

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

Dallas Oversight Division
1100 Commerce Street, Room 4C22
Dallas, TX 75242

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

| | |
|-------------------------------|--|
| Appellant: | [appellant's name] |
| Agency classification: | Equal Employment Manager GS-260-12 |
| Organization: | Equal Employment Opportunity Office [name] District [name] Division U.S. Army Corps of Engineers [city, state] |
| OPM decision: | Equal Employment Manager GS-260-12 |
| OPM decision number: | C-0260-12-04 |

/s/ Jodi L. Guss
Bonnie J. Brandon
Classification Appeals Officer

10/7/99

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's name and address]

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Introduction

On June 16, 1999, the Dallas Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [the appellant], an employee of [a specific] District, [name of the] Division, U.S. Army Corps of Engineers (USACE). [The appellant's] position is currently classified as Equal Employment Manager, GS-260-12. [The appellant] believes [the] classification should be Equal Employment Manager, GS-260-13. [The appellant] earlier appealed [the] classification to [the] agency (i.e., the Department of Defense, Civilian Personnel Management Service (CPMS)), which found [the] current position classification to be accurate. We have accepted and decided [the] appeal under section 5112 of title 5, United States Code (U.S.C.).

To help decide the appeal, an Oversight Division representative conducted a telephone audit of the appellant's position on August 26, 1999, and had follow-up discussions with the appellant, [the appellant's] supervisor, and the Division's Equal Employment Manager. In reaching our decision, we have reviewed the audit findings and all information of record furnished by the appellant and [the] agency, including [the] official position description (PD), [number].

The appellant attached to [the appellant's] appeal the job description for a GS-13 Equal Employment Manager position at another Army (non-USACE) installation, suggesting that [the appellant's] position is similar. By law, however, 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 the appeal.

Position information

The appellant and [the appellant's] agency agree that PD [number] is an accurate depiction of [the appellant's] duties and responsibilities. The percentages of time [the appellant] spends on each duty are annotated on the PD. We find that PD [number] is adequate for evaluation.

The appellant is chief of the Equal Employment Opportunity (EEO) Office in [the District], which is one of [a certain number of] districts under [the Division] of the U.S. Army Corps of Engineers. [The appellant's] responsibilities primarily cover the District workforce of approximately 1,200 employees, but also three other, small Army activities in the [city] under cross-servicing agreements. The appellant has been in the position for 11 years and currently supervises a staff of four Federal employees, consisting of three Equal Employment Specialists (one GS-260-11, two GS-260-9's) and an Equal Opportunity Assistant (Office Automation), GS-361-5. In addition, the appellant monitors the work of a full-time contract employee who is developing computer programs to enhance the EEO Office staff's ability to retrieve data from the personnel information system for analysis. The appellant's immediate supervisor is the District's Deputy Commander, a military officer.

The job description shows that the appellant develops and coordinates affirmative action plans tailored to the District's needs and resources and educates supervisors and managers at all levels within the District on administration of the plans. [The appellant] assumes high visibility and active leadership among the workforce in eradicating discrimination, identifying problems and obstacles to program accomplishments, communicating action plans and objectives, and training managers on EEO. [The appellant] selects, trains, assigns and provides technical assistance to EEO counselors for resolution of employee and applicant complaints. [The appellant] processes formal complaints of discrimination within established time frames and prepares reports to higher-level EEO officials on EEO complaints activity and resolution trends. [The appellant] prepares other reports on the overall effectiveness of the District's EEO program, based on workforce surveys, data analysis and coordination with the District's Civilian Personnel Officer and staff. [The appellant] maintains contacts with community civil rights and EEO-related groups and organizations to keep them informed of the District's plans and accomplishments, to seek their recommendations and assistance for program improvements, and to continually assess the overall community climate for the District commander. [The appellant] also maintains liaison with and provides training and leadership to internal District advisory and special emphasis program committees.

The appellant's PD and other material of record furnish more detailed information about [the appellant's] duties and responsibilities and how they are performed. In addition, we obtained from the appellant and reviewed a copy of excerpts from the District's current affirmative employment program (AEP) plan dealing with problem/barrier analysis and resolution strategies.

Although the appellant agrees that PD [number] provides an accurate depiction of [the appellant's] duties and responsibilities, [the appellant] believes the position is undergraded because Factor 1, Knowledge Required by the Position, has been evaluated too low by [the appellant's] agency, at level 1-7. [The appellant] states that level 1-8 is more appropriate because [the appellant] focuses on systemic problem analysis/solving rather than individual cases. [The appellant] also believes the District's high volume of EEO complaints in comparison to other Corps districts creates greater complexity in systemic problem analysis/solving than is envisioned at level 1-7. [The appellant] does not contest the agency's evaluation of any other factors.

Series, title and guide determination

We find the appellant's position is an excellent match to the Equal Employment Opportunity Series, GS-260. This series includes positions primarily concerned with developing, administering, evaluating or advising on the Federal Government's internal equal employment opportunity program with Federal agencies when the position requires knowledge of Federal equal employment opportunity regulations and principles; compliance and enforcement skills; administrative, management and consulting skills; and knowledge of Federal personnel administration. Since [the appellant's] position has primary responsibility for the total equal employment opportunity program in [the District], [the appellant's] position is best titled Equal Employment Manager. The GS-260 standard is used to grade the appellant's position.

Although the appellant performs a full range of supervisory duties, [the appellant and the] supervisor agree that those duties account for only 10 percent of [the appellant's] time. Therefore, the 25 percent threshold for application of the grading criteria in the General Schedule Supervisory Guide is not met.

Grade determination

The GS-260 standard uses the Factor Evaluation System (FES), which covers nine factors. Point credits earned for each of the factors are totaled and compared to a conversion table in the standard to determine the appropriate grade. Under the FES, each 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 GS-260 standard includes factor level descriptions specific to equal employment (EE) manager positions. Those descriptions are reflected at the higher levels of Factor 1, Knowledge Required by the Position; Factor 3, Guidelines; Factor 4, Complexity; and Factor 5, Scope and Effect. Our evaluation of all nine FES factors follows.

Factor 1, Knowledge required by the position

This factor measures the nature and extent of information or facts which the worker must understand to do acceptable work (e.g., steps, procedures, practices, rules, policies, theories, principles and concepts) and the nature and extent of the skills needed to apply those knowledges.

Factor level descriptions for EE manager first appear at level 1-7. At that level, EE managers apply managerial and technical equal employment opportunity knowledges and skills sufficient to direct an EEO program that meets basic requirements for compliance with laws, regulations and agency policies. They provide advice and assistance to managers, employees and applicants on legal and procedural requirements. At this level, EE managers review affirmative action plans developed by line managers, use questionnaire surveys to identify problem areas, train managers and supervisors, provide general oversight of minority and female recruitment planning (but little technical involvement) and provide EEO complaint counseling, investigation and adjudication. Programs at this level typically are case-oriented; that is, they focus on resolving individual complaints or problems. However, as reflected in the GS-12 EE manager benchmark in the GS-260 standard, a level 1-7 knowledge requirement also fits situations where the position is involved in such activities as analyzing management practices, organizational structures, employment patterns and lines of progression (e.g., career ladders) to assess their impact on equal employment opportunity and upward mobility. Generally, the purpose of those kinds of activities would be to expand analysis of the organization's procedures and practices beyond individual cases to look for potential interrelationships and trends that might better reveal underlying root causes and improve the design of corrective and/or preventive actions for the organization.

At level 1-8, EE managers apply managerial and technical EEO knowledges and skills sufficient to plan, organize, direct, staff, carry out and evaluate an EEO program that, in addition to meeting basic regulatory requirements, focuses primarily on developing solutions to systemic problems, eliminating barriers to equal employment (including agency management policies and practices) and providing management advisory and consulting services designed to effect major changes. For example, EEO program management at this level would include 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 workforce analyses, by special equal employment reviews or similar activities. Efforts to deal with systemic equal employment problems may require the EEO 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 redesign programs, minority and female recruitment planning or the negotiation or administration of labor agreements. Level 1-8 envisions that the EE manager is employing a mastery of the concepts, principles and methods of the EEO field to apply experimental theories and new developments to problems not susceptible to treatment by accepted methods and to make decisions or recommendations significantly changing, interpreting or developing important public EEO policies or programs.

The appellant plans, organizes, directs and evaluates a complete EEO program for [the District], which includes affirmative action planning, tracking and evaluation; special emphasis program development; EEO complaints processing; advisory assistance and training for managers; and preparation of required reports. [The appellant] is required to have a comprehensive and thorough knowledge of Federal equal opportunity laws, regulations, executive orders and court decisions, as well as Army, USACE and Division policies, to apply that knowledge to a variety of difficult and complex work assignments in the District. [The appellant] is also required to have a knowledge of the District's organization structure and its management/personnel policies, procedures and practices. [The appellant] is required to have thorough and detailed knowledge and skill in factfinding, analysis and resolution of complex EEO problems and elimination of barriers to equal employment opportunity in the District. These are a good match for level 1-7. Further, [the appellant's] efforts to improve analysis of management/employment practices in the District through demographic statistical trends and periodic workforce questionnaire surveys are a good match to the duties described and evaluated in the GS-12 EE manager benchmark at level 1-7.

The appellant, however, believes [the appellant's] work should be credited at level 1-8 because [the appellant's] focus is more on analyzing problems for potential systemic origins and solutions and the comparatively high volume of EEO complaints in [the District] makes systemic problem analysis more difficult. In this regard, the appellant believes the CPMS decision in [the appellant's] appeal erroneously implied that systemic problem identification, analysis and resolution (rather than case-based) cannot exist other than at an agency headquarters level. To support [the appellant's] argument, the appellant refers to OPM Digest of Significant Classification Decisions, Number 14, which addresses the crediting of Factor 1 for an EE manager position. That digest decision confirms that some degree of systemic problem analysis can be

present at the operating (installation) level, but it also concludes that such work can easily be accommodated in work situations that still warrant level 1-7 credit.

The appellant does not regularly participate in agency (Army) or major command (USACE) management audits or personnel management evaluations. At the operating (installation) level, [the appellant] is three layers removed from the agency level and does not have subordinate EEO programs to manage or oversee. Further, the appellant acknowledges that the District does not require its key managers and office chiefs to develop “mini-AEP’s” for their organizations. The appellant’s supervisor explained that the Corps districts are the executors (implementers) of broad policies, programs and systems that are developed at higher levels.

The appellant’s analysis work is focused on procedures, practices and statistical trends within the District. [The appellant and the] supervisor acknowledged that the District does not regularly report on any standard EEO program goals or trends in the USACE quarterly command review. The appellant’s examples of systemic analysis and problem resolution are few in number and deal with issues with fairly narrow application, e.g., creating an upward mobility ladder for the District’s Cartographic Technicians, exploring why many lower-graded District employees report not having individual development plans. Further, our review of the District’s AEP and accomplishment report confirms that the EEO Office is collecting and tracking some demographic data and workforce perceptions that could potentially support some limited systemic analysis of procedures and practices. But the accompanying barrier analyses and action plan initiatives described in the AEP are very basic and offer mostly very generalized solutions. For example, one key “barrier” is described as: “There is underrepresentation of EEO groups in major occupations and career programs.” The resulting “action items” for that barrier consist of: “Increase the representation of the following groups in . . . [name of PATCO category or job series].” Many of the “barriers” and “action items” identified in the AEP are quite fundamental (e.g., provide managers AEP training, ensure managers have an EEO performance element). We find that the problems identified and analyzed by the appellant do not involve broad or highly technical personnel or management issues, require in-depth analyses or result in modifications to major programs or systems, as is envisioned at level 1-8.

While the appellant’s work situation may, in some respects, exceed a purely case-oriented work situation, it does not fully meet level 1-8. This factor is best evaluated at level 1-7.

Factor 2, Supervisory controls

This factor is best evaluated at level 2-5, the highest level described in the standard.

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. At level 2-5, the supervisor provides administrative direction, giving assignments in terms of broadly-defined missions or functions. The employee is responsible for independently planning, designing and carrying out EEO assignments and the results of the work are considered technically authoritative and normally accepted without change. The appellant’s immediate supervisor is the Deputy District Commander, a military officer who is not expected or trained to have technical expertise in the

Federal equal employment opportunity program for civilian employees. In essence, the appellant has been designated to act for the District Commander in designing and managing the District's EEO program. The supervisor communicates broad objectives, expectations, and areas of emphasis from higher headquarters (e.g., the Chief of Engineers' personal interest in and support of the Advancing Minorities' Interest Engineering Program) and provides administrative supervision. The appellant is responsible for independently planning, designing and carrying out the District's EEO program management assignments. Although [the appellant] regularly meets with the District's human resources management and legal experts to assess the environmental parameters within which [the appellant's] program management decisions are to be made, the results of [the appellant's] EEO program work are considered technically authoritative within the District and normally accepted without change. [The appellant's] work is reviewed in terms of fulfillment of the broad objectives, progress toward AEP goals and overall effect of the program on the District.

Factor 3, Guidelines

This factor is best evaluated at level 3-4.

This factor covers the nature of guidelines used and the judgement needed to apply them. Guidelines are not to be confused with the knowledge described under Factor 1. For this factor, level descriptions specific to EE managers first appear at level 3-4. The appellant's guidelines include governmentwide (e.g., EEOC), agency and other higher level EEO policies, regulations and guidelines, as well as applicable laws and executive orders. Although [the appellant] applies some judgement to interpret those guidelines in developing and tailoring them to formulate the District's EEO action plans and accomplishment reports, the EEOC guidelines on developing affirmative action plans and reports are fairly detailed. However, there are few written guides for identifying and addressing systemic barriers to EEO. This is comparable to level 3-4, in which EE managers work within agency policies, guidelines and instructions, using judgement to interpret agency guidelines to formulate policies and plans for specific EEO programs covering one or more components of an independent agency or department. Level 3-5 is not met because the appellant does not interpret broadly-stated guidance in formulating policies or plans for bureau, agency or departmental EEO programs.

Factor 4, Complexity

This factor is best evaluated at level 4-4.

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 in performing the work. For this factor, level descriptions specific to EE managers first appear at level 4-4. At that level, the work of EE managers typically involves directing the day-to-day operations of an EEO program (including planning program activities, problem solving and management advisory service) at a medium size organization (1,000 to 5,000 employees) of moderate complexity with a geographically-dispersed workforce. That description is a close match to the appellant's work situation which includes a total serviced workforce of approximately

1,200-1,300 that is somewhat geographically dispersed. Level 4-5 is not met in the appellant's work situation because EE managers at that level direct or manage a complete program for a segment of a Federal department or agency with 7,500 to 15,000 employees, several major organization subdivisions and a nationwide field structure.

With regard to the amount of EEO complaint activity mentioned by the appellant, the volume of work cannot be considered in determining the grade of a position. Although the EE manager for [the Division] confirmed that [the District] has one of the highest rates of EEO complaints in USACE, all parties (including the appellant and [the appellant's] supervisor) readily acknowledge that the majority of those complaints are generated by a hard core of repeat filers in the District workforce.

The appellant also suggests that a noticeable increase in workforce inquiries on personnel matters experienced by the EEO Office increases the difficulty of [the appellant's] work; however, [the appellant] readily acknowledges that the trend is a residual effect of Army's transition to regional personnel servicing. Although there may be a tendency of EEO Office staff to want to respond in the interest of customer service, the regionalization framework clearly provides that those inquiries can and should properly be redirected to the District's Civilian Personnel Advisory Center.

Factor 5, Scope and effect

This factor is best evaluated at level 5-4.

This factor covers the relationship between the nature of the work (i.e., the purpose, breadth and depth of the assignment) and the effect of work products, services or programs both within and outside the organization. For this factor, level descriptions specific to EE managers first appear at level 5-3. At that level, EE managers coordinate one of the major special emphasis programs (e.g., Federal women's program, Black or Hispanic employment program) for an operating level organization. The appellant's work situation, however, easily exceeds this and is comparable to level 5-4, where an EE manager is responsible for all EEO functions (including affirmative action, special emphasis programs, minority and female recruitment planning and complaints investigation and adjudication) in an organizational segment of a department or agency. Level 5-5 is not met because it envisions responsibility for a complete EEO program in a major agency organization, such as a major industrial field activity or a region of a department.

Factor 6, Personal contacts

This factor is best evaluated at level 6-3.

This factor covers face-to-face contacts and telephone dialogue with persons not in the supervisory chain and addresses what is required to make the initial contact, the difficulty of communicating with those contacted and the setting in which the contact takes place. The appellant's contacts are primarily with top and middle-level managers, supervisors, employees, key staff officials (e.g., General Counsel, Personnel Officer, other EE managers) and union representatives within the

agency. Outside contacts include representatives of community organizations and groups and attorneys representing complainants. The contacts can involve adversarial relationships and are moderately unstructured, i.e., not regularly scheduled and are varied depending on the person contacted. This work situation is comparable to and does not exceed level 6-3.

Factor 7, Purpose of contacts

This factor is best evaluated at level 7-3.

The primary purposes of the appellant's contacts are to advise the District executive staff on the state of EEO program planning, goals and results; resolve difficult employment problems; influence and obtain agreement on solutions needed; negotiate changes in employment procedures and practices affecting employees of the District and applicants for the District's vacancies; and conduct formal interviews of complainants and other persons who have pertinent information or are representing parties to complaints. This work situation meets and does not exceed level 7-3.

Factor 8, Physical demands

The appellant's position meets and does not exceed level 8-1. There are no special physical demands required of the appellant's position.

Factor 9, Work environment

The appellant's work environment meets and does not exceed the description at level 9-1. The appellant's work environment involves everyday risks and discomforts which require normal safety precautions typical in office settings.

Summary

In sum, we have evaluated the appellant's position as shown in the table below.

| 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 Points | | 2990 |

A total of 2,990 points equates to the GS-12 grade level, in accordance with the grade conversion table provided in the GS-260 standard.

Decision

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