

U.S. Office of Personnel Management
Division for Human Capital Leadership & Merit System Accountability
Classification Appeals Program

San Francisco Field Services Group
120 Howard Street, Room 760
San Francisco, CA 94105-0001

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

Appellant: [name]

Agency classification: Firefighter (Advanced Life Support)
GS-081-7

Organization: Station [location]
Federal Fire Department/[number]
Regional Public Safety
Command Navy Region [location]
Commander Navy Installations
Department of the Navy
[location]

OPM decision: Firefighter (Paramedic)
GS-081-9

OPM decision number: C-0081-09-03

//signed//

Kevin E. Mahoney
Deputy Associate Director
Center for Merit System Accountability

2/24/06

Date

As provided in section 511.612 of title 5, Code of Federal Regulations (CFR) , 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).

Since this decision changes the classification of the appealed position, it is to be effective no later than the beginning of the fourth pay period after the date of this decision (5 CFR 511.702). The servicing human resources office (HRO) must submit a compliance report containing the corrected position description. Although we have determined that the appellant is operating at a higher grade level, this decision does not constitute a waiver of applicable time-in-grade restrictions, qualifications, or other regulatory requirements imposed by either OPM or the agency. In determining whether the appellant is qualified for promotion, the agency must consider all applicable requirements. The agency must determine what action must be taken with regard to the appellant, including the appellant's assignment of work. A Standard Form 50 showing any personnel action taken with regard to the appellant must be included in the report which must be submitted within 30 days from the effective date of the change in the classification of the position.

As indicated in this decision, our findings show that the appellant's official position description does not meet the standard of adequacy described on pages 10-11 of the *Introduction to the Position Classification Standards*. Since position descriptions must meet the standard of adequacy, the agency must revise the appellant's position description. The servicing human resources office must submit a compliance report containing the corrected position description to the San Francisco Field Services Group as part of the compliance report.

Decision sent to:

[appellant name and location]

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Department of the Navy
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Introduction

On June 30, 2005, the San Francisco Field Services Group of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [name]. On September 30, 2005, we received the agency's complete administrative report. The appellant's position is classified as Firefighter (Advanced Life Support), GS-081-7, but he believes it should be classified as Firefighter (Paramedic), GS-081-9. He works in [organizational information], Department of the Navy, [location]. We have accepted and decided this appeal under section 5112 of title 5, United States Code (U.S.C.).

This decision is based on a careful review of all information furnished by the appellant and his agency. In addition, to help decide the appeal we conducted separate telephone interviews with the appellant and his second-level supervisor, the Assistant Fire Chief (Operations), [name] Metro Battalion 2, Stations 6 and 7, Naval Station (NAVSTA), [location]. The appellant's immediate supervisor (Battalion Chief, Station 6) was contacted but deferred to the Assistant Fire Chief (Operations) for information regarding the appellant's supervision and assignments.

General issues

The appellant indicates that he is not performing at the training level as noted in his assigned "statement of difference" position description (PD) number SD 3002, but rather at the full performance level (GS-9) for his career ladder as described in PD number SD 3000. His second-level supervisor (Assistant Fire Chief-Operations) concurs. A PD is the official record of the major duties and responsibilities assigned to a position by an official with the authority to assign work. A position is the duties and responsibilities that make up the work performed by the employee. Classification appeal regulations permit OPM to investigate or audit a position and decide an appeal on the basis of the actual duties and responsibilities currently assigned by management and performed by the employee. An OPM appeal decision classifies a real operating position, and not simply a PD. This decision is based on the work currently assigned to and performed by the appellant.

As noted above, the appellant is assigned to PD number 3002, which is classified as Firefighter (Advanced Life Support), GS-081-7. The record shows that this is a "statement of difference" PD from the full performance level which is described in PD number 3000 classified as Firefighter (Paramedic), GS-081-9. The appellant's PD contains no narrative description of the duties and responsibilities assigned to his position, and simply states "Training Level." Therefore, the appellant's PD of record does not meet the standard of adequacy addressed on pages 10-11 of the *Introduction to the Position Classification Standards*, and the agency must develop a PD to describe the duties and responsibilities assigned at the GS-7 level. In doing so, the agency must correct the parenthetical title (Advanced Life Support) as it is not authorized under the general titling guidance discussed in the position classification standard (PCS) for the Fire Protection and Prevention Series, GS-0081.

The appellant makes various statements about the classification review process conducted by his agency. By law, we must classify positions solely by comparing his current duties and responsibilities to OPM position classification standards and guidelines (5 U.S.C 5106, 5107,

and 5112). In adjudicating this appeal, our only concern is to make our own independent decision on the proper classification of his position. Therefore, we have considered the appellant's statements only insofar as they are relevant to making that comparison. Because our decision sets aside any previous agency decision, the classification practices used by the appellant's agency in classifying his position are not germane to the classification appeal process.

The appellant requests that in the event OPM favorably decides his appeal, that he be retroactively compensated for lost wages. However, the U.S. Comptroller General states that an "... employee is entitled only to the salary of the position to which he is actually appointed, regardless of the duties performed. When an employee performs the duties of a higher grade level, no entitlement to the salary of the higher grade exists until such time as the individual is actually promoted." This rule was reaffirmed by the United States Supreme Court in *United States v. Testan*, 424 U.S. 392, at 406 (1976), where the Court stated that "... the federal employee is entitled to receive only the salary of the position to which he was appointed, even though he may have performed the duties of another position or claim that he should have been placed in a higher grade." Consequently, backpay is not available as a remedy for misassignments to higher level duties or improper classifications (CG decision B-232695, December 15, 1989).

The appellant mentions his personal qualifications, including acquisition of various Department of Defense (DoD) firefighter certificates. Personal qualifications are considered in classifying positions to the extent they are required to perform current duties and responsibilities of an employee's position. Therefore, we have considered the appellant's personal qualifications insofar as they are required to perform his current duties and responsibilities. To the extent that they are needed for this purpose, we have carefully considered them along with all other information furnished by the appellant and his agency.

Position information

The appellant serves as a firefighter in Station 6, [location] Metro Battalion 2, assigned to a crew engaged in shipboard and structural firefighting, rescue and hazardous materials operations, administering life support medical treatment, and assisting in reducing and/or eliminating potential fire hazards. As discussed later, the record shows that during his work shifts the appellant has been primarily assigned to provide advanced life support in emergency situations, although he may be called upon to participate in structural and shipboard fire fighting as needed.

The results of our interviews and other material of record provide more information about the appellant's duties and responsibilities, and how they are performed. Although the appellant's PD of record is incomplete, we have incorporated it by reference into this decision.

Series, title, and standard determination

The agency has classified the appellant's position in the Fire Protection and Prevention Series, GS-0081, titling it Firefighter (Advanced Life Support), GS-081-7. The appellant agrees with the series, but believes the parenthetical title should be (Paramedic). We concur with the

agency's assignment of basic title and series, but for the reasons discussed later in our grade determination, we have determined that the authorized parenthetical title is (Paramedic). As previously noted, the parenthetical title (Advanced Life Support) is not authorized by the GS-0081 standard.

Part II of the PCS for the GS-0081 series contains appropriate grade level criteria for evaluating nonsupervisory firefighter and fire protection inspector positions. Because over the past year the appellant's assignments have primarily consisted of providing emergency life support activities, we have limited our discussion below to the grading criteria that address those functions.

Firefighter positions are treated somewhat differently than other General Schedule (GS) occupations in determining their grade controlling duties. In order for higher graded work to be grade controlling in most GS positions it must be performed for at least 25 percent of the time. In contrast, an emergency work rule applies to firefighters. Because firefighters respond to emergencies, the 25 percent rule in their case does not require actual performance of the higher graded work 25 percent of the time. Rather, it requires that (1) the work be actually performed, or (2) be assigned, as on a work shift, to be performed, or (3) the firefighter be training to perform the higher level work, for a total of 25 percent or more of the firefighter's work time. Thus for firefighters, being "ready to perform" by maintaining a state of readiness as the designated employee to perform the higher graded duties is the key difference in applying the 25 percent rule for emergency work.

Grade determination

At the GS-7 level, in addition to the firefighting and first responder duties and responsibilities described at the GS-5 or GS-6 firefighter levels, the employee follows protocols in providing basic life support that include performing emergency procedures which are noninvasive, such as: performing initial and on-going focused patient assessment and physical examination; determining priority of patient care based on assessment findings; taking, recording, and monitoring patient's baseline vital signs including temperature, blood pressure, and pulse; managing respiratory and cardiac emergencies to include performing cardiopulmonary resuscitation (CPR), bag-valve-mask resuscitation, or automatic external defibrillation (AED); controlling external bleeding with direct pressure and treating shock with pneumatic anti-shock garments; assisting patients in taking emergency medications for certain complaints, e.g., Nitroglycerin tablets for chest pain, Epinephrine auto-injections for allergic reactions, or Albuterol inhalers for asthma patients, under the direction of standing orders or of a physician; assisting intermediate or paramedic life support staff and preparing appropriate and relevant patient care documentation and reports; and employing a variety of established emergency medical techniques, methods, and equipment to stabilize the patient for transport as soon as possible to the receiving facility.

In addition to the firefighter and first responder duties and responsibilities as described at the GS-5 firefighter level and the Firefighter (Basic Life Support), GS-7 level, positions at the GS-8 level follow protocols in providing intermediate or enhanced levels of life support. The GS-8 firefighter follows emergency procedures including providing advanced or detailed patient assessment by conducting a systematic evaluation of the patient's condition; conducting and

interpreting electrocardiograms (EKG); performing advanced airway techniques including the use of an esophageal or dual lumen airway device and oral intubation using laryngoscopy (utilizes pulse oximeter, capnometry, capnography, or other secondary confirmation methods to ensure correct placement of emergency advanced airway devices); starting intravenous fluids or administering some medications in accordance with established protocols; assisting paramedics in advanced life support situations; using and maintaining care of emergency equipment such as specialized kits and bags, backboards, suction devices, splints, oxygen delivery systems, and stretchers; and properly disposing of biohazard materials; and replacing medical and expendable supplies.

In addition to the firefighter and first responder duties and responsibilities described at the GS-5 firefighter level and the Firefighter (Intermediate Life Support), GS-8 level, employees at the GS-9 level operate as paramedics providing advanced life support. They follow emergency procedures including performing advanced or detailed patient assessment by conducting a systematic physical examination of the patient's condition and determining treatment methods; performing electrocardiology procedures to include taking and interpreting electrocardiograms (EKG), performing manual defibrillation, and providing transcutaneous external pacing; performing advanced and invasive airway procedures (e.g., endotracheal or nasal intubation); performing advanced assessment and treatment of the pediatric patient to include infant and neonatal resuscitation; performing emergency childbirth and care for the newborn; administering medications and solutions orally or intravenously under the direction of standing orders (protocols) or of an off-site physician; calculating patient medication doses considering such factors as potential interaction with other medications, concentration of drugs immediately available, patient weight, dose prescribed by the written protocol, and method of delivery; documenting drugs administered and providing information to the hospital or medical provider either while in transit or upon arrival; observing and documenting the effects of drugs administered; replacing used intravenous (IV) needles and solutions, linens, blankets, and other expendable supplies; and maintaining the currency, inventory, and proper control of authorized on-hand medications as dictated by the appropriate overseeing medical authority.

To determine whether the appellant met the 25 percent rule for emergency work, we reviewed his individual work shift logs for a full year's period covering July 1, 2004, through July 31, 2005. The logs indicate that he was specifically assigned to the station's ambulance to carry out advanced life support, full performance level paramedic duties on his shift for 152 (or 83.5 percent) of the 182 shifts he worked during that period. The ambulance is fully stocked with the medical equipment necessary to perform all of the intermediate and advanced life support procedures and duties listed above at the GS-8 and 9 levels. There are two shifts operating at the station, and each is required by [name] County to have at least two fully qualified paramedics on duty during a shift to respond to medical emergency calls. No "lead" or senior paramedics are designated for the shifts at Station 6, and there are no distinctions or efforts made by the appellant's supervisor to limit the types of medical emergencies that the appellant may respond to due to his lower grade level, or designate him as an "assistant" to paramedics. Rather, each assigned paramedic on a shift is required to be fully trained/certified and capable of independently performing the full scope and range of all advanced life support activities. The record shows that the appellant has met all of the agency's certification and training requirements to independently carry out basic, intermediate, and advanced life support (paramedic) firefighter

duties and responsibilities at his installation and, as evidenced by individual work shift logs, has been assigned on a regular and recurring basis to perform at the full performance level of his career ladder for the majority of his time. Such duty assignments have continued to the present. Assuming that the appellant and his co-worker assumed patient responsibility for half of their assigned shifts, the appellant's shift assignments alone would have occupied more than 40 percent of his time during this work cycle.

For the preceding reasons, we find that the appellant's duties and responsibilities meet the GS-9 level. Although we have determined that the appellant is operating at a higher grade level, this decision does not constitute a waiver of applicable time-in-grade restrictions, qualifications, or other regulatory requirements imposed by either OPM or the agency as noted on page ii of this decision. In determining whether the appellant is qualified for promotion, the agency must consider all applicable requirements.

Decision

The appellant's position is properly classified as Firefighter (Paramedic), GS-081-9.