

DPM Chapter 511

Appendix E Position Classification Appeal Procedure

1. PURPOSE.

This establishes the policies and procedures for the filing of position classification appeals for positions classified under the General Schedule (GS) Classification System, including positions covered by the Performance Management and Recognition System, Grades 1 to 15, and the Federal Wage System (FWS) job grading system within the Department of Transportation (DOT).

2. EXCLUSIONS.

These procedures do not apply to the following:

- a. Faculty members of the U.S. Coast Guard Academy
- b. Officers and crews of the U.S. Coast Guard ferryboats
- c. Lamplighters and lighthouse attendants employed by the U.S. Coast Guard
- d. Faculty members of the U.S. Merchant Marine Academy

3. POLICY.

a. Employees are encouraged to resolve questions about the classification of their positions through discussions with their supervisors and representatives of their personnel offices prior to filing an appeal.

b. One position classification appeal level shall be provided within DOT above the level responsible for the classification of the position.

c. Employees may file a classification appeal with the Office of Personnel Management (OPM) in accordance with the procedures outlined in Section 4.

d. Employees who file classification appeals, and their representatives, are assured freedom from restraint, reprisal, interference, coercion, or discrimination.

e. The filing of an appeal does not negate any other appeal or grievance rights available to an employee.

4. EMPLOYEE OPTIONS FOR FILING APPEALS.

a. **GS/GM Employees.** An employee occupying a position in grades 1-15 may:

- (1) File an appeal with DOT and, if dissatisfied with this decision, the employee may file a subsequent appeal with OPM.
- (2) File an appeal directly to OPM. An employee who appeals to OPM directly waives the right to appeal the same classification decision within DOT. DOT will not consider or decide an appeal which is pending concurrently with OPM.
- (3) File an appeal to OPM through DOT.

b. Employees occupying positions in the following categories must appeal directly to OPM:

- (1) Grades 16, 17, 18
- (2) Administrative Law Judges
- (3) Positions classified by or at the direction of OPM

c. **FWS employees.** An FWS employee must appeal first to DOT. An appeal may be filed with OPM after he/she receives an appeal decision from DOT, but must be done so within 15 calendar days of the receipt of the DOT decision.

5. WHAT MAY BE APPEALED.

Employees may appeal the following:

- a. the series and grade of the position,
- b. the title of the position when an authorized title is specified in the appropriate standard or if the title reflects a qualification requirement of specialization, and/or
- c. whether the position is included in or excluded from the General Schedule.

6. WHAT MAY NOT BE APPEALED.

Employees may not appeal the following, although some of these issues may be grievable:

a. Inclusion or exclusion of a major duty in the official position description or the accuracy of the official position description. Employee appeals containing such issues will be returned for a review of the official position description consistent with management's right to assign work. Should agreement not be reached on the accuracy of the description, DOT will decide the appeal based upon the actual duties and responsibilities assigned by management and performed by the employee.

b. Exclusion or inclusion of the position under the Performance Management and Recognition System.

c. The classification of a position to which an employee is not officially assigned or to which an employee is detailed or temporarily promoted.

d. The classification of the position based upon comparison to other positions rather than published OPM standards.

e. The rate of pay or propriety of a wage schedule for FWS employees.

7. WHEN APPEALS MAY BE FILED.

a. GS/GM Employees

- (1) A GS/GM employee may appeal the classification of his or her position at any time.
- (2) In cases where the employee is not entitled to retained grade or pay, the filing of a timely appeal may establish or preserve retroactive benefits. An appeal decision which reverses in whole or in part a classification decision which resulted in a loss of grade or pay may be applied retroactively if the employee:
 - (a) Files the initial appeal with DOT or OPM no later than 15 calendar days after the effective date of the action taken by DOT; and
 - (b) Files a further appeal to OPM of DOT's decision no later than 15 calendar days after the employee receives DOT's appeal decision.

- (3) DOT or OPM may extend these time limits specified above if it is found that the employee was not notified of these limits or that there were extenuating circumstances.

b. FWS Employees

- (1) An FWS employee may appeal to DOT the classification of his or her job at any time. A further appeal to OPM must be done within 15 calendar days of the receipt of the DOT decision.
- (2) An application to DOT to overturn a decision that resulted in a reduction in grade or loss of pay, can be applied retroactively only if the application is filed within 15 calendar days of the effective date of the change to lower grade.
- (3) DOT or OPM may extend these time limits specified above if it was found that the employee was not notified of these limits or that there were extenuating circumstances.

8. EMPLOYEE REPRESENTATIVE.

a. An employee has the right to be represented in a classification appeal by a representative of his or her choice.

b. Employees and their representatives are to be allowed a reasonable amount of official time to present the appeal.

c. An employee's representative may not be a supervisor with line authority over the position or an agency official with classification authority over the position.

d. A representative may submit any information concerning the classification of the position but may not, as a matter of right, be present during any fact-finding sessions (desk audit, supervisory interviews).

9. CONTENTS OF AN APPEAL.

An employee appeal to DOT or OPM must be in writing and include all of the following:

a. Employee's name, mailing address and office phone number.

b. Exact location of the employee's position in the organizational structure (Administration, Office, Division, Branch, etc.).

c. Employee's current title, series, grade.

d. Requested title, series, grade or other classification action.

e. A copy of the employee's official position description along with a statement that the employee agrees with the official description. If the employee believes the description is not accurate, the employee must provide his or her own description and show what steps have been taken to have the official description changed or modified. (Disagreements about content or verbiage do not constitute a basis for an appeal and should be resolved with the appropriate supervisors or, as a last resort, through the appropriate grievance procedure. See Section 6 for further information.)

f. Why the employee believes the position is erroneously classified. If possible, reference should be made to classification standards and address specific areas of disagreement with the agency's evaluation statement. FWS employees who appeal to OPM must specifically identify the portion(s) of the DOT appeal decision with which they disagree.

g. Name, address, and business telephone number of the employee's representative, if one has been selected.

The following matters are not pertinent to a classification appeal and should not be submitted:

a. An employee's education, experience, or other qualifications except as they relate to the grade level of his position, e.g., professional stature and recognition of a scientist.

b. The quality and quantity of work performed by an employee unless it relates directly to the grade level of the position.

c. The amount of overtime worked or required to work.

d. The fact that another employee was selected for promotion.

e. The fact that the employee's supervisor has not assigned duties and responsibilities which would warrant reclassification of the position to a higher grade.

10. AUTHORITY TO DECIDE APPEALS WITHIN DOT.

a. Position classification appeals from employees of the Operating Administrations shall be adjudicated and decided finally for DOT by an organizational level:

- (1) that has been delegated classification authority;
- (2) that took no part formally or informally in the decision appealed; and
- (3) that is higher than the organizational element responsible for the classification of the position or that has program responsibility, within the Administration, for the classification appeal function.

b. The Departmental Director of Personnel shall consider and decide finally for DOT position classification appeals from:

- (1) Employees of the Office of the Secretary.
- (2) Employees from the Operating Administrations and the Office of Inspector General not able to meet the criteria in Section 10a above.

11. PROCESSING OF APPEALS SUBMITTED TO DOT.

a. Employees and operating personnel offices will furnish all information requested by the DOT appeal office promptly and in the manner requested.

b. Each DOT office to which an appeal decision authority is delegated shall:

- (1) Record and acknowledge receipt of the appeal promptly.
- (2) Inform the employee in writing when his or her appeal is forwarded to OPM (see Section 14).
- (3) Establish an official position classification file, separate from the Official Personnel Folder. This file shall not contain any document or information which the employee has not been given the opportunity to review.
- (4) Investigate the classification of each position to the extent necessary to ascertain the principal duties and responsibilities assigned and performed regularly.

- (5) When necessary, request that additional information be furnished by the employee or personnel office. DOT will adjudicate appeals on the basis of information contained in the record. On-site reviews, when needed, will be conducted at the discretion of the DOT deciding official.
- (6) Issue a written decision to the appellant, generally no later than 60 workdays following the date the appeal was filed. This decision will inform the employee of the reasons for the decision, including an analysis of the classification of the position by means of comparison with the appropriate standards.
- (7) Specify the effective date of any classification changes resulting from the decision.
- (8) Inform the employee of further appeal rights and any time limits which must be observed.

12. CANCELLATION OF APPEALS.

DOT will cancel an employee's appeal:

- a. At the request of the employee.
- b. When the employee is no longer officially in the position unless there is a possibility of retroactive benefits.
- c. If the employee or the employee's representative fails to furnish requested information needed to process the appeal on a timely basis.

A cancelled appeal will not be reopened unless the employee is able to show that extenuating circumstances existed.

13. EFFECT OF A DOT CLASSIFICATION APPEAL DECISION.

A classification appeal decision issued by DOT represents the final decision by the Department with respect to the classification of the appealed position. DOT decisions constitute a certificate which is binding and mandatory on personnel and payroll officers of the Department. Only the Departmental Director of Personnel may reopen and reconsider any decision when in his or her judgment such action appears warranted.

The Office of Personnel Management will review DOT appeal decisions should the employee choose to file a further appeal with OPM.

14. MANDATORY APPEAL REFERRAL OF GS/GM APPEALS BY DOT TO OPM

a. An appeal of a GS/GM employee must be forwarded to OPM as soon as possible if DOT does not have the authority to act on the appeal (see Section 4b).

b. An appeal of a GS/GM employee must be forwarded to OPM within 30 calendar days of its receipt if DOT elects to have OPM decide the appeal.

c. An appeal of a GS/GM employee must be forwarded to OPM within 60 calendar days of its receipt when the appeal was addressed to OPM through DOT and DOT has either not issued a favorable decision or not reached any decision after 60 calendar days.

d. DOT will notify the employee of its intention to forward an appeal to OPM and receive in writing the employee's concurrence. The appeal will be cancelled if the employee does not want the appeal forwarded to OPM.

15. RESPONSIBILITIES.

a. Departmental Office of Personnel.

- (1) Develop, oversee the administration of, and evaluate a Department-wide position classification appeal system.
- (2) Consider and decide appeals in accordance with Section 10 above.
- (3) Review and determine which appeals directed to the Departmental Office of Personnel are to be referred to OPM for consideration and decision.

b. **Operating Administrations, the Office of the Secretary and the Office of Inspector General.** Establish, publicize, and administer a position classification appeals system and decide appeals in accordance with policy and criteria established in this issuance. Each mode must assure all employees are informed of the policies and procedures applicable to position classification appeals.