

120 Howard Street, Room 760  
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**Classification Appeal Decision  
Under Section 5112 of Title 5, U.S. Code**

<b>Appellant:</b>	[Appellant]
<b>Position:</b>	Supervisory Personnel Management Specialist GS-201-12
<b>Organization:</b>	U.S. Border Patrol [Location]
<b>Decision:</b>	Supervisory Personnel Management Specialist GS-201-12
<b>OPM decision number:</b>	C-0201-12-01

Signed by Denis J. Whitebook  
DENIS J. WHITEBOOK  
CLASSIFICATION APPEALS OFFICER

October 25, 1996  
DATE

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision 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).

## **Introduction**

On June 19, 1996, the San Francisco Oversight Division of the U.S. Office of Personnel Management (OPM) received a classification appeal from [Appellant]. Her position is currently classified as Supervisory Personnel Management Specialist, GS-201-12. However, she believes its classification should be Supervisory Personnel Management Specialist, GS-201-13. She works in the [agency]. We have accepted and decided her appeal under 5 U.S. Code 5112.

In September 1995, the appellant's agency had downgraded her position from GS-13 to GS-12. The appellant then filed a classification appeal with the Department of Justice. In May 1996, the department issued a decision, followed by a partial reconsideration decision, sustaining the classification of her position at GS-12.

To help decide this appeal, a representative of this office conducted short phone interviews with the appellant on October 17 and 22, and a brief interview with her immediate supervisor on October 24. In reaching our classification decision, we have carefully reviewed the interview findings and all information of record furnished by the appellant and her agency, including her official position description (PD) as amended.

## **General issues**

The appellant notes that her position differs from those in smaller, less complex, and less dynamic Border Patrol sectors and organizations. She also observes that her position is more complex than it was in 1986. By law, we must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S. Code 5106, 5107, and 5112). Since comparison to standards and guidelines is the exclusive method for classifying positions, we cannot compare the appellant's position to others, or her current responsibilities to former ones, as a basis for deciding her appeal.

The appellant makes many statements about her agency and its evaluations of her position. In adjudicating this appeal, our only concern is to make our own independent decision on the proper classification of her position. As noted above, we must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines. Therefore, we have considered the appellant's statements only insofar as they are relevant to making that comparison.

The appellant noted during our interviews that she may in the future have greater responsibilities than she does currently. For instance, she may establish personnel-type positions outside her office for which she might provide technical and administrative supervision. Further, her supervisor indicated during our interview that in 1997 she may be given a GS-12 equal employment specialist to supervise in addition to her current staff. However, 5 U.S. Code 5112 indicates that we can consider only current duties and responsibilities in classifying positions. Also, page 16 of the Introduction to the Position Classification Standards shows that positions as a rule should be classified based on current duties actually performed. Therefore, we have not considered the appellant's possible future responsibilities in deciding her appeal.

The appellant asks that our classification decision be retroactive so she may recoup pay lost since her position was downgraded. However, retroactive corrective action may occur only if an employee was ineligible for retained grade or pay when downgraded (introduction to the standards, appendix 4, section G.2.b). Since the appellant was entitled to retained pay, she is not eligible for retroactive corrective action.

### **Position information**

The appellant directs the nontraining part of the Personnel and Training Branch. She and her staff provide personnel management support within the limits of delegated authority in many areas, including classification, staffing, and labor and employee relations. They also provide various budget, payroll, and time and attendance functions. These include monitoring and administering the salary and benefits budget for the [agency], including tracking full-time equivalent (FTE) requirements against the authorized ceiling.

The appellant supervises 25 subordinates: four Personnel Management Specialists, GS-201-11; a Supervisory Administrative Support Specialist, GS-303-11; a Labor Relations Specialist, GS-233-9/11; four Staffing and Employee Relations Specialists, GS-201-7/9; an Employee Relations Assistant, GS-203-6/7; a Time and Leave Clerk, GS-544-6/7; four Staffing Assistants, GS-203-5/6/7; four Personnel Clerks, GS-203-5; two Time and Leave Clerks, GS-544-5; two Clerk-Typists, GS-322-4; and a Clerk-Typist, GS-322-3.

The above subordinates are organized into four teams. Each team consists of a GS-11 Personnel Management Specialist team leader, a GS-7/9 Staffing and Employee Relations Specialist, a GS-5/6/7 Staffing Assistant, and a GS-5 Personnel Clerk. Also, the GS-11 Supervisory Administrative Support Specialist supervises the three Time and Leave Clerks.

The appellant's PD, the other material of record, and our interview findings furnish much more information about her duties and responsibilities and how they are performed.

### **Series, title, and guide determination**

We find that the appellant's position is properly covered by the Personnel Management Series, GS-201, titled Supervisory Personnel Management Specialist, and graded using the General Schedule Supervisory Guide (GSSG). Neither the appellant nor her agency disagrees.

### **Grade determination**

The GSSG uses six factors: Program scope and effect, Organizational setting, Supervisory and managerial authority exercised, Personal contacts, Difficulty of typical work directed, and Other conditions. Page 8 of the GSSG indicates that if one level of a factor or element is exceeded but the next higher level is not met, the lower level must be credited.

The appellant does not disagree with her agency's evaluation of factors 1, 2, 4, and 5. We therefore discuss those factors very briefly, while discussing factors 3 and 6 more thoroughly. Our evaluation of the six factors follows.

*Factor 1, Program scope and effect*

This factor contains two elements: Scope and Effect. We discuss each below.

*Scope*

The scope of work directed by the appellant is best evaluated at Level 1-2. As discussed at that level, the work directed is administrative, technical, and complex clerical. As is typical at Level 1-2, the services provided support the [agency].

*Effect*

The effect of work directed is also best evaluated at Level 1-2. Comparable to services at that level, services provided by the appellant's office support and significantly affect sector level operations and objectives.

The appellant's position warrants Level 1-2 for both Scope and Effect. It is therefore properly evaluated at Level 1-2 for Factor 1.

*Factor 2, Organizational setting*

The appellant's position is properly evaluated at Level 2-2. The appellant reports to a GS-14 assistant chief patrol agent who in turn reports to the GS-15 deputy chief patrol agent. The deputy reports to the chief patrol agent, whose position is SES. A position reporting to a deputy chief position is credited as reporting to the chief (GSSG, page 14). So the appellant's position is accountable to a position that is one reporting level below the lowest SES position in the direct supervisory chain, as required at Level 2-2.

*Factor 3, Supervisory and managerial authority exercised*

The appellant's authority meets Level 3-2c. Supervisors at this level must carry out at least three of the first four, and a total of six or more of the 10 responsibilities listed on pages 16 and 17 of the GSSG. The record indicates that the appellant carries out at least three of the first four, and a total of at least nine of the 10 responsibilities listed. For instance, she exercises responsibilities 3 and 9, since she evaluates subordinates' work performance, and finds ways to improve production or increase the quality of work directed.

The appellant's responsibilities do not meet Level 3-3a for three main reasons:

- Supervisors at Level 3-3a exercise delegated managerial authority to prepare a series of formal, written annual, multiyear, or similar types of long-range work plans and schedules for in-service or contracted work. The appellant plans and schedules work for her office. Further, she noted during our interviews that she has responsibility for a growth management project. However, she also stated during the interviews that she does not regularly prepare a series of formal, written annual or multiyear work plans for her office.
- At Level 3-3a, supervisors are closely involved with high-level program officials in developing overall goals and objectives for assigned functions, programs, or program segments. The appellant recommends the number and kinds of positions needed in her unit. Further, she develops some goals for her office. For instance, our interviews indicated that she developed a goal of having her staff determine whether personnel-related support positions outside her office were performing duties envisioned for them. However, these are narrower than the overall goals and objectives envisioned at Level 3-3a. Organizational levels above the appellant's develop overall objectives for her office.
- Supervisors at Level 3-3a typically secure legal opinions, and prepare position papers or legislative proposals that support development of goals and objectives related to high levels of program management. Our interviews indicated that the appellant has not regularly done this in the past year.

To meet Level 3-3b, a supervisory position must exercise all or nearly all the supervisory responsibilities described at Level 3-2c, plus at least 8 of the 15 responsibilities listed under Level 3-3b on pages 17 and 18 of the GSSG.

The appellant exercises all or nearly all 10 supervisory responsibilities described at Level 3-2c, since she carries out at least nine of those responsibilities. The record indicates that she also exercises 6 of the 15 responsibilities listed under Level 3-3b. Specifically, the record indicates that she exercises responsibilities 2, 7, 11, 13, 14, and 15. For example, she carries out responsibility 2, since she exercises significant responsibilities in dealing with officials of other units and in advising management officials of higher rank.

However, the appellant's position cannot receive credit for the other nine responsibilities listed under Level 3-3b. That is, it cannot receive credit for responsibilities 1, 3 through 6, 8 through 10, and 12. We discuss the reasons for this below.

Responsibility 1 describes a supervisor who uses subordinate supervisors, leaders, or comparable personnel to direct, coordinate, or oversee work. Previous OPM decisions and guidance show that this responsibility is intended to credit only supervisors who direct at least two or three persons who are officially recognized as subordinate supervisors, leaders, or comparable personnel. Further, the supervisor's subordinate organization must be so large and its work so complex that it requires using those two or more subordinate supervisors or comparable personnel.

The appellant's organization uses a subordinate supervisor and four subordinate team leaders. Further, the appellant makes many statements supporting her belief that her organization requires using supervisors and leaders. For instance, she observes that her organization has a very heavy and diverse workload. She believes her office is highly dynamic, fluid, and complex. She states that her sector is inherently complex and that its human resources have grown 72.66 percent in the past 3¾ years. She notes that her team leaders enhance accountability for work, thereby ensuring that serviced organizations receive a higher quantity and quality of service. She states that the team concept is efficient and economical. The many points she makes indicate that it may be convenient or desirable to use two or more subordinate supervisors or leaders in directing work. Further, her organization may require using one such supervisor or team leader to direct work. However, we judge that the appellant's organization is not so large and its work so complex that it *requires* using at least two subordinate supervisors or leaders, for five main reasons:

- The appellant's organization is not large. First, it comprises only 25 subordinate employees. Second, only 10 of those employees are two-grade interval administrative employees. The rest are lower-graded assistant or clerical workers.
- The organization has only five GS-11 positions and no positions graded above that level. The work of the organization is therefore less difficult and complex than work in organizations with higher-graded jobs.
- The appellant stresses that her teams service different programs: Border Patrol, Investigations, and Detention. She states that each program requires a different approach to personnel service, as they have distinct philosophies, needs, and goals. She notes that therefore the functions of each team differ. Even so, every team has the same structure: one GS-11 Personnel Management Specialist, one GS-7/9 Staffing and Employee Relations Specialist, one GS-5/6/7 Staffing Assistant, and one GS-5 Personnel Clerk. Further, every team performs similar functions for its assigned program, such as handling recruitment and placement, and dealing with grievances, adverse actions, and disciplinary actions. These considerations again limit the complexity of the appellant's organization.
- The appellant makes various statements intended to show that her organization is delegated much authority for dealing with personnel matters. For example, she discusses her organization's responsibilities for handling discipline and adverse actions. Even so, there are significant limits on the personnel functions delegated to her organization. For instance, her office may write position descriptions and perform other classification-related duties, but the regional office in Laguna Niguel has final classification authority. These restrictions on delegated personnel functions are yet another limitation on the complexity of her organization's work.
- The appellant is giving her GS-11 employees training in becoming effective supervisors and team leaders, and in assuming increasing responsibility. However, she indicated

during our interviews that in the past year she has not encountered extraordinary difficulties in training her subordinates or in assessing their work accomplishments. Such difficulties might suggest a need for a narrower-than-usual span of control.

Given the above analysis, we cannot grant credit for responsibility 1.

Under responsibility 3, a supervisor must assure reasonable equity among subordinate units of both performance standards and rating techniques developed by subordinates. Our interviews indicated that the appellant and her subordinate team leaders collaborate in developing performance standards used in appraising team members. However, responsibility 3 cannot be credited for two reasons. Most important, this responsibility is intended to credit only supervisors whose subordinates are delegated formal authority to develop performance standards. The appellant's team leaders lack this formal authority. Second, the appellant indicated during our interviews that though her subordinates collaborate in developing performance standards, they have not also developed specific techniques for rating team members, as envisioned under responsibility 3.

Responsibility 4 requires direction of a program or major program segment with significant resources (for instance, a multimillion dollar level of annual resources). In a September 1995 letter, the appellant notes that her office deals with the \$96 million salary and benefits budget for her sector. The record indicates that this budget has increased since then. However, responsibility 4 is intended to credit only positions that exercise direct control over a multimillion dollar level of annual resources. The appellant's unit has various responsibilities for the sector budget, including daily maintenance and issuance of allocations for overtime and awards. However, the appellant exercises less direct control over that budget than envisioned at Level 3-3b. For instance, she does not control what positions will be established or eliminated outside her own unit. She exercises greater control over the budget for her own organization. However, the latter budget does not involve a *multimillion* dollar level of annual resources. We therefore cannot grant credit for this responsibility.

Like responsibility 1, responsibilities 5, 6, and 8 are intended to credit only supervisors whose subordinate organizations are so large and their work so complex that they require using at least two or three persons who are officially recognized as subordinate supervisors, leaders, or comparable personnel. As discussed earlier, the appellant's organization does not meet this criterion. We therefore cannot award credit for these three responsibilities.

Under responsibility 9, a supervisor must hear and resolve formal group grievances or serious complaints from her employees. The appellant hears and tries to resolve all grievances or complaints from her staff. However, we cannot grant credit for responsibility 9 for two reasons:

- Page 15 of the GSSG shows that to be credited, responsibilities at Level 3-3b must be exercised recurringly. Our interviews indicated that the appellant has dealt with one informal group complaint in the past year. This involved employees who were concerned



about working in a confined, open work area. However, our interviews also indicated that the appellant has dealt with no formal group grievances this past year. Further, the appellant has dealt with various employee complaints. For example, employees complained when she canceled alternate work schedules for her staff till further notice. However, our interviews indicated that in the past year the appellant has not recurrently resolved complaints as serious as envisioned under responsibility 9 (for instance, allegations of sexual harassment). So the appellant has not recurrently heard and resolved formal group grievances or serious complaints from her employees in the past year to the extent envisaged under this responsibility.

- The appellant hears all Step 1 grievances filed by her employees. However, our interviews indicated that she lacks authority to resolve by herself grievances that go beyond Step 1. She therefore has less authority to resolve formal group grievances and serious employee complaints than intended under responsibility 9.

Under responsibility 10, a supervisor must review and approving serious disciplinary actions (for instance, suspensions) involving nonsupervisory subordinates. The appellant notes that she directs subordinate team leaders to review all sector disciplinary actions, and coordinates actions with sector counsel, regional counsel, and others. Further, her supervisor stated during our interview that management has asked that the authority to propose and approve serious disciplinary actions be delegated down to the assistant chief patrol agents and deputy chief patrol agent respectively. However, he also indicated that currently these authorities have been delegated only to the deputy chief patrol agent and the chief patrol agent. Since the appellant has not been delegated formal authority to review and approve serious disciplinary actions, responsibility 10 cannot be credited.

Responsibility 12 involves determining whether contractor-performed work meets standards of adequacy needed to authorize payment. The record indicates that the appellant does not regularly perform this function.

Since the appellant's position can receive credit for only 6 of the 15 responsibilities listed under Level 3-3b, it does not meet that level. As discussed earlier, her position also does not meet Level 3-3a. However, it does meet Level 3-2c and so is properly evaluated at that level.

#### *Factor 4, Personal contacts*

This factor contains two subfactors: Nature of contacts and Purpose of contacts. We discuss each subfactor below.

##### *Subfactor 4A, Nature of contacts*

The nature of the appellant's contacts warrants Level 4A-2. As is typical at that level, the appellant has contacts with higher ranking managers, supervisors, and staff at and above the

sector level. As is also typical, contacts may be informal, occur in conferences and meetings, or take place by phone.

*Subfactor 4B, Purpose of contacts*

The purpose of the appellant's contacts warrants Level 4B-2. The record indicates that as is characteristic at that level, the purpose of some of the appellant's contacts is to ensure that information provided to outside parties is accurate and consistent, to plan and coordinate the work directed with that of others outside her office, and to resolve differences of opinion among managers, supervisors, or employees.

*Factor 5, Difficulty of typical work directed*

To determine the difficulty of typical work directed, we must determine the highest level of work that constitutes at least 25 percent of the workload of the organization. In making this determination, we must credit developmental and other such work at full performance level, exclude work of lower-level positions that primarily support or facilitate the basic work of the unit, and also exclude subordinate work that is graded using the GSSG (page 23 of the GSSG).

The appellant supervises 25 positions. For purposes of this evaluation, we accept the agency's classification of these positions. The full performance level of six of those positions is GS-11. However, one of those positions is a GS-11 Supervisory Administrative Support Specialist. Our interviews indicated that roughly half the work of that position must be excluded, since it is graded using the GSSG. The record indicates that the six GS-11 employees spend at least 80 percent of their nonsupervisory time performing GS-11 work. So the appellant's GS-11 subordinates spend at least 4.4 workyears performing nonsupervisory GS-11 work ( $[6 \text{ GS-11 workyears} - .5 \text{ excluded workyears}] \times 80 \text{ percent}$ ).

In determining the highest level of work comprising at least 25 percent of workload, we must exclude the work of three Clerk-Typist positions and four GS-5 Personnel Clerk positions, since the record indicates that they primarily support or facilitate the basic work of the appellant's unit. (However, we include the work of the three Time and Leave Clerks. The record indicates that though they are lower-level positions, they perform one of the line functions of the appellant's office.) So the appellant's subordinates who are not excluded from consideration spend 17.5 workyears performing their work (25 total subordinate positions - 7.5 excluded ones). Therefore, GS-11 work comprises at least 25 percent of the workload of the appellant's organization ( $4.4 \text{ GS-11 workyears} \div 17.5 \text{ total includable workyears} = 25.1 \text{ percent}$ ). Since GS-11 is the highest level of work directed, it is the highest level of work that constitutes at least 25 percent of the workload of the appellant's office. Therefore, in accordance with the chart on page 24 of the GSSG, Level 5-6 must be awarded for this factor.

*Factor 6, Other conditions*

The appellant's position meets Level 6-4a. Her agency's classification appeal decision had denied credit for this level. This was at least partly because the agency found that the appellant's teams did not involve a group of members performing GS-11 work, where each member contributed a portion of the analyses, facts, information, proposed actions, or recommendations. However, a position may also meet Level 6-4a if it ensures compatibility and consistency of interpretation, judgment, logic, and application of policy among a number of GS-11 work assignments. Our interview findings indicate that the appellant's position meets this latter criterion. For instance, she regularly ensures that discipline findings, plus qualifications and other staffing determinations, made by her GS-11 specialists are compatible and consistent with each other as discussed above.

The appellant's position meets neither Level 6-5a nor 6-5b. These levels assume that the difficulty of typical work directed as determined in Factor 5 is GS-12 or 13. By contrast, the difficulty of typical work directed by the appellant is GS-11.

Level 6-5c involves managing work through subordinate supervisors or contractors who each direct substantial workloads comparable to the GS-11 level. This level is not met for two reasons. First, previous OPM decisions and guidance show that if a position does not oversee contractor work, it can receive credit for this level only if it supervises at least two persons officially recognized as subordinate supervisors. Subordinate team leaders cannot be credited for this purpose. The appellant supervises only one person officially recognized as a subordinate supervisor. Second, that supervisor and the appellant's GS-11 team leaders direct positions graded at GS-9 and below. They therefore do not direct a substantial GS-11 workload.

The appellant's position meets Level 6-4a, but not 6-5a, 6-5b, or 6-5c. Therefore, 6-4a is the appropriate level for the position.

The appellant believes that her position involves special situations not credited by her agency. However, the special situations on pages 29-31 of the GSSG apply only to positions that are evaluated at or below Level 6-3 (GSSG, page 25). Since we have evaluated the appellant's position at Level 6-4a, we cannot consider those special situations.

*Summary*

In sum, we have evaluated the appellant's position as follows:

<b>Factor</b>	<b>Level</b>	<b>Points</b>
1. Program scope and effect	1-2	350
2. Organizational setting	2-2	250
3. Supervisory and managerial authority exercised	3-2c	450
4. Personal contacts		
4A. Nature of contacts	4A-2	50
4B. Purpose of contacts	4B-2	75
5. Difficulty of typical work directed	5-6	800
6. Other conditions	6-4a	<u>1120</u>
Total points:		3095

The 3095 total points fall within the GS-12 range of the point-to-grade conversion chart on page 31 of the GSSG. The adjustment conditions on page 32 do not apply. Therefore, the final grade for the appellant's position is GS-12.

**Decision**

The appellant's position is properly classified as Supervisory Personnel Management Specialist, GS-201-12.