

(4) the classification requested (*i.e.*, title, pay plan, series, and grade); and

(5) With the consent of the parties concerned, other reasonably identified information from the file.

(b) The Office will disclose to the parties concerned the information contained in an appeal file in proceedings under this part. For the purposes of this section, *the parties concerned* means the Government employee or former Government employee involved in the proceedings, his or her representative designated in writing, and the representative of the agency or the Office involved in the proceeding.

(5 U.S.C. 552, Freedom of Information Act, Pub. L. 92-502)

[50 FR 3313, Jan. 24, 1985]

**Subpart G—Effective Dates of Position Classification Actions or Decisions**

SOURCE: 46 FR 9915, Jan. 30, 1981, unless otherwise noted.

**§ 511.701 Effective dates generally.**

(a) *Agency classification actions.* (1) A classification action is a determination to establish or change the title, series, grade or pay system of a position based on application of published position classification standards or guides. This is a position action.

(i) The effective date of a position action taken by an agency shall be the date an official with properly delegated authority approves (certifies) the proposed classification. This is accomplished when the authorized official(s) signs the allocation of the position.

(ii) The effective date of a position action may be extended to correspond with the effective date of the personnel action when:

(A) The position is being changed to lower grade or pay; and

(B) The employee occupying the position is eligible for retained grade or pay under 5 U.S.C. 5362-5363.

(2) A position action is implemented by a personnel action. The personnel action must occur within a reasonable period of time following the date of the position action.

(3) If the position action requires a personnel action which will result in a

loss of grade or pay to the occupant of the position, the agency must advise the employee, in writing, of the position action and the proposed date of the personnel action. This notice shall be issued prior to taking a personnel action.

(4) Except as provided in §511.703, classification actions may not be made retroactive.

(b) *Office of Personnel Management's classification decision.* (1) The effective date of a classification decision made by means of a certificate issued under the authority of section 5110, title 5, United States Code is not earlier than the date of the certificate, and not later than the beginning of the fourth pay period following the date of the certificate, unless a subsequent date is specifically stated in the certificate. Except as otherwise provided by this paragraph the filing of an appeal of such a certificate does not delay its effective date.

(2) The implementation of the certificate may be suspended when it is determined before its effective date that a review of the classification decision is warranted and suspension is desirable. The determination to suspend implementation may be made by:

(i) A regional director, or a designee, when the decision is made by the regional office; or,

(ii) The Assistant Director, Agency Compliance and Evaluation, or a designee, when the decision is made within the central office or by a region, or

(iii) The Director with respect to any classification decision.

Suspending the implementation of a certificate does not automatically change the effective date except when the certificate requires that the grade or pay of the position be reduced and the employee is not entitled to retained grade or pay.

(3) When the original decision requires that the grade or pay of the position be reduced and the employee is not entitled to retained grade or pay the reviewing authority shall issue a new certificate if it sustains the original decision. Since demotions cannot be made retroactive, the effective date of the new certificate shall be not earlier than the date of the certificate, and not later than the beginning of the

fourth pay period after the date of the certificate unless a subsequent date is specifically stated in the certificate.

[46 FR 9915, Jan. 30, 1981, as amended at 58 FR 65534, Dec. 15, 1993]

**§ 511.702 Agency or Office classification appeal decisions.**

(a) Subject to § 511.703, the effective date of a change in the classification of a position resulting from a classification appeal decision by either an agency or the Office is not earlier than the date of the decision and not later than the beginning of the fourth pay period following the date of the decision, except when a subsequent date is specifically provided in the decision.

(b) The implementation of the decision may be suspended by the Office when it determines before the effective date that a review of the decision is warranted. The determination to suspend implementation may be made by:

(1) The regional director, or a designee, when the appellate decision is made by an agency under the jurisdiction of the region; or

(2) The Assistant Director, Agency Compliance and Evaluation, or the Chief, Classification Appeals Office when the appellate decision is made within the central office, by a region or by an agency; or

(3) The Director with respect to any appellate decision.

Suspending the implementation does not change the effective date of the decision except when the original decision requires that the grade or pay of the position be reduced and the employee is not entitled to grade or pay retention.

(c) When the original decision requires that the grade or pay position be reduced and the employee is not entitled to grade or pay retention, the reviewing authority, if sustaining the original decision, shall issue a new certificate and the effective date of the new certificate shall be not earlier than the date of the new decision and not later than the beginning of the fourth pay period following the date of the new decision, unless a subsequent date is specifically stated in the new decision.

**§ 511.703 Retroactive effective date.**

(a) *Applicability.* A retroactive effective date may be required only if the employee is wrongfully demoted.

(b) *Downgrading.* (1) The effective date of a classification appellate certificate or agency appellate decision can be retroactive only if it corrects a classification action which resulted in a loss of grade or pay. In order for the decision to be made retroactive, the employee must file the initial request for review with either the agency or the Office not later than 15 calendar days after the effective date of the reclassification action.

(2) However, if the appellate decision raises the grade of the position above the original grade, retroactivity will apply only to the extent of restoration to the original grade.

(3) The right to a retroactive effective date provided by this section is preserved on subsequent appeals from an agency or Office classification decision when the subsequent appeal is filed not 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 action taken as a result of the classification decision, whichever is later.

(c) *Grade change based on new duties and responsibilities.* Retroactivity may be based only on duties and responsibilities existing at the time of demotion and cannot be based on duties and responsibilities assigned later.

(d) *Retroactivity when time limits are extended.* The right to a retroactive effective date provided by this section may be preserved at the discretion of the Office, on a showing by the employee that he or she was not notified of the applicable time limit and was not otherwise aware of it, or that circumstances beyond his or her control prevented filing an appeal within the prescribed time limit.

**PART 530—PAY RATES AND SYSTEMS (GENERAL)**

**Subpart A [Reserved]**