



Approved On: 23 SEP 2019

DOJ Policy Statement

EXCEPTIONS TO THE MAXIMUM ENTRY AGE AND MANDATORY RETIREMENT AGE FOR LAW ENFORCEMENT OFFICERS

PURPOSE: Establishes Department of Justice (DOJ or Department) policy and procedures for approving exceptions to maximum entry age and mandatory retirement age requirements for law enforcement officers.

SCOPE: All DOJ components


ORIGINATOR: Justice Management Division (JMD), Human Resources Staff (HR)

CATEGORY: (I) Administrative, (II) Human Resources

AUTHORITY: 5 U.S.C. §§ 3307(d) and (e), 8331(20), 8335(b), 8336(c), 8401(17), 8412(d), 8425(b); 5 C.F.R. Part 831, Subpart I; 5 C.F.R. Part 842, Subpart H; AG Order 2977-2008; Memorandum from Attorney General Dick Thornburgh to Assistant Attorney General for Administration Harry Flickinger, "Maximum Entry Age and Mandatory Retirement of Law Enforcement Officers," June 4, 1991.

CANCELLATION: DOJ Order 1200.1, Part 1, Employment, Chapter 6, Maximum Entry Age and Mandatory Retirement of Law Enforcement Officers; Memorandum from Assistant Attorney General for Administration Lee J. Lofthus, "Delegation of Authority to Waive the Maximum Entry Age of Law Enforcement Officers (LEO)," October 27, 2009; Memorandum from Assistant Attorney General for Administration Lee J. Lofthus, "Delegated Authority to Waive Maximum Entry Age for Certain Veterans' Preference Eligibles," August 11, 2017; any other memorandum or delegation issued by the Assistant Attorney General for Administration, to the extent inconsistent with this Policy Statement.

DISTRIBUTION: Electronically distributed to those referenced in the "SCOPE" section and posted on the DOJ directives electronic repository (SharePoint) at <https://portal.doj.gov/sites/dm/dm/Pages/Home.aspx>

APPROVED BY: *Lee J. Lofthus*

Assistant Attorney General for Administration

ACTION LOG

All DOJ directives are reviewed, at minimum, every 5 years and revisions are made as necessary. The action log records dates of approval, recertification, and cancellation, as well as major and minor revisions to this directive. A brief summary of all revisions will be noted. In the event this directive is cancelled, superseded, or supersedes another directive, that will also be noted in the action log.

| Action | Authorized by | Date | Summary |
|----------------------------------|--|-------------|--|
| Initial Document Approval | <i>Lee J. Lofthus, Assistant Attorney General for Administration</i> | SEP 23 2019 | Establishes policy and procedures for maximum entry age and mandatory retirement of law enforcement officers |

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DEFINITIONS

| Term | Definition |
|---------------------------------|---|
| Component | An office, board, division, or bureau identified in 28 C.F.R. § 0.1, or an equivalent organization with the Department of Justice, including the Office of the Inspector General. |
| Employee | See 5 U.S.C. § 8331(1) for Civil Service Retirement System employees and 5 U.S.C. § 8401(11) for Federal Employees Retirement System employees. |
| Head of Component | Official who directs the administration and operations of an office, board, division, or bureau, and who has delegated human resources authority. |
| Law Enforcement Officer | See 5 U.S.C. § 8331(20) for Civil Service Retirement System employees and 5 U.S.C. § 8401(17) for Federal Employees Retirement System employees. |
| Mandatory Retirement Age | The last day of the month in which the law enforcement officer becomes 57 years of age or completes 20 years of law enforcement officer service, if over the age. |
| Maximum Entry Age | The date immediately preceding an individual's 37th birthday. |

ACRONYMS

| Acronym | Meaning |
|---------|---|
| AAG/A | Assistant Attorney General for Administration |
| DOJ | Department of Justice |
| LEO | Law Enforcement Officer |
| SES | Senior Executive Service |

I. Policy

It is the policy of the Department of Justice (DOJ or Department) to cultivate and maintain a young and vigorous workforce of individuals appointed to physically arduous law enforcement officer (LEO) positions. This policy statement ensures that the Department remains competitive in attracting and retaining a qualified workforce physically capable of meeting the rigorous demands and mission-critical law enforcement needs of LEO components.

A. Maximum Entry Age

Pursuant to Title 5 of the United States Code (U.S.C.), section 3307(d) (5 U.S.C. § 3307(d)), by memorandum dated June 4, 1991, the Attorney General established the date which immediately precedes an individual's 37th birthday as the maximum age for initial entry into a primary LEO position.

B. Exemption from the Maximum Entry Age

The Attorney General has exempted the following positions within the Bureau of Prisons from the maximum entry age: Catholic, Islamic, and Jewish chaplains; medical and dental officers; registered nurses and nurse practitioners; and physician's assistants. Memoranda on the exemptions were signed by the Attorney General on the following dates: Catholic Chaplains, August 13, 1976; Islamic Chaplains, September 27, 1988; physician's assistants, March 21, 1989; Jewish Chaplains, August 1, 1994; medical and dental officers, March 10, 1998; and registered nurses and nurse practitioners, March 28, 2000.

C. Exceptions to the Maximum Entry Age

The Assistant Attorney General for Administration (AAG/A) has the authority to approve exceptions to the maximum entry age for both veteran's preference (VP) eligibles and non-veterans. Qualified VP eligibles must be considered for Department vacancies without regard to the maximum entry age.

For candidates who are not VP eligible, exceptions to the maximum entry age will only be granted in cases of especially qualified individuals; a shortage of highly qualified applicants for specific LEO positions (including shortages in certain geographic areas); situations where tentative selectees for law enforcement positions have passed the maximum entry age due to unavoidable or unexpectedly lengthy clearance or processing requirements; or for other similarly compelling reasons.

Any request for the AAG/A to approve an exception to the maximum entry age must be submitted in writing by the Head of Component (or designee), to the Justice Management Division, Human Resources Staff, and must include the following:

1. The proposed appointee's name, date of birth, and the desired date of employment;
2. Copies of the position description and the proposed appointee's application for employment;
3. A statement that fully explains the basis for the desired exception; and
4. A certification that the proposed appointee meets all fitness for duty requirements.

D. Delegation of Authority to Grant Exceptions to the Maximum Entry Age

Head of Components may grant exceptions to the maximum entry age for qualified VP eligible candidates without regard to age. This delegation of authority may not be redelegated.

For candidates who are not VP eligible, Heads of Components may grant exceptions to the maximum entry age up to the day preceding the individual's 40th birthday in cases that meet the criteria set forth in paragraph I.C above. This delegation of authority may not be redelegated.

E. Mandatory Retirement Age

As prescribed in 5 U.S.C. §§ 8335 and 8425, incumbents of positions approved for LEO coverage under the Civil Service Retirement System or Federal Employees Retirement System who are otherwise eligible for immediate LEO retirement shall be separated from service on the last day of the month in which the LEO becomes 57 years of age or completes 20 years of LEO service if then over that age. Each LEO must be given a written notice of his or her mandatory separation date at least 60 days in advance of the date of separation. Without the consent of the employee, action to separate the employee is not effective until the last day of the month in which the 60-day notice expires.

F. Exceptions to the Mandatory Retirement Age

The AAG/A has the authority to approve exceptions to the mandatory retirement age. Exceptions to the mandatory retirement age will only be granted in special cases where the continuation of the employee's services promotes the needs of the component in fulfilling its mission, and retention of the employee clearly serves the public interest. This includes, but is not limited to, an ongoing criminal investigation that could be brought to a successful conclusion by the retention of a particular LEO; a case in which there is a skills shortage; or a situation where a qualified replacement is not readily available to replace a highly skilled incumbent who is responsible for a vital program.

Any request for the AAG/A to approve an exception to the mandatory retirement age must be submitted in writing by the Head of Component (or designee) and must include the following:

1. The employee's name, date of birth, and retirement date (if no exception is granted);
2. A statement that fully explains the basis for the desired exception; and
3. A certification that the employee currently meets all fitness for duty requirements.

G. Delegation of Authority to Grant Exceptions to the Mandatory Retirement Age

Head of Components may grant exceptions to the mandatory retirement age up to the day preceding the individual's 60th birthday in cases that meet the criteria set forth in paragraph I.F above (beyond age 60, approval external to the Department is required). This delegation of authority may not be redelegated.

H. Limitation on the number of exceptions for the Federal Bureau of Investigation Senior Executive Service

The number of exceptions to the mandatory retirement age for Federal Bureau of Investigation (FBI) LEOs who are in the Senior Executive Service may not exceed 20 in effect at any one time. In each case where the FBI Director exercises his or her authority to grant an exception to the mandatory retirement age, the FBI must notify the AAG/A prior to the affected employee's mandatory retirement date. Notification should contain the information outlined in Section II.A of this policy statement.

II. Reporting and Documenting

A. Reports

At the end of each fiscal year, Head of Components must notify the AAG/A of any exercise of their authority to grant exceptions to the mandatory retirement age or maximum entry age during the previous fiscal year. The notification must contain the following information:

1. The employee's name, date of birth, length of LEO service, and date of mandatory separation;
2. The employee's title, series, grade, organizational title, and duty location;
3. A statement that the employee is willing to remain in government service;
4. A description of the reasons why the employee's retention is necessary and the requested duration of the exception; and

5. Certification by the Head of Component that the employee's retention for the period of time specified in the request would be in the public interest and promote the needs of the component in fulfilling its mission.

B. Document Retention

In accordance with the National Archives and Records Administration, General Records Schedule 2.2, item 10, components must maintain all maximum entry age exceptions, mandatory retirement age exemptions, and related records.

III. Roles and Responsibilities

A. Head of Component

The Head of Component is responsible for:

1. Complying with DOJ policy concerning the maximum entry age exceptions and mandatory retirement age exemptions for LEOs;
2. Granting exceptions to such policy pursuant to delegated authority, as prescribed herein; and
3. Ensuring annual reporting requirements are met.