

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

Philadelphia Oversight Division  
600 Arch Street, Room 3400  
Philadelphia, PA 19106-1596

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

**Appellant:** [appellant's name]

**Agency classification:** Supervisory Immigration Inspector  
GS-1816-14

**Organization:** Inspections Branch  
[name] District  
[name] Region  
Immigration and Naturalization Service  
U.S. Department of Justice  
[location] Airport  
[location]

**OPM decision:** Supervisory Immigration Inspector  
GS-1816-14

**OPM decision number:** C-1816-14-01

/s/ Robert D. Hendler

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Robert D. Hendler  
Classification Appeals Officer

June 21, 2002

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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* (PCS's), appendix 4, section G (address provided in appendix 4, section H).

## **Decision sent to:**

PERSONAL

[appellant's name]

[appellant's title]

[name] Branch

[name] District

Immigration and Naturalization Service

U.S. Department of Justice

[name] Airport

[location]

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## **Introduction**

On February 27, 2002, the Philadelphia Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant's name]. His position is currently classified as Supervisory Immigration Inspector, GS-1816-14, with organizational titles of [title] and [title]. The appellant believes the classification should be Supervisory Immigration Inspector, GS-1816-15. We received the agency appeal administrative report on April 3. The position is in the [name] Branch, [name] District, [name] Region, Immigration and Naturalization Service (INS), U.S. Department of Justice, [name] Airport ([acronym]), [location]. We have accepted and decided his appeal under section 5112 of title 5, United States Code (U.S.C.).

## **General Issues**

In the February 22, 2002, appeal request submitted through the District Director, the appellant described the steps taken since 1994 to have his position upgraded. He pointed to inconsistencies in the agency's analyses of his position in 1994 and 1999. He said that his agency may be reluctant to acknowledge the important role that he plays in the development of key INS programs and policies since this could be construed as a shortcoming or failure within the Inspections Program at INS Headquarters. The appellant said that his de facto leadership role in the program should be recognized. He requested that OPM examine whether [title] positions in INS were being evaluated disparately by application of the General Schedule Supervisory Guide (GSSG) when compared to [title] positions in another agency.

By law, we must classify positions solely by comparing their current duties and responsibilities to OPM PCS's and guidelines (5 U.S.C. 5106, 5107, and 5112). Other methods or factors of evaluation are not authorized for use in determining the classification of a position, such as comparison to positions that may or may have been properly classified. Because our decision sets aside all previous agency decisions, the appellant's concerns regarding his agency's classification review process are not germane to this decision.

The appellant's rationale largely relies on the description of work in his position description (PD) of record ([number]). 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 an employee. Position classification appeal regulations permit OPM to investigate or audit a position, and decide an appeal on the basis of the actual duties and responsibilities assigned by management and performed by the employee. An OPM appeal decision grades a real operating position, and not simply the PD. Therefore, this decision is based on the actual work assigned to and performed by the appellant.

Implicit in the appellant's rationale is a concern that his position is classified inconsistently with other positions. Like OPM, the appellant's agency must classify positions based on comparison to OPM PCS's and guidelines. Section 511.612 of 5 CFR, requires that agencies review their own classification decisions for identical, similar, or related positions to insure consistency with OPM certificates. Thus, the agency has the primary responsibility for insuring that its positions are classified consistently with OPM appeal decisions. However, the appellant has cited a position in another agency and in a different occupational series. If he believes that another

agency is misapplying the GSSG, he may pursue this matter by sharing his concerns with officials in that agency's headquarters Human Resources (HR) office.

In a memorandum dated March 12, 2002, the appellant and his second level supervisor, [name], District Director, certified that the PD of record ([number]) is accurate. We conducted a telephone audit with the appellant on May 30, 2002, a telephone interview with his immediate supervisor, [name], Assistant District Director on June 7, a telephone interview with [name], Deputy Assistant Commissioner Inspections on June 11, and a telephone interview with [name], Assistant Commissioner for Inspections on June 20. We held telephone interviews on June 17 with [name], Assistant Regional Director for Inspections, and Messrs. [name] and [name], from the appellant's staff, to clarify the nature and purpose of the appellant's personal contacts. In deciding this appeal, we fully considered the audit and interview findings and all information of record furnished by the appellant and his agency, including his official PD which we incorporate by reference into this decision.

### **Position information**

The appellant manages and directs the District's Inspections Program which encompasses six geographically separate passenger inspection facilities at [acronym], a maritime unit, a deferred inspections unit, and a pre-clearance station in [location]. His staff of approximately 450 employees consists of 12 Supervisory Immigration Inspectors, GS-1816-13, 33 Supervisory Immigration Inspectors, GS-1816-12, a Computer Specialist, GS-334-12, and 102 Immigrations Inspectors, GS-1816-11. The remaining Immigration Inspectors and program support staff occupy positions classified at or below the GS-9 grade level. The [name] Branch facilitates the orderly inspection and admission of U.S. citizens and other qualified individuals to the U.S. Under the provisions of the Immigration and Nationality Act, as interpreted by title 8, CFR, INS and local policies the staff detains and, when appropriate, removes individuals who are not admissible. The branch cooperates with other Federal, State, and local law enforcement agencies in identifying and detaining criminal aliens and other individuals who are of interest to those law enforcement agencies. The functions performed include primary and secondary inspection of all persons entering the U.S. within the jurisdiction of the District.

The appellant develops District inspection policies and procedures in response to changes in laws and regulations that affect the entry of aliens into the U.S. and to the latest trends in smuggling, document fraud, and criminal alien activity. He performs a full range of supervisory and managerial responsibilities including planning, assigning and reviewing work through subordinate supervisors. The appellant exercises such HR management authorities as assuring reasonable equity among units of performance standards and rating techniques developed by subordinate supervisors for their employees; making decisions on work problems presented by subordinate supervisors; evaluating subordinate supervisors and serving as the reviewing official on evaluations of non-supervisory employees rated by subordinate supervisors; recommending selections for subordinate supervisory and work leader positions; approving expenses comparable to within-grade increases, extensive overtime, and employee travel; and recommending awards and changes in position classification for non-supervisory personnel subject to approval by higher level officials.

### **Series, title and guide determination**

The agency has classified this position in the Immigration Inspection Series, GS-1816, with the title Supervisory Immigration Inspector, and it is properly graded by application of the GSSG, with which the appellant agrees. We concur with these determinations.

### **Grade determination**

The GSSG uses a point-factor evaluation method that assesses six factors common to all supervisory positions. To grade a position, each factor is evaluated by comparing the position to the factor level definitions for that factor and crediting the points designated for the highest factor level, which is met, in accordance with the instructions specified for the factor being evaluated. The GSSG is a threshold PCS. A defined level must be fully met before it can be credited. The total points accumulated under all factors are then converted to a grade using the point to grade conversion chart in the GSSG.

The appellant believes that his position should be credited at Levels 1-4 and 4A-4, but agrees with his agency's crediting of Levels 2-3, 3-3b, 4B-3, 5-6, and 6-5c. After careful review of the record, we concur with the crediting of Levels 2-3, 3-3b, 4B-3, and 5-6 and 6-5c. Our analysis of the remaining factors follows.

#### *Factor 1, Program scope and effect*

This factor addresses the general complexity, breadth, and impact of the program areas and work directed, including the organizational and geographic coverage. It also assesses the impact of the work both within and outside the immediate organization. To credit a particular factor level, the criteria for both scope and effect must be met. The factor levels describe two situations: agency line programs, e.g., providing services to the public; and support programs, e.g., providing administrative services within an agency. The appellant's position falls under the first situation since his organization performs line INS functions.

- a. Scope-This element addresses the general complexity and breadth of (1) the program or program segment directed and (2) the work directed, the products produced, or the services delivered. The geographic and organizational coverage of the program or program segment within the agency structure is to be addressed under Scope.

In evaluating the population affected under this factor, we may only consider the total population serviced directly and significantly by a program. We cannot count the total population in the geographic area potentially covered by a program. Scope also considers how the activities directed relate to the agency's mission and to outside entities, and the complexity and intensity of the services provided.

The appellant says that Level 1-4 should be credited because his District's policies impact the development of the Inspections Program and related INS policies on a national level, and that it occupies a unique leadership role because it has developed enforcement and training initiatives that have affected all of INS. The examples he provided include (1) providing input for legislative changes for handling large numbers of aliens requesting asylum, (2) testing the INS

[name] System ([acronym]) and the electronic scheduling of exclusion hearings with the Executive Office of Immigration Review (EOIR), (3) using State and Federal law enforcement computer data bases available through [name] to identify and process criminal aliens who had not previously come to the attention of the INS, and (4) at the author's request, reviewing and editing various draft sections of the Inspector's Field Manual. Other examples include (1) starting an annual [name] Conference Program, (2) participating in the testing of a [name] pilot program to increase the likelihood that inadmissible aliens appear for Immigration Court hearings, (3) instituting a [name] Program so that airline personnel could better distinguish between legitimate and counterfeit documents prior to boarding, (4) expanding the use of I-94 departure records to identify possible patterns of reentry abuse, and (5) instituting "Operation [name]" to establish the authenticity of maritime crew letters and prevent illegal crew entry into the United States.

The appellant directs a program at the highest volume airport of entry into the U.S. Information provided by the appellant shows that during Fiscal Year (FY) 1999 more than 8.7 million passengers arriving on 48,662 flights were processed at [acronym] alone. A total of 146,446 of those passengers were referred for more intensive secondary inspection that may require investigation of possible document fraud, asylum application review and terrorist infiltration. This led to the interception of more than 5,500 inadmissible aliens. The remaining individuals were subjected only to primary inspection before being permitted to enter the U.S. This process consists of asking a few questions and conducting a brief review of admittance documents. These work statistics were consistent with small variances since FY 1999. For the most recent year (FY 2001), more than 8.6 million passengers and 621,680 crew members arrived on 48,512 flights. There were 188,350 secondary referrals, 6,798 inadmissible aliens, and 2,890 expedited removals.

FY 2000 seaport data shows that 266,742 passengers and 140,890 crew members from 1,273 vessels were inspected. This resulted in 1,900 inadmissible crew members. The Deferred Inspections Office inspected 1,949 aliens and found that 779 were inadmissible. In FY 2001, 222,617 passengers and 621,680 crew members from 1,447 vessels were inspected. This resulted in 3,191 inadmissible crew members. The Deferred Inspections Office inspected 2,256 aliens and found that 995 were inadmissible. Prior to September 2001 [name] and [name] Airport inspections were handled by cross-designated Customs Inspectors. Both airports primarily handle cargo, corporate and private aircraft. The record shows that from October 1, 2001, through May 31, 2002, [name] Airport inspected 8,113 passengers and crew members arriving on 1,399 flights and allowed 25 aliens restricted entry (parole) due to visa deficiencies. During that time frame, [name] Airport inspected 1,194 people arriving on 113 flights. No one was paroled.

At Level 1-3, the supervisor directs a program segment that performs technical, administrative, protective, investigative, or professional work. The program segment and work directed typically have coverage, which encompasses a major metropolitan area, a State, or a small region of several States; or when most of an area's taxpayers or businesses are covered, coverage comparable to a small city. Illustrative of this level is furnishing a significant portion of the agency's line program to a moderate sized client population that is equivalent to a group of citizens and/or businesses in several rural counties, a small city, or a portion of a larger metropolitan area.

As at Level 1-3, the work supervised is administrative in nature. While the geographic area covers central and lower [name] State, the preponderance of international passengers affected arrive at one major airport, with minor activities at several lesser airports/seaports under the District's jurisdiction. Primary inspection work, however, does not exceed Level 1-2 in intensity. As at Level 1-2, the District's primary inspectional functions are equivalent to that of a field office providing services to the public on a case basis, i.e., to non-citizens entering the U.S. through the ports-of-entry that the appellant supervises. Unlike the work envisioned at Level 1-3, and in contrast to the District's range of immigration functions, the appellant's routine inspection work does not entail furnishing a *significant* portion of the agency's line program. Secondary inspection, however, fully meets Level 1-3 as a direct and significant service. As at that Level 1-3, the population receiving secondary and other substantial service is equivalent to the entire population of a small city.

However, the appellant's program development and program testing functions reflect the intensity and complexity of work found at Level 1-3. The appellant's organization tests new inspection methods and techniques for potential implementation throughout INS on a regular and recurring basis, e.g., [acronym] and the electronic scheduling of exclusion hearings with EOIR. His organization regularly develops program methods that have potential INS-wide use. For example, his staff wrote a computer program that runs electronic airline manifests in batch files against the [name] system to identify criminal aliens who should be denied entry. The U.S. [agency name], which operates a computer system that permits batch file exchange with the [name] system, subsequently cut off INS access to the system. The appellant's staff developed an INS point paper justifying use of [name] as a legitimate law enforcement application based on its analysis of [name] results at [acronym]. INS Headquarters used this point paper in conjunction with additional legal analysis to justify continued [name] access. This justification was accepted by the Federal Bureau of Investigation. His staff developed the [name] Program. This was reviewed and adapted by the INS Headquarters staff which determined how to institutionalize the initiative and resource the program. The [name] Office has used the [acronym] [name] Conference template and is analyzing its implementation at several other sites. INS Headquarters is monitoring Operation [name] in the [name] District. INS Headquarters installed the program in another District that was in the process of developing a similar program and will assess its potential for implementation throughout INS. These initiatives reflect the intensity and general complexity of work described in the GSSG's illustrations for Level 1-3.

At Level 1-4, the supervisor directs a segment of a professional, highly technical, or complex administrative program which involves the development of major aspects of key agency scientific, medical, legal, administrative, regulatory, policy development or comparable, highly technical programs. Illustrative of this level is (1) directing a program segment that includes major aspects of a regulatory, social service, or major revenue producing program covering a major segment of the Nation or numerous states, or (2) directing research or other medical operating programs or program segments of national interest and standing.

Level 1-4 is not met. While program initiatives developed by the appellant have been implemented at other INS sites, they are improved methods for achieving INS program goals and policy requirements defined and controlled at INS Headquarters. While the appellant contributes to INS policy formulation, his organization is not assigned authority and responsibility for policy

development. INS policy addresses broad issues. Regional offices have authority to amplify policy and provide more detailed procedural guidance. District offices, in turn, can amplify Regional guidance and are expected to develop site specific procedures to implement policy. For example, while the [name] Program was developed by the appellant's staff, he does not have delegated authority or responsibility for determining whether it should be instituted INS-wide. National policy since September 11, 2001, requires ship musters at each port of call as a new departure control. INS inspectors board vessels prior to departure to check crew documents and to insure that aliens detained on board (denied entry into the U.S.) are present and accounted for. The appellant's organization has locally amplified the ship muster policy by inspecting all people departing on cruise ships. Therefore, this element meets Level 1-3.

- b. Effect-This element addresses the impact of programs, products, or correctly performed work both within and outside the agency.

The appellant's rationale is that Level 1-4 should be credited because his District's Inspection Program policies and initiatives have impacted INS Headquarters' operations, and have facilitated the agency's accomplishment of its primary mission.

At Level 1-3, activities, functions, or services directly and significantly affect a wide range of agency activities, the work of other agencies, the operations of outside interests, or the general public. As illustrated in the GSSG, positions at this level furnish a significant portion of the agency's line program to a moderate-sized population of clients equivalent to a group of citizens and/or businesses in several rural counties, a small city, or a portion of a larger metropolitan area. Depending on the complexity and intensity of the service, the serviced population may be concentrated in one geographic area, or involve a significant portion of a multi-state population, or be composed of a comparable group.

As at Level 1-3, the appellant's secondary inspection functions directly and significantly affect a population equivalent to the citizens of a small city. The general complexity of the day-to-day inspection work falls short of this level since it constitutes a single agency activity or program segment (immigration inspection) rather than a wide range of agency activities. However, this is offset by the appellant's program development and program testing activities. These regular and recurring functions, performed within a complex inspection environment, directly and significantly impact a wide range of agency activities, i.e., inspection program policy initiatives and meet the intent of Level 1-3.

At Level 1-4, the work impacts an agency's headquarters operations, several bureau-wide programs, or most of the agency's entire field establishment; or facilitates the agency's accomplishment of its primary mission or programs of national significance; or impacts large segments of the Nation's population or segments of one or a few large industries; or receives frequent or continuing congressional or media attention.

Level 1-4 is not met in that the work directed does not affect the agency's headquarters operations, several bureau-wide programs, or most of the agency's entire field structure. Although important to the U.S. Department of Justice's compliance and enforcement programs, the work directed does not facilitate accomplishment of the *agency's* primary mission or programs of national significance. The appellant's program is geographically limited in effect.



As discussed previously, decisions extending the appellant's program development and program testing initiatives are made at INS Headquarters. The appellant's contacts with members of congress or their staffs are to provide information and assistance relating to the community or their constituents and explain established policies and procedures, e.g., detention policies. While issues of a contentious nature arise, the appellant is authorized to respond on local policies and practices. INS public affairs policies require that national policy issues be referred to that office for response. The appellant's meetings with outside groups are primarily informational in nature, e.g., hosting a consultant team from [name] participating in post-911 studies conducted by the Office of the Inspector General, and hosting local congressional staff members to explain and respond to detention policies and procedures. Contacts with journalists are informational, although the appellant sometimes must justify or defend actions taken by the branch and explain established policies and practices. The appellant's contacts do not rise to the level contemplated at Level 1-4 where frequent attention by congressional members or their staffs relates to national concerns rather than local or regional matters, e.g., oversight hearings. Therefore, this element meets Level 1-3.

Level 1-3 is credited for both *Scope* and *Effect* (550 points).

*Subfactor 4-Nature of contacts*

At Level 4A-3, frequent contacts are comparable to any of the following:

- high ranking military or civilian managers, supervisors, and technical staff at bureau and major organization levels of the agency; with agency headquarters administrative support staff; or with comparable personnel in other Federal agencies;
- key staff of public interest groups (usually in formal briefings) with significant political influence or media coverage;
- journalists representing influential city or county newspapers or comparable radio or television coverage;
- congressional committee and subcommittee staff assistants below staff director or chief counsel levels;
- contracting officials and high level technical staff of large industrial firms; and
- local officers of regional or national trade associations, public action groups, or professional organizations; and/or State and local government managers doing business with the agency.

Contacts include those which take place in meetings and conferences and unplanned contacts for which the employee is designated as a contact point by higher management. They often require extensive preparation of briefing materials or up-to-date technical familiarity with complex subject matter.

The appellant's contacts meet Level 4A-3. As at that level, he has frequent contacts with local congressional staffs on branch practices, e.g., detention policies and practices. His quarterly meetings with the [city] Chapter of the American Immigration Lawyers Association (AILA) require extensive preparation responding to local technical issues and questions submitted by the AILA prior to the meeting. The appellant's contacts with foreign consular officials are to deal with local practices, e.g., how nationals of foreign countries are interviewed and processed at [acronym]. The appellant has regular and recurring contacts with technical staff and INS Headquarters' managers on program development issues that require substantial preparation and up-to-date technical familiarity with complex technical issues, e.g., the technical and legal issues surrounding the use of the [name] system.

At Level 4A-4 frequent contacts are comparable to any of the following:

- influential individuals or organized groups from outside the employing agency, such as executive level contracting and other officials of major defense contractors or national officers of employee organizations;
- regional or national officers or comparable representatives of trade associations, public action groups, or professional organizations of national stature;
- key staff of congressional committees, and principal assistants to senators and representatives. For example, majority and minority staff directors, chief counsels, and directors of field operations;
- elected or appointed representatives of State and local governments;
- journalists of major metropolitan, regional, or national newspapers, magazines, television, or radio media;
- SES, flag or general officer, or Executive Level heads of bureaus and higher level organizations in other Federal agencies;

Contacts may take place in meetings, conferences, briefings, speeches, presentations, or oversight hearings and may require extemporaneous response to unexpected or hostile questioning. Preparation typically includes briefing packages or similar presentation materials, requires extensive analytical input by the employee and subordinates, and/or involves the assistance of a support staff.

The appellant has contacts with national and major regional media, e.g., the [newspaper name]. However, INS policy limits them to local issues, e.g., how non-citizens are processed at [acronym] and how local staff applies INS policy. These contacts and the appellant's contacts with foreign, local and other government officials do not routinely involve the hostility or contentiousness contemplated at Level 4A-4, e.g., intensive questioning at congressional oversight hearings on issues of agency performance. The appellant's meetings with the local SES manager of another Federal agency typically involve operating issues of common concern and do not involve the contentiousness and other characteristics of this level described in the GSSG. Some of the appellant's meetings require the extensive preparation found at this level.

However, this preparation is not for the purposes envisioned at Level 4A-4, e.g., congressional oversight hearings or major policy speeches before regional and national groups. Because Level 4A-4 is not fully met, this subfactor must be credited at Level 4A-3 (75 points).

### *Summary*

In summary we have evaluated the appellant's position as follows:

Factors	Level	Points
1. Program Scope and Effect	1-3	550
2. Organizational Setting	2-3	350
3. Supervisory/Managerial Authority	3-3b	775
4. Personal Contacts		
4A. Nature of Contacts	4A-3	75
4B. Purpose of Contacts	4B-3	100
5. Difficulty of Work Directed	5-6	800
6. Other Conditions	6-5c	<u>1,275</u>
Total		3,925 points

The 3,925 total points fall within the GS-14 range of 3,605-4,050 points on the Point-to-Grade conversation chart in the GSSG. Therefore, the final grade for the appellant's position is GS-14.

### **Decision**

The appellant's position is properly classified as Supervisory Immigration Inspector, GS-1816-14.