



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



AUG 06 2009

PERSONNEL BULLETIN NO: 9-10 Amended

SUBJECT: Departmental Policy on Firefighter and Law Enforcement Officer (FF/LEO) Position Descriptions (PD) under the Federal Employees Retirement System. (FERS)

1. **Purpose.** This Personnel Bulletin establishes the Department's policy on FF/LEO PD submission under FERS rules.
2. **Authorities.** Title 5 United States Code (USC) 8412(d) and Title 5 Code of Federal Regulations (CFR) 842 Subpart H.
3. **Policy.** The Department hereby establishes a policy for Bureaus and Offices to submit position descriptions for review and processing for special retirement coverage pursuant to the above authorities.
4. **Procedure.**

Option I – The Servicing Personnel Office (SPO) shall submit the PD to the FLERT Team Leader for review. If the PD is approved, this will terminate the review process. An approved certification sheet will then be circulated to the Bureau Program Designee (s), Firefighter and Law Enforcement Retirement Team (FLERT) Leader, and then forwarded to the Secretary or his/her Designee for final determination. A copy of the signed certification sheet is then sent to the SPO.

If the PD is denied, the denial letter shall be sent to the Bureau Program Designee and signed by the Secretary or his/her Designee. The denial letter will provide guidance to the employee(s) encumbering the position (s) on how to file an application for reconsideration if they are not satisfied with the determination.

If a reconsideration application is not filed with the FLERT team within thirty (30) days of receipt of the denial letter by the employee, the review process will be terminated.

If a reconsideration application is timely filed by the employee (s); the request for determination (RFD) will encompass the review of the current record and any additional supporting documentation submitted by the employee (s) to the FLERT examiner.

If the RFD is approved by the Secretary or his/her Designee, this will conclude the reconsideration process.

If the RFD is denied, a decision letter signed by Secretary or his/her Designee shall be sent to the employee. The letter will also provide information concerning the Merit System Protection Board and its appeal process as well as any collective bargaining appeal rights, if so entitled.

Option II – If an employee encumbers a non-covered PD; he/she must file, within six (6) months, a formal written request for a determination (RFD) for the non-covered position to the appropriate FLERT examiner. Therein providing evidence to support the requirements found in 5 C.F.R § 842.804. (Evidence)

(a) An agency head's determination under § 842.803(a) (finding that a position is a rigorous position) must be based solely on the official position description of the position in question and any other official description of duties and qualifications. The official documentation for the position should, as soon as is reasonably possible, establish that the primary duties of the position are so rigorous that the agency does not allow individuals to enter the position if they are over a certain age (37) or if they fail to meet certain physical qualifications (that is, physical requirements and/or medical standards), as determined by the employing agency head based on the personnel management needs of the agency for the positions in question.

b) A determination under §§ 842.803 (b) or (c) must be based on the official position description and any other evidence deemed appropriate by the agency head for making the determination.

c) If an employee is in a position not subject to the one-half percent higher withholding rate of 5 U.S.C. 8422(a)(2)(B), and the employee does not, within six (6) months after entering the position or after any significant change in the position, formally requests a written determination from the employing agency that his/her position is properly covered by the higher withholding rate, the agency head's determination is presumed to be correct. Any service that was not covered at the time the service was performed by the employee shall not be accepted. This finding may be challenged by the preponderance of the evidence that the employee was unaware of his or her status, or was prevented by cause beyond his or her control from requesting that the official status be changed at the time the service was performed.

If the request for a determination is approved, the review process will terminate.

However, if the request for a determination is denied, a decision letter signed by the Secretary or his/her Designee shall be sent to the employee. The letter will also provide information concerning the Merit System Protection Board and its appeal process as well as any collective bargaining appeal rights, if so entitled.

5. **Point-of-Contact.** The Departmental point of contact on this policy is Michael Gillmore, 208-334-1552 or email at Michael_gillmore@ios.doi.gov


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