

Classification Appeal Decision
Under section 9902 of title 5, United States Code

Appellant: [Appellant]

Agency classification: Supervisory Firefighter
YN-081-01

Organization: [Organization]
[Organization]
Department of the Army
[Location]

OPM decision: Supervisory Firefighter
YN-081-01

OPM decision number: C-0081-01-01

/s/

Robert D. Hendler
Classification and Pay Claims
Program Manager
Center for Merit System Accountability

8-11-08

Date

Under the authority of section 9902 of title 5, United States Code, and section 9901.222 of title 5, Code of Federal Regulations (CFR), this constitutes the U.S. Office of Personnel Management's (OPM) reconsideration of the classification of the appellant's official position of record. Under the provisions of 5 CFR 9901.222(e), this determination is based on criteria issued by the Secretary of Defense or, where OPM classification standards were adopted, criteria issued by OPM. As provided for in 5 CFR 9901.222(d), there is no right of further appeal. This decision is subject to OPM's 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

The Philadelphia Field Services Group, now the Philadelphia Oversight and Accountability Group, of the U.S. Office of Personnel Management (OPM) accepted classification appeals on January 24, 2008, from Messrs. [appellant] and [appellant]. The appellants are assigned to identical additional positions which are covered under the National Security Personnel System (NSPS) and currently classified as a Supervisory Firefighter, YN-081-01. The appellants believe it should be classified to a higher level pay band as Supervisory Firefighter, YN-081-2. The position is assigned to the [Organization], [Organization], [Organization], Department of the Army (DA), in [Location]. We cancelled Mr. Reed's appeal after being notified by the agency of his retirement in March 2008 because, under pertinent regulations, an employee can only appeal the classification of his current official position of record. We received the agency's complete administrative report on February 11, 2008. We have accepted and decided this appeal under section 9902 of title 5, United States Code.

In reaching our classification decision, we have carefully reviewed all information of record furnished by the appellant and the agency, including the official position description (PD) of record [PD number], which contains the major functions assigned to and performed by the appellant; and we hereby incorporate it by reference into this decision. Both the appellant and Fire Chief certified the appellant's PD as accurate. To help decide the appeal we conducted a telephone audit with the appellant on June 26, 2008, and an interview with the Fire Chief on June 19, 2008.

Background

The position was placed under the NSPS using an automated conversion process and classified as a Supervisory Firefighter in pay band (PB) 1 of the YN pay plan code for the Investigative and Protective Services Career Group–Supervisor/Manager Pay Schedule (PS). The Fire Chief's position was converted to PB 2 range of the same PS.

The appellant states:

During the transition to NSPS, we as Supervisory Firefighters at [Organization] were directed to pay band YN-0081-01 and the Fire Chief was directed to YN-0081-02. The NSPS handbook clearly states that positions which are organizationally referred to as "Assistant Chief" are considered to be deputy positions. Positions that are deputy positions are to be in the same supervisory pay band level to which they report to. This is the determination that requires them [the Assistant Chiefs] to be in the pay band YN-0081-02...According to the classification criteria as Assistant Chiefs, they should be placed in the same pay band as the Chief's position (i.e. YN-02).

The appellant requested the agency reconsider its initial decision and place his position in PB 2. The agency reviewed the NSPS conversion of his position and found it to be correctly classified to PB 1. He appealed this decision to the Department of Defense Civilian Personnel Management Service (CPMS), and they upheld the agency's decision. The appellant then filed this appeal with the OPM.

General issues

When we accepted the appeal, the Fire Chief position was vacant; and the two appellants had assumed additional duties to provide coverage until the position could be filled. As previously stated one of the appellants then retired in March 2008. The current Fire Chief started shortly thereafter. As a result of these circumstances the appellant stated he has served as acting Fire Chief and, since March 2008, provided advice and assistance to the acting assistant chief on the other shift. He also acted as the on-scene Fire Chief for major fires and incidents until the Fire Chief arrives at the site. The record shows the appellant has performed in these capacities. However, duties performed in the absence of another cannot be considered in determining the grade of a position (Department of Defense (DOD) Civilian Personnel Manual (CPM), 1400.25-M, Subchapter (SC)1920.4.2.2)).

Position information

The Fire Department (FD) covers an installation comprised of over 5,000 employees, 20,500 acres of land (11,800 of which are under woodland management), approximately 1,000 permanent and 500 temporary structures consisting of over 13 million square feet of inspectable structures and outside storage areas, including about 1,000 ammunition igloos. Most of the structures are used for the storage repair and rebuilding of heavy mobile equipment, artillery, radar, and affiliated electronic systems. Some are laboratories, computer facilities, and radar sites. Others are used as barracks, troop training areas, restaurants, clubs, dispensaries, and for other purposes including the storage of fuels, oils, gasses, exotic metals, pesticides and acids. The FD is also responsible for leased areas at a local airport which houses Army aircraft.

The appellant serves as one of two Assistant Chiefs within a two company/two shift FD. Each shift works 24 hours on, and 24 hours off in rotation. The shifts are similarly staffed and structured and operate in the same manner performing the same functions.

The appellant currently supervises a crew of 10 subordinates including two Lead Firefighter (Basic Life Support/Hazmat) Technicians, seven Firefighter (Basic Life Support/Hazmat) Technicians, and one employee in training to do inspection work who floats between the two shifts. Each shift currently staffs and operates two fire engines, each with one lead firefighter and three other firefighters. Other shift personnel may be on leave, regularly scheduled days off, or performing other duties.

The FD has three fire engines (one is held in reserve), one basic life support ambulance, one hazmat (hazardous materials) truck, one water tanker truck, and a vehicle equipped for fighting wildland fires. The FD operates primarily out of one building but also has a storage shed used to house the auxiliary fire truck and extra equipment.

The primary emphasis of the work is to reduce the likelihood of fires and safety hazards/accidents and their severity, should they occur, through inspection, testing, training, and preparedness efforts. The appellant oversees the development of FD training plans and the training schedule for his shift. He coordinates training activities with the other shift, and

personally presents about half of the lessons to the firefighters on his shift. Most of the classes are two-hours or less with longer sessions occasionally. He oversees or personally develops briefings and lesson plans for those outside the FD on fire safety, cardiopulmonary resuscitation, fire extinguisher use, etc. The appellant also schedules and ensures the completion and documentation (i.e., database entries) of a variety of required inspections including quarterly building inspections, annual fire extinguisher inspections, fire hydrant flow tests, fire detection systems, fire suppression systems, and others. In addition, he schedules and ensures the completion of regular FD equipment inspections and tests to ensure response preparedness including testing hoses, other firefighting gear/equipment, vehicles, firefighter personal equipment, basic life support and wildfire equipment, etc.

The appellant states the FD actually responds to about 400 calls annually, most of which involve false alarms or faulty equipment (e.g., sprinkler systems) issues. On average, there are approximately 12 actual fires a year, most of which are relatively small and can be put out with fire extinguishers or by one of the fire engines. Larger fires may occur every few years. There are also typically a number of non-fire-related incidents annually requiring a response by the FD. As an example of a major incident/fire, the appellant cites a wildland fire he responded to about a year ago which involved five acres. Extinguishing this fire required mutual aid trucks (i.e., water tankers from other local fire departments) due to the remote location and unavailability of their own tanker truck which was in required maintenance. He independently coordinated and directed the response to this incident using the two fire engines, wildland fire equipment, and auxiliary water trucks.

The Fire Chief works a regular eight-hour work schedule, while the two Assistant Chiefs work shifts with their respective crews. The Assistant Chiefs direct and coordinate responses to most incidents (i.e., fires, hazmat situations, accidents involving personnel, etc.) occurring during their shift. If on duty, the Fire Chief may also participate depending on the nature and extent of the situation. The Fire Chief is required to personally direct operations at all major incidents; i.e., those potentially involving in excess of \$250,000.00 in property damage, fatalities, or large numbers of significant injuries. As on-site supervisor providing the initial response, the Assistant Chief typically decides if it is necessary to call the Fire Chief to the site (when he/she is off duty), or if he/she can handle the situation himself/herself. If the Fire Chief is called to an incident, the Assistant Chief relinquishes command upon his/her arrival. (We note the one example provided by the appellant of a major incident occurring within the last two years which he independently handled; i.e., the five-acre wildland fire, does not meet the definition of a major incident as described by the Fire Chief.)

The appellant independently supervises the work of his shift/crew. He assigns and reviews the work of his subordinates, provides technical direction/guidance, schedules work assignments to meet recurring requirements, and identifies and provides needed training to ensure his crew is prepared to respond to a variety of situations. The appellant interviews candidates and selects and/or recommends employees to fill vacant subordinate positions. He initiates minor disciplinary actions as required, recommends action for more serious offences, hears and resolves most employee complaints, oversees time and attendance issues, schedules and approves leave, and ensures compliance with EEO requirements. The appellant completes subordinates' semi-annual and annual employee performance reviews and recommends awards.

To ensure consistency throughout the FD, he develops and adjusts the annual training schedule, develops and implements performance standards, develops initial budget projections based on day-to-day operational needs and anticipated equipment replacement/repairs, and develops/modifies standard operating procedures (SOPs) in coordination with the other Assistant Chief and Fire Chief. All actions regarding FD programmatic issues; i.e., training, performance standards development, SOPs, budgetary issues, etc., are reviewed by and/or referred to the Fire Chief for decision/approval. The Fire Chief also reviews all awards for concurrence prior to forwarding for approval and reviews or decides all major disciplinary matters.

The Fire Chief technically and administratively supervises the appellant's position. The appellant's duties are assigned in terms of continuing responsibility to direct and coordinate the work of his shift/crew to ensure effective and efficient overall FD operations, and the Fire Chief reviews and rates his performance. The appellant receives a six-month performance review and annual performance rating every year in addition to receiving performance feedback during the year as needed. The Fire Chief holds regular monthly meetings with the two assistant chiefs to discuss and decide a wide variety of FD operational and administrative issues including budgetary concerns. The appellant also has ad hoc meetings with the Fire Chief in the course of day-to-day FD activities to discuss and resolve problems and/or keep the Fire Chief informed of matters that may require his/her attention. The Fire Chief is responsible and accountable for the overall operations of the FD and represents the FD in dealings with higher level management and outside activities. Occasionally, as directed and in accordance with directions from the Fire Chief, the appellant represents the FD in dealing with the public or other outside activities. Decisions regarding the budget, major expenditures for equipment repairs or replacement, significant organizational/restructuring issues, policies or SOPs are made by the Fire Chief with input from the two Assistant Chiefs and/or others as appropriate.

Both Assistant Chiefs are Government credit card holders authorized to spend up to \$3,000 on a single purchase and up to a total of \$25,000 for monthly purchases and equipment/vehicle repair services. Most purchases are relatively small and involve recurring needs such as expendable equipment, parts and office supplies. Larger expenditures are typically for vehicle maintenance and repair. If necessary, an Assistant Chief can request an increase to the monthly expenditure limits after informing the Fire Chief and providing justification for the purchase(s).

Evaluation

Prior to conversion to the NSPS, the position was classified as Supervisory Firefighter, GS-081-10. The appellant does not dispute the position's current occupational series or title which were unchanged by the NSPS conversion, nor does he dispute the position's PS assignment under the NSPS. Based on the position's assigned duties and responsibilities as previously described, we agree the occupational series, title and PS assignments are correct.

SC 1911 of DOD 1400.25-M, *Conversion Into NSPS*, provides implementing guidance on how to shift positions to the NSPS based on the classification of the General Schedule (GS) positions of record. The agency applied this guidance, including Table SC 1911-4, *Conversion From General Schedule Supervisor/Manager Positions*, to convert the appellant's position to the YN pay plan code in the PB 1 range which is slotted for GS-6 to GS-11 grade level positions. The

agency placed the GS-081-12, Fire Chief's position in the PB 2 range of the same PS which is slotted for the conversion of GS-12 to GS-14 grade level positions to NSPS.

SC 1911.3.1.1.6.2, *Conversion from General Schedule Deputy Positions* states "Deputy positions are **normally** [emphasis added] in the same supervisory pay band as the position to which they report."

Appendix (AP) 4 to SC 1920 of DOD 1400.25-M, NSPS Occupational Definitions and Authorized Titles, provides the title *Fire Chief* for positions which involve the overall management and supervision of fire protection and fire prevention programs for a Federal installation including tenant activities and smaller installations in its jurisdiction. Fire Chiefs develop, coordinate, and implement programs, policies, regulations and procedures and serve as technical advisor to management in fire protection and prevention matters. They exercise full supervisory responsibility for the firefighting and fire protection inspection force.

AP 5, Part IV (Classification Criteria for Investigative and Protective Services Career Group – Supervisor/Manager Pay Schedule) to SC 1920 of DOD 1400.25-M, *Classification*, states:

Deputy positions are **normally** [emphasis added] in the same supervisory pay band as the position to which they report;

Positions which are organizationally referred to as "Assistant Chief" are considered to be deputy positions and are classified in the Supervisory YN-PS;

Immediate supervisory positions perform the following:

- Assign work to subordinates based on priorities, difficulty of assignments, and the capabilities of employees;
- Provide technical oversight;
- Develop performance plans and rate employees;
- Interview candidates for subordinate positions; recommend hiring, promotion, or reassignments;
- Hear and resolve complaints from employees;
- Take minor disciplinary measures, such as warnings and reprimands;
- Identify developmental and training needs of employees;
- Provide and/or arrange for needed development and training; and

Intermediate supervisory positions perform the following:

Performs all of the immediate supervisory functions listed above for subordinate immediate supervisors. In addition, immediate supervisors:

- Make decisions on technical and personnel problems presented by subordinate supervisors;
- Review evaluations of nonsupervisory employees rated by subordinate supervisors;

- Assure reasonable equity among subordinate organizations of individual employee performance objectives, standards and ratings;
- Recommend performance awards and salary/bonus distribution for subordinate employees;
- Evaluate subordinate supervisors;
- Make or approve selections for subordinate nonsupervisory positions;
- Recommend selections for subordinate supervisory positions;
- Hear and resolve group grievances or serious employee complaints;
- Review serious disciplinary actions (e.g., suspensions) involving nonsupervisory subordinates;
- Make decisions on HR budget issues

The appellant states his position meets the above criteria as a deputy and should be placed in the same PB as the Fire Chief's position; i.e., PB 2, because it is organizationally referred to as Assistant Chief.

DA states the position operates as a first-line shift supervisor, not a full deputy which they describe as a position which fully shares with the manager in the direction of all phases of the organization's program and work or is assigned continuing responsibility for managing a major part of the manager's program when the total authority and responsibility for the organization is equally divided between the manager and the deputy. The AAR further states:

Designation of deputy positions is subject to the manpower management [organizational] controls outlined in AR 570-4."

U.S. Army regulation 570-4, Manpower Management, chapter 3, section 3-3, Organization and Position Management Policies states:

As a general rule, supervisory positions should not be established to direct fewer than 14 military or civilian employees. However, workload, span of control, and geographical dispersion should be considered in this ratio; and

The use of deputies will be limited to circumstances where the military or civilian head of an organization is frequently absent on official duties (and no other subordinate can serve in an acting capacity) or where the workload of the military or civilian head justifies the additional position. MACOM approval is required to establish a deputy position.

The Army determined the position to be properly assigned to PB 1 of the YN PS.

CPMS' Field Advisory Services Division (FAS) appeal decision concurred with the DA's determination the position was properly assigned to PB 1. It states:

The classification criteria state that deputy positions are *normally* in the same supervisory pay band as the position to which they report...The classification criteria contemplate that deputy positions are established with varying levels of authority and

responsibility relative to the Fire Chief's position. Therefore, not *all* such positions warrant crediting as a full deputy and such crediting is not automatic; and

A full deputy participates and shares equally in the technical and administrative management of the organization for *all matters* and across *all shifts*.

CPMS FAS found the appellant's position exercises the authorities typical of an immediate supervisor over the employees on the shift to which he is assigned, whereas the Fire Chief's position operates as an intermediate supervisor exercising that level of authority over the entire Fire Department. Therefore, CPMS determined the appellant's position was not a full deputy position and did not warrant classification to the same PB as the Fire Chief's position even though it is organizationally referred to as an Assistant Chief.

Classification under the NSPS is based on the primary work assigned to and actually performed by employees and takes into account information about the position's level of difficulty, occupational qualifications, competency requirements, mission of the organization, and relationship to other positions or organizational levels. In this case, the factors which determine whether or not the appellant's position is properly classified to PB 2 as a deputy relate to its operational role and responsibilities within the context of the overall mission of the FD and its relationship to the Fire Chief's position.

As stated above: the Fire Chief exercises program and budgetary responsibility for the operations of the FD, directs the work of subordinates through subordinate supervisors and leaders, represents the organization in contacts with outside activities and higher level management officials, and makes all major administrative, budget and operational decisions for the organization. In contrast, the appellant's position operates as one of two shift supervisors directing and controlling the day-to-day work of about one half the employees (i.e., nine full-time and one floating position) assigned to the FD. The extent to which the appellant represents the entire FD in contacts with outside activities is set by the Fire Chief. The appellant purchases supplies and services within established dollar limits and informs the Fire Chief of significant requirements prior to taking action, and his ongoing programmatic responsibilities are primarily based on his shift's needs/concerns and involve providing input to decisions ultimately made by the Fire Chief. The appellant's position does not perform as a full deputy. Furthermore, the organization's assigned mission and functions and current supervisory/leader to employee ratio do not indicate the need for a full deputy position within the FD.

PB 2 is not met in that the appellant's position does not meet the criteria as a deputy to be classified in the same PB as the Fire Chief. We find the agency's appeal decision analysis in this matter appears to adopt OPM's longstanding guidance concerning deputy positions covered under the General Schedule, the predecessor to the NSPS classification system. Where the agency's determination in applying its own classification criteria is not arbitrary, capricious, or unreasonable, we will not substitute our judgment for that of the agency.

Summary

The appellant's position meets the criteria in SC 1920 AP 5 to be classified as an immediate supervisor in the YN pay plan code at PB 1.

Decision

The position is properly classified as Supervisory Firefighter, YN-081-01.