



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

Monday, February 9, 2009
DEO 2009-04

MEMORANDUM FOR: Chief Human Capital Officers

FROM: Kathie Ann Whipple
Acting Director

Subject: Procedures for Passover of Compensably-Disabled Preference Eligibles in
the Excepted Service

On December 24, 2008, the U.S. Court of Appeals for the Federal Circuit issued a decision in Stephen W. Gingery v. Department of Defense, finding that the U.S. Office of Personnel Management (OPM) must apply the same rules for passing over preference eligibles with a 30 percent or more compensable service-connected disability for excepted service positions as it does for competitive service positions.

OPM is currently analyzing the decision and considering options. In the meantime, to pass over a preference eligible who has a compensable service-connected disability of 30 percent or more for an excepted service position, agencies must send a pass over request to OPM for adjudication. These procedures apply only to excepted service positions covered under title 5, United States Code, which have been excepted from the competitive service by the President or by OPM.

Should you have questions concerning this procedure, please contact your Human Capital Officer.

cc: Human Resources Directors