

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



Atlanta Oversight Division
75 Spring Street, SW, Room 972
Atlanta, GA 30303

Classification Appeal Decision
Under Section 5112 of Title 5, United States Code

Appellant: [Appellant]

Agency classification: Equal Employment Manager
GS-260-12

Organization: United States Marine Corps

OPM decision: Equal Employment Manager
GS-260-12

OPM decision number: C-0260-12-03

Kathy W. Day
Classification Appeals Officer

2/18/99

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]

Director
Civilian Human Resources
Office

Mr. William T. Catsonis
Director, Civilian Human
Resources Office
Headquarters U.S. Marine Corps
2 Navy Annex
Code HRHB
Room 1213
Washington, DC 20380-1775

Mr. William Duffy
Chief, Classification Branch
Field Advisory Services Division
Defense Civilian Personnel Management
Service
1400 Key Boulevard, Suite B-200
Arlington, VA 22209-5144

Introduction

On November 13, 1998, the Atlanta Oversight Division, Office of Personnel Management (OPM), accepted an appeal for the position of Equal Employment Manager, GS-260-12, United States Marine Corps, [location]. The appellant is requesting that her position be upgraded to GS-13.

The appeal has been accepted and processed under section 5112(b) of title 5, United States Code. This is the final administrative decision on the classification of the position subject to discretionary review only under the limited conditions and time outlined in part 511, subpart F, of title 5, Code of Federal Regulations.

General issues

The appellant compares her position to other Equal Employment Manager positions. 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). Since comparison to standards is the exclusive method for classifying positions, we cannot compare the appellant's position to others as a basis for deciding her appeal.

To help decide the appeal, an Oversight Division representative conducted telephone interviews with the appellant, the Command Executive Officer, a Division Director and Department Heads. In reaching our classification decision, we have reviewed the audit findings and all information of record furnished by the appellant and her agency, including her official position description [#].

Position information

The appellant, her supervisor, and the agency have certified the accuracy of the position description.

The appellant serves as the manager of the Equal Employment Opportunity (EEO) Program for the [installation] which employs approximately 4000 personnel in 137 different occupations. As such, she serves as the principal advisor to the Commanding Officer and provides technical advice and assistance to supervisors/managers on the implementation of affirmative action and equal opportunity initiatives in their organizations. The appellant is responsible for developing, planning, directing, coordinating, reviewing, monitoring, evaluating and updating program activities which include the Affirmative Employment Plan (AEP), Federal Equal Opportunity Recruitment Program, Special Emphasis Program, Handicapped and Disabled Veterans Program, Upward Mobility Program, Alternative Dispute Resolution Program and the Complaints Program. She identifies and provides solutions to systemic problems, emphasizes the interrelationships of equal employment with personnel management functions, manages the EEO complaints process, and compiles affirmative action statistics to ascertain how well the organization is meeting published goals and objectives. The appellant ensures that EEO training is provided to supervisors and managers and prepares program instructions based on Equal Employment Opportunity Commission (EEOC) and Navy directives. The

appellant supervises 1 EEO Assistant, GS-5; 1 Special Emphasis Program Manager, GS-11; and 2 Equal Employment Specialists/Counselors, GS-11.

The appellant is supervised by the Deputy Human Resources Officer who provides administrative direction in terms of broadly defined goals and objectives. The appellant independently plans and controls the day-to-day work, organizes and monitors the programs, determines the general approaches and methods to use, and evaluates program accomplishments. Results of her work are considered technically authoritative and are normally accepted without change.

The appellant's position description and other material of record furnish much more information about her duties and responsibilities and how they are performed.

Standard determination

Equal Employment Opportunity Series, GS-260, November 1980.

Series determination

The agency placed the position in the Equal Employment Opportunity Series, GS-260. The appellant does not contest the agency's series determination.

The GS-260 series includes positions primarily concerned with developing, administering, evaluating, or advising on the Federal Government's internal EEO program with Federal agencies when the position requires knowledge of Federal EEO regulations and principles; compliance and enforcement skills; administrative, management, and consulting skills; and knowledge of Federal personnel administration. We agree with the agency's decision. The position is properly placed in the GS-260 series.

Title determination

The standard for the GS-260 series prescribes the title *Equal Employment Manager* for positions that have primary responsibility for a total EEO program or an identifiable part of the program. Although the appellant supervises four subordinated positions, the designation of "*supervisor*" is not necessary and not appropriate in the title of manager positions.

Grade determination

Positions that meet both the definitions for "manager" and for "supervisor" should be graded by reference both to the GS-260 standard and to the General Schedule Supervisory Guide. The appellant supervises four subordinate positions: 3 GS-260-11 positions and 1 GS-361-5 position. The position descriptions for these positions indicate that the incumbents operate independently, referring only difficult or unusual problems to the appellant for resolution. This level of independent operation would not demand the appellant to spend the minimum 25 percent of her time on supervisory duties

as is required to apply the General Schedule Supervisory Guide. In addition, the appellant indicates that she spends approximately 10 percent of her time in supervisory related activities. Therefore, only the GS-260 standard is used to grade the appellant's position.

The standard for the GS-260, Equal Employment Opportunity Series, is written in the Factor Evaluation System (FES) format. Under the FES, positions are placed in grades on the basis of their duties, responsibilities, and the qualifications required as evaluated in terms of nine factors common to nonsupervisory General Schedule positions.

A point value is assigned to each factor based on a comparison of the position's duties with the factor-level descriptions in the standard. The factor point values mark the lower end of the ranges for the indicated factor levels. For a position factor 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 in the standard, the point value for the next lower factor level must be assigned, unless the deficiency is balanced by an equally important aspect which meets a higher level. The total points assigned are converted to a grade by use of the grade conversion table in the standard.

Under FES, positions which significantly exceed the highest factor level or fail to meet the lowest factor level described in a classification standard must be evaluated by reference to the Primary Standard, contained in Appendix 3 of the Introduction to the Position Classification Standards. The Primary Standard is the "standard-for-standards" for FES.

The appellant disagrees with the agency evaluation of factors 1, 3, 4, and 5. We have reviewed the agency determination of factors 2, 6, 7, 8, and 9 and agree with their findings. Therefore, only those factors contested by the appellant will be addressed in this decision.

Factor 1 - Knowledge Required by the Position:

This factor measures the nature and extent of information or facts that a worker must understand to do acceptable work, such as the procedures, practices, rules, policies, theories, principles, and concepts; and the nature and extent of the skills needed to apply this knowledge. In order for any knowledge to be used as a basis for selecting a level under this factor, it must be required and applied in the work of the position being evaluated. The agency credited Level 1-7. The appellant believes Level 1-8 is correct.

At Level 1-7, equal employment managers apply managerial and technical EEO knowledges 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 procedural program requirements. The equal employment manager or staff members 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.

At Level 1-8, the work requires mastery of the concepts, principles, and methods of Federal EEO to develop broad guidelines or regulations or to conduct projects to resolve complex systemic problems of broad scope. This involves expert knowledge of the legal framework in which the program operates to develop guidelines and regulations where accepted methods and principles are questioned or challenged, and a high level of consulting skills to advise managers on broad, complex, and sensitive EEO issues and to identify systemic barriers to EEO and develop practical solutions.

The knowledge required by the appellant's position is comparable to Level 1-7. She uses managerial and EEO knowledges and skills to direct an EEO program that meets the requirements for complying with laws, regulations and Department of the Navy policies. The program includes discrimination complaint counseling, investigation, and adjudication; the development of the [installation] AEP plan and report, as well as other special emphasis program plans and reports; EEO training; program evaluation; and management advisory services. The appellant analyzes statistical data to provide workforce profiles for the various organizational entities and works with managers to develop recruitment goals and objectives and identify barriers.

The full intent of Level 1-8 is not met. A key distinction between Level 1-7 and Level 1-8 is the manner in which the manager deals with systemic problems (i.e., whether the manager attempts to deal with the problems in a systemic fashion by affecting major changes in agency management policy and practices). The organizational level within which the appellant operates basically precludes crediting this level. The appellant does not work, for example, at the Department level or at a staff level where she develops policies and regulations for use by other EEO specialists in subordinate activities. Further, there is no indication that she advises managers on, and develops concrete solutions to, EEO problems of the difficulty, sensitivity, and magnitude expressed at this level (i.e., systemic barriers to equal employment opportunity that permeate the agency). While the appellant does become involved in the identification and resolution of systemic issues through management assistance, complaint monitoring, and workforce analyses, the systemic issues are dealt with at the local organizational level or on a case-by-case basis (e.g., through recruitment efforts for a specific vacancy or through outreach efforts at minority colleges aimed to increase general interest in working at [installation], etc.). The mere presence of systemic problems and providing advice to managers does not necessarily meet the intent of Level 1-8.

The appellant functions much like the EEO Manager in Benchmark GS-260-12-01 in the standard. This benchmark describes a manager who serves as principal advisor to the commanding officer and manages the EEO program for an industrial field activity having employees in a wide variety of occupations. The benchmark manager provides leadership to line and staff personnel in the development and implementation of affirmative action plans; analyzes management practices, organizational structures, employment patterns, and lines of progression to determine impact on EEO and upward mobility; defines problem areas, identifies reasons for problems, and drafts specific action

items to treat the causes of problems; reviews personnel policies and regulations and advises commanding officer of their impact on EEO efforts; participates in the development of EEO training; and serves on committees concerning recruitment, position management, job redesign, etc. This is highly descriptive of the appellant's position and her management advisory functions and involvement with systemic EEO problems.

This factor is credited at Level 1-7 for 1250 points.

Factor 3 - Guidelines:

This factor covers the nature of guidelines used; and the judgment needed to apply them. The agency credited Level 3-4. The appellant believes Level 3-5 is correct.

At Level 3-4, equal employment managers work within agency policies, guidelines, and instructions. Equal employment managers use judgment to interpret agency guidelines to formulate policies and plans for specific equal employment programs covering one or more components of an independent agency or department.

At Level 3-5, equal employment managers work within guidelines that are broadly stated and nonspecific such as basic legislation, broad court decisions, and government wide policies. They use judgment to interpret the guidelines that do exist to formulate operating policies and plans for equal employment programs covering independent agencies or departments, or the primary organizational subdivision of very large departments.

Level 3-4 is met. The appellant is responsible for the equal employment program at an activity (i.e., [installation]). She manages the program within government wide, Department of the Navy, and EEOC policies, guidelines and requirements, as well as [Systems Command] guidelines and objectives. The appellant interprets these guidelines and requirements to fit the situation at hand.

The appellant's position does not meet the criteria for Level 3-5 in that she is not required to use judgment in interpreting broadly stated and nonspecific guidelines to develop operating policies and plans for an independent agency or department (e.g., Department of the Navy) or a primary subdivision of a very large department. The appellant receives policy guidance and directives from the [Systems Command], Department of the Navy and EEOC. The guidance she receives is based on government wide, Department of the Navy, or EEOC's interpretation of legislation, legal decisions, etc. The guidance she then prepares is for operating policies and procedures for the local activity. She is not formulating policy with the far reaching impact intended at Level 3-5.

This factor is credited at Level 3-4 for 450 points.

Factor 4 - Complexity:

This factor covers the nature, number, variety, and intricacy of tasks, steps, processes, or methods in the work performed; the difficulty in identifying what needs to be done; and the difficulty and originality involved in performing the work. The agency credited Level 4-4.

The complexity of the EEO program management work varies according to: (1) the breadth and difficulty of the program management processes involved; (2) difficulty in deciding what needs to be done; and (3) difficulty, originality, and responsibility involved in managing the program. Generally, the difficulty and breadth of management processes are related to the breadth and complexity of the organization served. The size of the work force serviced may be a minor consideration in determining the appropriate factor level. The agency and the appellant indicated that the number of employees serviced is approximately 4000. This falls within the range for a “medium” organization of approximately 1,000 to 5,000 employees. There is no information in the appeal file to support equating organizational size to the next level of “moderately large” with 7,500-15,000 serviced employees. These adjective terms are used to emphasize the importance of significant differences rather than differences of a few employees one way or the other.

At Level 4-4, the equal employment manager's work typically includes directing day-to-day operations of an EEO program. The management process includes planning individual program activities, problem solving efforts, and recommending changes in emphasis and the level of resources of the program. The program solves EEO aspects of problems in a medium size organization of moderate complexity. Advisory responsibilities include keeping organization decision makers aware of their EEO responsibilities. The work requires making many decisions such as recommending disposition of an individual complaint, accepting or rejecting an affirmative action plan, setting program priorities when resources are limited, and selecting analytical or consulting methods that are appropriate to solving particular problems, collecting needed information, or advising organizational decision makers.

At Level 4-5, the equal employment manager's program typically focuses on solving broad and significant EEO problems and correcting the underlying causes of the problems of complex organizations. Decisions regarding what must be done include major areas of uncertainty in approach, methodology, or interpretation and evaluation processes resulting from continuing changes in program emphasis and direction; changing conditions in the organization concerned; conflicts between program requirements and fundamental and long established policies and practices of the institution concerned; and often include a level of program resources that requires the program manager to make difficult choices in setting program priorities. The work requires continuing efforts to analyze a wide variety of interrelated complex problems and to advise organizational decision makers on the best course of action to eliminate barriers to EEO such as changes in management policy or practice.

The illustration provided by the standard for Level 4-4 is closely related to the type of EEO program managed by the appellant. The appellant plans and directs day-to-day activities in an established

equal employment program under the general administrative direction of the Deputy Human Resources Officer and within a range of guidelines and requirements that, at times, require her to interpret them to fit the case at hand. She handles individual complaints of varying complexity, develops action plans, monitors accomplishments, and provides advisory services and training to make managers and supervisors aware of their EEO responsibilities and to increase their knowledge of EEO program requirements and procedures.

The appellant does not fully meet the requirements for Level 4-5. Although she analyzes the systemic problems within the organizations serviced, makes program plans, evaluates progress and monitors action plans, her work does not focus on solving the types of significant EEO problems with broad impact found at this level nor does she normally deal with conflicts between program requirements and the fundamental and long established EEO policies and practices of [installation]. The cases she handles may at times involve several complaints or issues that must be dealt with; however, the work samples provided by the appellant support that standard methods and approaches are normally used. The guidance and directives she receives from Navy and EEOC leave little room for major uncertainty in interpreting them or applying them to the situations routinely handled by the appellant. While Level 4-4 is slightly exceeded, the full intent of Level 4-5 is not met and cannot, therefore, be credited.

This factor is credited at Level 4-4 for 225 points.

Factor 5. Scope and Effect:

This factor covers the relationship between the nature of the work, as measured by the purpose, breadth, and depth of the assignment, and the effect of work products or services both within and outside the organization. The agency credited Level 5-4. The appellant believes Level 5-6 should be credited.

At Level 5-4, equal employment managers direct complete equal opportunity programs. At this level, an equal employment manager is assigned primary staff responsibility for all EEO functions delegated to the organizations served. This includes affirmative action, special emphasis programs, minority and female recruitment planning, and, if delegated to the organization, complaint investigation and adjudication. The program affects EEO in an organizational segment of a department or agency.

At Level 5-5, equal employment managers direct, evaluate, and carry out extensive equal employment opportunity programs. The managerial work includes planning and organizing program resources, setting goals, and evaluating results. The programs affect equal employment opportunity in extensive organizations or they affect the equal employment opportunities of substantial numbers of people.

Level 5-4 is met. The appellant manages a complete EEO program for [installation]. She has responsibility for complaint processing, affirmative employment programs, special emphasis programs, workforce analysis, analysis of employment practices, recommending actions to solve employment opportunity problems, and EEO training.

The organizational scope of the appellant's program responsibilities do not meet the criteria for assignment to Level 5-5. The appellant is involved in examining the workforce climate and perceptions of equal opportunity at the activity and in making recommendations to the local managers on improving workforce relations. However, there is no indication that she is involved in eliminating any major barriers to equal employment opportunity on an agency wide basis, as opposed to attempting to improve representation through more targeted and proactive recruitment efforts.

This factor is credited at Level 5-4 for 225 points.

SUMMARY		
FACTOR	LEVEL	POINTS
1. Knowledge Required by the Position	1-7	1250
2. Supervisory Controls	2-5	650
3. Guidelines	3-4	450
4. Complexity	4-4	225
5. Scope and Effect	5-4	225
6. Personal Contacts	6-3	60
7. Purpose of Contacts	7-3	120
8. Physical Demands	8-1	5
9. Work Environment	9-1	5
	TOTAL	2990

In accordance with the grade conversion table in the standard, a total of 2990 points falls within the range for a GS-12, 2755 to 3150 points.

Decision

The appellant's position is properly classified as Equal Employment Manager, GS-260-12.