

LAW ENFORCEMENT OFFICERS SAFETY ACT

I. Purpose

This Directive establishes policy with respect to qualified retiring, retired, separated and separating law enforcement officers¹ and the application of the relevant provisions of the Law Enforcement Officers Safety Act of 2004 (LEOSA), as amended.

II. Scope

This Directive applies throughout the Department of Homeland Security (DHS) to “qualified retired law enforcement officers” as set forth in LEOSA. This Directive applies to DHS Components' handling of LEOSA matters with such individuals who meet the definition of a “qualified retired law enforcement officer” who have retired or separated from DHS Components since DHS was formed in 2003; with future such individuals; and with such individuals from predecessor agencies when these individuals make LEOSA inquiries with appropriate DHS successor Components.

III. Authorities

- A. Title 18, United States Code (U.S.C.) § 926C, “Carrying of Concealed Firearms by Qualified Retired Law Enforcement Officers” [Law Enforcement Officers Safety Act of 2004, as amended]
- B. Title 18, U.S.C. § 922, “Unlawful Acts”

IV. Responsibilities

- A. The **Under Secretary for Strategy, Policy, and Plans** provides oversight of DHS policies related to LEOSA.
- B. **Component heads** that have qualified retired law enforcement officers:
 - 1. Implement this Directive within their respective Components, to include coordinating any Component-developed LEOSA policy with the Office of Policy, Law Enforcement Policy and the Office of the General Counsel for concurrence; and

¹ The 2017 DHS Lexicon defines a law enforcement officer as: Position occupied by an employee who is authorized by statute to enforce the laws of the United States, carry firearms, and make criminal arrests in the performance of their assigned duties. Includes designated U.S. Coast Guard officers and members.

2. Establish a file for each qualified retired or separated law enforcement officer.

C. **Qualified retired law enforcement officers:**

1. At the individual's expense, annually meet the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the state in which the individual resides, or if the state has not established such standards, either a law enforcement agency within the state in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that state;

2. Maintain the photographic identification issued by the Component and, as applicable, state certification indicating that the required annual testing or qualifications are current; and

3. Notify the Component and the certifying entity in the state of residence immediately when disqualifying events prohibit the possession of a firearm under 18 U.S.C. § 922 and other federal or state law.

V. Policy and Requirements

A. The guidance set forth below is not intended to and does not create any rights, privileges, or benefits, substantive or procedural, enforceable by any party against the United States, its departments, agencies or other entities, its officers or employees, or any other person.

B. Nothing in this Directive impairs or otherwise affects the right of an individual to keep and bear arms under federal and/or state law.

C. DHS Components implement the provisions of LEOSA pertaining to qualified retired law enforcement officers in as cost-effective and efficient a manner as possible that meets the requirements and intent of the statute and the related concerns of qualified retired law enforcement officers from DHS and predecessor agencies.

D. LEOSA exempts a qualified retired law enforcement officer who is carrying the required photographic identification and the necessary firearms certification from most state and local laws that prohibit the carrying of concealed weapons. LEOSA permits carrying a concealed firearm that has been shipped or transported in interstate commerce, subject to certain restrictions.

E. It is the policy of DHS that an individual who served as a law enforcement officer for a total aggregate of 10 years and meets the criteria below in (F.), who then transfers, retires or separates from his or her law enforcement position, is eligible under LEOSA. This includes if the individual converts to a non-law enforcement position within the same or another Component or agency.

F. The Department recognizes that the definition of who is a qualified retired law enforcement officer under LEOSA is separate and distinct from the definition of a law enforcement officer under the Civil Service Retirement System or the Federal Employees Retirement System. Consistent with LEOSA at 18 U.S.C. § 926C(c), and for purposes of this Directive and the corresponding Instruction (No. 257-01-001), a “qualified retired law enforcement officer” means a law enforcement officer who:

1. Separated from service in good standing from service with a public agency as a law enforcement officer;
2. Before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice);
3. Before such separation, served as a law enforcement officer for an aggregate of 10 years or more; or separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
4. During the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the state in which the individual resides or, if the state has not established such standards, either a law enforcement agency within the state in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that state;
5. Has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described below in subsection (G); or has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described below in subsection (G);
6. Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
7. Is not prohibited by federal law from receiving a firearm.

G. Consistent with the provisions of LEOSA at 18 U.S.C. § 926C(d), the following identification is required to be carried by a qualified retired law enforcement officer:

1. A photographic identification issued by the agency from which the individual separated from service as a law enforcement officer that identifies the person as having been employed as a police officer or law enforcement officer and indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the active duty standards for qualification in firearms training as established by the agency to carry a firearm of the same type as the concealed firearm; or

2. A photographic identification issued by the agency from which the individual separated from service as a law enforcement officer that identifies the person as having been employed as a police officer or law enforcement officer; and

A certification issued by the state in which the individual resides or by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that state that indicates that the individual has, not less than 1 year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state or a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that state to have met –

(1) The active duty standards for qualification in firearms training, as established by the state, to carry a firearm of the same type as the concealed firearm; or

(2) If the state has not established such standards, standards set by any law enforcement agency within that state to carry a firearm of the same type as the concealed firearm.

H. DHS Components may allow law enforcement officers who are retiring or separating from a law enforcement position in good standing to retain their credentials (containing their photograph, name, signature and position title or other indication that the individual was employed as a law enforcement officer) stamped or perforated, such as with the word "Retired" or "Separated." To minimize costs and administrative burden, Components may utilize these perforated credentials as the "photographic identification" required by the LEOSA.

1. Components are authorized, but not required, to issue additional photographic identification, specifically for LEOSA purposes (commonly referred to as "LEOSA identification cards"), containing the individual's photograph, name, signature, and indication that the individual was employed in as a law enforcement officer (e.g., the title of the law enforcement position from which the law enforcement officer retired or separated), preceded by the word "Retired" or "Separated," and the name of the Component or Subcomponent from which the individual retired or separated (e.g., "Retired Special Agent, U.S. Customs Service").

2. Components are authorized to issue these additional LEOSA identification cards to retirees from their present Components and to individuals from those parts of their predecessor agencies that were merged into their present Components (e.g., U.S. Border Patrol into U.S. Customs & Border Protection [CBP], Customs Service and Immigration and Naturalization Service criminal investigators into U.S. Immigration & Customs Enforcement [ICE]). All LEOSA identification cards issued are to meet Department-wide identification standards in effect at the time of issuance.

I. Certification Issued by the state: As a general matter, DHS Components are not to perform or assist with annual firearms testing for LEOSA applicants. However, the Federal Law Enforcement Training Center (FLETC), under its authority to provide assistance to state, local, rural, and tribal law enforcement departments through the utilization of FLETC firearms training facilities, may do so on a space available basis and without impeding the FLETC's primary mission. To meet LEOSA requirements, each qualified retired or separated law enforcement officer from DHS Components and their predecessor agencies is to be tested or otherwise be found to meet the requisite standards by a non-DHS entity authorized to issue a certification by the state in which the qualified individual resides, indicating that the individual has been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active law enforcement officers. The availability of such "certifications" varies by state, and it is the responsibility of the qualified retired law enforcement officer to determine and meet the requirements of his or her state of residence for obtaining this certification.

J. LEOSA does not exempt covered individuals from other federal laws or regulations, including any restrictions on the carriage of firearms on transportation systems (such as commercial airlines) and does not confer on the individual any law enforcement power or authority to use the firearm.

K. Components develop any implementing policy and procedures in coordination and with the concurrence of the Office of Policy, Law Enforcement Policy and the Office of the General Counsel.

VI. Questions

Address any questions regarding this Directive to the Office of Strategy, Policy, and Plans.



Claire M. Grady
Under Secretary for Management

12/22/17
Date