

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

Dallas Field Services Group
Plaza of the Americas, North Tower
700 North Pearl Street, Suite 525
Dallas, TX 75201

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

Appellant: [appellant]

Agency classification: Teacher (Substance Abuse)
GS-1710-9

Organization: [facility name]
[organization]
Indian Health Service
Department of Health and Human
Services
[city and state]

OPM decision: Teacher, GS-1710-9
(parenthetical title at agency discretion)

OPM decision number: C-1710-09-01

Marta Brito Pérez
Associate Director
Human Capitol Leadership
and Merit System Accountability

December 17, 2004

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's name and address]

Associate Director
Office of Human Resources
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Director
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Introduction

The Dallas Field Services Group of the U.S. Office of Personnel Management (OPM), accepted a classification appeal from [appellant] on June 12, 2003. The position is classified as Teacher (Substance Abuse), GS-1710-9, and is assigned to the [facility name], of the [organization] Office, Indian Health Service, U.S. Department of Health and Human Services located in [city and state]. The appellant believes the position should be classified as a Teacher (Special Education), GS-1710-11. We have accepted and decided this appeal under section 5112 of title 5, United States Code

Background

The initial administrative report received from the agency on July 25, 2003 was incomplete. On July 30, 2003, OPM asked the agency to provide clarifying information. The agency began to revise the appellant's position description (PD) but discontinued the process after learning of his intent to retire. On his decision not to retire, the agency proceeded to revise, evaluate, and assign the appellant to the new PD (PD number [number]) to which he was assigned August 22, 2004. We received the agency's complete administrative report on September 3, 2004. To help decide the appeal, we conducted telephone interviews with the appellant on September 28, 2004, and with the appellant's supervisor on September 30, 2004.

The appellant, in part, bases his appeal on provisions described in the Indian Health Manual, chapter 18, dated May 22, 1991, issued by the Department to provide agency-wide guidance on its Alcoholism and Substance Abuse Program. Included in this manual are descriptions of the roles, functions, and responsibilities of the agency's program, including youth treatment centers. The manual describes the qualifications and functional roles for counselors, nurses, intake specialists, family therapists, recreation therapists, after-care specialists, education specialists, etc., participating in the treatment process. According to this guidance, the role of the education specialist is to act as liaison between the youth's home school, teachers at the treatment center, and the youth, assessing educational needs and making individualized educational plans. According to the appellant, the Center had both a GS-9 teacher and a GS-11 education specialist position prior to the time he was hired. As the only employee assigned to the education function, the appellant believes he has been performing the duties of both positions. The Manual guidance, however, does not define a position description, i.e., a set of duties and responsibilities assigned by management to be performed by an employee. By law, we must classify positions solely by comparing their duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Therefore, we have considered these various documents only insofar as they were are relevant to making that comparison.

General issues

The appellant believes he should receive GS-11, step 10, retroactive pay for overseeing the Center's education program. The U.S. Comptroller General states that an "employee is entitled only to the salary of the position to which he or she is actually appointed, regardless of the duties performed. When an employee performs the duties of a higher grade level, no entitlement to the salary of the higher grade exists until such time as the individual is actually promoted.

Consequently, backpay is not available as a remedy for misassignments to higher level duties or improper classifications.” (CG decision B-232695, December 15, 1989)

The appellant also compares his duties and responsibilities to those of a principal at schools operated by the Department of Interior Job Corps Centers and Bureau of Indian Affairs schools. Again, by law, we must classify positions solely by comparing their duties and responsibilities to OPM standards and guidelines. Since such comparison is the exclusive method for classifying positions, we cannot compare the appellant’s position to others as a basis for deciding his appeal.

Position information

The mission of the [Center] is to provide Native American youth culturally relevant behavioral health treatment to intervene in additive lifestyles. The [Center] offers bio-psychosocial treatment for youths between the ages of 12 and 18 and serves members of tribes within both the IHS [two cities] areas. It accommodates 24 residents and provides assessments in the areas of chemical dependency, emotional behavior, spiritual/traditional, psychiatric, psychological, nursing, vocational training, education, recreation, and nutrition. The average residential stay is 90 days. Clients are referred by mental health professionals, tribal programs, and detention centers. The Center’s programs focus on four areas: mental health support, education, culture, and recreation, and has 24-hour nursing available. The appellant’s position is one of 22 assigned to the clinical program area that includes medical occupations such as a social worker, a psychologist, nurses, counselors and aides, and a recreation specialist. He serves as the sole teacher at the [Center] facility and is supervised by the Regional Treatment Center (RTC) Director. The education program at the facility is not an accredited educational program and does not have a special education program.

The primary purpose of the appellant’s position is to provide educational services. While the class size may vary, the appellant is presently teaching 19 students. The course materials include the subjects of reading, mathematics, and communication skills, i.e., spelling, vocabulary, and written expression, at the elementary and secondary levels. The majority of students have multiple educational difficulties associated with chemical dependency and other related issues. This requires organization, illustration, and interpretation of the course materials in order to assist students. The work requires knowledge of chemical dependency and its effect on adolescents and their families. The major duties include: functioning as a member of the multi-disciplinary treatment team that provides and discusses educational needs assessments and progress; developing classroom curriculum and individualized lesson plans for [Center] students; administering classroom tests, including written and skills performance; recording the student’s progress on a chart using the notation and format designated in the [Center’s] policies and procedures, ensuring entries are made upon completion of assessment and implementation of the treatment plan, noting student’s progress regarding objectives and goals, and changes in a student’s condition, after any significant therapeutic sessions; and providing a report of each student’s accomplished school work to the counselor, guardian, or local school officials for after-care placement

The appellant’s supervisor has certified that the PD is complete and accurate while the appellant does not agree with the agency’s evaluation. In deciding this appeal, we have carefully reviewed all information furnished by the appellant and his agency, including the revised PD. We find the

PD contains the major duties and responsibilities assigned to and performed by the appellant and we have hereby incorporated it by reference into this decision.

Series, title, and standard determination

The Education and Vocational Training Series, GS-1710, covers positions that require applying full professional knowledge of the theories, principles, and techniques of education and training, to instructional and educational administration work in education programs operated by Federal agencies. This series covers positions that involve direct delivery of instruction or training services of a professional nature. It covers classroom teachers, supervisors, and managers in government-operated schools at the elementary and secondary levels. The agency has classified the position to the Education and Vocational Training Series, GS-1710, and titled it Teacher (Substance Abuse). The appellant agrees with the agency's title and series determination, but does not agree with the parenthetical title. The titling instructions contained in the standard provide that agencies may supplement official titles with parenthetical designators to further define duties reflecting special requirements. Such a designation is at the agency's discretion. We find the position is properly classified in the GS-1710 series and titled Teacher.

Grade determination

The instructions in the GS-1710 series state that non-supervisory positions may be evaluated by reference to the Grade Level Guide for Instructional Work. The Guide has grade level criteria divided into two parts: Part I for instructor work and Part II for instructional specialist work.

Part I covers instructor work involving the following types of activities: (1) Preparing daily work plans based on general course outlines and established learning objectives. Plans cover instructional methods and techniques, training materials and aids, time schedules, etc. (2) Training in traditional classroom situations or in self-paced learning programs where the instructor guides students in the use of special learning techniques. (3) Evaluating the progress of students and advising and assisting them to improve their performance.

Part II covers instructional specialist work such as: (1) Ascertaining needs for training and education, usually through surveys or job analysis. (2) Determining the objectives and scope of courses, the subject to be covered, and the criteria for evaluation. (3) Developing, revising, or adapting courses and instructional materials and guides. (4) Evaluating education and training programs and recommending needed changes and improvements.

Like work described in Part I, the appellant's work includes preparing daily work plans, training using traditional and self-paced learning programs, and evaluating the progress of students. The position does not require the broader scope of ascertaining training needs, development of courses, and evaluating programs typical of Part II. Part I is used to evaluate the position.

The following is our evaluation of the position in terms of the criteria of the two factors, Nature of Assignment and Level of Responsibility.

Factor 1, Nature of Assignment

This factor encompasses such aspects as the knowledge, skill, and ability required to perform the work and the complexity and difficulty of the duties and responsibilities assigned.

At the GS-9 level, the courses cover a wide variety of topics in well-established areas of a subject-matter field. They include courses taught by a technical service school in the fundamentals and skills of a technical occupation; courses taught at the secondary level through basic undergraduate levels; or all subjects taught at an elementary school level. Instructors require thorough familiarity with the assigned subject-matter area and use a wide range of teaching methods or tools depending on the students' learning requirements. They are usually well structured and have ample training materials. The courses generally involve instructional problems that require organization, illustration, and interpretation of course material in order to reach and motivate students who may pose typical problems of communication and motivation, for example, diverse ages, backgrounds, and levels of interest in the course. The GS-9 instructors need to give concrete expression to the abstract principles and concepts taught at this level. They make recommendations for changes that involve substantive rather than procedural matters. Obtaining and adapting current instructional material is typical of this level.

At the GS-11 level, the courses cover advanced technical systems or subject-matter areas comparable to the upper-division undergraduate level. These courses are not in standardized or pre-structured form, and they typically have source material problems (for example, source materials may be excessively numerous, may be difficult to locate, or may be difficult to adapt). Instructors at the GS-11 level are responsible for overall maintenance of their assigned courses and determine the need for and initiate changes or updates in course content. The instructors participate substantially in course development or modification. Instructors at this level frequently demonstrate techniques to trainee instructors and evaluate the performance of lower level instructors. Some courses taught at this level are similar to those taught at the GS-9 level, but GS-11 instructors are required to adapt or revise their courses because of subject-matter or student problems. Subject-matter problems result from technological changes or new developments in the field and require frequent updating of knowledge and course content by instructors. Student problems relate to students with complicated, specialized, or persistent learning difficulties requiring instructors to modify courses to meet the needs of the students.

The appellant's primary duties are to provide educational services to Indian adolescent clients who require residential treatment because of chemical dependency. Similar to work at the GS-9 level, the appellant is a certified teacher providing individualized instruction to students in the subject-matters of reading, mathematics, and communication skills at the elementary and secondary levels. He conducts academic assessments using the Wechsler Individual Achievement Test (WIAT) and the Brigance Diagnostic Comprehensive Inventory of Basic Skills. These tests are measurement tools use to diagnose learning disabilities, special education placement, curriculum planning, and clinical appraisal. Because of the students' problems, he is required to use various teaching strategies that relate to learner characteristics, like at the GS-9 level. After determining the appropriate level for each subject, the appellant selects the student's course materials. Classes are separated by gender and each class meets for two hours each day. The appellant is required to use twenty minutes to introduce the concept of the subject to students and forty minutes to assist students in the completion of instructional assignments.

These assignments are generally made from selected workbooks at the individual student's grade level equivalent in the subject. The appellant also coordinates student orientation activities and must have fundamental knowledge about chemical dependency. The position requires a practical knowledge of computers and makes computer materials and equipment available for students' use.

The position does not meet the GS-11 level, where courses cover advanced technical systems or subject-matter areas comparable to the upper-division undergraduate level. The course materials used at the Center are standardized, as at the GS-9 level, and do not require any type of recurring modification due to technological changes or new developments resulting from subject-matter problems as typical at the GS-11 level. The Center's primary emphasis is on treatment and counseling for the addictive behavior. Student skills may not be at their appropriate grade levels because of addiction related problems, not necessarily learning disabilities. The students receive 10 hours per week of education instruction using a variety of pre-structured courses to maintain/improve existing skills while participating in treatment. Although the appellant uses various teaching strategies to assist students having difficulties in learning the course material, the elementary and secondary level of the materials taught and lack of course development and extensive modification precludes assignment at the GS-11 level.

This factor is evaluated at the GS-9 level.

Factor 2, Level of Responsibility

This factor includes such things as independence, the extent to which guidelines for the work are available or must be developed, and the kinds of contacts required to perform the work.

At the GS-9 level, the instructors independently plan and carry out their training sessions within the prescribed course framework. They resolve normal classroom problems and make outside contacts for supplemental information and materials. On unusual matters or questions of program objectives and policy, they obtain guidance before taking action. Recommendations for course modification receive review for consistency with overall course material, for technical accuracy, and for educational adequacy. Courses of instructors at this level are audited and evaluated periodically by higher level instructors. The GS-9 instructors may participate in task analyses for determining training requirements or in special staff studies of training and testing materials, for which they receive specific guidance on coverage, methodology, approaches, and sources to use.

At the GS-11 level, the instructors may receive course assignments with the course objectives, topics to be covered, and general content in a prescribed form, but they also typically participate in original course content development and in its subsequent modification. Within the framework of approved course objectives and topics to be covered, GS-11 instructors use such methods as they believe will be most effective. They determine the need for additional subject-matter information and may meet with representatives of outside organizations in order to obtain it. They develop or adapt new or revised training or testing materials for formal course use; these materials may be reviewed by the instructor's supervisor for technical accuracy, consistency with course objectives, educational effectiveness, and program policy.

Similar to work at the GS-9 level, the appellant works independently in providing classroom instruction to students in assigned subjects. Routine classroom problems are solved by the appellant and the supervisor is kept informed of difficult student problems. In extreme cases of behavioral problems, students are referred to the counselors. The appellant performs his duties without detailed or specific guidance from the supervisor. The work is examined for overall effectiveness as part of the overall treatment program. The appellant periodically submits lesson plans to his supervisor that are reviewed for educational adequacy. The appellant is expected to perform all duties and responsibilities relating to the educational services in accordance with IHS, Joint Commission on Accreditation of Hospital Organizations (JCAHO), and treatment center policies and procedures. Occasionally, the appellant assigns and supervises the work of teacher aids. Personal contacts are generally with employees within the [Center], local colleges, Job Corps, family members, and Tribal representatives for the purpose of addressing students' educational issues and concerns.

While the appellant performs his daily work with relative independence, he is delivering prescribed course materials for students on a short-term basis. He is not involved in the development of original course content as typical at the GS-11 level. As at the GS-9 level, any recommendations the appellant may propose for modification of the course content are reviewed for consistency and for technical and educational adequacy by the Center Director. While individual student learning problems may occur, the basic nature of the course material taught and the short-term assignment of the student, precludes credit at the GS-11 level.

This factor is evaluated at the GS-9 level.

Summary

By comparison with Part I of the Grade Level Guide for Instructional Work, both factors are credited at the GS-9 level.

Decision

The position is properly classified as Teacher, GS-1710-9. A parenthetical title may be used at the option of the agency.