

# Department of the Interior Departmental Manual

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**Series:** Law Enforcement and Security

**Part 446:** Law Enforcement

**Chapter 28:** Medical Standards for Law Enforcement Officers

**Originating Office:** Office of Law Enforcement and Security

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## 446 DM 28

**28.1 Purpose.** This chapter establishes policy regarding minimum medical standards for law enforcement positions within the Department of the Interior (Department / DOI).

**28.2 Scope.** This policy applies to all Department bureaus and offices with responsibility for law enforcement positions.

**28.3 Definitions.** For the purposes of this chapter, the following definitions apply.

A. Law Enforcement Officer (LEO): A DOI law enforcement officer sworn and commissioned to enforce criminal statutes and authorized to carry firearms, execute and serve warrants, search, seize, make arrests, and perform such duties as authorized by law.

B. Law Enforcement Position: Any position in which the incumbent employee must be an LEO.

## 28.4 Authorities and References.

A. U.S. Department of the Interior, Office of Occupational Health and Safety, "Occupational Medicine Program Handbook".

B. 5 CFR § 339, "Medical Qualification Determinations".

C. The Privacy Act of 1974.

D. 29 CFR § 1910.1020, "Access to Employee Exposure and Medical Records".

E. 29 CFR § 1614.203, The Rehabilitation Act of 1973.

F. OPM/GOVT-10, "Employee Medical File System Records".

G. Executive Order 11478 (1969) as amended by Executive Order 13087 (1998).

H. 29 CFR § 1910, "Occupational Safety and Health Standards".

**28.5 Policy.** All bureaus/offices will use formal medical clearance procedures to ensure that applicants and incumbent employees of law enforcement positions meet established minimum standards for medical clearance in conformance with Department policy and the requirements set forth herein.

## **28.6 Responsibilities.**

A. Deputy Assistant Secretary - Law Enforcement, Security, and Emergency Management is responsible for policy development and provides program guidance and oversight of the Department's law enforcement programs.

B. Bureaus and Offices Heads are responsible for promulgating any counterpart policy or procedure required to implement the policy established in this chapter.

C. Bureau Directors of Law Enforcement (BDLE). The BDLE shall be responsible for implementing and enforcing the policies and standards of Part 446 DM. The BDLE also develops any additional and necessary policies for successfully accomplishing law enforcement missions.

D. Bureau/Office LEOs, supervisors, and managers are responsible for familiarizing themselves with Part 446 DM and for complying with established policy and procedure contained therein.

E. Bureau /Office LEOs are responsible for complying with established policy and procedure governing medical clearance standards and medical clearance procedures.

**28.7 Requirements.** The Department's "Occupational Medicine Program Handbook" (Handbook) serves as the primary reference for this policy chapter. Pursuant to 011 DM 5, section 5.1, handbooks are considered part of the Department Manual established to provide detailed instructions to supplement policies and procedures.

For the purposes of this chapter, the guide contained in Tab 12 – Attachment D4 (Law Enforcement Officers) of the Handbook will be used by bureaus and offices to implement a full program of medical examination and review of applicants and incumbents for firearms-carrying law enforcement positions within the Department. It is noted that the standards contained in Tab 12 – Attachment D4 establish minimum requirements for medical fitness that are necessary for the safe and efficient performance of essential functions of LEOs.

The most recent version of the Handbook can be accessed at DOI's Office of Occupational Health and Safety web site at <http://www.doi.gov/safetynet/information/general/index.html>.

A. Medical Standards. Bureaus and offices will base medical clearance determinations for law enforcement positions on standards which meet or exceed the minimum medical standards established by the Department.

(1) To ensure a minimum level of uniformity in identifying those medical conditions and/or physical impairments that may hinder an individual's ability to satisfactorily perform the essential functions of an LEO, the Department has established generic medical standards for commissioned law enforcement officers (see Handbook, Tab 12 - Attachment D 4, Law Enforcement Officers). These generic standards establish the minimum standards for medical clearance deemed necessary by the Department for LEOs to perform essential functions safely and efficiently.

(2) A bureau/office may refine the generic minimum medical standards for commissioned law enforcement officers to incorporate any additional disqualifying medical conditions or physical impairments it deems necessary to specifically address essential functions unique to its law enforcement positions. The Department has established a formal protocol for establishing new medical standards or evaluating existing medical standards for potential improvement. Bureaus or offices interested in modifying medical standards should contact both their bureau safety office and the Occupational Health Program Manager.

B. Medical Qualification Determination and Procedures. The Department has established medical clearance procedures to ensure applicants and incumbent employees of law enforcement positions are afforded a comprehensive and objective assessment of their ability to meet established minimum standards for medical clearance (see Handbook, Tab 8, Specific Medical Program Guidance).

(1) Bureaus/offices will utilize the medical clearance procedures described herein to ensure that applicants and incumbent employees of law enforcement positions meet established minimum standards for medical clearance.

(2) The medical clearance procedures required by this policy consist of:

- (i) Medical Surveillance Program;
- (ii) Pre-Appointment Medical Clearance Examination;
- (iii) Periodic Recurring Medical Clearance Examination;
- (iv) Clearance-For-Duty Medical Examination; and,
- (v) Exit Medical Examination.

When establishing these clearance procedures, bureaus and offices will follow the guidance provided within the Handbook, unless otherwise modified by this chapter.

(a) Medical Surveillance Program. The primary purpose of a medical surveillance program is the early identification of job related conditions that could present an increased risk of adverse health effects to an individual or group. Certain jobs functions may carry a higher risk of adverse health effects than others. For example, working in a high noise environment may increase the chances of adverse health effects to an employee. Bureaus/offices shall develop procedures

whereby data collected during periodic recurring medical clearance examinations is made available for use in the medical surveillance program. Further, medical testing (e.g. annual audiogram) shall also be performed as mandated by 28.4. Authorities and References.

(b) Pre-Appointment Medical Clearance Examination. The pre-appointment medical clearance examination (also referred to as the pre-placement examination) is intended to assess an applicant's health status after a *conditional* offer of employment has been made, but before the applicant has been appointed (i.e., the appointment is contingent upon the applicant meeting the minimum medical clearance standards and drug testing criteria established for the law enforcement position). The pre-appointment medical clearance examination process will consist of the following:

(i) After a *conditional* offer of employment has been tendered, an applicant will undergo a DOI-sponsored medical examination at a date, time, and location determined by the bureau or office. Examination costs will be borne by the bureau/office. The examination will be performed by a qualified medical provider approved by the bureau/office and conducted according to a specific preset examination protocol. Applicants who are already included in an Interior bureau/office law enforcement medical surveillance program in compliance with this policy may be excluded by bureau/office policy from the pre-appointment requirement.

(ii) The results of the medical examination will be forwarded to an Agency Medical Officer (AMO) who is specifically familiar with the law enforcement functions of the bureau or office. The AMO will evaluate the medical provider's findings and render a determination of the applicant's compliance with the medical standards for the position. Medical clearance determinations will be based on standards which meet or exceed the minimum medical standards established by the Department.

(c) Periodic Recurring Medical Clearance Examination. The periodic recurring medical clearance examination (also referred to as the periodic qualification or interval exam) is intended to assess an incumbent employee's health status at prescribed intervals to ensure their continued compliance with minimum medical standards. The periodic recurring medical clearance examination process will consist of the following:

(i) At the prescribed intervals (see Handbook, Tab 12 - Attachment D 4, Law Enforcement Officers), incumbent employees will undergo a DOI-sponsored medical examination. The examinations will occur within 90 days of each identified employee's birth date, or other defined time frame as established by bureau/office policy. The examination will be performed by a qualified medical provider approved by the bureau/office and conducted according to a specific preset examination protocol.

Bureaus/offices will establish tracking systems to assure that identified LEOs receive their prescribed age-graded medical exams within 90 days of their birth dates or other defined time frame. As medical clearance is a condition of employment, bureaus/offices shall establish procedures for resolving situations where LEOs are in arrears of the defined 90 day deadline. These procedures must involve the Bureau Director of Law Enforcement (BDLE) in the resolution process. The tracking systems will also assure that identified LEOs are receiving their medical clearance determinations within 180 days of their birth date or other defined time frame.

(ii) The results of the medical examination will be forwarded to an AMO who is specifically familiar with the law enforcement functions of the bureau or office. The AMO will evaluate the medical provider's findings and render a determination of the applicant's compliance with the medical standards for the position. Medical clearance determinations will be based on standards which meet or exceed the minimum medical standards established by the Department.

(d) Clearance-For-Duty Medical Examination. The clearance-for-duty medical examination is intended to assess an incumbent employee's health status at any time when the bureau/office and/or incumbent believe a medical condition may be inhibiting the LEO's ability to meet the minimum medical standards necessary to perform essential functions safely and efficiently. Clearance-for-duty medical examination processes may vary. For example:

(i) In those cases where the bureau/office identifies the need for a clearance-for-duty medical examination (e.g., the agency believes there is objective evidence the incumbent employee's ability to perform essential functions safely and efficiently may be impaired, or an evaluation is needed to establish that an incumbent meets the minimum medical standards necessary to perform essential functions before returning to duty following an injury or illness) the process followed is similar to that of the periodic recurring medical clearance examination.

(ii) In those cases where an incumbent employee raises a medical condition as a defense against alleged performance, conduct, or time and attendance deficiencies, the clearance-for-duty medical examination process differs from that of the periodic recurring medical clearance examination (see Handbook, Tab 12, Attachment B-2, Medical Employability Determinations).

### (3) General Conditions.

(a) Payment for DOI-Sponsored Medical Clearance Examinations. Medical clearance examinations will be performed by a physician approved by the bureau/office and paid for by the bureau/office. Additional diagnostic examination elements or tests required by the agency and performed by bureau/office approved medical providers will also be paid for by the bureau/office.

(b) Payment for Treatment or Procedures to Meet Medical Clearance Standards. DOI does not pay the costs of any medical treatment or medical care procedures undertaken by an employee to meet medical clearance standards. Those costs will be borne by the employee or a third party (e.g., health insurance provider, worker's compensation).

(c) Postponement of Pre-Appointment Medical Clearance Examinations. In pre-employment situations, selecting officials may postpone medical clearance examinations as needed to address temporary situations such as an applicant having an acute illness on the day of the exam, however, as the employment offer is *conditional* upon applicant passing the drug test and medical clearance examination, the selecting official has the authority to bypass a new hire candidate and select an alternate candidate when a candidate does not meet medical standards as of the date of the conditional offer of employment.

(d) Postponement of Periodic Recurring Medical Clearance Examination. If, immediately prior to a scheduled medical clearance examination, an incumbent employee develops an acute medical problem or condition, the examination, or selected portions thereof, may be postponed upon approval of the bureau/office until such time as the individual has recovered, however, the length of postponements may not exceed 90 days past the employee's birth date or other defined time frame.

(e) Incumbent employees identified for periodic recurring medical clearance examinations must complete their examination within 90 days of their birth date or other defined time frame, and they must obtain a medical clearance within 180 days of this date. Bureaus/offices shall establish procedures to evaluate and approve postponement requests which will exceed 90 days, or cause the medical clearance determination to exceed 180 days. Procedures must include the BDLE's participation in the evaluation and approval process.

(f) Postponement of Clearance for Duty Examinations. Bureaus/offices shall institute policies and procedures to ensure that examinations will not normally be postponed since they are intended to assess an incumbent employee's health status at *any time* when the bureau/office and/or incumbent believe a medical condition may be inhibiting the LEO's ability to meet the minimum medical standards necessary to perform essential functions safely and efficiently. Bureaus/offices shall implement policy provisions requiring management level review and approval of clearance for duty examination postponements, thereby ensuring such postponements only occur under limited circumstances and for specified periods.

(g) Dispute of Pre-Appointment Medical Clearance Determination

(iii) An applicant not meeting medical clearance standards may submit additional medical documentation, results of medical testing, or other information to the AMO in support of a favorable determination.

(iv) An applicant not meeting medical clearance standards may be permitted by the selecting official to request a waiver of the medical clearance standard if they can demonstrate the ability to perform the full range of law enforcement duties safely and efficiently despite the appearance of a disqualifying medical condition as mandated by 28.4 Authorities and References.

(v) An applicant not meeting medical clearance standards shall be permitted to request reasonable accommodation under Reference E if they can perform the essential functions of the law enforcement position safely and without undue hardship to the agency.

(h) Dispute of Periodic Recurring Medical Clearance Determinations.

(i) An incumbent employee not meeting medical clearance standards may submit additional medical documentation, results of medical testing, or other information to the AMO in support of a favorable determination.

(ii) An incumbent employee not meeting medical clearance standards shall be permitted to request a waiver of the medical clearance standard if they can demonstrate the ability to perform the full range of law enforcement duties safely and efficiently despite the appearance of a disqualifying medical condition as mandated by 28.4 Authorities and References.

(iii) An incumbent employee not meeting medical clearance standards shall be permitted to request reasonable accommodation under Reference E if they can perform the essential functions of the law enforcement position safely and without undue hardship to the agency.

(i) Dispute of Clearance for Duty Medical Examination. The process followed is similar to that for dispute of periodic recurring medical clearance determinations.

(j) Failure to Meet Medical Clearance Standards. As medical clearance is a condition of employment, bureaus/offices shall establish procedures for resolving situations where LEOs fail to meet medical clearance standards. At a minimum, those procedures shall include:

(i) Procedures for a second level review of medical findings and/or medical determinations contested by an incumbent employee; and

(ii) Procedures for an incumbent employee's request for a waiver of failed medical clearance standards.

(k) Documentation Methods. For purposes of documenting the medical clearance examinations required by this policy, the "Standard Medical History and Examination form" (found on DOI Safetynet website), or a Department approved alternative, will be used. The SF-78, "Certificate of Medical Examination," revised 10/69, and the SF-88, "Report of Medical Examination," revised 3/89, are considered obsolete and are no longer used.

C. Medical Records. Bureaus/offices will appropriately manage the medical records generated as a result of the medical clearance procedures required by this policy. These medical records will generally take the form of Occupational Medical Records contained within an Employee Medical Folder.

(1) Records Management and Maintenance.

(a) To ensure Employee Medical Folders are properly managed, 5 CFR § 293.503 specifies that each agency must issue written internal instructions describing the Employee Medical Files System it will utilize to manage its medical records. The various elements these written internal instructions must address are described within 5 CFR § 293.503.

(b) The Employee Medical Folder is to be maintained for the employee's period of service with the Department, after which it is to be transferred to the National Personnel Records Center for storage or, as appropriate, transferred to the next employing federal agency. Some records (e.g., certain medical surveillance or exposure records) must be maintained for extended periods of time (e.g., employment plus 30 years).

(c) All information in the Employee Medical Folder, whether stored in paper, electronic, photographic, or other means, will be maintained in a manner that strictly controls access to the information, and assures the safety and physical integrity of those records.

(2) Records Confidentiality and Release.

(a) All information in the Employee Medical Folder, whether stored in paper, electronic, photographic, or other means, will be considered medically confidential.

(b) It is the policy of the Department that all confidential medical information will be handled in accordance with the Privacy Act of 1974 as amended.

(i) At the time of their first Department occupational health examination, all employees are to receive a Privacy Act Notice form outlining the specific conditions under which information may be disclosed and for what purposes.

(ii) Without a signed consent from the subject employee, no confidential information will be released to or shared with individuals other than authorized OSHA officials; health professionals within the DOI-arranged system of health services who have a justified, programmatic “need to know,” other individuals in the Department with a specific, official “need to know” as summarized in Department Manual 370 DM 293.4, or, as provided for in the System of Records notice for the custodian of the confidential records.

(c) All individuals who are to receive medical examinations or non-emergency services (for which any medical or summary information is to be forwarded to recipients other than the employee) will be required to sign and date an Authorization for Disclosure of Information form prior to any services being provided. No medical information, including summary information derived from medical records, may be disclosed without this signed form, unless expressly authorized by the agency’s designated Employee Medical File System Manager.

(i) If an incumbent of a law enforcement position chooses to exercise their right to not sign a disclosure form authorizing release of agency-requested medical information, clinical services will be withheld along with any associated medically-based clearances and the employee’s BDLE will be informed of the employee’s refusal to disclose medical information.

(ii) For law enforcement positions, a disclosure to the agency of the entire occupational medical record may be necessary. This must be noted on the disclosure form so the incumbent understands the level of disclosure that will take place.

(d) Employees must be offered access to their exposure and medical records. This access must be prompt (generally within 15 working days of the request) and present no unreasonable barriers for the employee. If the medical provider or the AMO believes that direct employee access to certain sensitive information could be detrimental to the employee, the records requested by the employee are to be released to another health professional acceptable to the employee.