

STANDARD OPERATING PROCEDURES

REQUESTING EXEMPTION FROM MANDATORY SEPARATION

1. **Purpose/Scope:** This document establishes U.S. Immigration and Customs Enforcement's (ICE) standard operating procedure (SOP) for exemption requests from mandatory separation for ICE law enforcement officers (LEOs). This SOP serves as procedural and implementing guidance to ICE Directive 1053.2, *Mandatory Separation and Requests for Exemption for ICE Law Enforcement Officers* (July 24, 2018).
2. **Procedures/Requirements.**
 - 2.1. **Directorate and Program Office Requests for Exemption from Mandatory Separation.** As soon as a first-line supervisor determines that mission needs call for the exemption from mandatory separation for a LEO under his or her supervision, the supervisor must take the following steps:
 - 1) For employees who would not serve beyond the age of 60.
 - a. Working closely with the applicable LEO to gather pertinent and required information, complete an exemption from mandatory separation package. All packages must be reviewed, evaluated, and approved by the respective ICE Deputy Director, Executive Associate Director (EAD) of Homeland Security Investigations (HSI), Enforcement and Removal Operations (ERO), or Management and Administration (M&A), or the Associate Director of the Office of Professional Responsibility (OPR). Packages must contain the following:
 - i. "Mandatory Separation Exemption Request Up to Age 60" form requiring (see Attachment 1 or electronic form located in ICE Policy Manual (ICE Form 30-040)):
 1. Employee and position information;
 2. Length of time the exemption is requested (not to exceed (NTE) age 60);
 3. A signed statement that the LEO is willing to remain in service;
 4. A statement of facts to establish that the employee's retention would be in the public interest;
 5. A medical certificate signed by the LEO's personal physician on office letterhead, indicating the individual's physical fitness

to remain employed as a LEO. The medical certification should be limited to an attestation by the personal physician that the employee is fit to remain employed as a LEO after a review of the LEO's position description;

6. Organization point of contact information; and
7. Signature by supervisor and ICE Deputy Director, EAD, or Associate Director.
 - ii. A signed memorandum by the ICE Deputy Director, EAD, or Associate Director to the Office of Human Capital (OHC) Chief Human Capital Officer (CHCO) requesting exemption from mandatory separation (see Attachment 2).
- b. No less than 60 days prior to the effective date of the mandatory separation, submit the electronic package to OHC's Program Operations Unit mailbox at (b)(7)(E) [\[REDACTED\]@ice.dhs.gov](mailto: [REDACTED]@ice.dhs.gov) for final review, evaluation, and approval.
- c. Notify OHC's Programs Operations Unit immediately if the circumstances outlined in the exemption from mandatory separation package change significantly prior to or after approval of the exemption.

2) For employees who would serve beyond the age of 60.

- a. Working closely with the applicable LEO to gather pertinent and required information, complete an exemption from mandatory separation package. All packages must be reviewed, evaluated, and approved by the respective ICE Deputy Director, EAD of HSI, ERO, or M&A, or Associate Director of OPR. Packages must contain the following:
 - i. "Mandatory Separation Exemption Request Beyond Age 60" form requiring (see Attachment 3 or electronic form located in ICE Policy Manual (ICE Form 30-041)):
 1. Employee and position information;
 2. Length of time the exemption is requested (NTE one year);
 3. A signed statement that the LEO is willing to remain in service;
 4. A statement of facts to establish that the employee's retention would be in the public interest;

5. A medical certificate signed by the LEO's personal physician on office letterhead, indicating the individual's physical fitness to remain employed as a LEO. The medical certification should be limited to an attestation by the personal physician that the employee is fit to remain employed as a LEO after a review of the LEO's position description;
 6. A statement explaining why the exemption is requested as opposed to separating and reemploying the individual;
 7. Organization point of contact information; and
 8. Signature by supervisor and ICE Deputy Director, EAD, or Associate Director.
- ii. A signed memorandum by the respective ICE Deputy Director, EAD of ERO, HSI, or M&A, or the Associate Director of OPR to the ICE CHCO requesting exemption from mandatory separation (see Attachment 4).
- b. No less than 90 days prior to the effective date of the mandatory separation, submit the electronic package to OHC's Program Operations Unit mailbox at (b)(7)(E)@ice.dhs.gov for review, evaluation, approval, and further coordination with the U.S. Department of Homeland Security (DHS) CHCO.
- c. Notify OHC's Program Operations Unit immediately if the circumstances outlined in the exemption from mandatory separation package change significantly prior to or after approval of the exemption.

2.2. OHC Actions Following Submission of Mandatory Separation Exemption Request Packages. Following Directorate and Program Office submissions of complete exemption request packages, OHC must take the following steps:

- 1) Review ICE Deputy Director, HSI, ERO, and M&A EAD, and OPR Associate Director approved mandatory separation exemption packages to ensure that they are complete and meet statutory, regulatory, and DHS requirements.
- 2) Provide/review performance and conduct information for the employee. If derogatory information is discovered, consult with the Directorates and Program Offices to determine how performance and/or conduct information impacts the ICE Deputy Director, EAD, or Associate Director decision to retain the LEO.
- 3) Upon final approval for employees who would not serve beyond the age of 60, communicate final exemption request decision to the applicable Directorate or

Program Office and complete necessary personnel actions, to include a personnel continuance action, as appropriate.

- 4) Upon final ICE review and approval for employees who would serve beyond the age of 60, the ICE CHCO will transmit the mandatory separation package to the DHS CHCO for review. The DHS CHCO will review and submit the request to the Office of Personnel Management (OPM) or Executive Office of President, based upon the employee's retirement system, for final approval.
- 5) Upon final approval by OPM or the President for employees who would serve beyond the age of 60, OHC will communicate final exemption request decision to the applicable Directorate or Program Office and complete necessary personnel actions, to include a personnel continuance action, as appropriate.
- 6) Retain all mandatory separation exemption packages for recordkeeping purposes.

3. Attachments.

- 3.1. "Mandatory Separation Exemption Request Up to Age 60" Form.
- 3.2. Memorandum Template for Exemptions Up to Age 60.
- 3.3. "Mandatory Separation Exemption Request Beyond Age 60" Form.
- 3.4. Memorandum Template for Exemptions Beyond Age 60.

Mandatory Separation Exemption Request Up to Age 60 Form			
Employee Information			
Name:		Date of Birth:	
LEO (6e) Service Computation Date (SCD):		Date of Mandatory Separation:	
Position Information			
Directorate/Program Office:			
Division / Unit:			
Duty Station:			
Position Title:			
Plan, Series, Grade:			
Waiver Request Requirements & Procedures (please attach documents to this form).			
	Length of Time the Exemption is Requested (NTE age 60):		
	A signed statement that the LEO is willing to remain in service.		
	A statement of facts to establish that the employee's retention would be in the public interest:		
	A medical certificate signed by the LEO's personal physician on office letterhead, indicating the individual's physical fitness to remain employed as a LEO. Language to be included in the certification: "I [Doctor's Printed Name], as [LEO's Name] personal physician, after having reviewed the law enforcement officer's ICE position description, certify that [LEO's Name] is physically fit to perform the described duties of an ICE law enforcement officer. [Physician's Signature]"		
Employing Organization Point of Contact			
Name of Primary Contact:			
Phone Number:		Email:	
Program Unit Chief Review & Recommendation (Supervisor or Manager)			
Name of Reviewer:			
Signature Reviewer:		Date:	
Recommendation:	<input type="checkbox"/> Approve	<input type="checkbox"/> Needs Added Discussion	<input type="checkbox"/> Deny
ICE Deputy Director, EAD, or Associate Director Review & Recommendation			
Name of Reviewer:			
Signature Reviewer:		Date:	
Recommendation:	<input type="checkbox"/> Approve	<input type="checkbox"/> Needs Added Discussion	<input type="checkbox"/> Deny
OHC Review & Recommendation			
Name of Reviewer:			
Signature Reviewer:		Date:	
Recommendation:	<input type="checkbox"/> Approve	<input type="checkbox"/> Needs Added Discussion	<input type="checkbox"/> Deny

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Memorandum Template for Exemptions Up to Age 60

(Please copy with Directorate- or Program Office-specific heading using the ICE Internal Memorandum Template)

[Date]

MEMORANDUM FOR: [Name]
Chief Human Capital Officer

THROUGH: [ICE Deputy Director, EAD, or Associate Director name]
[Title]

FROM: [Originator name]
[Title]

SUBJECT: Request for Exemption from Mandatory Separation Up to Age 60 for
[Employee's name and title]

Purpose

With approval by the [ICE Deputy Director, EAD, or Associate Director and Directorate/Program Office name], the [Office/Division name] requests that the ICE Chief Human Capital Officer (CHCO) approve an exemption from mandatory separation for [Employee name, DOB] as a [Enter position, series, grade and salary, duty location and length of service] until [Time period – e.g., up to age 60; one year; etc.]. The employee's mandatory separation date is [Enter date required to retire].

Background

Mandatory separation for law enforcement officers (LEOs) is generally 57 years of age, or if over the age of 57, when the LEO completes 20 years of law enforcement service, per Title 5 United States Code (U.S.C) §§ 8335(b) and 8425(b). In accordance with these regulations and ICE policy and procedures, the head of an Agency may exempt a LEO from separation until the employee becomes 60 years of age if he or she judges it to be in the public interest and based on ICE mission needs. The authority to approve exemption requests for LEOs who would not serve beyond the age of 60 has been delegated to the ICE CHCO in ICE Delegation Order {XX}, entitled {XX}, dated {XX}.

Discussion

[Employee name] is willing to remain in service and remains able to perform the essential functions of the [Name of position] position. This request is in the public interest and supports the ICE mission for the following reasons:

[Please provide a statement of facts for retaining the employee beyond age of mandatory separation and that it would promote the needs of the office in fulfilling its mission].

Recommendation

For the reasons listed above and with approval by the [ICE Deputy Director, EAD, or Associate Director and Directorate/Program Office name], it is recommended that the ICE CHCO approve an exemption from the mandatory separation for [Employee name] until [Enter time period].

If you have questions, please contact (Insert submitter's name and e-mail/phone).

Approve Disapprove

Modify Needs more discussion

Date

Mandatory Separation Exemption Request Beyond Age 60 Form			
Employee Information			
Name:		Date of Birth:	
LEO (6c) Service Computation Date (SCD):		Date of Mandatory Separation:	
Position Information			
Division/Program Office:			
Division / Unit:			
Duty Station:			
Position Title:			
Plan, Series, Grade:			
Waiver Request Requirements & Procedures (please attach documents to this form).			
Length of Time the Exemption is Requested (<i>NTE one year</i>):			
A signed statement that the LEO is willing to remain in service.			
A statement of facts to establish that the employee's retention would be in the public interest:			
A medical certificate signed by the LEO's personal physician on office letterhead, indicating the individual's physical fitness to remain employed as a LEO. Language to be included in the certification: "I [Doctor's Printed Name], as [LEO's Name] personal physician, after having reviewed the law enforcement officer's ICE position description, certify that [LEO's Name] is physically fit to perform the described duties of an ICE law enforcement officer. [Physician's Signature]"			
A statement explaining why the exemption is requested as opposed to separating and reemploying the individual:			
Employing Organization Point of Contact			
Name of Primary Contact:			
Phone Number:		Email:	
Program Unit Chief Review & Recommendation (Supervisor or Manager)			
Name of Reviewer:			
Signature Reviewer:		Date:	
Recommendation:	<input type="checkbox"/> Approve	<input type="checkbox"/> Needs Added Discussion	<input type="checkbox"/> Deny
ICE Deputy Director, EAD, or Associate Director Review & Recommendation			
Name of Reviewer:			
Signature Reviewer:		Date:	
Recommendation:	<input type="checkbox"/> Approve	<input type="checkbox"/> Needs Added Discussion	<input type="checkbox"/> Deny
OHC Review & Recommendation			

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~~FOR OFFICIAL USE ONLY~~

Name of Reviewer:			
Signature Reviewer:		Date:	
Recommendation:	<input type="checkbox"/> Approve	<input type="checkbox"/> Needs Added Discussion	<input type="checkbox"/> Deny

~~FOR OFFICIAL USE ONLY~~

Memorandum Template for Exemptions Beyond Age 60

(Please copy with Directorate- or Program Office-specific heading using the ICE Internal Memorandum Template)

[Date]

MEMORANDUM FOR: [Name]
Chief Human Capital Officer

THROUGH: [ICE Deputy Director, EAD, or Associate Director Name]
[Title]

FROM: [Originator name]
[Title]

SUBJECT: Request for Exemption from Mandatory Separation Beyond Age of 60 for
[Employee's name and title]

Purpose

With approval by the [ICE Deputy Director, EAD, or Associate Director and Directorate/Program Office name], the [Office/Division name] requests that the ICE Chief Human Capital Officer (CHCO), in coordination with the U.S. Department of Homeland Security (DHS) CHCO, approve and submit an exemption from mandatory separation for [Employee name, DOB] as a [Enter position, series, grade and salary, duty location and length of service] until [Time period – up one year]. The employee's mandatory separation date is [Enter date required to retire or previous exemption date based on approval up to age 60].

Background

Mandatory separation for law enforcement officers (LEOs) is generally 57 years of age or, if over the age of 57, when the LEO completes 20 years of law enforcement service, per Title 5 United States Code (U.S.C), §§ 8335(b) and 8425(b). In accordance with these regulations and ICE policy and procedures, the head of an Agency may exempt a LEO from separation until the employee becomes 60 years of age if he or she judges it to be in the public interest and based on ICE mission needs. When an agency lacks the authority (waivers beyond the age of 60) and wishes to secure an exemption for a LEO who would serve beyond the age of 60, the Agency head, in coordination with the DHS CHCO, may submit a recommendation for approval by the Office of Personnel Management or the President. The authority to submit exemption requests for LEOs who would serve beyond the age of 60 to the DHS CHCO for further consideration has been delegated to the ICE CHCO in ICE Delegation Order {XX} entitled {XX}, dated {XX}.

Discussion

[Employee name] is willing to remain in service and remains able to perform the essential functions of the [Name of position] position. This request is in the public interest and supports the ICE mission for the following reasons:

[Please provide a statement: (1) of facts for retaining the employee beyond age of mandatory separation; (2) that it would promote the needs of the office in fulfilling its mission; and (3) explaining why the exemption is requested as opposed to separating and reemploying the individual].

Recommendation

For the reasons listed above and with approval by the [ICE Deputy Director, EAD, or Associate Director and Directorate/Program Office name], it is recommended that the request for an exemption from the mandatory separation for [Employee name] until [Enter time period] be approved.

If you have questions, please contact (Insert submitter's name and e-mail/phone).

Approve Disapprove

Modify Needs more discussion

Date