

Classification Appeals

Questions and Answers

- Q1.** To receive retroactive correction action as the result of a wrongful demotion, the employee must file a classification appeal in a timely manner. What is the criteria that must be met in order to be considered timely?
- A1.** To be considered timely, the appeal must be filed with the agency or OPM no later than 15 calendar days following receipt of written notification of a final agency administrative decision or 15 calendar days after the effective date of the agency personnel action, whichever is later; and if initially filed with the agency and the agency's decision is unfavorable, the subsequent appeal to OPM must be filed no later than 15 calendar days after receipt of the agency's decision.
- Q2.** Can the agency disallow an employee's choice of a representative? Who cannot be an employee's representative?
- A2.** An agency may disallow an employee's representative when the individual's activities would cause a conflict of interest; or when the individual cannot be released from his or her official duties because of the priority needs of the Government; or when the individual's release would give rise to unreasonable costs to the Government. The appellant's representative cannot be a supervisor with line or staff authority over the position; or any official having classification authority over the position, e.g., personnel officer or position classification specialist.
- Q3.** Is it the right of an employee's representative to be present during fact-finding conducted by OPM?
- A3.** The selection of a representative does not convey a right to the representative to be present during fact-finding conducted by OPM.
- Q4.** What circumstances result in the cancellation of an appeal?
- A4.** OPM will cancel an employee's appeal when the employee withdraws the appeal; the employee is no longer officially assigned to the position, unless there is a possibility of retroactive benefit (a temporary assignment to a different position will not be cause to cancel an appeal); or the employee fails to provide requested information or otherwise fails to cooperate in the adjudication of the appeal.

- Q5.** An employee has served under a time-limited promotion for two or more years. Can that employee file an appeal?
- A5.** An employee serving under time-limited promotions for 2 years or more may appeal.
- Q6.** Can a classification appeal be filed challenging the accuracy, consistency, or use of agency supplemental classification guides?
- A6.** The accuracy, consistency, or use of agency supplemental classification guides may not be appealed by an employee however may be reviewed under agency administrative or negotiated grievance procedures.
- Q7.** If the employee and management cannot resolve issues of the position description accuracy, will OPM still accept the appeal?
- A7.** The accuracy of the official position description including the inclusion or exclusion of a major duty in the official position description may not be appealed by an employee, however may be reviewed under agency administrative or negotiated grievance procedures. If the official position description is considered inaccurate, the employee should attempt to resolve the matter within the agency before appealing to OPM, since it is management's right to assign work. This might be done by requesting a desk audit or by using the administrative or negotiated grievance procedure. If this fails to resolve the matter, OPM will decide the appeal on the basis of the actual duties assigned by management and performed by the employee. In the absence of evidence that a reasonable attempt has been made to resolve the issue of position description accuracy, the appeal will be returned to the employee for an attempt at resolution before OPM adjudicates the appeal.
- Q8.** If an appeal is directed to OPM by the employee through the agency, how many days does the agency have to review the employee's request and issue an appeal decision?
- A8.** When an appeal is directed to OPM through the agency, the agency has 60 calendar days to review the employee's request and issue an appeal decision.
- Q9.** Who may request reconsideration of an OPM appeal decision and what is the criteria for requesting reconsideration?
- A9.** Either the agency or the employee may request reconsideration of an OPM appeal decision. The agency request must come from or be endorsed by the headquarters' personnel office. This is to ensure that it reflects an agency-wide view of the classification of the position. A

decision may be reopened and reconsidered when written information is presented, within 45 calendar days of the date of the decision, that establishes reasonable doubt as to the technical accuracy of the decision or provides evidence that material facts were not considered in the initial appeal. To establish reasonable doubt, the requester should refer specifically to the decision and the classification standards to demonstrate possible error in the evaluation of the position.

Q10. Where must a federal wage system (FWS) employee first file their appeal?

A10. A FWS employee must first file their appeal within the agency.

Q11. What is considered a reasonable time in the GS system for the implementation of an appeal decision issued by OPM?

A11. Decisions must be implemented by the employing agency within 4 pay periods of the decision.

Q12. What is the regulatory basis for the FWS and GS appeals?

A12. CFR 532 for wage grade and CFR 511 for GS positions.

Q13. When should the results of a FWS appeal decision become effective?

A13. The results should be effective no later than the first pay period which begins after 60 days from the date the appeal was filed. Should the appeal decision come later than this, the results of the appeal decision may not be made retroactive to a period preceding that pay period.

Q14. If OPM finds during the adjudication of a classification appeal that identical, similar, or related positions may be classified inconsistent with the appealed position, what may they require from the agency?

A14. OPM may require a consistency report when in the adjudication of a classification appeal it finds reason to believe that identical, similar, or related positions may be classified inconsistent with the appealed position.

Q15. An employee must be in a position for at least six months before they can file an appeal?

A15. Employees may file a classification appeal at any time.