

U.S. Office of Personnel Management  
Division for Human Capital Leadership & Merit System Accountability  
Classification Appeals Program

Philadelphia Field Services Group  
600 Arch Street, Room 3400  
Philadelphia, PA 19106-1596

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

**Appellant:** [appellant]

**Agency classification:** Equal Employment Opportunity Manager  
GS-260-12

**Organization:** [name] Office  
Officer of the Commander  
[name] Army Depot  
U.S Department of the Army  
[location]

**OPM decision:** Equal Employment Opportunity Manager  
GS-260-12

**OPM decision number:** C-0260-12-06

/s/ Robert D. Hendler  
Robert D. Hendler  
Classification and Pay Claims  
Program Manager

October 27, 2005

\_\_\_\_\_  
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's address]

Civilian Personnel Advisory Center  
[organization]  
[address]  
[location]

[name]  
U.S. Department of the Army  
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## **Introduction**

On November 14, 2004, the Philadelphia Field Services Group of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant]. His position is currently classified as Equal Employment Manager, GS-260-12. The appellant believes that the position should be upgraded to GS-13. We received the agency appeal administrative report on November 22, 2004, and the appellant's comments on the report on December 3. The position is located in the Equal Employment Opportunity (EEO) Office, Office of the Commander, [name], U.S. Department of the Army, in [location]. We have accepted and decided his appeal under section 5112 of title 5, United States Code (U.S.C).

## **Background information**

To help decide the appeal, we conducted a telephone audit with the appellant on March 22, 2005, and requested samples of systematic studies the appellant had conducted, information on his role in the recruiting program, examples of boards on which he serves and their products, and other work products that appellant believed would illustrate the scope and complexity of his program functions. We suspended the case on March 29, 2005, at the appellant's request. The appellant contacted us on June 3 asking for a list of the information that we previously requested which we provided him on the same date. The appellant responded to the request in an e-mail dated September 16, 2005, by describing his role in various meetings, etc., but did not provide any work products as we requested. Based on discussions with the appellant's supervisor, we requested copies of program documents including the current Disabled Veterans' Affirmative Action Plan and the Title VII and Rehabilitation Acts Programs status report which we received on October 13, 2005.

## **General issues**

The classification appeal package submitted by the agency on the appellant's behalf includes an August 26, 2004, memorandum to the [name] Deputy Commander, disagreeing with the servicing Civilian Personnel Advisory Center's (CPAC's) decision not to evaluate his position at Level 1-8. The appellant pointed to the language in a draft position description (PD) (which became his official PD effective August 22, 2004) which "identifies the management skills" and the program issues used to manage an EEO program that he believes support Level 1-8. In his November 29 letter, the appellant stated that errors by the CPAC and the Civilian Personnel Operations Center "could have a direct relationship with the classification of the position in questions."

By law, a classification appeal decision must be based on comparing the appellant's current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). A PD is the official record of the major duties and responsibilities assigned to a position by an official with the authority to assign the work. A position is the duties and responsibilities that make up the work performed by an employee. Position classification appeal regulations permit OPM to investigate or audit a position and decide an appeal on the basis of the actual duties and responsibilities assigned by management and performed by the employee. An OPM appeal decision grades a real operating position, and not simply the PD. Therefore, this decision is

based on the actual work assigned to and performed by the appellant. Because this decision sets aside any previous agency decision, the actions previously taken by the agency in their review of the appellant's position and other related actions described by the appellant are not germane to the classification appeal process.

### **Position information**

The appellant's supervisor certified that the current PD accurately reflects the appellant's duties. The appellant stated that he did not dispute the duties of his PD as written, but that they "...do not reflect or take into consideration my responsibilities of employee training, training of supervisors, No Fear Act, managing the Individuals with Disabilities Program and recruitment of individuals in areas where under representation has been identified." He stated that his supervisory responsibilities occupy more than 25 percent of his time and that the reports he prepares for the U.S. Department of the Army and the U.S. EEO Commission have "agency wide implications." The appellant said that he conducts "organizational studies, reviews, barriers and work force analysis to identify individual and systemic EEO problems having agency wide implication." He stated that "our installation is a complex, multi-mission installation; I encounter and deal with 'complex systemic problems of broad scope' which are normally considered having agency wide implications."

In response to our request for examples of his work, the appellant stated that he attends senior level staff meetings biweekly, periodically participates in realignment/reorganization meetings when called, provides input into the office budget and cost reimbursements for serviced tenant activities, participates in recruitment and/or outreach for positions that are underrepresented and participates in meetings for recruitment and/or outreach, assists in the development of recruitments and staffing plans for underrepresented positions, participates in strategic planning sessions when called, sits in on negotiations and in the administration of EEO sections of labor agreements, and works with the CPAC on various issues including the interrelationship of EEO with human resources management functions and other functions such as budgeting and planning. He stated that he represents the agency as a member of a statewide coalition, Men Against Sexual Violence/[location] Coalition Against Rape which helps "in the development of training federal employees in the prevention of sexual harassment." The appellant pointed to other accomplishments including developing a counselor's poster that explains the complaints process in simple terms, developing a mediation training video that has closed caption capabilities, training students for certification in EEO counseling, and developing an interview process for the hiring/selection of managers and supervisors in conjunction with the CPAC.

The record shows that [organization] has approximately 1,290 employees with 30 percent of the population occupying General Schedule (GS) positions and the remainder occupying Federal Wage System (FWS) jobs. The largest FWS population groups include approximately 350 employees in 2600 Electronic Equipment Installation and Maintenance Family occupations, approximately 120 employees in the 5803 Heavy Mobile Equipment Mechanic occupation, and approximately 60 in the 2854 Electrical Equipment Repairer occupation. The largest GS population groups include approximately 60 employees in the GS-081 Fire Protection and Prevention and the GS-083 Police Series, and approximately 45 employees in the GS-2210 Information Technology Management Series. The record shows that there are approximately 60

employees in the GS-800 Engineering and Architecture Group about half of whom are in professional occupations. The appellant services several tenant activities, the largest of which has about 220 employees. Based on the information provided by the agency, the record shows that the population serviced by the appellant is substantially less than 2,000.

In reaching our classification decision, we have reviewed the audit findings and all information of record furnished by the appellant and the agency, including the official PD of record (number), which contains the major functions assigned to and performed by the appellant and we hereby incorporate it by reference into this decision.

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

The agency has placed the appellant's position in the GS-260 EEO Series, titled it Equal Employment Manager, and applied the GS-260 EEO Series position classification standard (PCS) for grade level determination. The appellant agrees with the series and title determination with which we concur. Implicit in the appellant's appeal rationale is that his position is supervisory because he spends more than 25 percent of his time supervising his staff and that the General Schedule Supervisory Guide (GSSG) should also be used to evaluate the grade level worth of his position.

The appellant supervises a staff of two employees. One employee occupies an Equal Employment Specialist, GS-260-12 (PD # ), position and the other occupies an Equal Opportunity Assistant, GS-361-5 (PD # ), position. During the initial telephone audit, the appellant stated that he spent approximately 20 percent of his time supervising the assistant and less time supervising the specialist. The assistant PD, certified and classified by competent management authority, credits the position at Level 2-3. It states that assignments are given by indicating overall objectives, priorities and deadlines; most assignments are carried out independently without specific instructions; and that the review of work focuses on the adequacy of completed work rather than the methods used. The specialist PD, also certified and classified by competent management authority, credits the position with Level 2-4. It states that the supervisor establishes overall objectives, involves the employee in developing deadlines and approaches to unusual or particularly sensitive problems, and relies on the employee to plan and carry out assignments with considerable independence selecting the most appropriate techniques to complete the assignments.

Literal interpretation of the appellant's assertion of the time he spends supervising; i.e., more than 10 hours per week, conflicts with both certified PDs whose accuracy the appellant did not contest, and would result in both subordinate positions being credited at Level 2-2 within the Factor Evaluation System (FES). At that level, the supervisor is intensely involved in the actual work process, e.g., suggesting work methods or advising on source materials available, and reviewing work for compliance with instructions and established procedures. Crediting the subordinate positions with Level 2-2 would have a substantial negative impact on their grade level. Therefore, we are not persuaded that the appellant spends 25 percent or more of his work time supervising his two subordinates and, as a result, the GSSG cannot be applied for grade-level determination. The primary purpose of the appellant's position is technical program management which is properly evaluated by application of the directly applicable GS-260 PCS.

## **Grade determination**

The GS-260 PCS uses the FES which employs nine factors. Levels are assigned for each factor, and the points associated with the assigned levels are totaled and converted to a grade level by application of the Grade Conversion Table. Under the FES, a factor level description in a standard describes the minimum characteristics needed to receive credit for the described level. Therefore, if a position fails to meet the criteria in a factor level description in any significant aspect, it must be credited at a lower level. Conversely, the position may exceed those criteria in some aspects and still not be credited at a higher level.

The record shows that the agency credited the position with Levels 1-7, 2-5, 3-4, 4-4, 5-4, 6-3, 7-3, 8-1, and 9-1. The appellant believes that Level 1-8 should be credited and agrees with the agency's evaluation of the other factors. Based on our careful review of the record, we concur with the crediting of all uncontested factors. Our analysis of the remaining factor follows.

### *Factor 1, Knowledge required by the position*

This factor measures the nature and extent of information or facts a worker must understand in order to do acceptable work and the nature and extent of skills needed to apply that knowledge. To be used as a basis for selecting a level under this factor, the knowledge must be required and applied.

At Level 1-7, equal employment managers apply managerial and technical EEO knowledge and skills sufficient to direct an EEO program that meets basic requirements for complying with laws, regulations and agency policies. The equal employment manager provides advice to management and employees or applicants on legal and procedure program requirements. They review affirmative action plans developed by line managers (but intensive before-the-fact consulting generally is not provided). Other affirmative action efforts may focus on questionnaires to identify problem areas, training for managers and supervisors and similar efforts. The equal employment manager may provide general oversight of minority and female recruitment planning (but little technical involvement). The program may include complaint counseling, investigation, and adjudication if delegated to the organization served. Typically, programs at this level are case oriented; i.e., they focus on resolving individual complaints or problems.

In contrast, equal employment managers at Level 1-8 apply managerial and technical EEO knowledge and skills sufficient to plan, organize, direct, staff, carry out, and evaluate an EEO program that, in addition to meeting basic regulatory requirements, focuses on the solution of systemic problems, elimination of barriers to equal employment including agency management policies and practices, and provision of management advisory and consulting services designed to effect major changes. For example, the program includes regular efforts to identify and solve systemic problems through onsite organizational reviews by participation in agency management audits or personnel management evaluation reviews, by monitoring complaints, by regular and systemic work force analyses, by special equal employment reviews, or by similar activities. Efforts to deal with systemic equal employment problems may require the program staff to

become deeply involved in technical personnel administration or management issues such as the development or modification of merit promotion systems, upward mobility plans, job design programs, minority and female recruitment planning, or the negotiation or administration of labor agreements. The program emphasizes the interrelationship of equal employment with personnel management functions such as labor relations, staffing, training, compensation, and position classification and with other management functions such as budgeting and planning. Management advisory and consulting services are designed to assist managers in developing and carrying out affirmative action plans and in dealing with specific individual and systemic problems.

As discussed previously, the appellant's rationale is that he performs the full range of program functions typical of Level 1-8, including dealing with systemic problems and barriers. The appellant failed to submit work products supporting that rationale. Both Levels 1-7 and 1-8 include dealing with systemic barriers. The difference between Level 1-7 and Level 1-8, in terms of dealing with systemic problems, lies not only in the breadth of the program but also in the manner in which the manager deals with such problems.

The record does not support the appellant's statement that his work has agency-wide implications; i.e., Department of the Army implications. Instead, the appellant's duties are at the activity level and focused on an installation defined in the GS-260 as medium in size; i.e., 1000-5000. The record shows that most of the appellant's efforts to deal with under representation and other problems are primarily case oriented, e.g., dealing with individual selection issues resulting in grievances and complaints. The examples provided by the appellant of efforts to deal with problems in a systematic fashion, e.g., participating in developing a supervisory and managerial interview process, do not display the depth typical of Level 1-8 where the program staff becomes deeply involved in technical personnel administration or management issues. The record shows that the local CPAC was tasked with primary responsibility for and worked directly with top management in developing the interview procedure. Similarly, the record shows that the CPAC exercised primary responsibility for and worked directly with top management in recruiting at job fairs at predominantly minority schools in which the appellant was invited to join. Program documentation submitted at our request does not include aggressive outreach plans, job design programs or similar actions instituted by the appellant as the principal official as would be typical of Level 1-8. For example, the record shows that a recruitment plan to attract women and minorities for jobs in the 2600 Family was developed by CPAC staff. Further, the appellant does not regularly attempt to identify and solve systemic problems through onsite organization reviews by participation in agency management audits or personnel management evaluations as described at Level 1-8.

A 2004 civilian personnel management evaluation report based on an assessment of the Depot by the U.S. Civilian Personnel Evaluation Agency and the U.S. Army EEO and Civil Rights Office stated that a review of the Affirmative Employment Plan "content revealed that Action Items/Target dates are not current....Action items need to be developed based on Civilian Labor Force demographics using the new EEOC guidance under [location] 715. Managers and supervisors should be involved in development of the Plans and not just the recipient of the final document." While noting that the complaint program was well managed and that the Alternative Dispute Resolution Program was used effectively, the report's findings do not support the



conclusion that the appellant's program is involved in the type of in-depth efforts to identify and resolve EEO problems as described at Level 1-8.

We find that the knowledge requirements of the appellant's position are consistent with Level 1-7 as illustrated in Benchmark 12-01 in the GS-260 PCS where the manager applies managerial and technical EEO knowledge to direct a complete EEO program. The appellant's work situation and duties were similar to those of the GS-12 benchmark manager who defines EEO problem areas, identifies reasons for problems, and drafts specific action items to treat the causes of the problems. As in the benchmark, the appellant manages the complaints program and advises top management on complaint issues that arise from or are affected by management practices. Typical of that benchmark, he represents the activity program with community and other outside groups and participates on committees on management issues with EEO program implications. These functions require application of the type of knowledge described in the factor-level description for Level 1-7 and in Benchmark 12-01. Therefore, Level 1-7 (1250 points) is assigned.

*Summary of FES factors*

<i>Factor</i>	<i>Level</i>	<i>Points</i>
1. <i>Knowledge required by the position</i>	1-7	1250
2. <i>Supervisory controls</i>	2-5	650
3. <i>Guidelines</i>	3-4	450
4. <i>Complexity</i>	4-4	225
5. <i>Scope and effect</i>	5-4	225
6. <i>Personal contacts</i>	6-3	60
7. <i>Purpose of contacts</i>	7-3	120
8. <i>Physical demands</i>	8-1	5
9. <i>Work environment</i>	9-1	<u>5</u>
	Total Points:	2990

A total of 2990 points falls within the GS-12 range (2755 to 3150) on the grade conversion table provided in the PCS.

**Decision**

The position is properly classified as Equal Employment Opportunity Manager, GS-260-12.