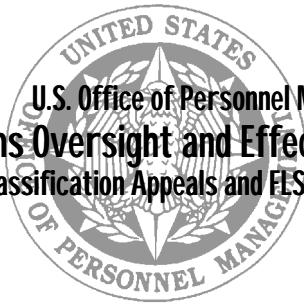


U.S. Office of Personnel Management
Office of Merit Systems Oversight and Effectiveness
Classification Appeals and ELSA Programs



Atlanta Oversight Division
75 Spring Street, SW., Suite 972
Atlanta, GA 30303-3109

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

Appellant: [Appellant]

Agency classification: District Director
GM-1801-15

Organization: Immigration and Naturalization Service
Department of Justice

OPM decision: GS-1801-15
Title at agency discretion

OPM decision number: C-1801-15-01

Kathy W. Day
Classification Appeals Officer

12/23/97

Date

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

Decision sent to:

[Appellant]

Ms. Theresa A. Singleton
Acting Chief, Classification and
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Introduction

On August 20, 1997, the Atlanta Oversight Division, Office of Personnel Management (OPM), accepted an appeal for the position of District Director, GS-1801-15, Immigration and Naturalization Service (INS), Department of Justice. The appellant is requesting that his occupational series be changed to the Criminal Investigation Series, GS-1811.

The appeal has been accepted and processed under section 5112(b) of title 5, United States Code. This is the final administrative decision on the classification of the position subject to discretionary review only under the limited conditions and time outlined in part 511, subpart F, of title 5, Code of Federal Regulations.

Background information

In 1993, OPM issued a classification certificate for the position of Deputy District Director in an INS District Office. The certificate reclassified that position from a GS-301-14 to a GS-1801-14 based on a review of the District Director position which was found to be properly classified as GS-1801-15. The agency conducted a consistency review of like positions and changed all Deputy District Director positions and District Director positions to the GS-1801 series.

General issues

The appellant requests that his position be reclassified to the GS-1811 series and that his law enforcement duties be recognized under the retirement law enforcement coverage in title 5. Under section 5112 of title 5, United States Code, the classification appeals process may only be used to determine the appropriate class and grade of a position. Since law enforcement retirement coverage is outside the classification appeals process, this decision can only address the appellant's request for a decision on the appropriate classification of his position. Questions concerning determinations of law enforcement retirement provisions must be directed to the agency.

To help decide the appeal, an Atlanta Oversight Division representative conducted a telephone audit of the appellant's position on December 8, 1997. The audit included interviews with the appellant and his immediate supervisor. In reaching our classification decision, we have carefully reviewed the audit findings and all information furnished by the appellant and his agency, including his official position description [#].

Position information

The appellant is officially assigned to a standardized position description, position number [#]. The agency, supervisor and the appellant have certified the accuracy of the position description.

The appellant is responsible for the management and supervision of the District Office Operations. He manages through subordinate supervisors a large staff engaged in the administration and

enforcement of laws, regulations, policy and procedures pertinent to: the adjudication of applications, petitions and documentation for benefits and privileges under immigration, nationality and related statutes; the investigation, apprehension and/or deterrence of aliens believed to be illegally in or attempting to illegally enter the United States and the investigation of criminal activities including fraud and smuggling; the inspection and examination of applicants/petitioners seeking benefits or privileges under immigration, naturalization and related statutes; the naturalization of lawful alien residents and/or the examination and determination of documentation for United States citizenship; the detention, deportation and/or parole of aliens under exclusion or deportation proceedings; the maintenance of files and records relating to aliens and certain classes of U. S. citizens; and the provisions of information to the public, citizens, and aliens regarding U. S. Immigration and nationality law. He exercises final authority in the granting or denial of formal applications or petitions relating to admission, exclusion, deportation, and/or citizenship as provided in Title 9 of the Code of Federal Regulations.

The appellant is responsible for the implementation and administration of personnel, budget, property management and Equal Opportunity programs and ensures these and related functions are performed within Federal and agency guidelines and procedures. He supports and implements affirmative action efforts with respect to all positions under his supervision.

The appellant collaborates with other District, Regional and Headquarters officials in the formulation and application of broad policy and procedures. He recommends changes or revisions in agency policies, realignment of manpower, and other measures to ensure maximum effectiveness and economy of operations. He recommends changes in pertinent legislation, regulations, and interpretations of policy and provides authoritative expertise in recommending changes involving enforcement of criminal provisions of U. S. law. He advises superiors on immigration issues, threats, trends, and situations which affect immigration practices domestically and abroad. He evaluates the effectiveness of District operations, determines program priorities and makes adjustments and adaptations in operations to accomplish program objectives. He ensures the most productive, efficient and effective use of human resources, money and materials, oversees the development of budget estimates and assures that funds, positions, and materials are utilized as authorized.

The appellant is the service representative for the District on all immigration matters. He develops and maintains extensive liaison with domestic and foreign government officials, U. S. agencies including intelligence organizations, the State Department, U. S. law enforcement entities, travel organizations, carriers, international organizations, and other groups. He makes presentations, answers questions posed by interested parties and the press, and obtains their cooperation in immigration matters. The appellant also has responsibility for the implementation of special programs to meet local needs within the District Office.

Standards determination

General Inspection, Investigation, and Compliance Series, GS-1801, October 1980.
Criminal Investigation Series, GS-1811, February 1972.
General Schedule Supervisory Guide, April 1993.

Series determination

The agency classified the appellant's position in the General Inspection, Investigation and Compliance Series, GS-1801. The appellant believes that the percentage of time he spends performing criminal investigations, related prosecutions and the work relationships with other Federal, State and local law enforcement entities is not recognized in his official position description and that his position should be reclassified to the GS-1811 series.

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

The appellant furnished copies of his Investigations Time Reports from January 1995 to August 1997 and Administratively Uncontrollable Overtime Reports. The reports provide the appellant's hours of work by line item but do not provide a description of the nature and extent of the appellant's work or the degree of his involvement in investigative assignments. During our interview with the appellant, he stated that he approves and authorizes initial investigations and all administrative aspects associated with the investigation and monitors the status of investigations. In this capacity, the appellant is the Investigator-in-Charge and his primary role in investigations is to approve, coordinate and direct his staff to plan and conduct all aspects of the investigation consistent with the application of methods and techniques used throughout the District. Evidence in the appeal file shows that the appellant serves as the approving official on investigative documents. However, there are GS-1811-12 investigators responsible for independently initiating, planning, and conducting comprehensive, complex criminal investigations as the assigned case agent or agent-in-charge. The appellant also furnished evidence which showed that he has designated himself as the On-Site Lead Investigator for enforcement activities. He sometimes participates in raids to arrest aliens and transports and transfers aliens from one detention center to another. He also approves, authorizes and participates in deportation operations and naturalizes immigrants.

Overall, we found that the appellant has full authority as the approving official for all technical and administrative immigration matters. However, his authority and his time is not limited to investigations and includes all enforcement, detention and deportation, examination, inspection and naturalization matters of the District operations, none of which are considered predominant. Thus, his primary duties and responsibilities do not involve planning or conducting criminal investigations requiring the full scope of investigative techniques and methods defined in the GS-1811 series and cannot appropriately be classified in that series.

The appellant's primary duties and responsibilities are management and supervision of a large staff who carry out the District's programs. The organizational chart furnished by the agency shows the appellant manages through subordinate supervisors the Management Administrative Branch, Examination Branch, Investigations Branch, and Detention and Deportation Branch, with suboffices located in [other states in the District]. He supervises and manages employees in a variety of administrative, technical, and clerical positions primarily classified in occupational series within the GS-1800, Investigation Group. For example, detention and deportation work is carried out by positions classified in the General Inspection, Investigation and Compliance Series, GS-1801. Examination work is carried out by positions classified in the Immigration Inspection Series, GS-1816. Investigation work is carried out by positions classified in the Criminal Investigation Series, GS-1811, and technical support work is carried out by positions classified in the Compliance Inspection and Support Series, GS-1802. The appellant's work requires a broad knowledge of the policies, laws, regulations, and methodology, techniques and procedures used in several of the occupational series within the GS-1800 group, none of which are predominate. This knowledge is used by the appellant to manage the technical and administrative operations of the District and to provide technical direction and supervision to subordinate employees to resolve complex technical issues and problems related to the District programs. There is no specific occupational series within the GS-1800 group that specifically covers the nature and extent or the qualification requirements of the appellant's position. The Classifiers Handbook provides classification guidance for positions involving work covered by more than one occupational series.

The General -01 series is appropriate for use when the work of a position requires knowledge and skill common to more than one occupation in the group, with no one series predominate, or when the work is not covered by any other series in the group but is closely related to the work of the group.

Within the GS-1800 group, the General Inspection, Investigation and Compliance Series, GS-1801, includes positions the primary duties of which are to administer, coordinate, supervise or perform inspectional, investigative, analytical, or advisory work to assure understanding of and compliance with Federal laws, regulations, or other mandatory guidelines when such work is not more appropriately classifiable in another series either in the Investigation Group, GS-1800, or in another occupational series. The appellant's position is properly placed in the GS-1801 series.

Title determination

The GS-1801 series does not prescribe titles. Therefore, the agency may develop a title in accordance with the titling practices outlined in the Introduction to the Position Classification Standards.

Grade determination

The appellant does not contest the grade of his position. As previously stated, the Director's position was reviewed in a 1993 OPM classification appeal decision issued for the Deputy Director's position and found to be properly graded at the GS-15 level by use of the General Schedule Supervisory Guide (GSSG). We agree with that determination, and a summary follows:

| SUMMARY | | |
|---|--------------|---------------|
| FACTOR | LEVEL | POINTS |
| 1. Program Scope and Effect | 1-3 | 550 |
| 2. Organizational Setting | 2-3 | 350 |
| 3. Supervisory and Managerial Authority Exercised | 3-4 | 900 |
| 4. Personal Contacts | | |
| A. Nature of Contacts | 4A-4 | 100 |
| B. Purpose of Contacts | 4B-4 | 125 |
| 5. Difficulty of Typical Work Directed | 5-7 | 930 |
| 6. Other Conditions | 6-6 | 1325 |
| | TOTAL | 4280 |

A total of 4280 points equates to a GS-15, 4055 points and up, according to the point-to-grade conversion chart in the GSSG.

Decision

This position is properly classified as GS-1801-15, with the title to be determined by the agency.