

(2) Designate qualification standards and requirements for each career group, occupational series, pay schedule, and/or pay band.

CLASSIFICATION PROCESS

§ 9901.221 Classification requirements.

(a) The Secretary will develop a methodology for describing and documenting the duties, qualifications, and other requirements of categories of jobs, and will make such descriptions and documentation available to affected employees.

(b) The Secretary will—

(1) Assign occupational series to jobs consistent with occupational series definitions established by OPM under 5 U.S.C. 5105, or by DoD; and

(2) Apply the criteria and definitions required by §§ 9901.211 and 9901.212 to assign jobs to an appropriate career group, pay schedule, and pay band.

(c) The Secretary will establish procedures for classifying jobs and may make such inquiries of the duties, responsibilities, and qualification requirements of jobs as he or she considers necessary for the purpose of this section.

(d) A classification action is implemented by a personnel action, which, for encumbered positions, must be taken within a reasonable period of time following the effective date of the position classification action. For classification actions resulting from a DoD appeal decision, the personnel action must occur within four pay periods following the effective date of the decision, except when a subsequent date is specifically provided in the decision. If a classification action results in a reduction in an employee's pay band or adjusted salary, the employee must be advised, in writing, of the action and proposed effective date of the personnel action at least 7 days before the personnel action is taken. The written notice will inform the employee of the reason for the reclassification, the right to appeal the classification decision, and the time limitations in § 9901.223 within which the appeal must be filed to preserve applicable retroactive benefits.

(e) Except as otherwise provided in this paragraph or required by law, the

effective date of a classification action is the date the authorized management official certifies the classification decision (*i.e.*, signs or electronically validates the position description).

(1) A retroactive effective date for a classification action and the implementing personnel action is permitted only if the action resulted in a reduction in pay band or adjusted salary and if that action is subsequently reversed on appeal.

(2) In order for a corrective action to be retroactive, the employee must file an initial request for review of the classification action with DoD or OPM not later than 15 calendar days after the personnel action effective date for the reduction in pay band or adjusted salary.

(3) A retroactive date may be established only if the appeal reversal is based on the duties and responsibilities performed at the time of reduction. Retroactive action is mandatory under these circumstances.

§ 9901.222 Review of classification decisions.

(a) An individual employee may request that DoD or OPM review the classification (*i.e.*, pay system, career group, occupational series, official title, pay schedule, or pay band) of his or her official position of record at any time.

(b) Under this section, an employee may not appeal to either DoD or OPM the issues designated as nonappealable to the Office of Personnel Management in 5 CFR 511.607 or the accuracy of NSPS pay schedule and pay band classification criteria. Additional nonappealable issues covered under NSPS include—

(1) Classification of a proposed position or one to which the employee is not officially assigned;

(2) Classification of a position to which an employee is detailed, temporarily reassigned, or temporarily promoted, except for employees serving under a time-limited promotion or reassignment for 2 years or more;

(3) Accuracy of the official position description, including the inclusion or exclusion of a duty (subject to paragraph (c) of this section);

§ 9901.223

5 CFR Ch. XCIX (1–1–10 Edition)

(4) Classification of a position based on position-to-position comparisons rather than the NSPS classification criteria;

(5) Classification of a position for which a DoD or an OPM appeal decision was previously rendered unless there is a later change in the governing classification criteria or a material change in the requirements of the position; and

(6) The accuracy of career group, pay band, or pay schedule classification criteria or standards contained in DoD issuances.

(c) When the accuracy of the official position description is questioned by the employee, the employee will be advised to raise this issue informally with the employee's supervisor or file a grievance using the applicable administrative or negotiated grievance procedure. If the employee elects to first raise this issue with the employee's supervisor and the employee and the supervisor cannot resolve this issue, the accuracy of the position description may be determined using the applicable administrative or negotiated grievance procedure. If, after completing this procedure, the issue is not resolved, the classification appeal, if any, will be decided on the basis of the actual duties and responsibilities assigned by management and performed by the employee.

(d) An employee may request that OPM review a DoD determination made under paragraph (a) of this section. If an employee does not request an OPM review, DoD's classification determination is final and not subject to further review or appeal.

(e) Any determination made under this section will be based on criteria issued by the Secretary.

§ 9901.223 Appeal to DoD for review of classification decisions.

(a) *Employee representation.* An employee may designate in writing a representative of his or her choice to assist in the preparation and presentation of an appeal. A management official may disallow an employee's representative when—

(1) An individual's activities as a representative would cause a conflict of interest or position;

(2) An employee cannot be released from his or her official duties because of the priority needs of the Government; or

(3) An employee's release would give rise to unreasonable costs to the Government.

(b) *DoD classification appeal process.* (1) Employee appeals to DoD must be submitted through the employee's servicing Human Resources Office.

(2) An employee may file a classification appeal at any time. When the issue involves a classification action that resulted in a reduction in band or adjusted salary, to preserve any entitlement to retroactive pay, the employee must file any DoD classification appeal no later than 15 calendar days after the effective date of the personnel action. When an employee shows that he or she did not receive notice of the applicable time limit, or personnel action, or was prevented from timely filing by circumstances beyond the employee's control, the deciding official may grant an extension of the appeal period.

(3) An employee must provide the following documentation when filing an appeal:

(i) The employee's name, mailing address, and office telephone and fax numbers;

(ii) The employing Component and the exact location of the employee's position within the Component (installation name, mailing address, organization, division, branch, section, unit);

(iii) The name, address, and business telephone and fax numbers of the employee's representative, if any;

(iv) A statement of the employee's requested pay system, official position title, occupational series, pay schedule, and/or pay band; and

(v) Reasons why the employee believes the position is incorrectly classified.

(4) The employee must refer to classification standards that support the appeal and state specific points of disagreement with the current classification. The employee may also include a statement of facts that he or she thinks may affect the final classification decision.

(c) *Binding decisions.* DoD appeal decisions constitute certificates that are