

**OFFICE OF PERSONNEL MANAGEMENT
ATLANTA OVERSIGHT DIVISION
ATLANTA, GEORGIA**

CLASSIFICATION APPEAL DECISION

Under section 5112(b) of title 5, United States Code

Appellant: [appellant's name]

Position: Program Specialist, GS-301-13

Organization: [appellant's activity in]
U.S. Department of the Treasury

Decision: GS-1801-12 (Title at the discretion of the agency)
(Appeal denied, position downgraded)

OPM decision number: C-1801-12-02, 11/14/96

Conrad U. Johnson Date
Director, Atlanta Oversight Division

Background

On May 10, 1996, the Atlanta Oversight Division, Office of Personnel Management (OPM), accepted an appeal for the position of Program Specialist, GS-301-13, located in the [appellant's activity in the Department of the Treasury]. The appellant is requesting that his position be changed to Criminal Investigator (Training Instructor), GS-1811-13.

This 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.

Sources of Information

This appeal decision is based on information from the following sources:

1. The appellant's letter of May 6, 1996, appealing the classification of his position.
2. The agency's letter of July 8, 1996, providing position and organizational information.
3. A telephone interview with the appellant on July 12, 1996. The appellant was originally scheduled for an onsite interview the week of July 8, 1996, but the threat of a hurricane approaching FLETC caused that interview to be canceled.
4. A telephone interview with [the appellant's immediate supervisor] on July 15, 1996.
5. An advisory opinion from the OPM Office of Classification regarding the classification of similar positions.

Position Information

The appellant is assigned to Position Number 12754, which was classified on January 4, 1995. The appellant, supervisor, and agency have certified to the accuracy of the position description.

The appellant administers the Basic Law Enforcement for Land Management Agencies and the Police Investigator Training Programs. He coordinates the conduct of training courses in the assigned programs, ensuring that instructors, facilities, and support services are available and adequate to meet training needs. He maintains contact with Federal law enforcement agencies to ensure that the needs of participating organizations are met by the training offered and conveys information to instructors for use in developing or modifying courses to accurately present current law enforcement practices and policies.

The appellant plans and conducts formal curriculum review conferences and informal meetings to review current programs and courses in light of changing requirements. He coordinates with participating Federal law enforcement agencies and other FLETC staff in developing agendas,

identifying issues, and mediating conflicts. He advises the division chief on the management and operation of assigned programs and serves as a liaison between FLETC and participating organizations on training matters. He develops annual budget projections for assigned programs and continually monitors program status throughout the year.

The appellant interacts with students on all matters relating to their attendance at FLETC, including personal and academic guidance, behavior, discipline, and similar issues. He recommends disciplinary action against students, including removal from training, when warranted. He makes classroom presentations to orient students at the beginning of training programs. He periodically reviews examinations with students to ensure that topics covered by examinations are appropriately covered in the classroom. He recommends changes in courses and instructional methods to improve subject-matter coverage as needed.

The appellant receives direction from the division chief who outlines objectives and provides overall policy guidance. The appellant independently plans and carries out assignments within the parameters of established FLETC policy. The supervisor is advised of significant issues and problems, and the status of programs. Work is reviewed for compliance with policy and effectiveness in meeting objectives.

The appellant contends that his position is improperly classified as Program Specialist, GS-301-13, and that the position is more properly placed in the Criminal Investigator Series, GS-1811. He cites another employee in the same division performing essentially the same work who is classified in the GS-1811 series and receives Law Enforcement Availability Pay amounting to 25 percent of base pay. The appellant believes that the nature of the work performed and his background in law enforcement support placement of his position in the GS-1811 series.

Standards Referenced

Miscellaneous Administration and Program Series, GS-301, January 1979.

Training Instructor Series, GS-1712, May 1991.

Grade Level Guides for Classifying Investigator Positions, GS-1810/1811, February 1972.

General Inspection, Investigation, and Compliance Series, GS-1801, October 1980.

Grade Level Guide for Instructional Work, March 1989.

Series and Title Determination

The appellant believes that his position is properly titled and coded as Criminal Investigator, GS-1811. The agency determined that the position was properly classified in the GS-301 series.

Series:

The Miscellaneous Administration and Program Series, GS-301, 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 work requires analytical ability, judgment, discretion, and knowledge of a substantial body of administrative or program principles, concepts, policies, and objectives.

The Criminal Investigator Series, GS-1811, covers positions that involve planning and conducting investigations relating to alleged or suspected violations of criminal laws. These positions require primarily a knowledge of investigative techniques and a knowledge of the laws of evidence, the rules of criminal procedure, and precedent court decisions concerning admissibility of evidence, constitutional rights, search and seizure, and related issues; the ability to recognize, develop, and present evidence that reconstructs events, sequences, and time elements, and establishes relationships, responsibilities, legal liabilities, and conflicts of interest in a manner that meets requirements for presentation in various hearings and court proceedings; and skill in applying the techniques required in performing such duties as maintaining surveillance, performing undercover work, and advising and assisting the U.S. Attorney in and out of court.

The Training Instructor Series, GS-1712, covers positions concerned with administration, supervision, training program development, evaluation, or instruction in a program of training when the *paramount* requirement of the work is a combination of practical knowledge of the methods and techniques of instruction *and* practical knowledge of the subject-matter being taught. Positions in this series *do not* have either a paramount requirement of professional knowledge and training in the field of education, or mastery of a trade, craft, or laboring occupation.

The GS-1712 standard states that:

Positions involving education and training work are normally classified in the appropriate subject-matter series when the *paramount* qualification requirements for the *work* and the career patterns for the position are *primarily in the subject-matter field* rather than in the education and training field.

Positions involving education and training work requiring subject-matter knowledge are classified to this series when the career patterns of the positions are *primarily associated with the field of education and training*, when instructing is the highest level skill required (e.g., instructors of stenography), or when no appropriate subject-matter series has been established.

As a general rule, you should first consider classifying the position in the appropriate subject-matter series before deciding to classify it in this series.

Note, however, that it is neither the type of training program nor the subject *per se* that determines the series. Rather, the qualifications required and the normal career patterns involved are the basic considerations.

The appellant's highest level duties involve coordinating and administering the conduct of assigned training programs, including the development and updating of courses and evaluation of programs in terms of meeting established training objectives. The work involves a specific subject-matter field (i.e., law enforcement) and the supervisor indicated that knowledge of law enforcement is essential to acceptable performance. The series determination turns on which part is stressed, the administrative function or the subject-matter knowledge. In the appellant's case, the administrative skills and the subject-matter knowledge are very much interwoven, and it is not possible to single out either as representing the higher level requirement. While the most recent recruiting announcement for positions similar to the appellant's and the official position description emphasize the importance of the administrative knowledge and skills, it is also clear from the announcement and the supervisory interview that an applicant who possessed the requisite administrative skills without the subject-matter knowledge would not be considered qualified.

A number of FLETC instructors have criminal investigator backgrounds and are already classified in the GS-1811 series. Higher level supervisory and managerial positions in the organization are also found in the GS-301 series although many are in the GS-1811 series. However, the nature of the work performed by the appellant does not indicate that his position is properly placed in the GS-1811 series. While the appellant's position clearly requires knowledge of the principles, concepts, policies, and objectives underlying the training programs at FLETC, his position also requires a background in law enforcement combined with training knowledge and skills. Consequently, placement in the GS-301 series is not appropriate, based on the second exclusion on page 2 of the GS-301 standard, which states that positions performing work not identified to a specific series but covered by another occupational group which has a general series should be classified to the general series.

In an advisory opinion, the OPM Office of Classification stated that considerable deference should be given to management's intent concerning position management. FLETC management has stated their intent to limit the number of positions in the GS-1811 series to a minimum and to classify the majority of the instructor and related positions outside the GS-1811 series commensurate with the ratio of criminal investigator students attending training. In light of the requirement that the appellant possess knowledge of law enforcement which may include, but is not necessarily limited to, knowledge of investigatory methods and techniques, we find that placement in the GS-1811 series is inappropriate. We also find that the qualification requirements and normal career patterns dictate placement in some series other than the GS-301 series. Consequently, another occupational series must be found which recognizes the law enforcement background required of the position.

The General Inspection, Investigations, and Compliance Series, GS-1801, includes positions the primary duties of which are to administer, coordinate, supervise, or perform inspectional, investigative, analytical, or advisory work to assure understanding of and compliance with Federal laws, regulations, or other mandatory guidelines when such work is not more appropriately

classifiable in another series either in the Investigation Group, GS-1800, or in another occupational series. Similar to the GS-1801 series, the appellant performs advisory work (i.e., instructional administration) which promotes an understanding of and compliance with Federal law and regulations (i.e., law enforcement). The nature of the appellant's work, the qualifications required to perform that work, and the established career patterns at FLETC make the GS-1801 series appropriate for the appellant's position.

Title:

The GS-1801 standard does not mandate the use of specific titles. The agency may construct a descriptive title for the appellant's position following the titling instructions in the Introduction to the Position Classification Standards.

The appellant's position is properly coded as GS-1801, with the title at the discretion of the agency.

Grade Determination

The GS-1801 standard does not include grading criteria and suggests the use of other guides and standards relevant to the work performed.

The GS-1811 standard provides grading criteria for positions involved in the conduct of investigations into suspected criminal wrongdoing. The GS-1811 grading criteria bears no relationship to the work performed by the appellant, since he does not perform investigatory work, and has little value in evaluating that work. Consequently, more relevant classification criteria must be found.

The Grade Level Guide for Instructional Work describes work involved in developing programs of instruction and providing instruction to students and is directly relevant to the work performed by the appellant. The Guide is written in a narrative format in two parts. Part I is used to evaluate instructor positions while Part II is used to evaluate instructional specialist work. Instructional specialist work, as defined in the Guide, includes such activities as ascertaining training needs, determining training objectives and the scope of courses, developing or revising course materials, and evaluating education and training programs. The appellant's position does not involve platform instruction or direct responsibility for course development and is, therefore, evaluated using Part II which uses two factors for evaluation purposes: *Nature of assignment* and *Level of responsibility*. The position is evaluated as follows:

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.

At the GS-12 level, employees establish instructional design, development, or evaluative criteria through the analysis of educational or instructional problems or questions. Assignments may be in a functional specialty area of education and training (e.g., instructor development), in a subject-matter area (e.g., advanced electronics), or may involve a grouping of courses. Assignments sometimes cut across a variety of specialty areas in education and training for a given organization, geographic area, or program area. Assignments are characterized by complicating factors, such as changing situations or educational developments in the field which outdate established guideline material, or the need to pull together two different but partially related fields (e.g., the field of engineering and the field of electricity/electronics), which requires the employee to have knowledge of more than one field. Employees at this level often deal with matters which are controversial, unconventional, or novel. Assignments frequently require substantial adaptations or extensions of available guides and established procedures or, in some instances, the development of new approaches, methods, or techniques for specific applications.

The GS-12 level is met. The appellant administers programs which cut across organizational lines within FLETC as well as involve a variety of different law enforcement agencies which send students to the programs. The appellant must coordinate the training programs with all the internal and external activities involved to arrive at training programs which meet the requirements of the various law enforcement agencies and are within FLETC's capabilities. This coordination effort often involves significant conflicts between requirements and capabilities and may require new approaches or substantial modifications of current approaches to provide an acceptable training program. This meets the intent of the GS-12 level, and that level is creditable.

At the GS-13, instructional specialists are recognized as authoritative consultants who plan and develop experimental programs, evaluate results, and use the findings in planning, developing, and installing new or modified programs. Assignments often involve program innovations or modifications which result in the need to provide training to staff who will be using the new programs or products. Troubleshooting duties frequently require providing problem-solving assistance to, and technical review and leadership over, other employees or other facets of the agency's, or major military command's, training and education organization. Employees at this level resolve matters which are often controversial, complicated, or set general precedent; involve coordinating or negotiating matters of considerable consequence; or affect prominent and fundamental policy issues in the subject-matter field. Assignments typically require the development and application of new program methods, approaches, and technology. The employee's conclusions, recommendations, or determinations may result in setting official policy or obligating substantial program resources.

The GS-13 level is not met. Although the appellant has a significant role in developing training programs and courses, the work involves established subject-matter areas rather than the experimental programs described at this level. His assignments involve the development of new training programs in response to identified needs and do not typically involve the innovative approaches to training credited at GS-13, nor do his assignments have the scope and impact described. For example, the appellant's program responsibility affects the students attending training, but do not typically involve leadership over those students or other FLETC staff. Similarly, the appellant's recommendations and

determinations typically do not set policy, but are made in compliance with established policy and guidance contained in a variety of FLETC directives. The intent of the GS-13 level is not met and cannot be credited.

This factor is evaluated at GS-12.

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.

At the GS-12 level, assignments may be made on a project or continuing basis; or they may be self-initiated on the basis of apparent need, in which case the supervisor is consulted for approval. Employees are relied upon to perform services, develop products, and take actions that are technically sound and valid. Supervisory review of completed work is primarily to determine general effectiveness and consistency with the educational philosophy and objectives of the program and with the policies of the organization. The products and services of work at this level affect a considerable number and variety of users (e.g., teachers in the elementary and secondary schools of a geographic area, instructors in a large technical service school that gives a wide variety of courses at various levels of complexity, or students in a large number of schools).

The GS-12 level is met. The appellant's assignments are made on a continuing basis and he is relied on to perform the assignments independently. In those situations where the assignments are self-initiated based on identified need, the appellant advises his superiors of actions taken. Supervisory review of the appellant's work is essentially as described at the GS-12 level, and the impact of the work is on students and instructors at FLETC. This is consistent with the level of responsibility described at GS-12, and that level is creditable.

At the GS-13, specialists typically ascertain the need for and generate surveys and studies. Supervisory review of initial plans is primarily to assess priorities, the feasibility of program and project proposals, and the availability of budget and other resources. Employees independently carry projects through to their conclusion. Completed work products are relied upon for soundness, accuracy, and adequacy of technical detail, and are normally not reviewed for such purposes. Review of work performance at this level is primarily for accomplishment of project and program objectives; for consistency with agency, or major military command, policies, philosophy, and goals; and for the quality of contributions to education and training programs. To stay abreast of developments within their specialty area, GS-13 specialists establish and maintain professional contacts with leading practitioners, researchers, and others in education and training institutions, research organizations, and industry. Work projects typically have a significant impact on a broad segment of the staff and student body in the education and training program which is evident throughout the agency or major military command. Products may radically change the training content or the education and training

techniques and methods used in the teaching of certain subjects to specific segments of the student population.

The GS-13 level is not met. Although the appellant functions with considerable autonomy in performing his assignments and initiates many actions without prior supervisory approval, the appellant's assignments are largely covered by established policy and FLETC directives which define the procedures and processes to be followed in most instances. The appellant's personal contacts within and outside FLETC do not approach the level of contacts described at the GS-13 level, and the impact of his work is largely restricted to the FLETC organization and the student body. This approaches, but does not fully meet, the intent of the GS-13 level; therefore, that level is not creditable.

This factor is evaluated at GS-12.

Summary

Since both factors are evaluated at GS-12, that is the proper grade level of the appellant's position.

Decision

This position is properly classified as GS-1801-12 (Title at the discretion of the agency). This decision constitutes a classification certificate issued under the authority of section 5112(b) of title 5, United States Code. This certificate is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the Government.