

~~U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT~~ ~~ICE Policy System~~ **SUPERSEDED**

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**DIRECTIVE TITLE: APPLICATION OF THE LAW ENFORCEMENT OFFICERS
SAFETY ACT OF 2004 (LEOSA) TO RETIRED LAW
ENFORCEMENT OFFICERS**

1. **PURPOSE and SCOPE.** This Directive establishes ICE policy with respect to retired qualified law enforcement officers and the application of the provisions of the Law Enforcement Officers Safety Act of 2004.
2. **AUTHORITIES/REFERENCES.** The Law Enforcement Officers Safety Act of 2004, Public Law 108-277.
3. **SUPERSEDED/CANCELLED POLICY/SUMMARY OF CHANGES.** This Directive is the originating and establishing Directive for all ICE employees.
4. **BACKGROUND.** The Law Enforcement Officers Safety Act of 2004 (LEOSA) was signed into law on July 22, 2004. With certain limitations and conditions, LEOSA exempts qualified active and retired law enforcement officers from most State and local laws that prohibit the carrying of concealed firearms. LEOSA extends this exemption to any qualified law enforcement officer, as that term is defined by the Act, including local, State, and Federal law enforcement personnel. LEOSA, however, does not exempt these individuals from other Federal laws or regulations, including any restrictions on carrying firearms on transportation systems such as commercial airlines, nor does it extend to these individuals any new authority for the use of firearms or any new law enforcement powers.
5. **DEFINITIONS.**
 - 5.1. **Good standing:** For the purposes of this Directive, an ICE employee, or an employee from an agency whose functions were merged into ICE, shall be deemed to have retired in good standing, unless at the time of their retirement:
 - 1) There was a determination made or action initiated to remove, or proposing to remove, the employee from federal employment;
 - 2) The employee's security clearance was suspended or revoked, or a proposal to suspend or revoke the clearance had been issued;

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- 3) The employee was the subject of a pending psychological fitness for duty evaluation or had been found to be not fit for duty; or
- 4) There was an unadjudicated charge of misconduct against the employee or the employee was subject to an adverse disciplinary action resulting from a substantiated claim of misconduct.

5.2. Qualified retired law enforcement officer: For the purposes of this Directive, a qualified retired law enforcement officer is an individual who:

- 1) Retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;
- 2) Before such retirement, 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;
- 3) (A) Before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or (B) Retired 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) Has a nonforfeitable right to benefits under the retirement plan of the agency;
- 5) During the most recent 12-month period, has met, at the expense of the individual, the state's standards for training and qualification for active law enforcement officers to carry firearms;
- 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.

5.3. Retiree identification card: A photographic identification card issued by ICE that certifies the holder as a qualified retired law enforcement officer as defined under LEOSA. The card can be used to satisfy the identification requirements under LEOSA, but provides the holder with no law enforcement powers or authorities, nor any authority to carry a firearm.

6. POLICY.

6.1. Qualified Retired Law Enforcement Officers.

- 1) Pursuant to Section 3(a) of LEOSA (18 U.S.C. § 926C(a)), a qualified retired law enforcement officer may carry a concealed firearm if the qualified retired law enforcement officer carries identification which includes the following:

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- a) A photographic identification issued by ICE in accordance with this Directive; and
 - b) A certification issued by the State in which the individual resides that indicates that the individual has, within the most recent 12-month period, 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 to carry a firearm of the same type as the concealed firearm.
- 2) Upon request, ICE shall prepare and issue a retiree identification card for qualified retired law enforcement officers. This identification card shall be separate and distinct from an employee's retired credentials. Retired credentials issued by ICE will not be sufficient to satisfy the requirements of LEOSA.
 - 3) Each retiree identification card shall, at a minimum, include the name of the individual, the individual's photograph, an identification number traceable to the bearer, the date the employee retired in good standing from service with ICE or an agency whose functions were merged into ICE, and the phrase "Retired Law Enforcement Officer."
 - 4) Retiree identification cards issued to qualified retired law enforcement officers in accordance with this section carry no law enforcement powers or authorities, and do not provide the holder with any authority to carry a firearm. This disclaimer shall be clearly marked on each retiree identification card issued by ICE, and prior to issuance. All qualified retired law enforcement officers will be required to sign a written disclaimer acknowledging that the retiree identification card carries no such powers or authorities.
 - 5) ICE shall not issue a retiree identification card under this section to a qualified retired law enforcement officer until the individual signs a waiver indemnifying ICE for, and holding ICE harmless from, any resulting liability for use of or possession of a firearm carried under LEOSA authority.
 - 5) ICE will not reimburse retired law enforcement officers for any cost associated with the certification requirement referenced in paragraph 1(b) of this section or provide firearm qualification testing.
 - 7) ICE shall not train or qualify retired employees to carry a firearm. A retired, qualified law enforcement officer must qualify pursuant to section 926C(d)(2)(B) of title 18, United States Code, and in accordance with state standards for active law enforcement officers.
 - 8) It shall be within the discretion of ICE to issue a qualified retired law enforcement officer a retiree identification card as described in this section. Should ICE make a finding that the subject is not qualified, or enter into an agreement in which the subject agrees that he or she is not qualified, the subject shall not be issued the retiree identification card described above.

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- 9) With respect to the requirement that a qualified retired law enforcement officer "is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance," each former ICE employee seeking such state certification annually must meet state standards, if any, regarding alcohol or drug use by law enforcement officers authorized to carry a firearm.
- 10) This section shall apply to qualified retired law enforcement officers who retired from service with ICE or an agency whose functions were merged into ICE.
- 11) Individuals who meet the definition of a qualified law enforcement officer under LEOSA may or may not meet the definition of a law enforcement officer under the Civil Service Retirement System or the Federal Employee Retirement System.

7. RESPONSIBILITIES.

- 7.1. **Director, Office of Human Capital** is responsible for ensuring that information about the application of LEOSA and the process for obtaining the required retiree identification card is provided to all ICE law enforcement officers who are about to retire as part of their retirement processing, and, upon request, to all retired law enforcement officers who retired from ICE or an agency whose functions were merged into ICE.
- 7.2. **The ICE Badge and Credential Program** is responsible for reviewing all applications for retiree identification cards, coordinating with the appropriate program office(s) to ensure that all necessary checks are conducted and determinations made as to an applicant's eligibility, ensuring that a National Criminal Information Center (NCIC) check is conducted on the applicant, verifying the applicant's identity, and issuing the card.
- 7.3. **ICE program offices** are responsible for conducting checks on applicants as assigned by the ICE Badge and Credential Program, and based on those checks, making a determination as to whether the individual retired in good standing.

8. PROCEDURES.

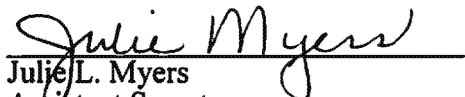
- 8.1. Retired law enforcement officers must prepare and submit a complete application package to the ICE Badge and Credential Program. The application must contain original signatures. Electronic signatures will not be accepted. The complete application package can be accessed on the Internet at <http://www.ice.gov/pi/topics/index.htm>.
- 8.2. Once an application is received, the ICE Badge and Credential Program will review the package and assign it to the appropriate ICE program office(s) which shall ensure that all necessary checks are conducted and a good standing determination is made regarding the applicant's eligibility to receive a retiree identification card.
- 8.3. The program office(s) will report their findings and recommendations back to the Badge and Credential Program. If the assigned program office(s) determines that an applicant has met

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all the necessary requirements for eligibility and has retired in good standing, the Badge and Credential Program will have an NCIC check conducted on the applicant to ensure that the individual is not precluded by federal law from receiving a firearm.

- 8.4. A determination as to an applicant's eligibility to receive the retiree identification card shall be made within 45 business days of the receipt of the initial application.
- 8.5. If, after all the necessary and/or required checks are conducted, the retiree is determined to be eligible to receive a retiree identification card, the ICE Badge and Credential Program will mail a letter to the retiree with instructions on where to report for verification of identity, and a digital photo and digital signature.
- 8.6. If the retiree is determined to be ineligible to receive the retiree identification card, the ICE Badge and Credential Program will mail a letter to the retiree indicating such determination and the basis for this decision. The individual will then be given an opportunity to respond as provided for in the letter.
9. **ATTACHMENT. NONE.**
10. **NO PRIVATE RIGHT STATEMENT.** This Directive is an internal policy statement of ICE. It 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.

Approved


Julie L. Myers
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