

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

**Appellant:** appellant  
appellant

**Agency classification:** Firefighter  
GS-081-5

**Organization:** Fire Department/Fire Protection Section  
Facilities Management Service  
[location] Health Care System  
U.S. Department of Veterans Affairs  
[city and state]

**OPM decision:** Firefighter  
GS-081-5

**OPM decision number:** C-0081-05-05

/s/ Jeffrey Sumberg

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Jeffrey E. Sumberg  
Deputy Associate Director  
Center for Merit System Accountability

February 17, 2009

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Date

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision constitutes a certificate which 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]

[appellant]

[location] Health Care System

[address]

[city and state]

[union president's name], President

AFGE Local [#####]

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## **Introduction**

On August 23, 2007, the Chicago Oversight and Accountability Group (formerly the Chicago Field Services Group) of the U.S. Office of Personnel Management (OPM) accepted the group classification appeal from Messrs. [appellants], who occupy identical additional positions (hereinafter referred to as position) currently classified in the General Schedule (GS) as Firefighter, GS-081-5. The appellants work in the Fire Department (FD)/Fire Protection Section, Facilities Management Service, at the [location] Health Care System (BHHCS) of the U.S. Department of Veterans Affairs (VA) in [city and state]. They believe that their position should be classified as Firefighter (Structural), GS-081-6, or Firefighter (Basic Life Support/Hazardous Materials Operations), GS-081-7. We received the appellants' work logs on April 11, 2008, and the final document required to proceed with the case on November 13, 2008. We have accepted and decided the appeals under section 5112 of title 5, United States Code (U.S.C.).

In reaching our classification decision, we have carefully reviewed all information furnished by the appellants and their agency, including their official position description (PD) which is incorporated by reference into this decision. In addition, to help decide the appeal we conducted separate telephone interviews with the appellants and their second-level supervisor (Fire Chief), who is the agency's designated point-of-contact for information regarding the appellants' supervision and assignments.

## **General issues**

The appellants and their supervisor certify the accuracy of the appellants' official PD number [#####]. The appellants say they are engaged in activities pertaining to Emergency Medical Services (EMS), hazardous materials (HAZMAT) operations, and driver/operator duties and do not agree with their agency's application of the grading criteria addressing these duties. The appellants say they perform driver/operator and hazardous materials operations at the GS-6 level, and basic life support at the GS-7 level.

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. Classification appeal regulations permit OPM to investigate or audit a position and decide an appeal on the basis of the duties assigned by management and performed by the employee. OPM classifies a real operating position and not simply the PD. Therefore, this decision is based on the actual duties assigned by management and performed by the appellants.

The appellants make various other statements about the classification review process conducted by their agency. In adjudicating this appeal, our responsibility is to make our own independent decision on the proper classification of their position. By law, we must make that decision solely by comparing their current duties and responsibilities to OPM position classification standards (PCS) and guidelines (5 U.S.C. 5106, 5107, and 5112). Therefore, we have considered the appellants' statements only insofar as they are relevant to making that comparison. As our decision sets aside all previous agency decisions, the classification practices used by the appellants' agency in classifying their position are not germane to the classification appeal process.

The appellants mention their personal qualifications, including acquisition of various VA firefighter certificates. Personal qualifications are considered in classifying positions only to the extent these qualifications are required to perform the current duties and responsibilities of the position occupied by the employee. Therefore, we may only consider the appellant's personal qualifications insofar as they were required to perform their current duties and responsibilities. To the extent that they were needed for this purpose, we carefully considered them along with all other information furnished by the appellants and their agency.

Through their representative, the appellants request, in the event OPM favorably decides this appeal, to be retroactively compensated for lost wages. However, the U.S. Comptroller General states that an "...employee is entitled only to the salary of the position to which he 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." This rule was reaffirmed by the United States Supreme Court in *United States v. Testan*, 424 U.S. 392, at 406 (1976), where the Court stated that "...the federal employee is entitled to receive only the salary of the position to which he was appointed, even though he may have performed the duties of another position or claim that he should have been placed in a higher grade." Consequently, backpay is not available as a remedy for misassignments to higher-level duties or improper classifications. (CG decision B-232695, December 15, 1989).

### **Position information**

The BHHCS, which is located in western South Dakota, provides primary and secondary medical and surgical care, along with residential rehabilitation treatment program services, and extended nursing home care and tertiary psychiatric inpatient care services for veterans residing in South Dakota and portions of Nebraska, North Dakota, Wyoming and Montana. Care is delivered through the Fort Meade and Hot Springs VA Medical Centers (VAMCs), as well as through a number of community-based outpatient and rural outreach clinics. BHHCS is part of VA Midwest Health Care Network. The appellants are stationed at the [location] VAMC Fire Department on the [location] Campus in [location]. The [location] VAMC has 54 active authorized hospital beds, as well as 104 nursing home care unit beds and 160 domiciliary beds. There are numerous outpatient visits to the medical, vision, dialysis, dental, and social services clinics. The facility also contains employee residences comprised of single-family dwellings, duplexes, and a multistory apartment building.

The FD serves the Hot Springs Campus which is comprised of approximately 85 acres. It has 46 buildings most of which are one to six stories in height and are up to 100 years of age with a total floor space of 460,149 square feet. The buildings are used for inpatient health care, outpatient clinics, offices, laboratories, retail store and restaurant, warehouses, laundry storage, and contain high voltage vaults and a computer/telephone section. Other structures include a boiler plant, maintenance shops, a motor vehicle repair garage and equipment garages, a dining facility, family dwellings, vehicle fueling area above-ground fuel storage, and three 40,000 gallon fuel storage tanks. Most buildings located on the grounds are listed as having historical value, which comes with a high fire-hazard rating.

As firefighter crew members, the appellants primarily perform firefighting operations but also provide EMS care including a variety of first-aid measures to alleviate further injury and prepare the victim(s) for transport to a medical facility, and assist in reducing and/or eliminating potential fire hazards. Because they are certified to perform emergency medical technician work, they may be called upon to furnish basic life support to injured individuals. In addition, they can also be called upon to act as the first responder for hazardous materials containment and control. They are responsible for using appropriate personal protective equipment (PPE), while responding to chemical spills as identified in the fire station's material safety data sheet (MSDS) inventory; e.g., hazardous materials they may encounter include ethylene oxide (ETO) gas, tractor or vehicle oil, chlorine gas and diesel, or gas storage tank spills. For this purpose, the fire department maintains a hazardous materials trailer with equipment to respond to chemical spills and related clean up. They also conduct periodic fire protection inspections.

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

The agency has classified the appellants' position in the Fire Protection and Prevention series, GS-0081, titling it, Firefighter, GS-081. The appellants agree with the series, but believe the classification title should include the parenthetical designation, *Structural*. The GS-081 PCS instructs that all nonsupervisory positions engaged in all firefighting operations are properly titled Firefighter. However, as discussed in the general titling guidance for the GS-0081 PCS, only an official parenthetical title is to be used to designate the special knowledge and skills necessary to perform the work. In this case, *Structural* is an outdated term, is not listed as an approved parenthetical title in the current PCS and, thus, may not be used as requested by the appellants. Thus, based on the titling instructions in the PCS, no parenthetical title is assigned.

### **Grade determination**

The GS-0081 PCS is arranged in two parts to facilitate the presentation and application of grade-level criteria that are different for supervisory and nonsupervisory positions. Part II contains grade-level criteria for evaluating non-supervisory firefighter positions for grades GS-3 to GS-9. These grade-level criteria describe typical work tasks performed in the occupation at various grade levels.

Firefighter positions are treated somewhat differently than other GS occupations in determining their grade controlling duties. In order for higher-graded work to be grade controlling in most GS positions, it must be performed for at least 25 percent of the time. In contrast, an emergency work rule applies to firefighters. Because firefighters respond to emergencies, the 25 percent rule in their case does not require **actual** performance of the higher-graded work 25 percent of the time. Rather, it requires that (1) the work be actually performed, or (2) be assigned, as on a work shift, to be performed, or (3) the firefighter be trained to perform the higher-level work, for a total of 25 percent or more of the firefighter's work time. Thus for firefighters, being "ready to perform" by maintaining a state of readiness as the designated employee on a work shift to perform higher-graded duties is the key difference in applying the 25 percent rule for emergency work.

The appellants perform fire-inspection duties typical of the GS-5 level. At this level, facilities are principally administrative and residential; e.g., one-story offices, barracks, dormitories, etc. Typical fire hazards include excess trash accumulation, electrical fires caused by household appliances or other similar electrical equipment, or improper use of common flammable liquids. As at the GS-5 level, the appellants inspect warehouses, shops, hospitals, offices, and living quarters for violations of fire regulations, and for conditions contributing to serious fire hazards. They inspect electrical systems and equipment; the storage of a wide variety of flammable materials in warehouses; and the storage and use of oxygen and other compressed gases in a hospital setting. Conditions of a more hazardous nature are few in number, and safety precautions can be readily taken; e.g., use and storage of oxygen in a hospital.

Firefighters at the GS-5 level may drive and operate firefighting apparatus of significant complexity; e.g., pumpers, aerial ladder trucks, and crash rescue trucks. These duties include: **assisting** the driver/operator in the required maintenance, testing the motorized fire apparatus and make minor repairs and adjustments as needed; maintaining a record of all tests and maintenance performed; driving a vehicle to the scene of the fire following a predetermined route, or selecting an alternate route when necessary; positioning the vehicle, considering factors such as wind direction, water sources, hazards from falling structures, location of armaments on aircraft, etc.; operating pumps, foam generators, boom and ground sweep nozzles, and other similar equipment; determining the proper pressure for the distances to be pumped and the number of lines being used; and applying principles of hydraulics to water flow friction and friction loss. This is descriptive of the appellants' driver and operator functions. The facility has two fire trucks onsite. Only the first truck requires the services of a trained GS-0081-6 Driver/Operator. The second vehicle is only used to support the first. As the appellants assist staff tasked to function as the designated official driver-operators on the appellants' assigned shifts, the appellants' position may not be credited with performing driver-operator GS-6 level work that is assigned to other positions.

GS-5 level firefighters may be assigned special missions, such as HAZMAT containment and control. As a first responder to hazardous materials, the GS-5 firefighter: detects the presence of potentially hazardous materials; protects self and others by establishing a safe perimeter around the incident; notifies responsible agencies; identifies and collects hazard and response information; and uses, maintains, and decontaminates common hazardous materials applying proper response equipment and supplies. At this level, they initiate safe zones to protect people from the source and keep it from spreading. The appellants perform the full range of GS-5 HAZMAT duties. While the appellants use HAZMAT materials equipment and supplies for containment and clean-up, the level of their HAZMAT operations certification does not allow entry into the "hot zone" to stop the source. Typical of the GS-5 level, the appellants use the appropriate equipment in responding to chemical spills as identified by the MSDS inventory. The firefighter's PPE includes a coat, pants, hood, helmet, boots, gloves, breathing apparatus, and a personal alert safety system (PASS) device. Typical of the GS-5 level, the appellants are trained and prepared to perform hazardous materials operations by controlling a situation with defensive means known as dam, dike, and divert.

At the GS-6 level, in addition to the duties and responsibilities described at the GS-5 first-responder level, firefighters react to releases or potential releases of HAZMAT as part of the

initial response to the site to protect nearby persons, property, or the environment from the effects of a release. The GS-6 firefighter performs the following duties: employs hazard and risk assessment techniques to complete initial incident analysis; establishes communication with responsible agencies to gain qualified assistance and additional technical guidance; plans and initiates the initial response within the capabilities and competencies of available personnel, personal protective equipment, and control equipment; implements the response; evaluates the success and effectiveness of on-going response actions; and maintains and decontaminates common hazardous materials response equipment and supplies including protective clothing, breathing apparatus, dry and extinguishing chemicals, and decontamination agents and equipment, and replaces expended chemicals and agents.

In the event a HAZMAT incident occurs, the Crew Chief, GS-0081-7, assumes site management responsibilities. The two fire engines at the VAMC facility do not have HAZMAT equipment stored on them. HAZMAT equipment is stored in a trailer and is attached to the fire engine if needed. The trailer contains HAZMAT pillows (which absorb toxic chemicals), and other clean up materials, cones, and gloves. Based on our review of individual work-shift logs covering the period from August 2006 to April 2008, there is no evidence to show the appellants perform HAZMAT work, as described in the GS-6 level, to plan and initiate the initial responses within the capabilities and competencies of available personnel, personal protective equipment, and control equipment. While the appellants' may survey the incident to identify materials involved and if hazardous materials have been released, they use equipment and techniques to perform the initial incident analysis under the direction of the Crew Chief. If additional assistance is needed they call the [location] Air Force Base or Rapid City Fire Department for assistance.

At the GS-7 level for Basic Life Support, firefighters follow protocols for basic life support and emergency care that are noninvasive. Employees are responsible for providing basic life support and determining the condition of the patient by performing a head-to-toe physical assessment without using invasive procedures. Vital signs are checked every five minutes for critical patients and every 15 for a stable patient; e.g., a twisted ankle. They use the triage system when assessing more than one patient to determine priority for care. They obtain a drug history from the patient to make sure the patient is not allergic to any medications and record it on a patient care report (PCR). They assist the patient in administering medications such as nitroglycerin, Epinephrine, and Albuterol. They are also allowed to administer some drugs such as oxygen and glucose. If an injury affects the neck or back, they prepare the patient with a cervical collar and backboard for proper immobilization before transport

The appellants' position also does not meet the GS-7 level criteria for the parenthetical designation for Basic Life Support. Although they have completed prescribed training and are certified to perform higher-graded duties, the record shows that their emergency medical assignments have been limited to assisting the injured by performing the limited medical first-aid procedures addressed at the GS-5 level. As at this level, the appellants are responsible for assisting the injured by applying direct pressure and tourniquets to stop bleeding, checking the wind pipe for obstructions, performing cardiopulmonary resuscitation (CPR), using an automatic external defibrillation (AED), as well as immobilizing injured parties for safe transport. In performing emergency medical care, the appellants check the windpipe for obstructions, use direct pressure and tourniquets to stop bleeding, perform CPR, immobilize the

patient for safe transport, and provide other appropriate assistance comparable to the GS-5 level. There is no shift-log information to indicate that either of the appellants was specifically assigned to perform GS-7 level basic life support duties during the twenty-four month period specified above. Neither is there any evidence that the appellants use and maintain care of emergency equipment such as backboards, suction devices, splints, oxygen delivery systems, and stretchers; properly dispose of biohazard materials; and replace medical and expendable supplies, tasks listed at the GS-7 grade level. Each shift has a GS-7 Crew Chief/Supervisor assigned and this person is tasked with performing emergency medical of greater difficulty and complexity than the limited medical first-aid procedures addressed at the GS-5 level in the PCS. If a patient needs to be transported to another hospital the VAMC Fire Department is instructed to call the volunteer fire department in [another location] for assistance.

Therefore, based on the preceding analysis, we find that the appellants' position is properly graded at the GS-5 level.

**Decision**

The appellants' position is properly classified as Firefighter, GS-081-5.