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	U. S. DEPARTMENT OF THE INTERIOR **OFFICE OF SURFACE MINING** **RECLAMATION AND ENFORCEMENT** **DIRECTIVES SYSTEM**	**Subject Number:** PER-3 **Transmittal Number:** 271 **Date:** 08/28/86

Subject: Employee Classification Appeal Procedure

Approval: Jed D. Christensen **Title:** Director

1. Purpose. This Directive contains information needed by employees, supervisors, and personnel specialists concerning requests for reconsideration and appeals of position classification decisions involving the classification of an employee's position; and supplements or clarifies the Office of Personnel Management (OPM), Federal Personnel Manual (FPM) Chapter 511, Subchapter 6, and the Department Manual (370 DM 511, 6). It also establishes procedures under which the employees cited in Section 3a may seek adjustment of the title, series code, or grade of the position to which they are officially assigned.

2. Definitions. None.

3. Policy/Procedures.

a. Coverage.

(1) This Directive applies to all General Schedule (GS), and Performance Management and Recognition System (PMRS) employees. It is also applicable to Federal Wage System employees who appeal their position for inclusion under the General Schedule.

(2) Under this Directive, an employee may appeal for a determination on:

(1) The correct class or grade of the official position under the General Schedule; or

(2) Whether the official position is included in or excluded from the General Schedule.

(3) This Directive does not apply to:

(a) Requests for job-grading reviews or appeals from employees paid under the Federal Wage System (except as provided in (1) above), or paid under any other prevailing rate system;

(b) Appeals from a determination that salary retention benefits do not apply;

(c) Adverse action appeals and grievances which are properly filed under the provisions of FPM 752, FPM 771 and related Department of the Interior Departmental Manual issuances; or

(d) An appeal request when the position appealed is one which has been proposed for change and the proposed new position is already under consideration by the OPM under the requirements of FPM 511, S5-4.

(4) Under this Directive, an employee may not appeal (however, the 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;

(b) An assignment or detail out of the scope of normally performed duties as outlined in the official position description;

(c) The accuracy, consistency or use of agency supplemental classification guides;

(d) The title of the position unless an authorized title is specified in the appropriate position classification standard or flysheet published by OPM, or if the title reflects a qualification requirement of the position or an area of specialization, in which case the appeal will be accepted; or

(e) Inclusion or exclusion of the position under the Performance Management and Recognition System.

(5) Under this Directive, an employee may not appeal:

(a) The class, grade, or pay system of a position to which the employee is detailed or temporarily promoted; however, employees who are serving under term promotions under Section 335.102(g) of OPM's regulations may appeal the classification of their position;

(b) A proposed classification, i.e., a proposal prior to taking a classification or position action;

(c) The classification of a position to which the employee is not assigned by an official personnel action;

(d) The classification of the employee's position based on comparisons with other positions and not published OPM standards;

(e) The adequacy and/or propriety of the classification criteria contained in an OPM published classification guide or standard;

(f) The classification of a position which has been certified by OPM as a result of an agency or employee appeal when there has been no change in the governing classification standard(s) or guide(s), or the major duties of the position;

(g) Federal pay schedule or rates; or

(h) Changes in step rates resulting from a personnel action.

b. Classification of Positions and Employee Right of Appeal. In consonance with Section 5107 of Title 5 of U.S. Code and instructions contained in FPM 511, and Department Manual issuances, Office of Surface Mining Reclamation and Enforcement (OSMRE) positions will be properly assigned to a pay system, title, series code, and grade. To this end, employees are entitled to appeal the classification of their position within the Department (as explained below), or directly to the Office of Personnel Management. Within the Department there is only one level of appeal. This is the level, with classification authority, next above that which initially classified the position, or directly to the Department. No position under appeal shall be adjudicated unless the position is accurately described.

c. Responsibilities.

(1) Employees.

(a) Attempt to resolve questions about the duties and classification of their position with their supervisors and the personnel specialist with classification authority who is assigned to their organization.

(b) Promptly furnish all information required by the classification appeal.

(c) Promptly inform, in writing, the office adjudicating the appeal of a decision to withdraw the appeal action.

(2) Supervisors.

(a) Resolve questions as to the accuracy of duties and responsibilities of employees' official position descriptions.

(b) Explain to employees the basis of the classification of their positions with assistance from the personnel specialist, as appropriate.

(c) Inform employees of their right to appeal the classification of their positions and of the procedures to be followed.

(d) Promptly transmit the appeal to the Division of Personnel if received from the employee. If the appeal is from an employee located in the field the appeal will be forwarded through the appropriate Administrative Service Center who will add any additional documentation or information to the appeal as needed.

(3) Headquarters Division of Personnel and Administrative Service Center Personnel Specialists.

(a) Provide technical advice and assistance to supervisors and employees in resolving classification questions.

(b) Make accessible, to supervisors and employees, copies of position-classification standards, guides, applicable precedents, and all other such information upon which a classification decision is based.

(c) When requested, assist the supervisor in reviewing and reconsidering the position.

(d) When notified of a possible classification appeal, advise and assist employees on the procedural aspects of filing classification appeals.

(e) Inform the adjudicating office when the duties of a position under appeal have changed significantly or the employee moves from the position (Section f(1)(b) and (c)).

(f) Reviews the appeal and add documentation or information as appropriate to the appeal file.

(4) Headquarters Division of Personnel.

(a) Acknowledge receipt of the appeal received for adjudication.

(b) Assure that the informal reconsideration stage has been completed and that all necessary certifications are present.

(c) Obtain from the employee and the Administrative Service Center Personnel Management Specialist all pertinent information needed to make a classification decision.

(d) Adjudicate those appeals falling within the Division's appeal authority.

(e) Concurrently inform the employee and the Administrative Service Center (Personnel Management Specialist) of the decision, in writing.

(f) Inform the employee of any further rights to appeal the classification of his/her position to OPM and how and where to file such an appeal.

(g) Forward to the Department within 30 days of receipt, those appeals on which OSMRE is not authorized to act and those appeals addressed through OSMRE to the Department and/or the Office of Personnel Management.

d. Filing Appeals.

(1) Employees may appeal the classification of their position in accordance with Section e. of this Directive. However, employees may not appeal a proposed classification of their position until they have been officially notified of the application of the classification to their position. Employees are officially notified when:

(c) They receive a "Notification of Personnel Action" (SF-50), when no adverse action is involved.

(b) They receive a final notice of decision when an adverse action is involved.

(2) Whenever a classification action results in a downgrading or reduction in pay, employees must be advised of their rights to file a classification appeal. They must also be informed that the appeal must be filed on a timely basis in order to maintain any retroactive pay eligibility. To be timely, the employee must file an appeal no later than 15 calendar days after the effective date of an action taken as a result of a classification decision. For those employees whose positions are downgraded and who are not covered by the provisions of Section 536 of the OPM regulations, i.e., they are not entitled to grade and pay retention, timeliness is essential in order to have protection of retroactive benefits under Section 511.703 of OPM's regulations.

e. Procedures.

(1) Informal Reconsideration Stage

(a) Every effort will be made by all parties concerned to resolve informally disagreements and misunderstandings involving the classification of positions to avoid the necessity of a formal classification appeal. Employees have a right to know the basis for classification determinations regarding their positions. Inquiries will be handled with courtesy and will receive prompt responses.

1 The employee's first point of inquiry is to the immediate supervisor. It is desirable that the employee be as clear as possible regarding points of concern in bringing questions to the supervisor.

2 The supervisor should initially assure that a clear understanding exists regarding the duties and responsibilities of the position and that the position description adequately reflects such information and is current. The Office of Personnel Management's standard of adequacy states that "a position description is adequate if it states the principal duties, responsibilities, and supervisory relationships of a position sufficiently, clearly, and definitely to provide information necessary for its proper classification when:

a Considered by one familiar with the occupational fields involved and the application of pertinent classification standards; and

b Supplemented by otherwise readily available and current information on the organization, functions, programs, and procedures concerned."

3 When the position description is found to be inaccurate, the supervisor must prepare a current and accurate position description, certify the currency and accuracy of the new description, and arrange for the classification of the new description by the appropriate classification authority.

4 The supervisor should provide for the initial explanation of the basis for the title, series, and grade assigned to the position in question or its coverage under the General Schedule or the Performance Management and Recognition System. Arrangements will be made for the review of controlling standards where necessary.

5 The classification specialist will provide technical information concerning the classification of the position and insure that the employee is given a complete and clear explanation. Standards and precedents should be rechecked to assure that the classification criteria being applied are completely current. Where evaluation statements have previously been prepared and remain current, copies will be provided to the supervisor and to the employee. Where such evaluation statements have not previously been prepared, but are required by either the Department or OSMRE procedures, they will be prepared.

6 If the supervisor and the employee cannot agree on the accuracy of a position description, the position classifier will accept the supervisor's version and classify it. It is the supervisor, not the employee, who has responsibility for the assignment of duties and responsibilities. It may be appropriate, however, to conduct a desk audit to obtain facts leading to the proper classification of the position.

(b) If the employee is dissatisfied with the resulting classification of the position, the employee may file a classification appeal as indicated below. As a separate issue, the employee may initiate a grievance under the appropraite grievance procedures if he/she objects to the duties and responsibilities assigned or not assigned.

(2) Filing the Appeal (Formal Procedures).

(a) If, through the informal reconsideration procedures, a satisfactory resolution of the employee's concerns is not obtained with respect to the classification assigned to the position, the employee may initiate a formal classification appeal. Such appeal must be to a higher organizational level with classification authority than the level at which the original decision was made. An employee is entitled to only one decision on a classification appeal within the Department of the Interior.

(b) The OSMRE Headquarters employees have the option of appealing to the Department or to OPM. Employees whose positions are within the classification authority of the Administrative Service Center, if they elect not to appeal to Headquarters, OSMRE, have the option of filing a classification appeal either directly or through OSMRE, to the Department, or to OPM. If the employee appeals first to OSMRE, or the Department, an appeal may be made later to OPM. If the employee appeals directly to OPM, a later appeal to OSMRE or the Departent may not be made since a decision of OPM is binding.

(c) The rights of an employee to appeal under the provisions of this Directive are in addition to any other rights of appeal which exist under provisions of the Federal Personnel Manual. Under this Directive there is no entitlement to a hearing. An employee must file the appeal in writing. The complainant must submit, as a minimum the following:

1 Full name.

2 Home address.

3 The title of the immediate organizational component to which officially assigned and its address.

4 The title, series, grade, and position number of the position to which officially assigned, and a statement that the position in question is described accurately.

5 The title, series, and grade which the employee considers proper.

6 Reasons the present classification is considered incorrect, together with reasons to justify the classification considered correct.

7 A statement indicating that the appeal is not pending Office of Personnel Management adjudication.

8 The full name, address, and organizational designation of the employee representative, if any.

(d) An appeal may be filed by an employee:

1 Individually; or

2 On behalf of a group of employees occupying additional identical positions. All members of a group appeal must sign the appeal, and their representative must be designated in writing. The decision on the group appeal is applicable to all additional identical positions.

(e) Inherently, an appeal is a request for review by a higher level authority of a decision made by a lower level authority. An Administrative Service Center classification appeal may be reviewed, at the employee's option, by Headquarters, OSMRE, by the Department, or directly by OPM. In the latter two cases, the Division of Personnel responsibility is primarily to assure the completeness of the case record so that appropriate higher level decision may be made. Nevertheless, the Administrative Service Center may, at any time prior to submission of the case file for appellate action, reverse its prior decision and grant the employee's request; or the Administrative Service Center may make other appropriate decisions which may include a partial meeting of the employee's request, as for example the granting of an in-between grade. Such an action must be documented and notification given to the employee and to the designated representative, if any. If this latter action satisfies the complainant, the appeal will be terminated. If not, the appeal will be continued.

(f) The case file must contain:

1 The current position description with the following certification by the employee, the supervisor and the classification specialist and dated on or after the date of appeal: "The undersigned hereby certify that the foregoing is an accurate and complete description of this position."

2 Current organizational charts which clearly reflect the location of the position being appealed in relation to other positions.

3 Functional statements and other supporting documents such as directives, executive orders, technical orders or extracts therefrom, etc.

4 The substantiating analysis supporting the classification decision by reference to applicable published standards or precedents.

5 Material specified in Section e. (2)(c).

f. Cancelling an Appeal.

(1) An appeal is cancelled when one of the following occurs:

(a) The employee submits a written request to withdraw the appeal.

(b) The duties and responsibilities in the position being appealed have changed significantly, except when the employee or the beneficiaries may be entitled to retroactive benefits as in the instance of change to a lower grade.

(c) The employee moves from the position, except when the employee or the beneficiaries may be entitled to retroactive benefits as in the instance of a change to a lower grade.

(d) The employee makes an appeal to OPM.

(e) The employee fails to cooperate in furnishing requested information within a reasonable time (e.g., 15 calendar days), unless the employee can show circumstances beyond his/her control which prevented him/her from doing so.

g. Personnel Actions Following Decisions on Appeals.

(1) When the decision on a classification appeal changes the grade or compensation of the position upward or downward, the personnel action to effect the necessary change is subject to the provisions below:

(a) Position and personnel actions shall be effected no later than the beginning of the fourth pay period following the date of decision, unless special authority is granted by OPM.

(b) Retroactive Action applies only to demotions involving the loss of grade. The personnel action to correct a demotion resulting from a classification appeal decision is made retroactively effective if the employee's appeal was submitted within the specified time limit for retroactive benefits. This time limit is stated in Section 511.703 of OPM Regulations and Section d(2) of this Directive.

1 Restoration to former grade: When the classification appeal decision is that the grade held before the appeal is correct, the employee's pay is adjusted retroactively to the date of the demotion. The employee is restored to the grade and step rate which he/she would have held if the demotion action had not been taken.

2 Classification to intermediate grade: When the classification appeal decision changes the grade of the position to an intermediate grade (i.e., a grade between the grade to which demoted and the grade held before demotion) the employee is retroactively restored to the intermediate grade. The employee's pay is adjusted retroactively to the date of the intial demotion.

3 Classification to a higher grade upon appeal subsequent to demotion: When the classification appeal decision raises the grade of the position appealed to a level higher than the grade held before the appeal was initiated, the demotion is thereby cancelled and the retroactive provision applies only to the employee's former grade. The promotion is effected in accordance with (1)(a) above. In cancelling the demotion, the employee is restored to his/her former grade for the period starting with the date of demotion. Any promotion to a grade higher then previously held must meet merit promotion plan requirements, if applicable.

(c) Nonretroactive Actions. The personnel action to correct the classification of a position is not retroactive when:

1 The appeal is not submitted within the 15 calendar days time limit specified in Office of Personnel Management regulations (see 511.703).

2 The classification appeal decision results in further demotion.

3 The classification decision results in a promotion to a higher grade. See (1)(a) above for the effective date. The promotion must meet merit promotion plan requirements, if applicable.

h. Appeal Records. This file shall be separate from the Official Personnel Folder (OPF). This file shall constitute the official record. It shall contain the employee's written appeal, all correspondence, and pertinent documents pertaining thereto. The file shall be retained for a period of 3 years after the date of final decisions, or the case is otherwise terminated, and then destroyed. All information contained in the appeal file shall be made available to the employee and/or the designated representative for review.

i. Notification of Appeal Decision. Headquarters Division of Personnel, OSMRE will notify the complainant, in writing, of its decision. The Office will also insure that the Department receives copies of all appeal decisions made by OSMRE or OPM.

j. Other Provisions.

(1) Freedom From Reprisal or Interference. Unless an employee feels free to use the appeal system provided in this Directive, the system will not serve the intended purpose of giving the employee a means for review of his/her dissatisfaction relating to the classification of his/her position. An employee and his/her authorized representative must be free to use the system without restraint, interference, coercion, discrimination or reprisial. No supervisor or other person acting in an official capacity shall take or threaten to take any act of reprisal against an employee because he/she has exercised or expressed an intention to exercise any of his/her rights under this Directive. To be fully effective, the spirit as well as the letter of the requirement must be enforced. It is not enough for an official to abstain from overt threats or interference. An official must refrain from making any statement or taking any action that has the flavor of a threat, interference or intimidation.

(2) Representation. The employee has the right to be assisted and advised by a representative, of his/her choice, designated in writing, in appealing the classification of his/her position under the provisions of this Directive. A representative so designated will be furnished a copy of any written statement or notification of an OSMRE decision furnished to the employee and a copy of the appeal decision.

(3) Use of Official Time.

(a) An employee is entitled to a reasonable amount of official time for the preparation of a classification appeal under the procedures authorized in this Directive, if he/she is in an active duty status. The time to be allowed will be determined on the basis of the facts and circumstances in each case.

(b) If the employee's representative is an OSMRE employee in an active duty status, he/she is also entitled to a reasonable amount of official time to assist or act for the employee in the preparation of a classification appeal.

(c) Employees, whether complainants or representatives, must make advance arrangements with their supervisors for the use of official time.

(d) When there is a disagreement concerning the amount of official time to be granted, the matter will be submitted by the supervisor to the Personnel Officer for assistance in resolution.

(4) Publicity Requirements. This Directive will be brought to the attention of all employees covered by the Directive at least annually, and they will be notified where copies are available for review. Copies will be provided to employees, their representatives, and recognized labor organizations, on request.

4. Reporting Requirements. None.

5. References. Federal Personnel Manual - OPM, Chapter 511, and Department of the Interior, Department Manual Part 370 DM 511.

6. Effect on Other Documents. This Directive supersedes OSMRE Directive PER-3, dated 12/28/79 and Change Notice PER 3-1, dated 9/10/82.

7. Effective Date. Upon issuance.

8. Contact. Branch of Policy and Evaluation, Division of Personnel, (202) 343-4656.