



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

March 21, 2007

MEMORANDUM FOR CHIEF HUMAN CAPITAL OFFICERS

FROM: LINDA M. SPRINGER 
Director

Subject: Change in Service-Connected Disability Veterans' Preference Eligibility

On February 6, 2007, the Merit Systems Protection Board issued a decision in *Hesse v. Department of the Army*, 104 M.S.P.R. 647 (2007), that affects eligibility for veterans' preference based on a service-connected disability under section 2108(2) of title 5, United States Code. The Board decided that the term "active duty" as used in 5 U.S.C. 2108(2) "...may consist entirely of service for training purposes."

The Office of Personnel Management (OPM) did not seek reconsideration of the Board's decision, and has decided to acquiesce to it.

Individuals are entitled to veterans' preference under 5 U.S.C. 2108(2) if they establish that they:

- Served on active duty in the armed forces, including for training, and
- Were separated from active duty under honorable conditions; and either
 - Establish the present existence of a service-connected disability, or
 - Are receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Veterans Administration or a military department.

Agencies should apply the Board's decision in interpreting 5 U.S.C. § 2108(2). OPM will be acting quickly to update its regulations and its VetGuide and VetsInfo Guide on our Web site. As you know, such changes take time so I wanted to inform you of the upcoming changes as soon as possible.

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

cc: Human Resources Directors