

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



Washington Oversight Division
1900 E Street, N.W.
Washington, D.C. 20415

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

Appellant: [name]

Agency classification: Equal Employment Manager
GS-260-12

Organization: Department of the Army
United States Army, Europe, and
Seventh Army
[#] Area Support Group
Command Section
Equal Employment Opportunity Office
[city], Germany

OPM decision: Equal Employment Manager
GS-260-12

OPM decision number: C-0260-12-05

Linda Kazinetz
Classification Appeals Officer
January 6, 2000

_Date

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision constitutes a classification 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 the conditions and time limits specified in title 5, Code of Federal Regulations, sections 511.605, 511.613, and 511.614, as cited in the Introduction to the Position Classification Standards, appendix 4, section G (address provided in appendix 4, section H).

Decision sent to:

[appellant]

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

Ms. Toni B. Wainwright
Director for Personnel
(Civilian Personnel)
Headquarters, U.S. Army, Europe,
and Seventh Army
Attn: AEAGA-C
APO New York 09014

Mr. Conrad M. Lacy
Director, Civilian Personnel
Operations Center
Unit 29150
Headquarters, U.S. Army, Europe,
And Seventh Army
Attn: AEAGA-CPOC
APO AE 09100

Introduction

On May 27, 1999, the Washington Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a position classification appeal from [appellant], who is employed as an Equal Employment Manager, GS-260-12, in the Equal Employment Opportunity Office, Command Section, [#] Area Support Group, of the United States Army, Europe, and Seventh Army (USAREUR), in [city], Germany. Mr. Dickenson requested that his position be classified as Equal Employment Manager, GS-260-13. This appeal was accepted and decided under the provisions of section 5112 of title 5, United States Code.

A telephone audit was conducted by a Washington Oversight Division representative on January 4, 2000, and an interview with the appellant's first-line supervisor, [name], Executive Officer, on January 6, 2000. This appeal was decided by considering the audit findings and all information of record furnished by the appellant and his agency, including his official position description, number UG073, classified by the servicing personnel office as Equal Employment Manager, GS-260-12, on December 14, 1989.

General Issues

The appellant's position was indirectly covered by a general consistency review requirement levied by OPM in connection with a 1993 appeal filed by his counterpart in the [#] Area Support Group in [city], Germany. In that earlier appeal, upgrading of the position to the GS-13 level was denied, and the Department of the Army was directed to review all GS-260 equal employment manager positions within Germany classified at the GS-13 level for consistency with the appeal decision. As a result, several positions were either downgraded to GS-12 or pending upgrades to GS-13 were withdrawn.

Since that time, the equal employment opportunity program within USAREUR has been reorganized in connection with the continuing drawdown of U.S. forces, including the consolidation of operations at the Area Support Group level. As a result of these organizational changes, the appellant contends that his position is materially different from other counterpart positions within Germany.

Position Information

The appellant plans, directs, and evaluates the equal employment opportunity program for the [#] Area Support Group (ASG) and the [tenant activity], with combined civilian employment of approximately 350 employees. This includes full administrative and technical supervision over the subordinate EEO staff, consisting of one GS-12 Equal Employment Specialist (recently reassigned to the office), one GS-7 Equal Employment Assistant, and one temporary GS-4 clerical employee.

The appellant also exercises technical oversight for the equal employment opportunity programs of two Base Support Battalions [#s], with combined civilian employment of approximately 1150 employees.

The appellant bases his appeal on three elements that he believes were not properly recognized in the agency evaluation of his position. First, he states that his position reports to two separate and distinct commands (the [#] ASG headed by a full Colonel, and the [tenant activity] headed by a Brigadier General.) In addition, he technically supervises EEO program operations at two subordinate

organizations (the Base Support Battalions) that are each staffed by a GS-12 Equal Employment Manager and GS-11 Equal Employment Specialist.

For classification purposes, a position may be evaluated as a supervisory position if it involves the accomplishment of work through combined technical and administrative direction of others for at least 25 percent of the position's time. The appellant's supervision of the three employees within his immediate office, over whom he exercises both administrative and technical supervision, does not constitute this large a portion of his time. For the Base Support Battalion EEO employees, the appellant states that he is effectively involved in all aspects of their administrative supervision except for approving leave. He describes this as signing their performance appraisals as intermediate reviewer, recommending promotions and awards, and arranging for their training. This is in addition to technically overseeing their work and periodically reviewing and evaluating their programs. However, those employees are accountable to their designated supervisors, the Base Support Battalion Commanders, for the successful accomplishment of their work. Their Commanders task them directly for many assignments, and although the appellant may serve as facilitator or technical reviewer, he is not responsible for assigning their work or giving them day-to-day direction. Further, he is not responsible for determining the content of their jobs or the organization of work within their offices. This type of technical programmatic oversight does not qualify as full supervision for classification purposes, but rather is considered within the context of the overall program management responsibilities addressed under the GS-260 series standard. The appellant's reporting relationship with two separate commands has no bearing in itself on the classification of his position. The appellant's first-line supervisor is clearly identified as the Executive Officer, [#] ASG. Although the appellant has a servicing relationship with the Commander, [tenant activity], beyond increasing the scope of his position in terms of the serviced population, this does not otherwise affect its classification.

The second element cited by the appellant is his contention that his position is not complaints oriented but is rather focused primarily on the identification and resolution of systemic problems. This is addressed in the below evaluation.

The third element cited by the appellant is the recent Departmental initiative that equal employment managers incorporate alternative dispute resolution (i.e., mediation) in their programs. For classification purposes, this work is treated as a variant of the traditional counseling and complaints process that does not in itself substantially increase the difficulty or complexity of the work.

Series Determination

The appellant's position is properly assigned to the Equal Employment Opportunity Series, GS-260, which covers positions concerned with developing, administering, evaluating, or advising on a Federal agency's internal equal employment opportunity program. Neither the appellant nor the agency disagrees.

Title Determination

The appellant's position is correctly titled as Equal Employment Manager, which is the authorized title for positions responsible for a total equal employment opportunity program. Neither the appellant nor the agency disagrees.

Standard Determination

The position was evaluated by application of the criteria contained in the position classification standard for the Equal Employment Opportunity Series, GS-260, dated November 1980. This standard is written in the Factor Evaluation System (FES) format, under which factor levels and accompanying point values are to be assigned for each of the following nine factors, with the total then being converted to a grade level by use of the grade conversion table provided in the standard.

The factor point values mark the lower end of the ranges for the indicated factor levels. For a position to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor level description. If the position fails in any significant aspect to meet a particular factor level description, the point value for the next lower factor level must be assigned, unless the deficiency is balanced by an equally important aspect that meets a higher level.

The appellant disagrees with the agency evaluation of his position only in respect to factor 1.

Grade Determination

Factor 1, Knowledge Required by the Position

This factor measures the nature and extent of information an employee must understand in order to do the work, and the skills needed to apply that knowledge.

At Level 1-7, the equal employment manager directs a program that meets basic legal and regulatory requirements. The program includes such functions as advising managers and employees on legal and procedural program requirements; reviewing affirmative action plans developed by line managers; identifying problem areas through questionnaires and providing training for supervisors; providing general oversight of minority and female recruitment planning (but little technical involvement); and complaint counseling, investigation, and adjudication if delegated to the organization served. Typically, programs at this level are case oriented.

The knowledge required by the appellant's position matches Level 1-7. The primary functions carried out within the appellant's program are complaints counseling, resolution, and processing; the development, review, and monitoring of affirmative action plans; the development and presentation of training courses; and special emphasis activities.

The position does not meet Level 1-8. At that level, the equal employment manager directs a program that, in addition to meeting basic regulatory requirements, focuses on the solution of

systemic problems, elimination of barriers to equal employment including agency management policies and practices, and provision of management advisory and consulting services designed to effect major changes. The program includes regular efforts to identify and solve systemic problems through onsite organizational reviews, participation in agency management audits or personnel management evaluation reviews, monitoring complaints, regular and systemic workforce analysis, special equal employment reviews, or similar activities. The program is closely interrelated with personnel management functions as manifested through its involvement in such technical issues as the development of merit promotion systems, upward mobility plans, recruitment planning, or the negotiation of labor agreements. Management advisory services focus not only on the resolution of specific problems but also on the accomplishment of affirmative action goals.

The appellant cites two efforts on his part to resolve what he describes as systemic equal employment opportunity problems. He identified two Departmental policies, related to military spousal preference in hiring and retention rights of Non-Appropriated Fund employees, that he believes are discriminatory in nature, and he developed and submitted position papers to higher program levels expressing his views. Changes in these practices would require regulatory action at the Department of Defense level. Even beyond the merits of these particular issues, it is obviously not within the scope of the appellant's position to either identify or resolve barriers to equal employment on a Departmentwide basis. He may raise an issue or provide comments on proposed regulatory changes as requested, but the intent of Level 1-8 is to credit those activities where the employee has express authority to conduct formal, systematic reviews aimed at identifying problems, and in addition a direct influence on the actions taken to correct those problems. The appellant identified no activities on his part that involved identifying and resolving systemic problems in equal employment within the [#] ASG or other serviced activities. The appellant manages a small program servicing a limited population of civilian employees. Although the appellant may conduct occasional demographic or other statistical surveys and bring possible inequities to management's attention, the primary purpose of his program is to carry out the basic equal employment opportunity functions required by law and regulation. It would not be realistic to expect that a program at this organizational level, servicing at most 1500 employees, would be involved, as its main focus and on a sustained basis, in identifying and resolving systemic problems that would require major changes in management policies and practices. This would be more typically encountered at higher organizational levels, with purview over a much larger workforce and broader range of program activities, where issues of this magnitude would be expected to arise more frequently.

Level 1-7 is credited.

1250 points

Factor 2, Supervisory Controls

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.

The level of responsibility under which the appellant works is comparable to Level 2-5 (the highest level described under this factor.) At that level, the supervisor provides administrative direction, with

assignments in terms of broadly defined missions or functions. This may include setting budget and personnel limits on the program or setting broad policy goals. The employee is responsible for independently planning, designing, and carrying out the work, the results of which are considered technically authoritative. Review of work is generally limited to such matters as fulfillment of program objectives or the overall effect of the program. The appellant, as the equal employment manager and technical authority for the field organization, operates at this level.

Level 2-5 is credited.

650 points

Factor 3, Guidelines

This factor covers the nature of the guidelines used and the judgment needed to apply them.

The guidelines used by the appellant match Level 3-4, where equal employment managers work within agency policies, guidelines, and instructions, and interpret these guidelines to formulate policies and plans for specific programs covering one or more components of an independent agency or department. Correspondingly, the appellant develops plans and operating procedures for the local equal employment opportunity program.

The position does not meet Level 3-5. At that level, equal employment managers interpret broadly-stated guidelines, such as basic legislation, broad court decisions, and governmentwide policies, to formulate operating policies and plans for specific programs covering independent agencies or departments, or the primary organizational subdivisions of very large departments. The field organization at which the appellant works does not qualify as a primary organizational subdivision of the Department of the Army.

Level 3-4 is credited.

450 points

Factor 4, Complexity

This factor covers the nature, number, variety, and intricacy of the tasks or processes in the work performed, the difficulty in identifying what needs to be done, and the difficulty and originality involved in performing the work.

The complexity of the appellant's work is comparable to Level 4-4, where equal employment managers direct day-to-day program operations in a medium size organization (i.e., 1000-5000 employees) of moderate complexity, and where the work includes recommending complaint disposition, developing affirmative action plans and monitoring their accomplishment, and providing advisory services. With a total serviced population of approximately 1500 employees, the appellant's program is at the lower range of this level.

The position does not meet Level 4-5. At that level, the program is focused on solving broad and significant equal employment opportunity problems in complex organizations. Advisory

responsibilities involve making recommendations on very difficult individual cases with broad impact, changes in fundamental and long established management policies or practices, and the development of detailed affirmative action plans. The equal employment manager performs a full range of management functions such as setting program goals, making long-term and short-term program plans, directing day-to-day operations, systematically evaluating progress, and recommending levels of resources and overall organization of the program. An example provided in the standard illustrating this level of complexity is the equal employment opportunity program of a Federal department or agency with 7500 to 15,000 employees, many levels of supervision, several major organizational subdivisions, and a nationwide field structure. The appellant's program falls short of this level both in terms of the size and complexity of the organization serviced and the breadth of the functions carried out.

Level 4-4 is credited.

225 points

Factor 5, Scope and Effect

This factor covers the relationship between the nature of the work, and the effect of the work products or services both within and outside the organization.

The scope and effect of the appellant's work match Level 5-4, where the purpose of the work is to direct a complete equal employment opportunity program affecting an assigned organization. This corresponds to the appellant's responsibility for directing the equal employment opportunity program for the [#] ASG and tenant organizations.

The position does not meet Level 5-5. At that level, the purpose of the work is to direct an extensive equal employment opportunity program affecting substantial numbers of people, e.g., a major agency organization such as a major industrial field activity or a region of a department. The organization serviced by the appellant, with approximately 1500 civilian employees, is not of equivalent size or scope.

Level 5-4 is credited.

225 points

Factor 6, Personal Contacts

This factor includes face-to-face and telephone contacts with persons not in the supervisory chain. The relationship between Factors 6 and 7 presumes that the same contacts will be evaluated under both factors.

The appellant's personal contacts match Level 6-3, where contacts are with persons outside the employing agency such as attorneys, counterparts in other agencies, or union officials, or are within the same agency but are adversarial in nature, such as where consulting services are provided to agency managers.

The position does not meet Level 6-4. At that level, contacts are with high-ranking officials from outside the employing agency, such as heads of Federal agencies, heads of large national civil rights organizations, or national officials of large unions. The appellant has no contacts of this nature.

Level 6-3 is credited.

60 points

Factor 7, Purpose of Contacts

This factor covers the purpose of personal contacts ranging from factual exchange of information to situations involving significant or controversial issues and differing viewpoints and objectives.

The purpose of the appellant's contacts is consistent with Level 7-3, where the purposes of the contacts are to negotiate, interview, and persuade.

The position does not meet Level 7-4. At that level, the purposes of the contacts are to negotiate resolutions to highly controversial or major issues, or to justify or defend decisions (as opposed to recommendations) on major controversial issues. The issues involve two or more of the following elements: major changes in policies or practices, large sums of money, or potential adverse publicity; one or more parties strongly contest or dispute the negotiator's position; multiple, broad, and complex issues; and/or matters being negotiated are basic to the policy positions of the agency. Considering the organizational level at which the appellant's position is located, it is unlikely that any issues of this magnitude would be encountered, or that the appellant would be authorized to independently negotiate matters with agencywide ramifications.

Level 7-3 is credited.

120 points

Factor 8, Physical Demands

This factor covers the requirements and physical demands placed on the employee by the work situation.

The position matches Level 8-1, which covers sedentary work.

Level 8-1 is credited.

5 points

Factor 9, Work Environment

This factor considers the risks and discomforts in the employee's physical surroundings or the nature of the work assigned and the safety regulations required.

The position matches Level 9-1, which describes a typical office environment.

Level 9-1 is credited.

5 points

Summary

<u>Factors</u>	<u>Level</u>	<u>Points</u>
Knowledge Required	1-7	1250
Supervisory Controls	2-5	650
Guidelines	3-4	450
Complexity	4-4	225
Scope and Effect	5-4	225
Personal Contacts	6-3	60
Purpose of Contacts	7-3	120
Physical Demands	8-1	5
Work Environment	9-1	<u>5</u>
Total		2990

The total of 2990 points falls within the GS-12 range (2755-3150) on the grade conversion table provided in the standard.

Decision

The appealed position is properly classified as Equal Employment Manager, GS-260-12.

