

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

Philadelphia Field Services Group  
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:** Anthropologist  
GS-190-9

**Organization:** Ethnology Program  
Cultural Resources  
Resource Stewardship & Science  
Directorate  
[name] Region  
National Park Service  
Department of the Interior  
[location]

**OPM decision:** (Title at discretion of agency)  
GS-190-9

**OPM decision number:** C-0190-09-01

/s/

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Marta Brito Pérez  
Associate Director, Division for Human Capital  
Leadership & Merit System Accountability

June 15, 2004

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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).

Since position descriptions (PD's) must meet the standard of adequacy in the *Introduction to the PCS's*, the appellant's PD must be revised as discussed in this decision to meet that standard. The servicing human resources office must submit a compliance report containing the corrected PD and a standard form 50 showing when the revised PD became effective within 45 workdays of the date of our decision.

### **Decision sent to:**

PERSONAL

[appellant's name]

[appellant's address]

Human Resources Division

[name] Region

National Park Service

[address]

Director of Personnel

U.S. Department of Interior

Mail Stop 5221

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## **Introduction**

On December 9, 2003, the Philadelphia Field Services Group of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant's name]. The appellant's position is currently classified as Anthropologist, GS-190-9. He believes his position should be classified at the GS-11 grade level. We received the agency appeal administrative report on January 26, 2004, and the appellant's comments on the report on February 4. The position is in the Ethnology Program, Cultural Resources, Resource Stewardship & Science Directorate, [name] Region, National Park Service (NPS), Department of the Interior, [location]. We have accepted and decided this appeal under section 5112 of title 5, United States Code (U.S.C.).

## **General issues**

In his letter dated December 3, 2003, the appellant stated that his appeal was based on a discrepancy between the description of his duties in his PD and his actual duties that supported a higher grade level. The appellant said that someone with his educational background and extensive research experience in local, national, and international contexts should be compensated at a higher grade. A position is classified on the basis of its duties and responsibilities of the position and the qualifications required to perform those duties and responsibilities (5 U.S.C. 5106). Therefore, we may consider the appellant's personal qualifications only insofar as they are required to perform the work of his position.

In his appeal rationale, the appellant compared his work to an agency-classified GS-190-11 PD. 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 not have been properly classified, e.g., the PD submitted by the appellant as part of its appeal rationale.

The appellant's rationale largely relies on the description of work in another PD. 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.

The appellant asked that his position be upgraded, his pay increased, and both be applied retroactively to the date of his hire. However, the Comptroller General (CG) states that an ". . . employee is entitled only to the salary of the position to which he is 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 employee is promoted . . . Consequently, backpay is not available as a remedy for misassignments to higher level duties or improper classification" (CG decision B-232695, December 1989). This ruling and previous rulings were reaffirmed by the United States Supreme Court in *United States v. Testan*, 424 U.S. 392, at 406 (1976).

## **Position information**

The record shows that the PD of record (PD # [number]) is a standard PD (SPD) used service-wide. The appellant's immediate supervisor certified that it is current and accurate. Although the appellant stated that it is accurate, he said that he has been asked to and performs work above the assigned grade level.

The PD contains more than two pages of major duties. They include providing professional staff assistance to management in the development, review, analysis, evaluation, and monitoring of programs in applied cultural anthropology/ethnography in the park or a group of parks. The work involves identifying present-day American Indians and other Native Americans, African Americans, Hispanics, Euro-Americans, Pacific Islanders, Caribbean, and other contemporary groups with traditional associations to park resources, establishing contacts, and consulting with them. This includes representing the superintendent on matters related to contemporary people and ethnologic resources, developing and maintaining effective working relations with these groups and other park-associated groups, individuals, agencies, and the public. Other responsibilities include advising park management on park natural and cultural ethnographic resources and the contemporary people who value them; monitoring the condition of ethnographic resources, identifying potential threats, and making recommendations on mitigating present and potential impacts; contributing to cultural resource management plans; representing the park on NPS regional task groups, at public gatherings, and at professional meetings; coordinating park cultural anthropology/ethnography strategies and programs with activities on adjacent lands; assisting in consultations on a variety of laws, executive orders, NPS policies and guidance with park-associated peoples and preparing memorandums of agreement with these groups; and negotiating cooperative and interagency agreement.

The PD describes research functions that include determining research needed and coordinating efforts toward obtaining research through various programs, grants, and contracts; reviewing anthropological research proposals, scopes of work, and task directives prepared for management purposes, including resources management plans; and serving as the Contracting Officer's Technical representative for projects conducted through contracts, interagency agreements, and cooperative agreements, and collaborating with regional ethnographers, researchers, and others to develop contracts, monitor progress and evaluate results. Other research functions include arranging and conducting ethnographic research for planning documents including general management plans, resources management plans, environmental impact statements, and environmental assessments; collaborating with ethnographers in NPS and elsewhere to develop and execute professional studies; and assembling bibliographies and acquainting park staff with recent anthropological scholarship pertinent to the park's resources and themes, summarizing and interpreting technical materials for the park staff, and producing and maintaining a site-specific database for the park and collaborating in developing the park's Ethnographic Resource Inventory. The PD also describes responsibility for designing, implementing, and supervising professional applied ethnographic projects including documentary, archival and collections research; ethnographic overviews and assessments; ethnohistories, and ethnographic and traditional use studies of all types; field studies involving contemporary peoples and communities and their recent past; evaluation of collected data; and professional report writing.

The PD lists a variety of other functions including developing and conducting training programs on ethnographic concerns, recommending, planning for, and executing professional anthropological investigations required to meet the requirements of the National Historic Preservation Act, Native American Graves Protection and Repatriation Act, NPS Management Policies and other requirements; carrying out program management functions by developing work plans and schedules, scopes of work, cost estimates, and proposals/grants to justify funding requests to accomplish goals; and assisting in providing professionally accurate cultural resource interpretive programs.

The record shows, however, that the appellant has performed a limited number of the major duties in the PD of record. He has primarily performed preliminary short-term ethnographic resource studies at approximately six regional sites. These studies typically included reading readily available secondary source materials on the site's history; interviewing park staff to identify potential ethnographic resources, traditionally associated peoples, traditionally associated users, and user groups; evaluating the information gathered; and developing research recommendations to further explore traditional associations to park resources and provide a foundation for the stewardship of ethnographic resources. As stated in what the appellant identified as his most complicated report: "More extensive ethnographic data collection and analysis are necessary. This report, based on preliminary research conducted at [site name] in early April of 2003, is a first step in that direction. It provides a brief historical overview of [site name], identifies potential ethnographic resources at the park, and makes recommendations for future research." Other reports produced by the appellant are of comparable difficulty and complexity. For example, the appellant reviewed The [name] Seashore Hearings of [dates], producing a report "that reproduces in condensed form the range of opinions articulated at the hearings, presents those opinions in the idiom in which they were expressed, and thereby provides an accessible source for further cultural assessment of preservation politics on [name]". In conjunction with historical and ethnologic research, the following report will help clarify the natural and cultural features people hoped to preserve with the establishment of the [name] National Seashore."

We conducted a telephone audit with the appellant on February 17, 2004, and a telephone interview with his immediate supervisor on February 18. Based on the audit and interview findings and all information of record furnished by the appellant and his agency, we find that the PD of record, while it contains the duties and responsibilities performed by the appellant, does not meet the standards of adequacy as defined in the *Introduction to the PCS's*, section III, E. Use of Position Descriptions, as discussed in the Grade determination section of this decision.

### **Series, title and standard determination**

The agency classified the position in the Anthropology Series, GS-190, with the title Anthropologist, and graded it by application of the Fishery Biology Series/Wildlife Biology Series, GS-482/486 PCS and the Primary Standard. The appellant did not contest these determinations. Based on careful review of the record, we concur with the series determination, but do not agree with the method used to grade the position.

The agency's evaluation statement, dated June 30, 1999, states that it covers benchmark PD's in 19 individual occupational series and five interdisciplinary positions. The GS-482/486 PCS

was used for grade-level evaluation purposes because: “It was found that by substituting “cultural” resources terms for “natural” resources terms (for example, by referring to “archeological” concepts instead of “biological” concepts) the language in the standard could be readily adapted and applied to cultural resource position descriptions. It was possible to substitute physical science terms for biological science terms, and thereby adapt the language of the standard to physical science positions.” The evaluation statement also says: “There are two reasons for showing an FES score for positions, which are normally classified using a narrative standard. The first is that the Resources Career Initiative **equally** affects all of the covered professional specializations, and this demands certain uniformity in the appearance of the PDs. More importantly, the older narrative standards are very much outdated and are frequently of little use in classifying professional assignments as they are currently performed.”

The agency’s selection of the GS-482/486 PCS and the Factor Evaluation System Primary Standard does not meet the requirements of 5 U.S.C. 5107; i.e., “each agency shall place each position under its jurisdiction in its appropriate class and grade in conformance with standards published by the Office of Personnel Management or, if no published standards apply directly, consistently with published standards.” OPM’s implementing instructions in the *Introduction to the PCS’s* state that if there are no specific grade level criteria for the work, one is to use an appropriate general classification guide or criteria in a standard or standards for related kinds of work. In using other standards, the criteria selected as the basis for comparison should be for a kind of work as similar as possible to the position to be evaluated with respect to: (1) the kind of work processes, functions, or subject matter of work performed, (2) the qualifications required to do the work; (3) the level of difficulty and responsibility; and (4) the combination of classification factors which have the greatest influence on the grade level. Wherever possible, the position to be classified should be matched against classification criteria which are comparable in scope and difficulty, and which describe similar subject matter and functions. Thus, professional positions should be evaluated by standards for professional work, administrative duties by criteria for administrative occupations, technical work by standards involving similar factors and skill levels, and clerical or administrative support positions by criteria describing comparable duties and responsibilities. These instructions are clarified in the *Classifiers Handbook*, which says that when using professional PCS’s, “professional positions should be evaluated against standards for professional work that is comparable in scope and difficulty, and **as nearly equal as possible in subject matter and function** (emphasis added).”

The GS-190 Anthropology series does not have a directly applicable published PCS with grading criteria. This series is in the GS-100 Social Science, Psychology, and Welfare Group which covers related professional, scientific, technical, and clerical occupations in those broad occupational categories. The GS-100 Group has published PCS’s with grade level criteria covering professional social science work; i.e., Economist Series, GS-110, Geography Series, GS-150, and History Series, GS-170. Anthropology, as defined by the American Anthropological Association, “is the study of both ancient and modern peoples.” It is further described as “an interdisciplinary science that correlates closely with content standards for various subjects such as history (i.e., study of past peoples, American Indians), geography (i.e., environment and society, places and regions), social studies (i.e., culture, continuity, and change), and science (i.e., science as inquiry, evolution of human life).” Based on the anthropological functions performed by the appellant in studying the historical and current relationships of groups of people and parks, the GS-170 PCS provides the most appropriate criteria for grading the appellant’s work; i.e., it is the PCS that is most similar in subject matter

and function. OPM has prescribed no titles for positions in the GS-190 series. Therefore, in accordance with section III. H. 2. of the *Introduction to the PCS*, selection of an appropriate title is at the agency's discretion. However, in doing so the agency should follow the titling guidance in the *Introduction to the PCS*.

### **Grade determination**

The GS-170 PCS uses two classification factors for grade determination: *Nature of the Assignment* and *Degree of Responsibility*. They serve to provide both the framework within which the occupation is structured and specifically applicable criteria for the evaluation of levels of work.

#### *Nature of the Assignment*

This factor includes the scope and complexity of the assignment, the knowledge and skills that must be used to complete the assignment, and the mental demands involved. The scope of historical project planning and research assignments is influenced by such considerations as the breadth and number of topics and sub-topics involved, the period of time to be covered, and the depth to which the subject is to be studied. Measures of the complexity of research assignments include (1) the relative availability and reliability of source materials, (2) the difficulties involved in establishing historical facts and in determining their relative importance and relationships, and (3) the difficulties which must be overcome in the presentation of the results of historical study.

At the GS-9 grade level, assignments usually are restricted to one topic, but may involve consideration and inclusion of several related sub-topics. Illustrations of GS-9 grade level assignments include: (1) a detailed study of an historic house including a thorough treatment of the physical history of the structure and its furnishings; (2) a detailed study of the events and personalities associated with a particular "historic" site; (3) the determination of an official statement of lineage and battle honors for a military unit or organization from its inception to the present; or (4) a study of the highlights in the history of a specified Foreign Service post. In addition to the problems described at the GS-7 grade level, assignments at this level typically involve some problems of organization and analysis or some difficulties in the critical evaluation of the evidence and in the establishment of "historical fact" which may arise from gaps in evidence, from conflicting evidence or from questions of reliability of evidence. To resolve these problems, the historian must employ persistence and imagination in seeking out additional sources, and critical judgment and analytical thought in the evaluation of the evidence uncovered. Relationships among historical facts are not always clear, requiring the historian to possess a good grasp of the subject matter involved and to employ logic and critical judgment in the syntheses of historical facts. These considerations tend to complicate the presentation of the results of the research effort, thus requiring the historian to possess some skill in the organization and presentation of his material in order to present the facts in their proper perspective.

In contrast, GS-11 grade level assignments usually involve one or more major topics or themes of history and require consideration and treatment of several related topics in order to place the study in its proper context. Illustrative of this type of assignment is (1) the study of a military exercise including the planning and organizational phases, the operational and logistical

problems involved, their causes and solutions; (2) a study of United States policy regarding trade relationships with another country during a specified time period, taking into account the economic, military and political considerations which influenced policy decisions; and (3) planning and carrying out a series of historical research projects for a national historical park which centers on a single major historical theme and time period, e.g., a major Civil War battle, but which requires a variety of definitive special studies to establish boundaries, determine location of events, and provide historical data for use in the reconstruction or restoration of the area. GS-11 grade level analysis of such events assumes a full analysis of such matters as: (1) the circumstances leading to the event, e.g., why it occurred when it did within the unfolding of the war; (2) what impact it had on or reflected in the overall history of the war, e.g., military technology or strategy; and (3) what impact it had on the overall conduct of the war, e.g., political or cultural. This requires the historian to have a good knowledge of the instant historical period, and previous periods that relate to the site.

GS-11 assignments typically involve problems of the type and complexity described at the preceding level in several or all phases of their accomplishment. GS-11 historians are expected to exercise a good understanding of the purposes of the project and to consider such matters as the accessibility of source material and the time or other limitations involved in independently planning the details of project accomplishment. In resolving the problems presented by the assignment, GS-11 historians must employ (1) a good knowledge of available research sources, (2) a good grasp of the primary subject matter involved and of related subject-matter fields in order to achieve complete coverage of significant sources, (3) sound critical judgment in the evaluation of sources and the establishment of historical "fact," and in the development of hypotheses to account for causal relationships, and (4) substantial skill in organizing and writing a narrative that sets forth a balanced and realistic picture of the subject under consideration.

The appellant's work assignments compare favorably with those described at the GS-9 grade level in the PCS. Although his preliminary ethnographic resource studies are not equivalent in depth to a *detailed* study of the events and personalities associated with a particular "historic" site, they require the application of comparable knowledge and skill in their placing ethnological resources in historical context and in identifying and suggesting areas worthy of additional study. As at the GS-9 grade level, the appellant's discussion in the [site name] report of the differences between traditional associations and other cultural associations and identification of three groups that meet the NPS definition of traditionally associated groups is equivalent to the analytical demands of establishing "historical fact" when dealing with gaps in evidence, conflicting evidence or questions of reliability of evidence. To propose areas in need of further research, the appellant must employ persistence and imagination in seeking out additional sources, and critical judgment and analytical thought in the evaluation of the evidence uncovered, e.g., providing an interpretive perspective on the relationship between myth and history, and how historical accuracy is not always the most significant element in cultural traditions about the past. As at the GS-9 grade level, the [name] report required the appellant to identify the various schools of opinion on public reaction to establishing a national seashore, requiring him to possess a good grasp of the subject matter involved and to employ logic and critical judgment in the syntheses of historical and cultural facts and perceptions. These considerations required the application of skill in the identifying the essence of voluminous hearings and organizing and presenting this material in order to place the facts in their proper perspective.



While the appellant's work deals with related topics, e.g., general site history and related ethnographic resources, the studies assigned to and performed by the appellant do not have the characteristics found at the GS-11 grade level as delineated in the PCS. For example, the appellant is not responsible for planning and carrying out a series of ethnographic research projects for a national historical park which centers on a single major historical theme and time period, e.g., a major Civil War battle, but which requires a variety of definitive special studies, for ethnographic purposes, equivalent to establishing the boundaries, determine location of events, and provide historical data for use in the reconstruction or restoration of the area envisioned in GS-11 grade level assignments. As discussed previously, the appellant's work assignments are limited to preliminary studies. He has not been assigned responsibility for planning and carrying out the series of cultural resources studies on issues of the difficulty and complexity defined at the GS-11 grade level. Similarly, the appellant's assignments do not require him to employ a good knowledge of available research sources, the primary subject matter involved and of related subject-matter fields in order to achieve complete coverage of significant sources and make sound critical judgment in the evaluation of sources and the establishment of ethnographic "fact" to development hypotheses to account for causal relationships. The preliminary nature of the appellant's studies do not require or permit complete coverage of significant source or full development of facts necessary to develop hypotheses on causal relationships as defined at the GS-11 grade level.

As a seasoned anthropologist, the appellant has shared his professional point of view on such matters as how ethnographic resources studies should be planned and reported and how traditional associated groups should be defined with his supervisor. These discussions, as well as the appellant's development of statements of work for cultural resource studies based on his preliminary study finding, apply directly to how he has approached performing studies that do not exceed GS-9 grade level difficulty and complexity. Even assuming that these discussions has relevance to broader program issues, this aspect of appellant's work does not occupy 25 percent or more of the appellant's regular and recurring work and, therefore, cannot be grade controlling (*Introduction to the PCS*, section III.J.). Accordingly, this factor is credited at the GS-9 grade level.

#### *Degree of Responsibility*

This factor includes the nature and purpose of person-to-person work relationships, and supervision received in terms of intensity of review of work as well as guidance received during the course of the work cycle. This factor includes consideration of the nature and extent of the supervisory control exercised over the work, the nature and extent of the historian's responsibility for personal contact work and for making recommendations or decisions, and similar matters. The degree of "authoritativeness" with which the work of an historian is viewed by their agency and by their professional fellows and the extent to which their opinion is sought and given weight within their area of competence also are indicators of the level of their responsibility.

At the GS-9 grade level, assignments with GS-9 grade level complexities are accompanied by a definition of the scope and objectives of the study but are not accompanied by detailed preliminary instructions regarding sources or the methodology to be employed. The employee is expected to plan their field of search and follow recognized professional techniques in the

accomplishment of the work. However, the supervisor or other historian of higher grade is available to provide guidance should problems not previously encountered by the incumbent arise in the course of the work. Typically, completed work is presented in draft form and is reviewed in detail for completeness, adequacy of planning, soundness of judgment in the establishment and organization of historical facts, and conformance to professional standards in the presentation of the study. Historians engaged in studies of historic sites may offer opinions as to whether the site appears to be historically worthy of preservation or restoration. Personal work contacts typical of this level are similar to those at preceding levels. However, at this level the historian's relationships with their fellow historians outside of the supervisory chain begin to take on the color of professional consultation in that they may involve conferring on closely related studies, and include giving, as well as receiving, information.

In contrast, GS-11 historians typically function with professional independence within limitations imposed by the scope and objectives of the assignment, which are clearly defined by the supervisor or a historian of higher grade, or established by specific directives from higher echelons. The historian is responsible for: (1) developing working plans and blocking out the major areas of research for the accomplishment of the assignment, (2) determining the approaches and techniques to be employed, and (3) modifying working plans and approaches as necessary in the course of the study. Typically, only modifications to working plans which would have the effect of changing the scope or coverage of the assignment are discussed with the superior prior to implementation. Supervisory historians or other historians of higher grade may, or may not, be available for consultation as the work progresses, though arrangements for such consultation are possible if significant problems are encountered. Completed work typically is reviewed for completeness of coverage, soundness of conclusions, adequacy of presentation and conformance to professional standards and agency policy, rather than for the adequacy of the research or the methodology employed. Historians engaged in research programs for national historical parks are responsible for making recommendations as to the historic significance of the sites involved, and the desirability or feasibility of land acquisition or building restoration or reconstruction projects. Such recommendations are carefully reviewed at higher organizational echelons, both for their soundness in light of the supporting historical evidence and in light of overall program considerations.

The appellant stresses his independence from supervision and his professional standing as an anthropologist. Because the program assigned to the appellant does not reflect the breadth of study areas and the scope of projects developed for the type of analysis discussed at the GS-11 grade level, the appellant's position is precluded from being credited with the responsibility for planning and conducting those types of studies with the freedom from supervision envisioned at the GS-11 grade level. The limitations on the appellant's site analysis assignments discussed previously also preclude crediting the appealed position with the program planning and interpretive responsibilities intended for such assignments at the GS-11 grade level. Similarly, the appellant's recommendations on cultural resources topics and issues worthy of further study at sites does not rise to the impact of recommendations and decisions found at the GS-11 grade level, e.g., recommendations as to the historic significance of the sites involved, and the desirability or feasibility of land acquisition or building restoration or reconstruction projects.

In addition to personal work contacts at preceding levels, GS-11 historians establish and maintain continuing consultative relationships with fellow historians and others both within and

outside the Federal Government, including individuals in such related professional fields as architecture, archeology, political science, and economics. These contacts are for the purpose of maintaining current information regarding other historical work being done in their area of interest or for consultation or collaboration with subject-matter specialists in other professional disciplines. While the appellant's professional standing in the anthropology community and the authoritativeness of his professional opinions exceed those described at the GS-9 grade level, they are not required to conduct the nature of the studies that he performs and, therefore, may not control the evaluation of this factor. Accordingly, this factor is evaluated at the GS-9 grade level.

### *Summary*

Since the appellant's position is evaluated properly at the GS-9 grade level with respect to both classification factors, it must be evaluated at the GS-9 grade level overall.

### **Decision**

The appellant's position is correctly classified as (Title at discretion of agency), GS-190-9.