes: *Nature of assignment* (which includes the knowledge required and complexity of the work) and *Level of responsibility* (which includes supervisory controls, guidelines, and contacts).

#### *Nature of assignment*

As at the GS-5 grade level, the appellant performs a full range of standard and nonstandard clerical assignments and resolves a variety of nonrecurring problems in the realty program. She receives a variety of assignments that involve different and unrelated steps, processes, or methods. The various types of realty transactions (e.g., purchase, donation, easement, condemnation, and disposal/exchange) differ in their documentation requirements. For example, condemnation FTO's are issued by the Department of Justice rather than the NPS regional Solicitor's Office. Each type of package must be assembled in a specified order. While assigning deed numbers typically is straightforward, the appellant must be aware of exceptions. For example, one deed number is used when multiple owners of a single tract sign and date the same transaction. However, if owners deal separately, then a separate deed number must be used for each transaction that is completed, closed and recorded on a different date. As at the GS-5 grade level, she must identify and understand the issues involved in each assignment and determine what steps and procedures are necessary and the order of their performance. For example, the appellant must assure that requests title quotes must have a legal description, a section map, exhibits A and B, a payment sheet, and a statement of work before they are submitted to the Realty Specialist. She must assure that PTO objections are sent to the Park Superintendent and the waiver signed before the title contract can be processed. When reviewing realty documents, she may contact other organizations to obtain missing information, e.g., a copy of a PTO missing from a deed assembly for which there is a FTO.

Characteristic of the GS-5 grade level, each transaction typically involves selecting a course of action from a number of possibilities. For example, the appellant must be aware that reservations of use and occupancy can be part of a purchase agreement, and typically will include a claim for reimbursement. In contrast, exchanges of land from another Federal agency, e.g., Army Corps of Engineers, do not require an offer or a payment sheet. Typical of the GS-5 grade level, the work requires extensive knowledge of an organization's rules, procedures,

operations, or business practices to perform the more complex, interrelated, or one-of-a kind clerical processing procedures, e.g., processing special deeds for her supervisor.

The appellant's work does not meet the GS-6 grade level. She does not process a wide variety of transactions for more than one type of assigned activity or functional specialization. Whether purchase, exchange, condemnation, easement or donation, the appellant works in one functional specialization, realty. Although state title formats and other forms may vary, the work is covered by a basic set of NPS program and processing procedures. In contrast, GS-6 grade level assignments typically consist of a wide variety of transactions for more than one type of assigned activity or functional specialization that are subject to different sets of rules, regulations, and procedures. Unlike the GS-6 grade level where deciding on a course of action has a substantive impact on the outcome of the work, her assignments affect LRPC procedural issues, e.g., assuring appropriate documents are in a deed assembly. The limited range of the appellant's work does not require a comprehensive knowledge of rules, regulations, and other guidelines relating to completing assignments in the assigned program found at the GS-6 grade level. These functions are assigned to other positions in the LRPC as discussed previously. The appellant's case actions are repetitive in terms of regulations and procedures to be applied and problems to be handled. Her decisions are based on information readily available such as forms, records, and NPS instructions. Therefore, this factor is credited at the GS-5 grade level.

#### *Level of responsibility*

As at the GS-5 grade level, the appellant's supervisor assigns work by defining objectives, priorities, and deadlines and provides guidance on assignments which do not have clear precedents. Her work is reviewed for technical soundness, appropriateness, and effectiveness in meeting goals, e.g. a deed assembly is complete and can be retired. The appellant is expected to independently plan and carry out successive steps according to the requirements of each case, e.g., compiling complete deed assemblies based on specific case requirements. As at the GS-5 grade level, the number and similarity of guidelines and work situations require the appellant to use judgment in locating and selecting the most appropriate guidelines for application and adapting them according to circumstances of the specific case or transaction. For example, she is expected to be familiar with the differences in the processing requirements of each type of realty transaction, assuring those documents have been completed and dated properly.

Typical of the GS-5 grade level, procedural problems may arise that require interpreting and adapting established guides. For example, the appellant must decide whether transactions for a tract of land require multiple deed numbers, if reservation of use and occupancy imply that some claims reimbursements are outstanding, and refer titles that have not been vested properly in the United States for action. She is expected to determine which of several alternative guidelines to use. For example, deed numbering for third party interests such as mineral, timber and water that extend beyond a single tract differs from those that affect a single tract, and donations from a Federal agency are processed differently from those accepted from a private party. As at the GS-5 grade level, the appellant's supervisor is available for guidance if existing guidelines and practices do not cover the situation. Typical of this grade level, her contacts with a variety of

persons within and outside the agency are to receive or provide information relating to the work or to resolve problems in connection with recurring responsibilities, e.g., obtaining missing documents.

As discussed previously, the appellant also does not work within the complicated framework of established procedures and guidelines found at the GS-6 grade level where there often are no clear precedents. The appellant also does not work with numerous and varied guidelines from which it is difficult to choose the most appropriate instruction and decide how the various transactions are to be completed. As discussed previously, a well-developed body of written and unwritten guidelines and procedures covers her work. The NPS land acquisition manual provides detailed guidance on dealing with a variety of land transactions, and the appellant is expected to inform other LRPC staff members when issues surface, e.g., date and signature discrepancies. Therefore, while the appellant must be aware of detailed program processing requirements, she does not deal with the range of interpretive issues or provide the depth of advice envisioned at the GS-6 grade level. Because her assignments fail to meet the GS-6 grade level, she is not responsible for providing information, explaining application of regulations, or resolving problems relating to these more complicated assignments. Therefore, this factor is credited at the GS-5 grade level.

Since both factors are evaluated at the GS-5 grade level, the work covered by the Guide is credited at the GS-5 grade level.

### ***Evaluation using the OAGEG***

The OAGEG is used to evaluate work performed using various software applications to provide office support. The appellant uses various software functions, including word processing.

As at Level 1-2, the appellant performs several basic OA functions. These include storing and retrieving electronic documents, activating printers, inserting text, printing standardized paragraphs, and producing memoranda and letters the same way that they would be typed on a standard typewriter, and transmitting and receiving electronic mail. Typical of Level 1-2, she uses word processing to create, copy and edit, e.g., make insertions or deletions or move material from one place to another; store; retrieve; and print a variety of standardized documents using a glossary of prerecorded formats, form letters, and standard paragraphs. The work falls short of Level 1-3. The work does not require applying knowledge of varied and advanced software of one software type or varied functions of more than one software type. For example, the appellant does not routinely produce a wide range of documents with complex formats using advanced functions like automatic generation of indices and tables of contents; importation of graphics or other specialized symbols; and precise alignment of multiple columns. Because of the limited range of functions performed, we are precluded from crediting higher levels for any of the remaining factors. Given that the OA duties do not meet the GS-5 grade level, they do not impact the final grade of the position.



### Summary

In summary, we have credited the position as follows:

Factor	Level	Points
1. Knowledge required by the position	1-2	200
2. Supervisory controls	2-2	125
3. Guidelines	3-2	125
4. Complexity	4-2	75
5. Scope and effect	5-1	25
6 & 7. Personal contacts/Purpose of contact	1-a	30
8. Physical demands	8-1	5
9. Work environment	9-1	<u>5</u>
Total points:		590

The total of 590 points falls within the GS-3 grade level point range of 455-650 points in the OAGEG.

In summary, the appellant's program work is classified to the GS-5 grade level and her OA work to the GS-3 grade level. Her program work occupies a sufficient portion of the work to time to permit evaluation of the position, as a whole, to the GS-5 grade level.

### Decision

The appellant's position is properly classified as Title Optional (OA), GS-1101-5.