

Position Classification Standard for Labor Management Relations Examining Series GS-0244

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SERIES DEFINITION

This series includes positions which involve the administration, supervision or performance of work in the investigation, evaluation and resolution of cases involving charges of unfair labor practices or collective-bargaining representation issues or disputes which arise under the National Labor Relations Act. Work in this series requires a knowledge of the field of labor management relations, of collective-bargaining processes, of applicable labor laws and precedent decisions, and of the regulations, policies and practices of the National Labor Relations Board. It also requires the ability to apply investigative techniques, and to negotiate constructively and persuasively.

This series excludes positions the duties of which primarily involve the mediation of labor management disputes arising out of the formulation or revision of collective-bargaining agreements; such positions are classifiable in the [Mediation Series, GS-0241](#).

EXCLUSIONS

In addition to the foregoing exclusion of positions in the Conciliation and Mediation Series, GS-0241, also excluded from this series are:

1. Positions that primarily involve serving as agency specialist or advisor on contractor industrial relations matters affecting agency procurement of materials or services.
2. Positions that primarily concern employee relations or employee-management cooperation matters between Government agencies and their own employees. (See the [Job Family Position Classification Standard for Administrative Work in the Human Resources Management Group, GS-0200](#).)
3. Positions that primarily involve wage and hour law investigative and enforcement work, or which are otherwise primarily investigative in nature. (See appropriate series in the [Investigation Group, GS-1800](#).)
4. Positions primarily involving analytical and administrative work in the drafting of interpretive regulations and the determining of minimum wages and/or exceptions thereto under provisions of Federal wage and hour laws, but which do not involve negotiating labor management disputes on these matters as collective-bargaining conditions or issues. (See the [Wage and Hour Compliance Series, GS-0249](#).)
5. Positions that require a professional knowledge of law in the performance of professional legal work involved in rendering legal opinions, in preparing cases for trial, and/or in the trial of cases, etc. (See the [General Attorney Series, GS-0905](#).)

TITLES AND COVERAGE

The authorized title for positions in this series is *Labor Management Relations Examiner*.

Supervisory positions are titled by prefixing the word "*Supervisory*" to the nonsupervisory titles.

Grade-level criteria are provided for nonsupervisory Labor Management Relations Examiner positions GS-05 through GS-13. Positions involving supervisory responsibilities can be evaluated by reference to the forthcoming [General Schedule Supervisory Guide](#).

EXPLANATORY STATEMENT

Labor management relations examiners are chiefly concerned with the examination and resolution of: (a) Specific charges of unfair labor practices filed against either an employer, a union, or both, or their agents, alleging violation of collective-bargaining and other statutory rights; and (b) petitions to certify or decertify employee representatives for collective bargaining with employers in enterprises affecting commerce (in all industries except those specifically excluded by statute). These latter are referred to as representation cases.

Labor management relations examiners work within a specific statutory framework, namely the National Labor Relations Act, as amended. The work occurs in the National Labor Relations Board (NLRB), which was established by Congress as the sole agency responsible for protecting the rights prescribed by the Act -- rights of employees, employers, labor organizations, and the public as well -- and for remedying unfair labor practices.

The objective of the Act is to avoid or substantially minimize industrial strife and protect the public health, safety and interest; its purpose, to state the legally recognized rights of employees, employers, and labor unions in their relations with one another and with the public and to provide machinery to prevent or remedy any interference by one with the legitimate rights of another. In particular, it protects employees in the free exercise of their rights to join or not to join a union, to bargain collectively through representatives of their own choosing, and to act together with other employees for mutual aid and protection. Any violation of these rights, whether by management or by labor representatives, is declared by the Act to be an unfair labor practice. The Act does not cover all possible grievances that may arise out of an employment relationship, but only those having to do with union activity or other group action by employees looking to mutual aid and protection.

The Act grants the NLRB broad powers over all enterprises the operations of which affect commerce. Except for certain industries excluded by statute, the Board's jurisdiction is considered to extend to all but purely local businesses, whether affecting trade, traffic, transportation, or communication.

The basic business of this Agency is carried on by its Regional Offices, where the examiner positions described in this standard are typically located. It is in these offices that all petitions

and charges are filed initially, and there that the great majority of all cases reach final disposition.

Labor management relations examiners in the Regional Offices investigate and analyze the facts in the cases assigned to them, evaluate the merits of each case, determine possible remedies within the regulatory boundaries, and then negotiate informally or formally with respondents in efforts to obtain voluntary withdrawal or settlement agreements, as appropriate. They recommend formal action where settlement has not been obtained, or dismissal of those cases found to be without merit where there was no voluntary withdrawal. They also serve as hearing officers in disputed representation proceedings, and arrange and conduct the elections held to determine the employees' free choice as to their collective-bargaining representative.

In each of the cases assigned to them, the examiners are expected to seek a fair, impartial and speedy resolution which, to the greatest extent possible and consistent with the intent of law, will both promote harmonious industrial relations and avoid costly, time-consuming litigation. Thus, in the case of a violation, for example, examiners may offer a solution which provides a substantial remedy mutually acceptable to the parties involved, and which can be achieved in substantially less time than it would take to litigate the case before the Board or the courts. To this end, examiners seek wherever possible to obtain voluntary settlements in unfair labor practice cases and consent agreements in representation cases; or they seek voluntary withdrawal in cases found to be without merit.

The principal functions of labor management relations examiners involve the following:

- A. *Case processing* -- This is the examiners' basic work, consisting of the following phases in the carrying through of a case assignment:
1. **Investigating**, which serves as the primary basis for evaluating the merits of a case and determining appropriate action. Because of its fundamental importance to the eventual determination of appropriate action, this phase of the work usually involves a substantial amount of time spent by the examiner in the development and thorough establishment of the facts of the case.

Investigation involves: (a) Analysis of the assigned case to determine its legal sufficiency and timeliness, as reflected by the facts on the charge or petition and the supporting evidence, including the review of previous case files or records, if any, to ascertain pertinent information; (b) interview of witnesses of the charging party or of the petitioner as to their knowledge of the allegations, the following up of leads revealed by them, including persons who may be hostile, unfriendly, or uninterested, taking affidavits, if necessary and possible, and securing new or amended charges or petitions as may be necessary; (c) conferring with the respondents and/ or his representatives or counsels to ascertain the respondents' positions and version of the facts, taking affidavits from the respondents and his witnesses; and (d) selecting for examination and analysis respondent's pertinent records, such as job descriptions, payrolls, collective-bargaining agreements, grievance reports, correspondence, etc.

2. **Determining an appropriate course of action** -- This requires that (a) the examiners evaluate the merits of the case (by analyzing the investigatory findings, weighing conflicting testimony, determining the credibility of witnesses, researching and determining the applicability of the Act and of policies and decisions of the Board and/or the Courts); and (b) the examiner consider the possible effects on industry, labor and the public of various courses of action which might be taken. They seek to determine the most appropriate course, i.e., one which will be consistent with established Board policies and in the public interest. Determination of an appropriate course of action may result in any of the following:
- a. *Withdrawal* -- This involves making recommendations to and negotiating with the petitioner or the charging party that the petition or charge be withdrawn in those cases which are found to be without merit or which do not meet the requirements of law, or of established Board policy and/or Board or court procedure, or in those cases where further proceeding would not effectuate the purpose of the Act. (Withdrawals may be solicited for a wide variety of causes; e.g., lack of Board jurisdiction, a written contract precluding further investigation at that time, inappropriateness of the unit, lack of evidence, etc.)
 - b. *Agreement* -- In unfair labor practice cases found to have merit, agreement action involves negotiating with and persuading the respondent(s) to enter into an informal or formal settlement agreement, and includes working out the terms of the settlement and drafting of the agreement by the examiner. Settlement agreements provide for cessation of the unfair practice(s), and formal settlements provide for entry of a Board Order or a Board Order and Consent Decree which would provide prompt remedy for the unfair labor practice(s) committed. For example, in a case where employees were discriminated against because of union membership, the respondent would be required to cease this specific practice as a violation of the Act and to post and/or publish notice(s) thereof, and to "make whole" the employees who have been discriminated against. "Making whole" usually involves the reinstatement of illegally discharged employees, with provision for interim backpay. In working out the settlement, the examiner develops feasible and equitable terms for "making whole." Reinstatement is often complicated by technological changes and by expanded or curtailed operations of employers, as well as by geographical moves of facilities which may have eliminated or changed former positions. Such situations require analysis by the examiner of the employer's current operations to determine positions to which the employees who have been discriminated against may properly be offered reinstatement. Backpay involves consideration of any interim earnings by these former employees, willful idleness, extended sickness, etc., in order to determine a just amount of award.

In representation cases found to have merit, agreement action involves negotiating election agreements between the employer and the individual or labor organization, or between labor organizations, claiming to represent the employees. Such elections are conducted by the NLRB to permit the employees involved to select, free from pressure and by secret ballot, the bargaining agent, if any, which they desire. Agreements necessarily must provide for and resolve questions as to the composition of the appropriate unit for collective-bargaining purposes, the payroll eligibility period, the eligibility of various categories of workers to vote for a representative for their respective units, etc., in accordance with established Board policy and procedure. These issues are of particular importance in representation cases, and require the application to the particular case of established Board precedents and up-to-date knowledge of the organization. For example: The decision as to the appropriateness of the bargaining unit (i.e., which categories of jobs are to be included or excluded) requires a knowledge of industrial practices and organizational patterns of the industry involved, including knowledge of recent changes therein resulting from technological or other developments. Determining which categories of employees may properly be included or excluded is prerequisite to determining the appropriateness of a unit for collective-bargaining purposes; before such a determination can be made it may necessitate job analyses by the examiner to establish the actual categories of employees. Determinations on what constitutes the payroll eligibility period, which is essential to establishing the eligibility of employees to vote, require ability to understand the particular business production capacity or operations, as employment may fluctuate with seasonal or workload peaks. In particular, in strike situations, or in cases of an expanding or contracting unit, determination of the proper payroll eligibility period is of vital importance, as it may go to the very core of the differences between the contending parties.

- c. *Other* -- In cases not disposed of by either withdrawal or agreement, subsequent action may include recommendation by the examiner for (a) dismissal by the Regional [Director](#)¹; or (b) issuance of a Notice of Hearing in representation cases (see following paragraph); or (c) issuance of a Complaint in unfair labor practice cases, for referral for hearings and trial by the Board. Each such recommendation by the examiner must be supported fully with detailed description of the facts and analysis of the law and policy involved.

- B. *Hearing Officer responsibilities* -- When a Notice of Hearing is issued in a disputed representation case, examiners may be assigned to conduct the formal public hearing, the sole purpose of which is to develop a full and complete record of the pertinent facts so that a decision may eventually be made by the Regional Director or the Board as to whether an election should be directed. Thus, when serving as hearing officers,

examiners maintain a neutral position in developing pertinent facts and issues. This includes the introduction of formal papers and other documentary evidence, questioning, examining and cross-examining witnesses, calling for stipulation of facts, calling additional witnesses and issuing subpoenas where necessary. The record must include facts regarding the composition of the bargaining unit, the various categories of workers, the payroll eligibility period, the terms of the existing contract, etc. This requires the examiners to have sufficient knowledge of the various occupational fields and industrial and business practices involved to insure their ability to pursue and obtain all the information needed for the eventual formulation of a decision. They have the authority, and are required, to rule on motions of all kinds, on admissibility of evidence, petitions to intervene, and requests for postponements or recesses, and to issue subpoenas to testify and obtain materials on their own motion or at request of the parties, and to revoke subpoenas. At the conclusion of the hearing they prepare a hearing officer's report, which contains no recommendations but presents an analysis of the facts involved in the case, the issues presented, the pertinent evidence on the issues, and a brief statement of all unusual or important procedural questions. This report is a confidential document for use of NLRB officials only and does not become part of the formal or public papers.

Examiners may also be assigned to conduct formal public hearings in cases of challenged ballots and/or objections to elections. During these hearings they not only exercise the same hearing officer authority as outlined above, but have added responsibility for making recommendations as to disposition of the issues. ([See D, Post-election functions, below.](#))

- C. *Arranging and conducting elections* -- Upon assignment, examiners arrange and conduct various types of elections for collective-bargaining representatives. Elections are held by secret ballot of eligible voters (who may be as few as 2 or as many as 100,000), to determine whom they desire to represent them. Examiners arrange the conferences in which the parties check the list of voters, attempt to resolve any questions about eligibility, and to agree, if possible, on all details of the election. They make the necessary arrangements and decisions, such as setting the time and place, hiring local personnel as may be needed to assist in conducting the elections, arranging for and instructing observers from all parties, etc. Conduct of the election includes such functions as directing the polling, resolving problems and incidents which may occur at the polls and during the count, ruling on the validity of the ballots cast, and preparing certification of conduct of election and of tally of ballots.
- D. *Post-election functions* -- This involves investigating (1) challenged ballots, and/or (2) objections to an election or to the conduct of an election, either of which can affect the outcome of an election and result in its being set aside. Investigations involve interviewing the parties and witnesses, taking affidavits, examining records, etc., to determine the merits in each challenge or objection, and may include the conduct of a hearing if so directed by the Regional Director or the Board.

Examiners endeavor to secure agreement as to the disposition of challenges (i.e., whether they should be opened and counted, or sustained in the form of a stipulation). In cases

where an objection is concluded to be lacking in merit, the examiner seeks withdrawal or, if the objection is merited, endeavors to persuade the parties to stipulate that the election be set aside and a new one conducted. In cases where agreement is not reached, the examiners draft decisions or reports for issuance by the Regional Director to the parties, that dispose of the objections by either overruling them or setting the election aside and ordering a new one; in certain cases, this may be appealed to the Board.

If the investigation had included a hearing, as ordered by the Regional Director or the Board, the examiners' hearing report is directly served upon the parties. It contains resolutions of credibility, conclusions, and recommendations for disposition of the issues.

This report is appealable to the Regional Director or the Board, as appropriate. If no exception is taken by the parties, the examiners' recommendations are then issued as the final NLRB decision.

- E. *Compliance* -- While the above-cited functions are typically performed regularly or from time to time by trained examiners, some examiner positions may involve a specialized responsibility for compliance. Normally, in voluntary settlements in unfair labor practice cases, examiners are expected to follow through on their own cases to insure that the respondent complies with the settlement they agreed upon. However, compliance work necessarily becomes a specialized area of examining, rather than a final step in the case processing, when it involves follow-up after an official Board or court order to comply has been decreed, typically as the result of a "Complaint" issuance, i.e., where voluntary settlement was not obtained. The fact that these cases had been contested to such a point is usually an indicator of the very bitter and hostile atmosphere in which the examiners must carry through their compliance work. Under such circumstances, the examiners must win the cooperation of the parties. Thus, they are obliged to reconcile the divergent views of these contesting parties and promote more harmonious labor management relations between them. The compliance examiners are also required to determine the terms and conditions necessary to comply with a very generally worded order (e.g., "Make employee whole"). This requires analysis of the case to ascertain the specific action necessary to satisfy the general order and to remedy the violations which have been committed.

Compliance work involves conferring and corresponding with the respondents, complainants, and others to explain the provisions of the order, to obtain information and materials pertinent to the remedy (which may be, for example, reinstatement of former employees, awards of backpay, deletion of unlawful contract provisions, etc.), and to ascertain the sufficiency of action taken or proposed by the respondent. It involves making determinations on just what kind of action may feasibly be taken to equitably effect the order or decree. It may require analysis of the respondents' books and production records, their plant operations, etc. to ascertain the validity of proposals (e.g., backpay awards involving payment of less than the full amount to which the employees discriminated against may be entitled), and to recommend to the complainant acceptance or rejection of such offers. If deemed requisite, the examiners may recommend further legal procedures to enforce effective and proper compliance, such as institution of contempt proceedings in the courts.

CLASSIFICATION FACTORS

The factors which differentiate grade levels of labor management relations examiner positions are: (1) the difficulty and complexity of assignments; (2) the judgment required to be exercised; (3) the supervisory controls over the work; and (4) the skills, knowledges and abilities required to perform the work. The following explains the particular elements to be considered under these factors:

1. *Difficulty and complexity of assignments* -- This factor considers the extent to which various elements of difficulty and complexity are typically reflected in the overall character of an examiner's total caseload, and includes the elements of:

a. **Complexity of the issues and remedies** -- This considers such aspects as the relative simplicity or complexity of the issue involved, whether more than one issue is involved, whether the case may be readily remedied, etc. Cases may range from those marked by the clarity of the allegation and the simplicity of an obvious remedy, to cases where the allegations are highly complicated and involve manifold issues; or from those cases for which there are clear precedents, to cases where existing pertinent court decisions are in conflict.

Compared with the average representation case, the average unfair labor practice case typically presents more difficult investigative, negotiating and remedial problems. This is because unfair labor practice cases imply an adversary proceeding and tend, more frequently, to involve less clear-cut issues, with problems of determining motives.

b. **Impact** -- This takes into account the typical scope of the cases assigned (i.e., whether they have local or industrywide effect, and the extent to which they concern the national welfare), their ramifications, and the impact of the disputes and effect of the remedies on industry, labor, or the public. For example, in recommending solutions which will provide just and equitable remedies, examiners must consider not only the economic loss that may result to employees who have been discriminated against either in their compensation or in the tenure of their employment, but they must also consider the financial damage to business resulting from picketing or from secondary boycotts. In addition, they must consider the impact of unfair labor practices upon the general public in the loss of utilities, services, production, etc., and, in some cases, upon the national defense program where such disputes may result in work stoppages in those plants or enterprises engaged in production or service activities for military needs. The broader the scope of the cases assigned and the more serious and widespread their potential impact, the broader are the corresponding considerations (for example, economic loss to employers, employees and the public) which the examiners must evaluate in determining satisfactory solutions for their cases.

- c. **Climate in which cases are handled** -- This considers environmental situations which may compound the difficulty of cases, such as the hostility of the parties involved, the pressures exerted by the parties or by public and private interests, or the reluctance of witnesses to testify for fear of reprisals. Cases may involve parties who are quite cooperative; or they may be carried through in a highly charged and volatile atmosphere, where either or both of the parties are bitterly antagonistic toward the Board or have a long history of controversy and labor troubles. Additional trying circumstances may result from pressures, exerted by either management or labor to further its causes, which affect not only the parties directly involved but also other parties including the public (as in threats of a secondary boycott by labor or of the closing down of a plant by management); pressures may be further exerted by public and private interests in a labor dispute through the use of such media as paid advertising, press, radio, TV, and by similar means.
 - d. **Variety of caseload** -- This considers the typical range of the total caseload in terms of variety of business and industrial enterprises involved in the various cases assigned, the different locales covered, and/or variety of types of issues involved.
2. *Judgment required* -- Characteristically, NLRB examining work is governed by many specific procedural, policy and legal guides, in the form of published Board manuals, rules and regulations, precedent decisions by the Board, the General Counsel and the Courts (District Courts, U.S. Courts of Appeals and U.S. Supreme Court), and by pertinent Federal and State labor laws. This "judgment required" factor is concerned with the need for judgment beyond the clear aid furnished by existing guides. It considers the extent to which the difficulty of the assignments requires the exercise of analytical ability, resourcefulness, and imagination in order to penetrate below the surface of factual data to obtain concealed facts and to ascertain motives, to interpret and apply precedent decisions, to weigh alternatives, and to figure out solutions and compromises, etc. It also takes into account the extent to which the need for expert knowledges and on-the-spot judgments are required of the examiner in order to make, independently and promptly, such decisions as may be needed in carrying out negotiations in a priority case or in making rulings in the course of conducting representation hearings.
3. *Supervisory controls over the work* -- The grade-level criteria specifically reflect the extent and nature of supervisory controls over the work. Particular attention should be given to differences in the decree of negotiating authority vested in positions at the different grade levels, as reflected in the grade-level criteria.
4. *Skills, knowledges and abilities required to perform the work* -- Labor management relations examiners must be able to utilize investigative techniques in obtaining evidence and factual data in cases in dispute, and must be able to obtain

understanding of the real motives involved; they must be able to develop the issues of fact and law involved in the cases assigned them, and to evaluate the merits of the cases and draw conclusions, without bias or favor to either party, from all the facts, the testimony of interested or uninterested witnesses, and from accounting, production and other business records; and they must be able to deal tactfully, impartially, objectively and effectively with parties holding widely divergent views.

In combination with these abilities, labor management relations examiners must also have background familiarity with the history of industrialization and of the labor movement, with present-day economic, industrial and labor trends and with current happenings and problems in the labor relations field. They must understand the principles, procedures and practices of collective bargaining, and the structure, functions, policies, and practices of management and labor organizations. They must know the Federal and State laws governing collective bargaining, wages, hours, etc., and, in particular, the National Labor Relations Act. They also need a working knowledge of how to examine books, production records, and cost statements in order to obtain pertinent financial and related business data; and of how to analyze jobs and to study staffing and organizational patterns in order to be able to make determinations involving job classifications, composition of bargaining units, etc. They particularly need up-to-date knowledge of the effects of changes introduced into a business enterprise through automation or other technological developments. Examiners must be able to assimilate such information in each of the cases assigned, in order to correlate it with the issues involved, use in drawing conclusions regarding the facts of the case, and work out ways and means of satisfactorily remedying the labor-management dispute.

These qualification requirements are reflected in the discussion of the other classification criteria in the grade-level descriptions.

GRADE LEVEL CRITERIA

LABOR MANAGEMENT RELATIONS EXAMINER, GS-0244-05

This is a trainee level. Incumbents typically receive formal instruction and on-the-job training assignments which involve routine phases of cases under very close supervision.

Work assignments are designed to provide incumbents with actual experience and acquaint them with all phases of examining work. These assignments typically include the least difficult, routine tasks such as: Interviewing witnesses in relatively clear-cut cases (e.g., a simple discharge case with no special background complications), preparing affidavits as to their testimony, and drafting a report of the investigation; drafting election agreements in representation cases where all conditions are clearly agreed upon by the parties, based on precedents pertinent to the industry; assisting in the conduct of elections by processing challenged ballots, checking on the eligibility of voters, etc.; on specific instructions as to the

kind of information needed, excerpting data from respondent's books, production records, and cost statements. Incumbent prepares reports on their findings, as necessary.

On-the-spot supervisory guidance is provided as necessary to expedite work. All of the incumbents' work is closely supervised and carefully reviewed, and is discussed with them. The accuracy and adequacy of their factfindings are checked, and further research, investigation and/or revision are directed as may be necessary.

LABOR MANAGEMENT RELATIONS EXAMINER, GS-0244-07

Assignments at this level are frequently more complex than GS-05 assignments, in which case the GS-07 examiners carry them out under close supervisory guidance. In other cases, assignments at this level are the same kind as those at GS-05, in which case the incumbents carry them out more independently.

The GS-07 examiners typically serve as subordinate members of an investigating team. This involves performing, with a reasonable degree of independence, the simplest assignments, such as interviewing cooperative witnesses and preparing affidavits of their testimony or checking ballots in consent elections. It also includes performing assignments geared toward ensuring their progressive development as an examiners. The assignments are, therefore, selected to include duties that are of a somewhat more difficult or complex nature because they may involve less clear-cut situations and require more probing analysis or consideration of related factors. Such duties may involve the investigation of challenged ballots; the preliminary analysis of selected portions of respondent's books, production records and cost statements; and the preliminary drafting of agreements of voluntary resolution of unfair labor practices, based on participation as an observer during negotiations.

While the simpler, more routine aspects of the incumbents' assignments are expected to be carried out without the very close supervision characteristic of the GS-05 level, close guidance is given to the nonroutine aspects, with on-the-spot guidance provided as necessary to expedite the work. As at the GS-05 level, all completed work is closely and carefully reviewed to insure accuracy and adequacy of facts, and further research and investigation and/or revision are directed as necessary.

LABOR MANAGEMENT RELATIONS EXAMINER, GS-0244-09

This is the first level which involves responsibility for the complete process of handling cases, including negotiating. It is characterized by: (1) the assignment of representation cases of limited to moderate difficulty for complete processing, and (2) assignment of substantial portions of the less difficult unfair labor practice cases.

Representation cases

Cases in this category which are assigned for full processing by the examiners in GS-09 typically range from the relatively simple (e.g., cases where the size of the plant, the number of voters and bargaining units are limited, with no seriously contested issues involved) to cases which involve some elements of moderate difficulty (e.g., fairly complex questions concerning bargaining unit categories arise, but industry or union precedents exist to aid in their resolution).

GS-09 examiners carry their representation cases fully through all the basic phases of case processing. Typically, at this level this is characterized by: (1) the independent conduct of all the necessary investigations and analyses (as described earlier in this standard) to establish the facts and issues, including the conduct of subsequent investigations which may be directed by the supervisor; (2) the preliminary evaluation of the merits of the case and development of a recommended course of action for consultation with the supervisor prior to any negotiation action; (3) upon supervisory approval, the independent conduct of negotiations (a) with the petitioner for withdrawal (in cases found to be without merit), or (b) with the parties concerned, for agreement (in cases with merit) to have an NLRB-conducted election, and for agreement concerning establishment of the terms and conditions thereof.

Upon official approval of negotiated election agreements, examiners in GS-09 may arrange and conduct the elections.

The post-election responsibilities typical of this level include investigation of and reporting on challenged ballots and objections to conduct of the election, in situations where the issues are relatively clear and are not too controverted; these investigations deal with such questions as permissibility of traditional-type speeches by employer or union, or voter eligibility in accordance with pre-election appropriate unit agreements.

Unfair labor practice cases

The GS-09 examiners carry out assigned phases of unfair labor practice cases, as follows:

1. They independently conduct the initial investigation in less difficult unfair labor practice cases, which are carefully selected to provide basic experience in such cases. These kinds of cases are characterized by features such as the following: They usually involve parties whose previous history indicates willingness to cooperate and negotiate differences; they concern the determination of readily identifiable issues where the facts are fairly easy to establish, such as claimed discrimination because of union membership or non-membership, threats to individual employees, or violence on picket lines. The examiners make the analyses as to the facts they have obtained and as to the application of the law; they draft reports on their findings, and recommends subsequent action.
2. The GS-09 examiners assist higher grade examiners in the investigation of more complex type unfair labor practice cases, such as those involving employer assistance to, or domination of, unions; or cases of refusal to bargain in good faith. In such cases, they are given specific assignments, such as interviewing witnesses, taking their testimony and

affidavits, examining respondent's cost and production records, making job analyses, reviewing and excerpting pertinent data from collective-bargaining agreements, grievance reports, correspondence, etc. They participate as assistants and observers in negotiation conferences for effecting voluntary resolution of these cases.

Supervisory controls over the work

Assignments to the GS-09 examiners are normally made with advice as to the issues involved and the problems to be anticipated. As they become more familiar with various types of cases, they may be able to work with less supervisory guidance; but this in itself would not be a basis for a higher grade.

Incumbents exercise their own judgment as to the course of action to be taken in the discovery and development of pertinent-facts and substantiating evidence, subject to supervisory decision as to adequacy of investigation. Prior clearances are obtained before negotiations are entered into.

Results of negotiations, i.e., withdrawals and agreements, and all written analyses of recommendations for formal action, are subject to close review for accuracy and adequacy of facts presented, for adherence to established policies and precedents, and for soundness of recommendations.

LABOR MANAGEMENT RELATIONS EXAMINER, GS-0244-11

This is the first level which involves responsibility for the complete process of handling cases in both the representation and unfair labor practice categories. It is characterized by the assignment of cases of average difficulty, with authority to negotiate (a) independently in representation cases, and (b) after supervisory clearance in unfair labor practice cases.

Representation cases

The cases in this category that are assigned to the GS-11 examiners involve a degree of difficulty generally characterized by such conditions as one or more of the following:

- Cases normally involve large number of voters, several bargaining units, and large plants.

Questions of Board jurisdiction require extended and detailed investigations to establish whether the Board's standards for its own jurisdiction are met. Such investigations concern the nature of the enterprise involved, and involve determining the annual dollar volume of business, whether or not the enterprise actually does affect commerce, etc., within the meaning of the Board's [jurisdiction](#)².

- Bargaining unit issues are formally contested and usually involve one or more unions seeking representation in a variety of units. Cases frequently are concerned with unions seeking to gain representation rights for employees presently represented by other unions in existing units, and require initial interpretation and explanation of the complicated rules governing such situations.
- The "showing of interest" (i.e., indication by a certain minimum percentage of the unit's employees as to their interest and stake in the outcome of the representation petition) is formally contested by the employers or other unions, requiring extensive checking of company payrolls, attendance records, validity of signatures, etc.
- Such issues as the above are contested to the degree that usually a formal hearing is required for their resolution.

In processing representation cases, the GS-11 examiners are expected to exercise their own judgment concerning the merits of their cases. They have authority to independently enter into preliminary negotiations for voluntary action (i.e., withdrawal or agreement), provided that the action be consistent with well-established policies and procedure, and that legal issues or policy questions are referred to their superiors. In contrast to this, the GS-09 examiners are required to consult with their supervisors before entering into negotiations.

Where attempts to obtain voluntary agreement through informal negotiation have not been successful in a representation case, the GS-11 examiners recommend institution of formal proceedings (issuance of Notice of Hearing), that they may be assigned to conduct. Hearings at this level are usually restricted to cases that have somewhat limited impact. The incumbents have full responsibility for presiding over and conducting assigned public hearings, including administering oaths and affirmations, examining witnesses, receiving evidence, ruling on motions and petitions, calling for and, if necessary, issuing subpoenas for testimony and materials which will insure a complete record on which a decision by NLRB officials may be made. At the conclusion, they prepare hearing officer's reports, outlining the issues and contentions of both parties, and summarizing the evidence presented in support of the respective positions of the parties. The report is informational and is confidential, for use of NLRB officials only. They make no recommendations or decisions concerning the merits of the case.

Post-election responsibilities include investigation of and reporting on challenged ballots or objections to conduct of election, where incumbents must make determinations on such matters as borderline conduct involving, for example, hints of threats to employees or hints that benefits such as bonuses, vacations, premium pay, etc., might be withheld.

Unfair labor practice cases

The cases in this category that are assigned to GS-11 examiners involve a degree of difficulty generally characterized by such conditions as one or more of the following:

- Charges against employers or unions for refusal to bargain, which involves making determinations regarding questions of good faith.
- Charges against employers that they have interfered with employees' rights to join or refrain from joining a labor organization, or that they have exercised employment discrimination in this regard, in which there are contested issues involving complicated credibility determinations.
- Charges against a union that it caused or attempted to cause discriminatory treatment by the employer against employees because of lack of union membership, that may require investigation of possible illegal hiring hall agreements and other unlawful conditions of employment.

With regard to their processing responsibilities for unfair labor practice cases, the GS-11 examiners differ from the GS-09 examiners in that at the GS-11 level they are responsible for all phases of the complete process, with the limitation, however, that approval of the supervisor is obtained prior to entering into negotiations. In clear issue cases (i.e., those that their investigation discloses as having no merit), they are authorized independently to make preliminary recommendation to the charging party that they consider withdrawing the case; then, upon approval by the supervisor, the GS-11 examiners proceed to negotiate for such action. In cases found to have merit, they make their recommendations first to the supervisor and, upon approval, the GS-11 examiners then undertake negotiations for informal settlement or adjustment. This involves determinations such as whether certain employees are entitled to back pay, what the amounts of back pay should be, and what should be the content of notices to employees effecting remedial action.

Examiners at this level assist higher grade examiners in the investigation and negotiation for settlement of more complex unfair labor practice cases, such as those involving secondary boycotts, organizational and recognition picketing, or jurisdictional disputes. In such cases, the examiners in GS-11 independently may carry out substantial portions of the investigative interviews, and of the legal and other background researching, and may participate in the negotiations.

Supervisory controls over the work -- Assignments to examiners at this level are normally made with general instructions about any problems which may be anticipated; however, GS-11 examiners work under less supervisory guidance than at the GS-09 level, particularly with respect to representation cases. They independently determine the appropriate course of action on assigned cases, i.e., initially determining the extent of the investigation and the merits of the case; and they independently effectively time and carry out negotiations. When acting as a hearing officer, good on-the-spot judgment must be independently exercised in ruling upon questions, motions, or petitions which may be presented during the course of a hearing. Results of negotiations affecting voluntary resolutions, as well as written analyses and recommendations for formal actions are subject to review for adequacy and consistency of facts, recognition of issues involved, adherence to established policies and precedents and soundness of recommendations.

LABOR MANAGEMENT RELATIONS EXAMINER, GS-0244-12

The work of examiners in GS-12 includes responsibility for cases of substantial difficulty of all types. It differs from that at GS-11 chiefly in the increased scope, difficulty, and complexity of both the representation and unfair labor practice case assignments, and in the increased authority for negotiating independently in unfair labor practice cases. Examiners in GS-12 are also fully versed in the policies and legal aspects applicable to the more complex and difficult cases assigned at this level, so that they are able to make independent, on-the-spot decisions on difficult matters in the course of negotiations and in hearings.

Representation cases

The difficulties and complexities of the representation cases assigned the GS-12 examiners are typified by conditions such as one or more of the following:

- The dispute may have nationwide implications because of the scope of the industry involved, such as the building and construction industry or the insurance industry.
- Bargaining unit issues are complex, highly controversial and contested. They involve multiplant units, multi-employer units, and frequently units which are national in scope, involving large nationally known concerns.
- Problems involve long-standing inter-union disputes, such as craft versus industrial unions.
- There is vigorous competition for representation rights between large and prominent unions, e. g. , one union seeking to extend its representation rights to large areas which have historically been represented by another union and engaging in wholesale raiding and similar tactics to achieve this purpose.
- Such issues as the above are contested to the degree that almost always a formal hearing is required for their resolution.

Representation cases such as those cited above, which reach the stage of formal hearing and over which the GS-12 examiners may preside as hearing officer, typically involve more complicated issues than those in cases at the GS-11 level, are more lengthy and complicated, and involve the development of substantial hearing records. Such cases require the hearing officer to rule on evidentiary and procedural problems such as admissibility of evidence, hearsay testimony, introduction and analysis of documentary evidence, issuance of subpoenas, etc., under circumstances which require that they make most decisions on the spot without recessing the hearing for consultation with superiors. The hearing officers' reports on findings are, as at the GS-11 level, informational and confidential, for use only of NLRB officials in making case decisions.

The basic responsibilities involved in processing representation cases and in conducting representation hearings at this level are the same as those carried out by the examiners in GS-11, including the same authority to negotiate independently. However, at this level, the problems involved in these cases require broader understanding and knowledge about the industries involved, their organization and job structures, the labor organization and the trades, crafts, and classes involved, the labor traditions behind the immediate problems, and the legal precedents, in order to; develop the pertinent facts on which NLRB must base a decision that may have national impact on major segments of an industry.

Election responsibilities of examiners in GS-12 differ from those of examiners in GS-11 chiefly with respect to the greater scope of coverage of the cases ([see list of conditions typical of this level, above](#)), and the greater difficulty of problems presented. GS-12 examiners arrange and personally conduct or direct the conduct of large-scale and multiple elections where problems of intensive coercion and interference with expression of free choice are anticipated. The incumbents are authorized to make decisions at the election sites relative to challenged ballots as well as to possible prohibited conduct by the parties to the case, which could result in the setting aside of the election. They also may conduct formal hearings in cases of challenges and objections to the elections and exercise the same hearing officer authority as in representation cases. In addition, the incumbent makes credibility resolutions and recommendations concerning disposition of the issues which, if no objections are presented by the parties, become the final official decision handed down by NLRB.

Unfair labor practice cases

At this level these cases are very difficult, differing from those at the next lower level either because of highly complicated issues or because their impact is more serious or widespread. Typically, the difficulty and complexity of the unfair labor practice cases assigned at this level are characterized by such conditions as one or more of the following:

- Charges against labor organizations or employers, in which the issues are of such serious nature that they require priority handling over all other types of cases filed. (Such cases may, upon preliminary investigation, be deemed by the examiner to warrant Board petitioning of the courts, in accordance with provisions of the National Labor Relations Act, for immediate injunctive relief pending outcome of the case.) Of this order of seriousness are, for example, cases involving: a prohibited strike; secondary boycott; work stoppage; picketing by an uncertified labor group to obtain acceptance by employees as their bargaining representative (organizational picketing), or to obtain recognition by the employer (recognitional picketing); or an agreement between an employee and a union to stop doing business with another employer ("hot cargo" agreements).
- Union jurisdictional dispute issues, which are among the most complex arising under the law. Such cases frequently require the conduct of a formal hearing to develop the record on which the Board makes determinations of work assignments which can have national impact on major segments of the industry.

- "Featherbedding" charges involving industries of national scope.
- Charges where the issues and decisions can have wide impact on an industry (as in the insurance industry, which is nationwide in scope).

Responsibility for the processing of unfair labor practice cases by the examiners in GS-12 exceeds that of the examiners in GS-11 in that, with respect to negotiations for withdrawals, in cases found to be without merit, the examiners at this level has full authority to proceed with negotiations without prior supervisory clearance. However, with respect to settlement agreements, in cases found to have merit, prenegotiation clearance is required, as at the GS-11 level. (Prenegotiation clearance means that the incumbent recommends action to the supervisor and then, upon approval, proceeds to independently carry out their negotiations for the settlement. Formal settlement agreements involve the drafting, by the incumbents, of orders which provide for the automatic entry of court decrees, and effect the same remedies which would have been ordered as a result of Board or court litigation.) Settlements negotiated by examiners at this level, while subject to review by the supervisor and formal approval by the Regional Director, are almost always accepted and approved as negotiated.

GS-12 examiners may also be assigned complicated compliance cases (for follow-up to insure appropriate compliance with a Board or court order for remedy by the respondents in an unfair labor practice case). At this level such cases typically are marked by such complications as the following: the contesting parties are very bitter toward each other and often toward the Board, or the respondents are very devious and uncooperative in the working out of a practical remedy. For example, the cases involve collective-bargaining rights where a party refuses to bargain; or backpay claims against a union resulting from discriminatory hiring hall practices; or reinstatement and backpay cases against an employer, which are further complicated by such factors as respondent's claimed inability to pay (this may require working out compromises on back pay or bankruptcy proceedings), or strong resistance by the respondent to compliance with the Board order or court decree. (Such resistance may involve, for example, token reinstatement of employees in terms of pay but with an undesirable assignment, location, and hours of work which may represent continued discrimination violative of the Act.)

In order to win the cooperation of the contending parties in these situations, the examiners have the task of changing their attitudes and developing more harmonious relations between them. They therefore must be very skilled in diplomatically dealing with both parties; and in inspiring their confidence. By correspondence and visits with the respondents, through study of their books and plant operations, etc., they obtain their cooperation, ascertain what the situation is, advise on what the law requires and what is practicable under the circumstances. In dealing with the complainants, the examiners advise on the possibilities of what might be done and persuade them to accept the best practicable solution even though it might not be all that was demanded or expected.

Supervisory controls over the work -- Assignments at this level are normally made with a minimum of instructions. Incumbents exercise his own judgment as to the course of action needed, deciding whether withdrawal of charge or petition should be solicited, or whether settlement or adjustment should be sought, consulting their superior on policy matters and on

borderline issues as deemed necessary. They have the authority to independently negotiate, without prior supervisory clearances, for withdrawals in cases of both the representation and unfair labor practice types which are found to be without merit. Similarly, they have authority for settlements in representation cases. Recommendations for settlement in unfair labor practice cases, however, are cleared with the supervisors before incumbents may proceed to negotiate independently. Results of negotiations leading to voluntary resolutions for informal or formal settlement agreement, as well as written analyses and recommendations for formal action, are not generally subject to a detailed review as at GS-11 but, rather, are reviewed for adherence to established policies, precedents and soundness of recommendations.

LABOR MANAGEMENT RELATIONS EXAMINER, GS-0244-13

This level is characterized by assignments of a very difficult or special nature that require a high degree of expertness; may involve any area of examining work; and include responsibility for completing such cases with considerable independence and substantial negotiating authority. Incumbents may be assigned to cover a variety of types of cases, or to serve as specialists on certain difficult categories of cases (e.g., compliance cases).

Negotiation responsibility at this level differs from that of the preceding level in that the GS-12 examiners are required to obtain prenegotiation approval of the supervisor in settlement cases in the unfair labor practice category. The GS-13 examiners are given a high degree of authority for independently accepting and negotiating on the spot virtually final withdrawals and settlement agreements.

While assignments may include very difficult representation and jurisdictional dispute cases, the preponderance of the very difficult cases assigned to examiners at this level is typically in the unfair labor practice category. The cases have generally the same basic technical, legal and factual complexities as those assigned to the GS-12 examiners, but they are greatly complicated in that they involve unusually sensitive, controversial, or urgent situations or are of very serious impact, as illustrated by the following:

- Cases which involve national defense installations (missile or atomic energy plants) where a strike would seriously impair this nation's defense program. Because of their seriousness, such cases require top priority handling. This urgent need for early settlement particularly requires that the examiner be able independently to make quick, on-the-spot decisions, with no time for recourse to a supervisory official for advice. The examiners in this kind of situation, therefore, must be fully expert in the application of the Act and possess a high degree of resourcefulness in dealing with the contesting parties, so that they can move rapidly in setting up and carrying through negotiations with them toward an early and satisfactory resolution.
- Cases which are of the scope and complexity of those described at the GS-12 level, but where previous investigatory efforts and/or settlement negotiations have been unsuccessful, or where the previous labor relations history of either or both of the

parties shows extreme antagonism and lack of cooperation. Such cases call for examiners with an unusual degree of diplomacy and persuasiveness, and with a highly sensitive understanding of how to bring about resolution of issues in such charged situations.

- Representation cases where the assignment involves responsibility for arranging and conducting a broad portion of a national emergency "last offer" election. (Statutory national emergency last offer elections result from Presidential committee factfindings that certain strikes adversely affect the national health and welfare, on which basis the President may apply to the courts for an injunction. "Last offer" refers to the last opportunity given the employees to accept the employer's offer before striking.) Such situations usually involve the most charged kind of atmosphere, requiring the examiners to participate with the highest levels of all groups and parties involved, in an attempt to bring about the harmonious atmosphere necessary to the conduct of a fair election.

Cases assigned to the GS-13 examiners are frequently of such unusual magnitude that they serve as team leaders of other examiners assigned to assist in the case. In this capacity, they determine the assignments, evaluate findings, advise on questions, direct further inquiry, and coordinates all assignments toward effecting resolution of the matter.

Examiners at this level may also be assigned as the regional specialist and expert authority on compliance. GS-13 compliance officers assume responsibility for the entire compliance program of the region, with responsibility for insuring accomplishment of time targets on all compliance cases.

These cases typically involve very hostile parties, and Board or court orders which are stated in general terms (such as "make employees whole") that require further interpretation and open the way for further disagreement. They have involved heavy expenditures of time and money on litigation, the outcome of which depends, in the last analysis, on compliance action. Moreover, compliance work goes beyond objective remedies, and involves negotiation to change the attitudes, and win the cooperation of both parties so that compliance will be real, and not just pro forma. Further, compliance cases have often aroused considerable public interest, and involve the reputation of the Board.

The compliance officers at this level assumes responsibility for guiding compliance action in such a way as to not only promote better working relations between the employer and the union, and between the employers and their employees, but in their attitudes toward the Board. The effect of their work is to create a better atmosphere for resolution of future cases which may occur, and to enhance the prestige of the Board.

The incumbents are regarded as compliance experts on all kinds of cases; and for this reason they are consulted frequently by the staff on compliance problems. They also are consulted by the headquarters officials in national-level development of plans and techniques for improving compliance programs.

Supervisory controls over the work -- The GS-13 examiners are distinguished by very substantial freedom from supervisory controls. Typically, at this level, prenegotiation clearance with the supervisors are not required for either the unfair labor practice cases or representation cases. Assignments are normally made without instructions; incumbents usually function with considerable independence, exercising their own judgment in deciding the action necessary and in negotiating for voluntary settlement or withdrawal. Their work is measured, for the most part, through review of their written materials for conformity with policies and precedents and for results of their accomplishments.

ENDNOTES

¹ Such dismissal may, in the case of a petition, be appealed to the Board; or, in the case of a charge, to the General Counsel; and perhaps, in certain cases, eventually to the courts. [\(click here to return\)](#)

² Within the broad framework of the Act, the Board has established certain standards of its own regarding the extent of Board jurisdictional coverage. [\(click here to return\)](#)