



United States  
Office of  
Personnel Management

Office of the General Counsel  
Washington, D.C. 20415-0001

In Reply Refer To:

Your Reference:

MAY 18 1998

MEMORANDUM FOR DON McCAULEY  
NATIONWIDE EXAMINING POLICY OFFICE

FROM: RHODA G. LAWRENCE *Rhoda G. Lawrence*  
ASSISTANT GENERAL COUNSEL

SUBJECT: Certifying Interdisciplinary Positions

ISSUE

You have asked whether it is permissible to instruct examining offices not to create multiple registers for a single interdisciplinary position.<sup>1</sup> We conclude that you may instruct examining offices not to create multiple registers for a single interdisciplinary position because the practice of multiple registers, in such a case, could lead to manipulation of the selection process. Under such a practice, a selecting official could deliberately avoid selecting a preference eligible or else reach a preselected candidate in violation of the rule of three and merit system principles.

ANALYSIS

Pursuant to chapter 33 of title 5, OPM is responsible for examining and certifying candidates for employment in the competitive service. Under this authority, agencies are to appoint candidates from the highest three eligibles on the certificate of eligibles furnished by OPM or the DEU. A certificate is created by selecting the top ranked candidates from the register which is a list of qualified applicants compiled in order of relative standing. See 5 U.S.C. § 3317. An agency may not passover a preference-eligible in order to reach a non-preference eligible unless OPM approves the passover. See 5 U.S.C. § 3318(b).

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<sup>1</sup>Examining offices can include offices within OPM or delegated examining units (DEUs).

In your request, you have noted that examining offices have an option of creating multiple registers during the selection process for interdisciplinary positions. For example, if a particular interdisciplinary position could be filled either by an individual qualified to be a scientist or qualified to be an engineer, an examining office could submit two certificates, from two separate registers, to the selecting official that would indicate the top ranked scientists on one certificate and the top ranked engineers on the other certificate. Under this scenario, the selecting official could choose to select a non-preference eligible from the scientist's certificate without violating the "rule of three" even though a preference-eligible is ranked first on the engineer certificate.

An agency's failure to follow veterans' preference laws during the selection process would violate merit system principles and would constitute a prohibited personnel practice. See 5 U.S.C. §§ 2301 and 2302. Because OPM has an oversight function in ensuring that agencies follow the required appointment procedures, it would be appropriate for OPM to require examining offices to create a single certificate from the appropriate register for interdisciplinary positions so as to avoid violations of merit system principles and prohibited personnel practices. See 5 U.S.C. §§ 1101 and 1104.

### CONCLUSION

Based on OPM's statutory authority to examine and certify candidates for positions in the competitive service together with its oversight responsibility, it is an appropriate policy decision for your office to instruct examining offices not to create multiple registers for a single interdisciplinary position.