

# Classification Appeal Decision

Under section 5112(b) of title 5, United States Code

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**Appellant:** [name]

**Position:** Equal Opportunity Assistant  
GS-361-10  
[Position Number]

**Organization:** Department of Justice  
Bureau of Prisons  
[Office]  
[Branch]  
[Section]  
Washington, D.C.

**Decision:** Equal Opportunity Assistant  
GS-361-8  
(Appeal denied, position downgraded)

**OPM decision number:** C- 0361-08-01

**Copy of decision sent to:**

[name and address of appellant]  
[name and address of servicing personnel officer]  
[name and address of bureau personnel officer]  
[name and address of department personnel officer]

S)))))))))  
Richard Quasney  
Classification Appeals Officer  
Washington Oversight Division

10/27/97  
S)))))))))  
Date



U.S. Office of Personnel Management  
Washington Oversight Division  
Office of Merit Systems Oversight

## INTRODUCTION

On June 24, 1997, the Washington Oversight Division accepted a position classification appeal from [appellant], who is employed as an Equal Opportunity Assistant, GS-361-10, in the Equal Employment Opportunity (EEO) Complaints Section of the Administrative Complaints and Ethics Branch, Office of the General Counsel, [bureau and department], in Washington, D.C. [Appellant] requested that her position be classified as Equal Employment Specialist, GS-260-11 or 12.

This is the final administrative decision of the Government, subject to discretionary review only under the conditions and time limits specified in title 5, U.S. Code of Federal Regulations, sections 511.605, 511.613, and 511.614.

## SOURCES OF INFORMATION

In deciding this appeal, we considered information obtained from the following sources:

1. The appellant's letter of appeal dated June 2, 1997, with attachments.
2. The information submitted by the servicing personnel office on June 28, 1997.
3. The OPM desk audit of the appellant's position on August 21, 1997, and interviews with the immediate supervisor, [name], and the second-line supervisor, [name], on October 6, 1997.
4. Additional written materials and work samples furnished by the appellant during the OPM review.

## POSITION INFORMATION

The appellant's duties and responsibilities are described in position description number HA1043, which was classified as Equal Opportunity Assistant, GS-361-10, by the [bureau] on April 30, 1997.

The primary purpose of the appellant's position is to administer the intake process for all EEO complaints filed within the [bureau]. This is a centralized EEO complaints processing function, receiving approximately 220 complaints per year agencywide. Upon receipt of a complaint, the office secretary prepares a standardized acknowledgment letter, identifying the basis for the complaint and the appropriate rights of appeal, which is then reviewed and signed by the appellant. If the complaint form has not been completed properly (e.g., not signed and dated, basis for complaint not specified), or if the complainant has not consulted with an EEO counselor, the appellant drafts correspondence to the complainant, for the Bureau EEO Officer's signature, explaining what actions are necessary. Upon subsequent receipt of the counselor's report, the appellant reviews the complaint more closely

to specifically frame the issues and to determine if the complaint meets regulatory requirements for acceptance (e.g., timeliness, jurisdiction). During this process she may find it necessary to draft additional correspondence to the complainant to clarify the issues of the complaint, resolve discrepancies between the complaint and the counselor's report, or seek justification for late filing. If recommending acceptance of the complaint, she drafts an acceptance letter for the Bureau EEO Officer's signature and assigns the case to an EEO investigator (generally on a Regional basis). If recommending dismissal of the complaint, she prepares a dismissal letter with pertinent regulatory citations for Departmental signature through the Bureau EEO Officer. The appellant has no further involvement in the complaints process unless the Equal Employment Opportunity Commission (EEOC) remands the complaint to the Bureau, in which case she forwards the decision to the appropriate Regional staff with instructions on the actions that must be taken to reinstate processing of the complaint. The appellant also performs a variety of other related duties to include assisting the Bureau EEO Officer in preparing the office budget and tracking expenditures; preparing statistical reports on complaints processing activities; developing specifications for modification of the office's database to allow for additional reports generation; serving as property officer for the Branch; and designing informational brochures on the EEO complaints process for Bureauwide distribution. However, the appellant reported that those duties directly associated with the intake process constitute approximately 90% of her time.

The appellant's position description is accurate and adequate for classification purposes.

### SERIES AND TITLE DETERMINATION

#### Series

The Equal Employment Opportunity Series, GS-260, covers positions concerned with developing, administering, evaluating, or advising on the internal equal employment opportunity program of a Federal agency. The work requires knowledge of Federal equal employment opportunity regulations and principles; compliance and enforcement skills; administrative, management, and consulting skills; and knowledge of Federal personnel administration. The Equal Opportunity Assistance Series, GS-361, covers positions involved in performing technical assignments and substantive clerical work in support of an equal opportunity program. The work requires practical knowledge of the methods, procedures, and regulations of the equal opportunity function.

The distinction between the GS-260 and the GS-361 series is that positions in the Equal Opportunity Assistance Series perform work that is repetitive, or that involves the application of rules or principles to specific situations within a framework of supervision and guidelines. These positions do not require the broad knowledge of equal opportunity principles, or the depth of skill in analysis, interpretation, and decision-making characteristic of the Equal Employment Opportunity Series. The following kinds of work are specifically identified with the Equal Opportunity Assistance Series:

- performing limited factfinding such as researching office files and records or standard library or office references to obtain information on a limited subject;
- interviewing and counseling employees and attempting informal resolution of discrimination complaints;
- interviewing persons to obtain strictly factual information of a routine or repetitive nature;

- providing factual information to persons outside the immediate work unit including the general public or persons who may wish to file complaints;
- computing data, making charts, writing narrative reports, and summarizing statistical data.

By contrast, Equal Employment Opportunity Specialists perform such functions as identifying institutional barriers to equal employment and their causes through detailed analysis of the organization's policies, practices, organizational structure, and workforce; recommending solutions to equal opportunity problems and providing technical equal employment opportunity assistance to managers; recommending management actions necessary to fulfill management's equal employment opportunity responsibilities; designing and conducting training courses in equal employment opportunity for managers and employees; or developing comprehensive affirmative action plans and specific action items. The GS-260 series standard instructs that positions should be allocated to the Equal Opportunity Assistance Series, rather than the Equal Employment Opportunity Series, when the positions do not include factfinding and analysis to: (1) identify systemic or institutional barriers to equal opportunity; (2) propose or implement solutions to complex problems when the work requires a high degree of analysis; (3) investigate or conciliate allegations of discrimination; (4) develop, carry out, or evaluate broad equal opportunity programs; or (5) apply judgment in interpreting complex factual situations in light of laws, regulations, and precedent decisions governing an EEO program.

The appellant's duties are consistent with the GS-361 Equal Opportunity Assistance Series. The primary purpose of her position is to ensure that EEO complaints received in the office meet basic regulatory requirements for acceptance, that all procedural requirements have been observed, and that the information provided is sufficient to allow for processing. The appellant does not perform factfinding in the sense intended by the standard, i.e., attempting to ascertain the facts surrounding an alleged incident and determining if discriminatory practices were involved. Rather, she may ask complainants for clarifying information related to their complaints to ensure that information required for subsequent adjudication of the complaints is included (e.g., the basis for the complaint and the incident that precipitated the complaint) or to establish the time frames within which the alleged discriminatory events occurred. The appellant does not in any way analyze this information or make any judgments as to the validity of the allegations. Although the appellant drafts letters recommending acceptance or dismissal of the complaints, these are based on a limited number of clear-cut regulatory requirements (e.g., whether time frames have been observed, counseling taken place, an actual basis specified, or an injury incurred), rather than on the merits of the complaints. Thus, although she may be required to read the complaint carefully to ensure that all required steps have been taken and to be able to frame the issues involved, the degree of actual analysis required of the substance of the complaint is quite limited. For these reasons, the position does not meet the criteria for classification to the Equal Employment Opportunity Series, GS-260.

#### Title

The authorized title for nonsupervisory positions in the GS-361 series is Equal Opportunity Assistant.

#### GRADE DETERMINATION

The appellant's position was evaluated by application of the standard for the Equal Opportunity Assistance Series, GS-361, dated November 1980. This standard is written in the Factor Evaluation System (FES) format, under which factor levels and accompanying point values are to be assigned

for each of the following nine factors, with the total then being converted to a grade level by use of the grade conversion table provided in the standard. The factor point values mark the lower end of the ranges for the indicated factor levels. For a position to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor level description. If the position fails in any significant aspect to meet a particular factor level description, the point value for the next lower factor level must be assigned, unless the deficiency is balanced by an equally important aspect that meets a higher level.

In accordance with guidance provided in the Introduction to the Position Classification Standards and The Classifier's Handbook, the Primary Standard was referenced as a source of factor-level comparison for those factors that met the highest level described in the GS-361 standard. The Primary Standard serves as the framework for the Factor Evaluation System and provides the basic requirements for each level of the nine factors. Individual occupational standards (such as the GS-361 standard) are patterned after the general grade-level criteria provided in the Primary Standard, but these criteria are expanded to relate specifically to the particular type of work addressed by the occupational standard. Although there are a range of levels associated with each factor in the Primary Standard, the individual occupational standards describe only the factor levels applicable to the type of work involved. For example, in the clerical and technician occupations the higher levels under most of the factors are not described, since positions of that nature do not normally perform the kinds of work that are associated with the higher levels. Thus, once a position has been established as clerical or technician, it would be highly unusual for it to exceed the factor levels described in its occupational standard. In this case, the appellant's position has been classified to the GS-361 series, representing clerical/technician functions in the equal employment opportunity field. The Primary Standard is referenced as needed only to illustrate that the highest levels described in the GS-361 standard are not exceeded.

#### Factor 1, Knowledge Required by the Position

This factor measures the nature and extent of information an employee must understand in order to do the work, and the skills needed to apply that knowledge.

At Level 1-5, work requires thorough and detailed practical knowledge of a complex body of equal opportunity regulations, procedures, and precedent decisions and the ability to apply them to specific situations that involve answering complex technical questions or solving technical EEO problems routinely handled by the office; skill in factfinding and analysis to determine the kinds and sources of information needed, to interview persons and review relevant documents to obtain that information, and to organize the information, compare facts with applicable principles, and write a summary of findings; and skill in oral communication to explain to others complex factual relationships and the application of regulations and precedent decisions. An assignment example provided by the standard to illustrate this level is as follows:

In an equal opportunity compliance field office, serves as a point of contact for persons wishing to file EEO complaints, and assists other unit employees on difficult procedural or technical problems pertaining to complaint intake. Independently explains the complaint process and the scope and purpose of the law in layman's terms. Conducts thorough interviews of complainants to draw out and organize facts in difficult and complex cases. Assists the complainant in drafting the complaint by explaining the kinds of information that can and should be included, and by reviewing

the draft complaint to insure that it contains the facts presented orally by the complainant and that it is procedurally and technically correct.

The knowledge required by the appellant's position is comparable to Level 1-5. The position requires practical knowledge of equal opportunity regulations and procedures to determine whether complaints meet basic regulatory requirements for acceptance and whether prescribed procedures have been followed; skill in reading complaints and counselor's reports to identify the basis for the complaint and the particular issues involved in the complaint, to ensure that all of the identified issues are addressed in the counselor's report and that there are no discrepancies between the complaint and the report, and to be able to frame these issues in writing; and the ability to explain procedural requirements to complainants. The assignment example provided for Level 1-5 adequately represents the primary functional responsibilities of the appellant's position, except that the appellant's role does not involve as extensive contact with complainants.

The position does not meet Level 1-6 (the highest level described under this factor). At that level, work requires thorough, detailed, and intensive practical knowledge of a body of EEO regulations, procedures, principles, and precedents, and skill in applying this knowledge to a wide variety of complex problems; highly developed skill in factfinding, analysis, and application of a body of regulations to complex and involved factual situations; and skill in negotiating informal resolutions to emotionally charged issues. Typically at this level, the employee serves as a principle source within the office on a narrow subject area and advises EEO specialists concerning problems in the area. For example, the employee may keep track of and maintain current files on court and administrative decisions and regulations pertaining to the discriminatory use of employment tests.

The appellant does not use an intensive knowledge of EEO regulations and precedents since most of this information as it applies to her duties is provided to her in the form of standardized letters and paragraphs. In reviewing complaints, she must be able to recognize when certain situations apply (e.g., when a complaint may meet the criteria for continuing violation or retaliation), but virtually all such issues are addressed in stock paragraphs prepared by the Bureau EEO Officer, and the appellant is discouraged from amending these in any way. She is expected to quote from or paraphrase the complaint in her correspondence and to select the standardized paragraphs related to the issues identified. She is not expected to perform any legal or regulatory research in the course of her work. Her review of complaints is limited to determining basic regulatory and procedural compliance rather than an actual analysis of the substance of the complaint, and her factfinding consists of obtaining information to clarify the basis for the complaint and to confirm timeliness of filing rather than to actually verify the facts or seek additional evidence. Further, she has no responsibility for negotiating informal resolutions to complaints.

Level 1-5 is credited.

750 points

## Factor 2. Supervisory Controls

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the employee's responsibility, and the review of completed work.

At Level 2-3 (the highest level described under this factor), the supervisor makes assignments by defining objectives and setting deadlines, and assists the employee with unusual problems that do not have clear precedents. The employee plans and carries out the successive steps and handles problems encountered in accordance with instructions, policies, previous training, or accepted practices.

Completed work is reviewed in terms of results achieved, technical soundness of completed work or recommendations, and effect of the work in facilitating the objectives of the program.

The appellant's level of responsibility meets Level 2-3. The objectives of her work are clearly defined as are expectations in relation to time frames for completing ongoing assignments. The appellant carries out ongoing assignments independently in accordance with instructions and practices related to the requirements for acceptance of an EEO complaint as conveyed by the supervisor. Except for the standardized acknowledgment letters, all other correspondence is prepared by the appellant in draft form and is reviewed closely by the supervisor for technical accuracy pertaining to the basis and issues of the complaint as identified by the appellant and to check the propriety of the recommended disposition (i.e., acceptance or dismissal), and is actually signed by the supervisor.

The position does not meet Level 2-4 as described in the Primary Standard. At that level, the supervisor sets the overall objectives and resources available. The employee and supervisor, in consultation, develop deadlines, projects, and work to be done. The employee, having developed expertise in the line of work, is responsible for planning and carrying out the assignment, resolving most of the conflicts that arise, coordinating the work with others as necessary, and interpreting policy on his or her own initiative. The employee may also determine the approach to be taken and the methodology to be used. The employee keeps the supervisor informed of progress and potentially controversial matters. Completed work is reviewed only from an overall standpoint for feasibility, compatibility with other work, or effectiveness in meeting requirements.

The level of responsibility described at Level 2-4 is associated with two-grade interval work that differs in significant respects from assignment to assignment, and where the employee is allowed to use independent judgment in identifying work that needs to be done within the program function, planning accomplishment of the work, determining the course of action based on controlling policies and the independent interpretation of regulations or other guidelines, and resolving any problems that arise during the course of the work. At this level, completed work is assumed to be technically correct but is reviewed more for general conformance to the organization's policies and position and for its impact both within and outside the organization. In contrast, the appellant's assignments are recurring, require no appreciable planning, and allow minimal latitude as to methodology. There are no controversies inherent to the work she directly performs. She functions as a technician in the sense of preparing draft correspondence for the supervisor which is then subject to close technical review to ensure that the recommendations made are fully supported by the facts of the case.

Level 2-3 is credited.

275 points

### Factor 3, Guidelines

This factor covers the nature of the guidelines used and the judgment needed to apply them.

At Level 3-3 (the highest level described under this factor), guidelines consist of oral and written office procedural manuals and a variety of technical instructions governing the program. These guides are typically general in nature or do not cover many areas of the work performed. Judgment is required to decide which guide applies to a particular situation or to apply general principles to specific factual situations.

The appellant's use of guidelines meets Level 3-3. The supervisor has provided the appellant with standard letters and paragraphs stating the appropriate legal and regulatory citations for any of the

various issues that may arise in complaints. The appellant is expected to read the complaints received and recognize when specific situations may apply (e.g., if the complainant has also filed an internal grievance or an appeal to the Merit Systems Protection Board, if the issue of the complaint is a proposed action, or if tangible relief cannot be granted), and to make judgments as to whether timeliness was observed in filing the complaint in its various stages.

The position does not meet Level 3-4 as described in the Primary Standard. At that level, administrative policies and precedents are applicable but are stated in general terms. Guidelines for performing the work are scarce or of limited use. The employee must use initiative and resourcefulness in deviating from traditional methods or researching trends and patterns to develop new methods, criteria, or proposed new policies.

In the appellant's position, guidelines for performing the work are fairly clear and unambiguous, i.e., there are a limited number of grounds for dismissal of an EEO complaint and these are readily apparent upon review of the case record. As noted above, the appellant uses standard paragraphs and letters from which she is not expected to deviate, except for excerpting directly from the EEO complaint to fill in specific information. She is not expected to interpret regulations or to independently research laws or court decisions. Consistent with her role as a technician rather than a specialist, she has no responsibility for the development of policies, guidelines, or any similar material designed for broader application.

Level 3-3 is credited.

275 points

#### Factor 4, Complexity

This factor covers the nature, number, variety, and intricacy of tasks or processes in the work performed, the difficulty in identifying what needs to be done, and the difficulty and originality involved in performing the work.

At Level 4-3 (the highest level described under this factor), the work involves performing complete assignments with different and unrelated processes and methods. Typically, assignments involve solving complex problems with such complicating features as interrelated or disputed facts, facts obtainable from a large variety of sources, or one or more related issues or questions. Problems are generally of a type routinely handled by the office, but they are involved (e.g., composed of many smaller problems and several cause and effect relationships). The work involves conditions and elements that must be analyzed to clearly define interrelationships.

The complexity of the appellant's work is consistent with Level 4-3. The appellant is responsible for coordinating the complaint intake function, which involves acknowledging receipt of complaints, reviewing complaints to determine their basis, reviewing counselors' reports for correspondence to the complaint, and recommending acceptance or dismissal of the complaint. The appellant must read complaints closely in order to determine their basis, to frame the issues, and to isolate the specific actions that form the reason for the complaint. This may involve sorting through relatively involved narrative descriptions of events and recognizing discrepancies between the complaint and the counselor's report, establishing time frames for the alleged discriminatory events, and deciding whether to accept certain allegations for investigation. For example, the appellant must make a judgment as to whether a series of incidents appear sufficiently related to support an allegation of retaliation.



The position does not meet Level 4-4 as described in the Primary Standard. At that level, the work typically includes varied duties that require many different and unrelated processes and methods, such as those relating to well established aspects of an administrative or professional field. The work requires making many decisions concerning such things as the interpretation of considerable data, planning of the work, or refinement of the methods and techniques to be used.

As has been discussed earlier in this report, the appellant's work is of a technician nature rather than two-grade interval administrative or professional work. Absent such characteristics as the requirement for considerable planning, analysis of the substance and merit of complaints, and development of methodology and approaches, her position cannot achieve this level of complexity.

Level 4-3 is credited.

150 points

#### Factor 5. Scope and Effect

This factor covers the relationship between the nature of the work, and the effect of the work products or services both within and outside the organization.

At Level 5-3 (the highest level described under this factor), the work requires treating a variety of routine problems or situations in accordance with established criteria. For example, the work may involve reviewing recurring discrimination complaints, conducting factfinding to fill in information gaps, and recommending whether to close the case, conduct further investigation, or make a definite finding. The work affects the resolution of individual complaints.

The scope and effect of the appellant's work is analogous to Level 5-3, in that her work involves reviewing complaints in relation to established criteria for acceptance or dismissal, contacting the complainants as needed to obtain clarification, and recommending the disposition of the case. The work affects whether individual complaints are accepted for further investigation or dismissed for lack of grounds.

The position does not meet Level 5-4 as described in the Primary Standard. At that level, the work involves establishing criteria; formulating projects; assessing program effectiveness; or investigating and analyzing a variety of unusual conditions, problems, or questions. The work affects a wide range of agency activities, major activities of industrial concerns, or the operation of other agencies.

These are administrative functions with no correspondence to the appellant's position. The appellant does not establish criteria in the sense of developing program guidelines or other material for use by program specialists; does not formulate projects since her work is in no respects self-generated; does not evaluate the EEO program; and does not investigate or analyze complaints beyond a comparatively superficial review to determine if basic criteria for acceptance are met. Regardless of the fact that the appellant works in a centralized EEO office, her work can in no way be construed to have Bureauwide impact. The direct effects of her work are on the acceptance or dismissal of individual complaints, and even in that capacity she makes recommendations only. Her work has no effect on the operation of the overall Bureau EEO program, e.g., developing its policies or operating procedures, formulating projects to further affirmative action goals, evaluating the operation of the EEO program at regional or field locations and recommending improvements, or addressing EEO problems within the agency and recommending changes in management practices to alleviate those problems.

Level 5-3 is credited.

150 points

#### Factor 6, Personal Contacts

This factor includes face-to-face and telephone contact and other dialogue with persons not in the supervisory chain. Factors 6 and 7 are interrelated in that the same contacts must be considered for both factors. That is, the contacts that serve as the basis for the level selected for Factor 7 must be the same as the contacts that serve as the basis for Factor 6.

At Level 6-2, contacts are with employees of the same agency but outside the immediate work unit and are of a routine type, such as explaining procedures for filing a complaint.

At Level 6-3 (the highest level described under this factor), contacts are with persons from outside the employing agency, such as persons being interviewed during an investigation. Each contact is different and the role and authority of each party is identified and developed during the course of the contact.

Most of the appellant's contacts are within the agency and are thus indicative of Level 6-2. Although she has occasional contacts outside the agency (mainly EEOC or Department staff), these are routine in the sense that each party's role is clearly defined and the subjects discussed are recurring (e.g., the status of a complaint).

Level 6-2 is credited.

25 points

#### Factor 7, Purpose of Contacts

This factor describes the purpose of the contacts identified under Factor 6.

At Level 7-2, the purpose of the contacts, in addition to exchanging factual information, is to plan, coordinate, or advise on office procedures, projects, or other work efforts, resolve operating or administrative problems, interview or counsel persons, or otherwise influence or motivate individuals or groups whose attitudes are basically cooperative.

At Level 7-3 (the highest level described under this factor), the purpose of the contacts is to conduct formal interviews of witnesses, complainants, respondents, or alleged discriminating officials during investigations; to negotiate procedural points during compliance reviews; or to otherwise resolve strongly held differences of opinion.

The appellant contacts complainants and counselors to obtain clarification of allegations stated in complaints and to advise on requirements for acceptance of a complaint for further processing, consistent with Level 7-2. She does not conduct formal interviews or investigations, negotiate with management officials, or have any other types of contacts that involve significant persuasion to obtain cooperation or compliance.

Level 7-2 is credited.

50 points

### Factor 8, Physical Demands

This factor covers the requirements and physical demands placed on the employee by the work assignment.

The appellant's position matches Level 8-1, which describes basically sedentary work.

Level 8-1 is credited. 5 points

### Factor 9, Work Environment

This factor considers the risks and discomforts in the employee's physical surroundings or the nature of the work assigned and the safety regulations required.

The appellant's position matches Level 9-1, which describes work performed in an office setting.

Level 9-1 is credited. 5 points

### Summary of Factors

<u>Factors</u>	<u>Level</u>	<u>Points</u>
Knowledge Required	1-5	750
Supervisory Controls	2-3	275
Guidelines	3-3	275
Complexity	4-3	150
Scope and Effect	5-3	150
Personal Contacts	6-2	25
Purpose of Contacts	7-2	50
Physical Demands	8-1	5
Work Environment	9-1	<u>5</u>
Total		1685

The total of 1685 points falls within the GS-8 point range (1605-1850 points) on the grade conversion table provided in the standard.

### DECISION

The appealed position is properly classified as Equal Opportunity Assistant, GS-361-8.

This decision constitutes a classification certificate issued under the authority of section 5112(b) of title 5, United States Code. This decision is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the Government. In accordance with section 511.702 of title 5, Code of Federal Regulations, this decision must be implemented no earlier than the date of the decision and not later than the beginning of the sixth pay period following the date of the decision.