

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

San Francisco Oversight Division
120 Howard Street, Room 760
San Francisco, CA 94105-0001

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

Appellant: [The appellant]

Agency classification: Environmental Protection Specialist
GS-028-12

Organization: [Appellant's organization/location]
U.S. Department of the Navy

OPM decision: Environmental Protection Specialist
(parenthetical title at agency discretion)
GS-028-12

OPM decision number: C-0028-12-01

Carlos A. Torrico
Classification Appeals Officer

December 30, 2002
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).

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Introduction

On August 27, 2002, the San Francisco Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [the appellant]. We received the agency's administrative report on October 1, 2002. The appellant's position is currently classified as Environmental Protection Specialist, GS-028-12. However, he believes the position could be classified in any of a number of other series at the GS-13 grade level. The position is located in the [appellant's organization/location] U.S. Department of the Navy. Prior to appealing to OPM, [the appellant] filed a request for classification review with his servicing human resources office at [location of local human resources office]. In a memorandum dated March 8, 2001, the agency found the position to be properly classified as Environmental Protection Specialist, GS-028-12. We have accepted and decided his appeal under section 5112 of title 5, United States Code (U.S.C.)

This appeal decision is based on a careful review of all information furnished by the appellant and his agency. In addition, to help decide the appeal, an Oversight Division representative conducted separate telephone interviews with the appellant and his supervisor. The appellant's supervisor has certified that the appellant's official position description (PD) [number] is accurate. However, the appellant believes it is not and has been unable to resolve this issue within the agency. In such cases it is OPM policy to decide the appeal based on the actual duties assigned by management and performed by the employee.

General issues

The appellant compares his position with several other course director positions classified in other series at the GS-13 level. He believes his position to be similar and therefore should be higher graded. By law, we must make that decision solely by comparing his 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 his appeal.

Like OPM, the appellant's agency must classify positions based on comparison to OPM standards and guidelines. The agency also has a responsibility for ensuring that its positions are classified consistently with OPM appeal decisions. If the appellant considers his position so similar to others that they all warrant the same classification, he may pursue the matter by writing to his local or headquarters human resources office (as appropriate). In doing so, he should specify the precise organizational location, classification, duties, and responsibilities of the positions in question. If the positions are found to be basically the same as his, the agency must correct their classification to be consistent with this appeal decision. Otherwise, the agency should explain to him the differences between his position and the others.

Position information

The appellant's PD indicates that he serves as course director and senior instructor for the Natural and Cultural Resources Conservation environmental courses in his curriculum. He is expected to prepare, develop, maintain, and deliver, or arrange for the delivery of the assigned

courses. The results of our interviews, the appellant's PD, and other material of record provide more information about his duties and responsibilities and how they are performed.

Series, title, and guide determination

The agency determined that the appealed position was covered under the Environmental Protection Specialist Series, GS-028, and used the grade level criteria in the GS-028 standard to evaluate the position. The appellant contends that the position could be allocated to any of several other series, i.e., Environmental Engineering, GS-819, General Biological Science, GS-401, General Physical Science, GS-1301, or Miscellaneous Administration and Program Series, GS-301.

The classification standard for the Environmental Engineering Series, GS-819, indicates that the series includes positions that involve *professional* engineering work to protect or improve air, land, and water resources in order to provide a clean and healthful environment. Such work requires the application of (a) professional knowledge of the principles, methods, and techniques of engineering concerned with facilities and systems for controlling pollution and protecting quality of resources and the environment, and (b) an understanding of and the ability to utilize pertinent aspects of chemistry, biological sciences, and public health that pertain to the control or elimination of pollutants. The series definition for the General Biological Science Series, GS-401, indicates that the series covers *professional* work in biology, agriculture, or related natural resource management when there is no other more appropriate series. Positions in the General Physical Science Series, GS-1301, are covered by the Job Family Standard for Professional Physical Science Work, GS-1300P, which indicates that the series includes positions that involve *professional* work in the physical sciences where there is no other more appropriate series. The series definition for the Miscellaneous Administration and Program Series, GS-301, indicates that it covers positions the duties of which are to perform, supervise, or manage nonprofessional, two-grade interval work for which no other series is appropriate.

The Introduction to the Position Classification Standards notes that "professional work" requires knowledge in a field of science or learning characteristically acquired through education or training equivalent to a bachelor's or higher degree with major study in or pertinent to the specialized field, as distinguished from general education. It further states that "Work is professional when it requires the exercise of discretion, judgment, and personal responsibility for the application of an organized body of knowledge that is constantly studied to make new discoveries and interpretations, and to improve data, materials, and methods, e.g., mathematics or engineering."

The appellant's PD, organizational data, and information presented by the appellant's supervisor indicate that the knowledge required and used in the appellant's position primarily involves knowledge of a wide range of issues in the field of natural and cultural environmental resources conservation, and a knowledge of related Federal, Department of Defense (DOD), Navy, Marine Corps, State, and local laws, regulations, program policies, practices and procedures to develop and prepare programs of instruction, including lesson plans and training materials. The information indicates that the appellant must be familiar with environmental science disciplines, concepts, principles and practices, but that "professional" knowledge of these disciplines is not

required. This practical knowledge of environmental and natural science disciplines is used by the appellant to explain in training courses the basis for the administrative environmental requirements as well as the practical application of the administrative requirements as they relate to the more technical issues. Since the knowledge required by the appellant's position does not reach the level defined in OPM's classification guidance as "professional" and three of the series previously noted (i.e., GS-819, GS-401, GS-1301) require "professional" knowledge, it would be inappropriate to assign the appellant's position to any of those series.

The GS-301 series covers positions the duties of which are to perform, supervise, or manage nonprofessional work for which there is no other appropriate series. As discussed below, there is an appropriate occupational series for this position, and, thus, it is precluded from assignment to the GS-301 series.

The appellant, through his attorney/representative has indicated his belief that he should be assigned to a professional series on the basis of his having professional background and education. The Introduction to the Position Classification Standards also addresses this issue. It states, in part, "There are situations in which an employee meets the formal education requirements for a particular professional field but does not perform professional work. This may be due to a lack of professional work to be done, or it may be because the organization and structure of the assignment does not require a professionally qualified employee. In such situations, the position is classified in an appropriate nonprofessional series, based on the duties and responsibilities assigned and the qualifications required to do the work." Such is the case in the appellant's position.

The appellant serves as course director and senior instructor of an environmental protection, natural, and cultural resource conservation curriculum. As such, he plans, organizes, and coordinates the presentation of an environmental education series of courses. To perform those duties he must possess knowledge of a wide range of issues in the fields of natural, cultural, and environmental resources conservation and knowledge of various regulations, policies, laws and practices concerning environmental protection to prepare lesson plans and training materials. While he does not perform duties typical of an operating environmental protection specialist, to perform his work he must possess and apply specialized knowledge of the principles and methods of administering environmental protection programs and the laws and regulations related to environmental protection activities. Application of such knowledge is typical of positions classified in the Environmental Protection Specialist Series, GS-028. Although this position is established to provide the services of course director and instructor, the primary knowledge requirement, career patterns, and principal sources of recruitment are in the subject matter field of environmental protection. Therefore, we have determined that the position is properly assigned to the Environmental Protection Specialist Series, GS-028.

Environmental Protection Specialist is the title for nonsupervisory positions in the GS-028 series. The Grade Level Guide for Instructional Work indicates that the parenthetical title "(Instructor)" may be added to instructional positions like the appellant's assigned to a subject matter series.

The Introduction to the Position Classification Standards notes that where work assigned to a position is covered by a standard for a particular occupational series, the grade level should be

evaluated with that standard. Where this is not true, the work should be evaluated using an appropriate general classification guide, or with criteria in a standard for related kinds of work. The classification standard for Environmental Protection Specialist, GS-028, does not contain grade level criteria for use in evaluating the work of course directors/instructors; however, the Grade Level Guide for Instructional Work (GLGIW) does. Therefore, we have applied that guide to determine the grade level of the appellant's work.

Grade determination

The grade level criteria in the GLGIW are divided into two parts:

Part I covers instructor work involving the following activities:

- preparing daily work plans based on general course outlines and established learning objectives. Plans cover instructional methods and techniques, training materials and aids, time schedules, etc.
- training in traditional classroom situations or in self-paced learning programs where the instructor guides students in the use of special learning techniques.
- evaluating the progress of students and advising and assisting them to improve their performance.

Part II covers instructional specialist work such as:

- ascertaining needs for training and education, usually through surveys or job analysis.
- determining the objectives and scope of the courses, the subjects to be covered, and the criteria for evaluation.
- developing, revising, or adapting courses and instructional materials and guides.
- evaluating education and training programs and recommending needed changes and improvements.

The appellant's duties include all of those associated with Part I but do not include the full range of those listed under Part II. For example, although his position does involve developing, revising, and adapting instructional materials and guides, these activities occur solely in connection with his own curriculum area. The guidance and grade level criteria for Part II indicate that these functions are conducted by instructional specialists for the broader training program (including that assigned to other course directors, in charge of other curricula). In addition, the evaluation of education and training programs noted above for the instructional specialist position is a function supporting the broader training "program" rather than for one part of it as is the case with the appellant's program evaluation duties. The first two instructional specialist duties, "ascertaining training needs" and "determining course objectives and scope," are either not performed by the appellant or are incidental to his primary duties and are

performed exclusively in support of his own curriculum. Because the appellant's duties and responsibilities do not conform to the intent of the guide in Part II, this part cannot be used to determine grade level. Part I of the GLGIW will be used to assess the grade level of the appellant's duties.

Part I discusses distinctions between grade levels of work based upon two factors: *Nature of assignment* and *Level of responsibility*.

Nature of assignment

This factor encompasses such aspects as the knowledge, skill, and ability required to perform the work and the complexity and difficulty of the duties and responsibilities assigned.

According to the guide, at the GS-12 level, the instructor's work falls into one of two general categories: (1) courses in advanced technical systems, or courses at the upper-division undergraduate level that require the instructor to take the primary role in the development of course content or perform professorial functions; or (2) courses comparable to the graduate level for which supervision and guidelines are closer than for the GS-12 level courses described in category (1). Category (1) more clearly fits the appellant's situation.

The guide notes that courses at this level that are equivalent to upper-division undergraduate level require that the instructor take a primary role in developing specific course content for the complete course. In addition, GS-12 instructors may arrange and moderate seminars and conferences, provide guidance to students and for student projects, give lectures, and participate in planning and developing or evaluating and revising the curriculum for their academic department. Courses at this level require extensive fact-finding and development of source information and involve more problems in selecting, interpreting, and adapting materials than at the GS-11 level. For example, the subject-matter area may be in a new or changing field where little research has been done and source information and training materials are lacking, or the materials are unsuitable for the particular student body, or the course may be in a well established subject-matter area which has major gaps in the available literature or unsatisfactory materials.

At the GS-13 level, instructors design, develop, revise, and conduct courses covering subject-matter areas comparable to graduate school levels. The courses are in subject areas that are unusually broad and highly complex, e.g., a course in national and international security for students at or preparing for policy-making or command levels. Frequently, courses are in newly emerging or rapidly changing areas, are highly innovative, and often require interdisciplinary knowledge. References for these courses may be nonexistent or obsolete, and GS-13 level instructors typically carry out course related original research. Their research findings are frequently published.

The appellant's assignments fully meet the GS-12 level in that his courses are in more technical administrative areas, e.g., environmental protection programs and activities, cultural and natural conservation topics based on public law, Federal and local government regulations, and U.S.–Tribal agreements and treaties. These courses are comparable in content to those covered in

upper-division undergraduate level courses. The appellant is assigned the tasks of providing full content and instructional approach to specific courses assigned to him as well as carrying out additional course administrative/management functions such as selecting and evaluating guest instructors and subject-matter experts and selecting training site locations and planning the annual training calendar. These courses require frequent modification and adaptation of materials, as the basis for each (laws, regulations, etc.) changes. The appellant's supervisor noted that none of the courses require prior completion of undergraduate level instruction and that none have been granted graduate level credit at institutions of higher education, inside or outside the Federal government.

The GS-13 level is not met in that the appellant does not teach graduate level equivalent courses, nor does he carry out such professorial functions as course related original research where such findings are frequently published and add significantly to the existing knowledge of the field.

Level of responsibility

This factor includes such things as independence (e.g., the degree to which work and decisions are supervised or reviewed); the extent to which guidelines for the work are available or must be developed; and the kinds of contacts required to perform the work.

According to the guide, under category (1), GS-12 instructors teaching upper-division undergraduate courses receive defined course objectives, but independently develop the total course content. Their superiors and peers rely on the accuracy and adequacy of their course content and technical knowledge. They either determine or are consulted in determinations regarding course content development, including choice of topics, subject-matter content, organization of course, and emphases to be given. Their work is reviewed for consistency with the course objectives and program policies and for effectiveness in meeting course objectives. They make extensive outside contacts for source information and may become involved in such professorial functions as contributing to research, coordinating curriculum, and representing the organization at professional gatherings, lectures, and panel discussions.

At the GS-13 level, the course objectives may be proposed by the instructor. Based on approved course objectives, GS-13 level instructors devise the original plan and design for the basic concepts of their courses. They also determine the extent of their research and contacts with others. They are relied upon as authoritative technical experts in their areas of competence and must assure that their courses mesh with related courses in the organization. They perform professorial functions such as coordinating curriculum development, carrying out original research or coordinating student research, or participating in or chairing faculty committees. They provide educational leadership regarding broad academic policy requirements, such as academic standards, admission standards, and advanced degree requirements. Plans proposed by GS-13 level instructors are reviewed for consistency with budget resources and policy objectives, while completed work is reviewed for accomplishment of course objectives.

The level of responsibility exercised by the appellant fully meets that described for the GS-12 level. The appellant receives course objectives and general guidelines from the Interservice Environmental Education Review Board (ISEERB), or a committee formed by that Board. The

appellant then independently develops course content and learning objectives. The appellant is relied upon by his supervisor and peers for the accuracy of course content and for his technical knowledge of course specialty areas. In addition, he may be called upon to represent his organization at curriculum or course review meetings, panels, and other meetings with outside parties. The appellant also has considerable contact outside his organization with managers and subject-matter experts on curriculum/course related issues. His work is reviewed for consistency with course objectives and program policies, and for effectiveness in accomplishing course objectives.

The appellant's level of responsibility does not meet the GS-13 level in that he does not make curriculum decisions, including coordinating his curriculum with that offered throughout his and other organizations, does not participate in setting academic policy requirements and standards (these functions are relegated to the ISEERB), and does not perform the typical professorial functions and activities specified at the higher level.

Summary

By application of the GLGIW, both the appellant's nature of assignments and level of responsibility meet the GS-12 level. Therefore, his instructional work is graded at that level.

Impact of the person on the job

The appellant, through his representative, raised the additional issue of "impact of the person on the job." The appellant indicates that he believes that the "impact" concept has not been properly addressed and subsequently credited in the classification of his position. The Introduction to the Position Classification Standards describes "impact" as occurring when the unique capabilities, experience, or knowledge a particular employee brings to the job has an effect on the work performed and therefore on the classification of the position. In such cases, the performance of the incumbent broadens the nature or scope and effect of the work being performed. For example, exceptional ability of the employee may lead to the attraction of especially difficult work assignments, unusual freedom from supervision, special authority to speak for and commit the agency, continuing contribution to organizational efficiency and economy, recognition as an expert sought by peers, or similar considerations. Such changes affect the difficulty of the work or the responsibility and authority given the employee and can be recognized in the position classification decision.

The appellant, through his representative, notes that the environmental training program was in its infancy when the appellant was reassigned to the unit, and he was instrumental in its "vigorous growth." The statement in support of additional credit for "impact" notes that the appellant received outstanding ratings and awards for his contributions during that period. Our discussions with the appellant's supervisor verified the statements concerning his contributions and outstanding performance. However, as noted by the appellant's statement in support of the "impact" credit, the organization foresaw the "vigorous growth" and predicated the development of the appellant's position and subsequent recruitment on the basis of this taking place. The appellant, as the supporting statement notes, carried out (albeit in an outstanding manner) all assignments and projects given to him. All information presented indicates that these

assignments were within the parameters of his PD, and that the appellant's capabilities did not "create or change," fundamentally, either the job itself or the operations of the organization. Additionally, we found no indication that the appellant's performance broadened the nature or scope and effect of the work to the extent described in the examples of "impact" listed previously. The appellant's contributions are properly recognized through the performance and recognition system, and they do not materially affect the classification of his position.

Decision

The appellant's position is properly classified as Environmental Protection Specialist, GS-028-12.