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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

JUN 16 1980

In reply refer to:
B-195937

The Honorable John Conyers
House of Representatives

Dear Mr. Conyers:

We refer to your letter of February 26, 1980, on behalf of your constituent, Ms. Eloise Daniel. We have reviewed Ms. Daniel's claim and determined that she is entitled to a retroactive temporary promotion and backpay to grade GS-6 beginning on the 121st day after July 20, 1972. We have today advised our Claims Group to modify the Settlement Certificate issued on April 6, 1979, to reflect this change.

In 1973 Ms. Daniel initiated a grievance. On May 16, 1973, as a part of the resolution of the grievance, Ms. Daniel was permitted to update her personnel file to reflect the fact she had been performing duties other than the duties of her official position. The memorandum, which she wrote and signed and which was signed by her past and present supervisors, indicates that she had been performing the duties of a Computer Technician, GS-335-7, position number 15109. The same memorandum acknowledges that this position was not officially classified until July 20, 1972. Although it appears that Ms. Daniel began performing these duties well before July 20, 1972, there is no legal authority to pay Ms. Daniel before the position was classified. However, under our Turner-Caldwell decisions, 55 Comp. Gen. 539 (1975) 57 Comp. Gen. 427 (1977), she is entitled to a retroactive temporary promotion beginning the 121st day after July 20, 1972. Because Ms. Daniel's detail involved the performance of duties two grades higher than the GS-5 position to which

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B-195937

she was appointed, she may only be given a retroactive temporary promotion to GS-6 for up to one year following the 121st day of her detail. We are glad to have been of assistance in this matter.

Sincerely yours,

MILTON SOCOLAR

Milton J. Socolar
General Counsel