



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

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

**Decision sent to:**

[appellant]

[bureau human resources office]

[Department human resources office]

## **Introduction**

On November 20, 2007, OPM's Center for Merit System Accountability accepted a position classification appeal from [appellant], who occupies the position of Human Resources Specialist (Labor), GS-201-13, in the Management/Employee and Labor Relations Branch of the Human Resources Division, Office of Management, at the [bureau] in [city and State]. He requested his position be classified at the GS-14 level. We accepted and decided this appeal under the provisions of section 5112 of title 5, United States Code (U.S.C.)

## **General issues**

The appellant believes his position should be classified at the GS-14 level based on his assertion that national negotiators are graded at GS-14 or GS-15. However, a given set of duties is not automatically associated with a particular grade level. The grades of individual positions are based on the degree of difficulty and complexity inherent in the work performed and the level and breadth of responsibility exercised by the employee. These considerations are dependent on the operating environment within which the work is performed. Positions are not evaluated in isolation but rather by considering the duties being performed within the context of the individual work situation. Thus, positions involving the performance of similar functions may vary in grade level because of differences in the complexity of the issues encountered, the organizational scope and impact of the work, or other relevant considerations.

By law, we must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). In adjudicating this appeal, our responsibility is to make our own independent decision on the proper classification of the position.

## **Position information**

The appellant's primary duty is to serve as the Bureau's representative in negotiations and discussions with national representatives of the [union] on issues having Bureauwide impact. The Bureau has about 900 bargaining unit employees represented by four local [union] chapters. The majority of these employees are investigators geographically dispersed throughout the Bureau field structure. The appellant prepares notifications to the union on changes in working conditions affecting bargaining unit employees and performs impact-and-implementation bargaining as required. He provides advice to Bureau management on labor relations issues (e.g., whether union notification is required and what issues are negotiable) and reviews policy and program proposals for potential labor relations implications and compliance with the collective bargaining agreement (CBA). He provides labor relations training to management and other HR staff and briefings for bargaining unit employees on management proposals affecting working conditions.

The appellant served as chief negotiator for the renegotiation of the Bureauwide CBA, which was concluded last year. He bases a large part of his appeal on the duties he performed in that capacity. However, contract renegotiation is not an ongoing aspect of his position. This four-year CBA covers all bargaining unit employees within the Bureau. Thus, this particular activity will presumably not be performed again until the year 2012. Because the grade of a position

must be based on the regular and recurring duties performed as opposed to one-time projects or infrequently performed work, this one assignment in and of itself cannot serve as the basis for the grade of the appellant's position. Further, in adjudicating an appeal we may consider only currently performed duties and responsibilities. Therefore, the work the appellant performed in connection with the contract renegotiation will not be directly addressed in this evaluation. However, we note that the scope of this assignment and the difficulty and complexity of its individual components are comparable to the appellant's ongoing assignments related to impact-and-implementation bargaining which are fully considered in the below evaluation.

We conducted a telephone audit with the appellant and subsequent telephone interview with his supervisor. We decided this appeal by considering the audit findings and all other information of record furnished by the appellant and his agency, including his official position description and other material received in the agency administrative report on December 21, 2007.

### **Series and title determination**

The appellant's position is properly assigned to the GS-201, Human Resources Specialist Series. The basic title for positions in this series is Human Resources Specialist. The parenthetical title of Labor Relations is appropriate rather than Labor as indicated on the appellant's position description of record as provided for in the Job Family Position Classification Standard (JFS) for Administrative Work in the Human Resources Group, GS-200

### **Grade determination**

The appellant believes that his position was evaluated using the wrong standard. Specifically, he states that "a Pay Demo -04 (GS-15) GS Guide was used for the Branch Chief [his supervisor's] position" whereas "for my position which is an unprecedented position within [bureau] a Human Resources Specialist (Labor) GS-13 Guide was used." He then proceeds to evaluate his position using a combination of factors and point values drawn variously from the General Schedule Supervisory Guide and the GS-200 JFS.

The agency evaluated the branch chief position using the General Schedule Supervisory Guide (GSSG), an OPM-issued classification standard designed specifically to evaluate supervisory positions. The GSSG is based on the consideration of factors inherent to supervisory work, such as the grade level of work supervised, administrative supervisory responsibilities, placement in the supervisory hierarchy, and special work situations that complicate supervision, such as shift work and seasonal workforce fluctuations. The GSSG may not be applied to nonsupervisory positions either wholly or in part. Such positions are specifically excluded from coverage under the GSSG because its entire foundation rests on the supervision of other employees.

The agency evaluated the appellant's position using the GS-200 JFS. This is the correct source of grade-level criteria for his position. This standard is designed to evaluate nonsupervisory positions in HR occupations, including labor relations. It provides grade level criteria for nonsupervisory work potentially to the GS-15 level, depending on the points assigned under the various factor levels. This standard fully represents the work performed by the appellant. All OPM standards must be applied as written; i.e., factors may not be changed or replaced and allowable point values may not be modified.

The GS-200 JFS is written in the Factor Evaluation System (FES) format, under which factor levels and accompanying point values are to be assigned for each of the following nine factors, with the total then being converted to a grade level by use of the grade-conversion table provided in the standard. The factor-point values mark the lower end of the ranges for the indicated factor levels. For a position to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor-level description. If the position fails in any significant aspect to meet a particular factor-level description, the point value for the next lower factor level must be assigned, unless the deficiency is balanced by an equally important aspect that meets a higher level.

*Factor 1, Knowledge required by the position*

This factor measures the nature and extent of information an employee must understand in order to do the work, and the skills needed to apply that knowledge.

The knowledge required by the appellant's position meets Level 1-8. At that level, the work requires mastery of advanced HR principles, concepts, regulations, and practices and seasoned consultative skill sufficient to resolve problems not susceptible to treatment by standard methods. It also requires mastery of HR legal and regulatory principles, concepts, and practices and consultative skills to perform such work as providing authoritative advisory service and/or developing authoritative policy interpretations; resolving problems characterized by their breadth, importance, and severity for which previous studies have been inadequate; directing and providing oversight of a team engaged in special projects affecting major policies; and evaluating and recommending overall plans and proposals for HR projects.

This level fully represents the work performed by the appellant in his capacity as negotiator with national [union] representatives. This work requires mastery of labor relations principles and practices, laws and regulations, and consultative skills to provide authoritative advice to management on labor relations issues with Bureauwide impact.

The position does not meet Level 1-9. At that level, work requires mastery of the principles, concepts, laws, and regulations of HR and consultative skills sufficient to generate new concepts, principles, and methods in the field; *or* to conceive, plan, and manage entire HR functions (e.g., recruitment and placement) for broad, emerging, or similarly critical large-scale agency programs of national or international scope, where the programs are of such magnitude they affect the economic health of a major industry; serve as expert and consultant to top agency management officials on integrating the HR function (e.g., compensation, labor relations) with these programs; and advising other HR experts throughout the agency on issues which involve applying methods and procedures developed by the employee.

As an operating-level labor relations practitioner in a bureau, the nature and organizational level of the appellant's work are not such that he would be generating new principles and methods in the field of labor relations, as he is bound by established legal precedents and regulatory requirements set forth by the courts and higher labor relations authorities. Further, he does not manage an entire HR function. He is considered the senior labor relations advisor on the staff and is responsible for conducting all union negotiations for the Bureau, but management of the overall labor relations function is exercised by the branch chief. He does not serve as consultant to top management on integrating the labor relations function with programs of the magnitude

and impact cited above. He is not responsible for this type of broad program development work, nor would his organizational situation support the performance of such work. Rather, he carries out established operating-level labor relations activities associated with a relatively small bargaining unit. While he may provide training to less senior labor relations employees in his immediate office, this is not equivalent to the staff-level function described at Level 1-9, where the employee develops technical guidance for other HR experts throughout an agency's various components.

Level 1-8 is credited (1550 points).

*Factor 2, Supervisory controls*

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the employee's responsibility, and the review of completed work.

The level of responsibility under which the appellant works is comparable to Level 2-4. At that level, the supervisor outlines overall objectives and available resources. The employee and supervisor, in consultation, discuss timeframes, scope of the assignment, and possible approaches. The employee determines the practices and approach to apply, interprets regulations on his or her own initiative, resolves most of the conflicts which arise, and keeps the supervisor informed of progress and potential controversies. Completed work is reviewed for soundness of overall approach, effectiveness in producing results, feasibility of recommendations, and adherence to requirements.

This accurately represents the manner in which the appellant is expected to operate. He is expected to discuss major projects and issues with his supervisor prior to taking action or making commitments. She provides guidance to him regarding the agency position on labor-related issues based on historical considerations and the input of other HR functional experts, and discusses with him the best approach to the problem and how he is expected to proceed. Within this framework, the appellant carries out the work independently, but is expected to keep the supervisor informed of any developments that may impact the Bureau or the branch. He is required to prepare monthly status reports for the supervisor wherein he apprises her of progress on ongoing assignments. The supervisor reviews his written products for overall acceptability and adherence to requirements. As is typical of journey-level positions in the HR occupations, the appellant often has direct contact with high-level management within the Bureau who may contact him for technical advice and assistance. This is not inconsistent with Level 2-4, as the appellant is expected to keep his supervisor apprised of these contacts and his independent advice is limited to discussion of regulatory or process-related matters.

The position does not meet Level 2-5. At that level, the supervisor provides administrative and policy direction in terms of broadly defined missions or functions. The employee is responsible for a significant program or function; interprets policies promulgated by authorities senior to the immediate supervisor; independently plans, designs, and carries out the work to be done; and is a technical authority. The supervisor reviews work for potential impact on broad agency policy objectives and program goals, and normally accepts work as technically authoritative without significant change.

Factor 2 is designed to measure not only the degree of independence with which the employee operates but also the extent of responsibility inherent in the assignment. Level 2-4 describes work carried out with a high degree of independence and recognized expertise and as such fully represents the manner in which the appellant operates. Level 2-5 recognizes not only independence of action, but also a higher degree of responsibility and authority as the context for the independence exercised. Level 2-5 is predicated on responsibility for independently planning, designing, and carrying out a significant program or function, with only broad administrative and policy direction. In contrast, the appellant carries out ongoing operational activities, the content and boundaries of which are defined by the branch chief. Regardless of how independently he works in completing these assignments, the nature of his work is not such that it would permit the exercise of this level of responsibility and authority, which is properly credited to the head of a program or function.

Level 2-4 is credited (450 points).

### *Factor 3, Guidelines*

This factor covers the nature of the guidelines used and the judgment needed to apply them.

The guidelines used by the appellant match Level 3-4. At that level, the employee uses guidelines and precedents that are very general regarding agency policy statements and objectives. Guidelines specific to assignments are scarce or inapplicable and require considerable interpretation or adaptation. The employee must use judgment in deviating from established methods to modify broader guidelines to resolve specific complex problems and issues; research trends and patterns; develop new methods and criteria; and/or propose new policies and practices.

Correspondingly, the appellant works within the context of Federal regulations, legal and administrative precedents, and the general policies and expectations expressed by management. The appellant must research and extrapolate from available guidelines to, for example, determine the negotiability of specific issues.

The position does not meet Level 3-5. At that level, the employee uses guidelines that are often ambiguous, express conflicting or incompatible goals, and require extensive interpretation. The employee exercises broad latitude to determine the intent of applicable guidelines, develop policy and guidelines for specific areas of work, and formulate interpretations that may take the form of policy statements and guidelines. Top agency management officials and senior staff recognize the employee as a technical expert.

This level relates exclusively to positions engaged in policy development. The appellant provides advice and assistance on operating-level labor relations matters. He is not involved in developing policy for the labor relations function or in devising Bureau policy for the purpose of labor negotiations.

Level 3-4 is credited (450 points).

*Factor 4, Complexity*

This factor covers the nature, number, variety, and intricacy of tasks or processes in the work performed; the difficulty in identifying what needs to be done; and the difficulty and originality involved in performing the work.

The complexity of the appellant's work is comparable to Level 4-5. At that level, the work consists of addressing issues that significantly affect long-range implementation of substantive operational or policy programs throughout an agency or bureau. The employee may integrate the work of a team into authoritative reports and research statutory, regulatory, court, and administrative precedents. The employee works on cases that involve matters that are contentious and require creating new techniques, establishing criteria, or developing new information. For example, the employee may serve as the principle focal point providing labor relations advisory services on command-wide issues to headquarters staff and HR officials.

Insofar as the appellant may negotiate work-related issues affecting bargaining unit members throughout the Bureau, his work indirectly affects the Bureau's operational programs. The nature of his work is such that it may require researching statutory, legal, regulatory, and administrative precedents, and most of the matters with which he deals are by definition contentious.

The position does not meet Level 4-6. At that level, the work consists of broad, highly difficult assignments that require analyzing key agency programs, involve issues of broad scope and intensity, are precedent-setting and of long duration, and/or require directing team efforts for concurrent projects. The employee works on largely undefined issues and problems of a highly variable nature requiring extensive analysis and may assign tasks, coordinate a team effort, and consolidate team findings into a completed product. Extreme difficulty is encountered in identifying and isolating the nature of issues and problems into their components.

The appellant's ongoing assignments cannot be characterized as broad and highly difficult as those terms are defined at Level 4-6. He does not analyze key agency programs. His work does not involve issues of broad scope and intensity, that are precedent-setting, or that require directing team efforts for concurrent projects. He does not work on largely undefined issues and problems where it is extremely difficult to isolate their components. Rather, he provides technical advice and assistance on specific and clearly-defined management proposals that impact bargaining unit members. These consist largely of precedented issues encountered in any typical labor relations setting, such as telework, office moves, safety equipment, and compensatory time for travel.

Level 4-5 is credited (325 points).

*Factor 5, Scope and effect*

This factor covers the relationship between the nature of the work and the effect of work products or services both within and outside the organization.

The scope and effect of the appellant's work match Level 5-4. At that level, work involves resolving or advising on complex problems and issues that typically require analyzing or



troubleshooting a wide range of unusual conditions. The work ultimately affects the objectives and effectiveness of agency HR activities, missions, and programs.

Correspondingly, the appellant's work consists of providing technical advice and assistance on a wide variety of labor-related issues. His work ultimately affects the effectiveness of the Bureau's labor relations function.

The position does not meet Level 5-5. At that level, work involves evaluating and developing major aspects of agencywide HR programs and issues of sensitivity and potential controversy. The work establishes precedents for other technical experts. Findings and recommendations are typically of major significance to agency management officials and often serve as the basis for new legislation, regulations, or programs, and may influence top management officials to change major HR policies or procedures.

This level addresses staff-level program development work involved in the development of new legislation or regulations, where the work guides the subsequent actions of other technical experts. The appellant, by contrast, is engaged in implementing rather than developing the labor relations function for the Bureau.

Level 5-4 is credited (225 points).

*Factor 6, Personal contacts*  
and  
*Factor 7, Purpose of Contacts*

This factor includes face-to-face and telephone contacts with persons not in the supervisory chain. The relationship between Factors 6 and 7 presumes that the same contacts will be evaluated under both factors.

The appellant's personal contacts match Level 3, where contacts are with persons outside the agency or with agency officials who are several managerial levels removed from the employee. Correspondingly, the appellant has contacts with national [union] representatives and with high-level Bureau management.

Level 4 is not met, where contacts are with high-ranking officials from outside the agency at national or international levels, such as heads of other agencies, Members of Congress, or presidents of national unions. The appellant has no contacts of this nature.

The purpose of the appellant's contacts matches Level C, where contacts are for the purpose of influencing employees and managers to accept and implement findings and recommendations where the employee may encounter resistance and must use persuasion or negotiation to gain compliance. This describes the appellant's role in union negotiations.

Level D is not met, where contacts are to present, justify, negotiate, or settle matters involving significant or controversial issues, e.g., recommendations affecting major programs, dealing with substantial expenses, or significantly changing the nature and scope of programs. The appellant is not involved in negotiating issues of this magnitude but rather more conventional administrative matters such as telework and office moves. Further, in face-to-face negotiations

his role is to facilitate discussions between management and the union. However, the management representatives are responsible for presenting and justifying their positions and actually settling issues under contention.

Level 3C is credited (180 points).

*Factor 8, Physical demands*

This factor covers the requirements and physical demands placed on the employee by the work assignment.

The position matches Level 8-1, where the work is sedentary.

Level 8-1 is credited (5 points).

*Factor 9, Work environment*

This factor considers the risks and discomforts in the employee's physical surroundings or the nature of the work assigned and the safety regulations required.

The position matches Level 9-1, which describes a typical office environment.

Level 9-1 is credited (5 points).

*Summary*

Factors	Level	Points
Knowledge required by the position	1-8	1550
Supervisory controls	2-4	450
Guidelines	3-4	450
Complexity	4-5	325
Scope and effect	5-4	225
Personal contacts/Purpose of contacts	3C	180
Physical demands	8-1	5
Work environment	9-1	<u>5</u>
Total		3190

The total of 3190 points falls within the GS-13 point range (3155-3600 points) on the grade conversion table provided in the standard.

**Decision**

The appellant's position is properly classified as Human Resources Specialist (Labor Relations), GS-201-13.