



Department of Management Services
Division of Human Resource Management

PROGRAM GUIDELINES

SUBJECT: <i>Selective Service Registration</i>	
STATUTORY/RULE REFERENCE: <i>Section 110.1128, Florida Statutes (F.S.), Selective service registration.</i>	EFFECTIVE DATE: <i>October 2, 2008 Rev. October 15, 2008; February 3, 2009; March 28, 2011; June 15, 2012</i>
FORMS: <i>N/A</i>	ADDITIONAL REFERENCE MATERIAL: <i>N/A</i>

I. BACKGROUND AND PURPOSE.

This document addresses frequently asked questions and may be used as a reference tool for state agencies, human resource staff, and hiring managers of the State Personnel System. It is intended to provide general guidance in administering the Selective Service registration requirement for purposes of State of Florida employment.

President Franklin Roosevelt signed the Selective Training and Service Act of 1940 which created the country's first peacetime draft and formally established the Selective Service System as an independent federal agency. For more than 50 years, the federal Selective Service and the registration requirement for America's young men have served as a backup system to provide manpower to the U.S. Armed Forces.

From 1948 until 1973, during both peacetime and periods of conflict, men were drafted to fill vacancies in the armed forces which could not be filled through voluntary means. In 1973, the draft ended and the U.S. converted to an all-volunteer military.

The registration requirement was suspended in April 1975. It was resumed again in 1980 by President Carter in response to the Soviet invasion of Afghanistan. Registration continues today as a hedge against underestimating the number of servicemen needed in a future crisis. The obligation of a man to register is imposed by the federal Military Selective Service Act. This Act establishes and governs the operations of the Selective Service System.

The Selective Service System and the registration requirement for America's young men provide our Nation with a structure and a system of guidelines which will provide the most prompt, efficient, and equitable draft possible, if the country should need it. America's leaders agree that despite the success of the all-volunteer force, registration with Selective Service must continue as a key component of national security strategy.

A Florida law signed by Gov. Bob Martinez in 1988 requires (proof of) registration as a precondition for state employment. This law (Section 110.1128, F.S.) also stipulates that any state employee who was required to register but had failed to do so by October 1, 1988, would remain barred from future promotional opportunities with the state.

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Additionally, on July 1, 2001, a Florida law became effective requiring men to be registered with Selective Service to obtain a State of Florida driver's license. Gov. Jeb Bush signed this legislation on June 5, 2001.

II. DEFINITIONS.

A. Promotion (Career Service) – changing the classification of an employee to a broadband level having a higher maximum salary; or the changing of the classification of an employee to a broadband level having the same or a lower maximum salary but a higher level of responsibility.

B. Selective Service Registration - the process of providing the Selective Service System with personal information, such as name, address, date of birth, social security account number (SSN) and other related information.

C. Selective Service System - an independent agency within the executive branch of the federal government.

III. APPLICABLE STATUTORY PROVISIONS.

Section 110.1128, F.S., Selective service registration.

(1) No person who is required to register with the Selective Service System under the Military Selective Service Act, 50 U.S.C. App. 453, may be offered employment by this state in an authorized position, as defined in s. 216.011, without proof of such registration.

(2) No person who has failed to register as required by the Military Selective Service Act, 50 U.S.C. App. 453, subsequent to October 1, 1988, and who is currently employed by this state may be promoted to a higher authorized position without proof of such registration.

Section 216.011 (d), F.S., Definitions.

(d) "Authorized position" means a position included in an approved budget. In counting the number of authorized positions, part-time positions shall be converted to full-time equivalents.

IV. GUIDING PRINCIPLES.

1. What is the Military Selective Service registration program and to whom does it apply?

The Selective Service System is an independent agency within the executive branch of the federal government. The Director of Selective Service is appointed by the President and confirmed by the Senate. Selective Service is not a part of the Department of Defense.

The federal law under which the agency operates is the Military Selective Service Act. Under this law, the mission of the Selective Service System is to provide the numbers of men needed by the Armed Forces, within the time required, should Congress and the President decide to return to a draft, in the event of a national emergency. Selective Service would also be responsible for administering a program of alternative service for conscientious objectors.

Men born from March 29, 1957 to December 31, 1959 were never required to register because the registration program was not in operation at the time they turned 18. However, the **federal requirement** to register was reinstated in 1980 and **applies to all men born on or after January 1, 1960**. Therefore, almost all male citizens and male aliens living in the

U.S., who are 18 through 25 are required to register with Selective Service by federal law. A man who fails to register may, if prosecuted and convicted, face a fine of up to \$250,000 and/or a prison term of up to five years.

However, the statute requiring registration with the Selective Service **as a condition of state employment** was not signed into law by Governor Martinez until October 1, 1988. This state law cannot be applied retroactively. Therefore, notwithstanding the fact that all men born on or after January 1, 1960 are required by federal law to register, the provisions of Section 110.1128, F.S., cannot be applied to men who were already age 26 at the time that the state law become effective (i.e., those men born on or before September 30, 1962). Consequently, the requirement that applicants respond “yes” on the state employment application regarding their registration status with the Selective Service only applies to men born on or after October 1, 1962. All other male applicants may indicate “N/A” (not applicable).

2. What are an agency's responsibilities before making an offer of employment to a male applicant?

The agency (via the hiring manager or appropriate HR staff member involved in applicant screening) is responsible for verifying that all selected male applicants born on or after October 1, 1962 have registered for the Selective Service.

Whether or not an applicant is able to produce a government issued registration card, in all cases it is recommended that registration be verified at the Selective Service website <http://www.sss.gov>. It will be necessary to enter a last name, the SSN, and the date of birth for the male applicant being verified.

3. At what point in the selection process should the agency verify registration?

Verification of Selective Service registration must be completed prior to appointment into a position. However, because the state application does not require applicants to provide their SSN, and their divulging of age or date of birth is only in voluntary response to the confidential Equal Employment Opportunity (EEO) Survey, the hiring authority will not be privy to this information. Therefore, it may be necessary for agencies to seek SSN and age/birth date information as part of a supplemental application process, similar to their current practice of gathering necessary demographic information for background screening after a conditional offer of employment.

4. What happens if the agency learns that an applicant never registered?

If the applicant has not reached their 26th birthday and has not registered, they may still register (at the same web site cited in Question 3). Once registered, they shall provide the hiring supervisor or human resources office with the registration documentation. The registration shall be verified on the government web site. After verification of the registration, their consideration for employment may continue.

If the applicant has passed their 26th birthday and has not registered, they are no longer able to do so. Such applicants (if born on or after October 1, 1962) shall not be considered for employment, as per Section 110.1128, F.S.

5. What happens if the agency learns that a current employee never registered?

If the employee has not reached their 26th birthday, they may still register (at the same website cited in Question 3) and their employment will not be affected.

If the employee has passed their 26th birthday and has not registered, they are no longer able to do so. According to Florida Statute, no person who has failed to register as required by the Military Selective Service Act, 50 U.S.C. App. 453, subsequent to October 1, 1988, and who is currently employed by this state may be promoted to a higher authorized position without proof of such registration.

Consequently, any current male employee who came on board with the State after October 1, 1988, but who did not/cannot register as required may not (if currently in the Career Service) be promoted. And, if currently in the Career Service, Selected Exempt Service (SES), or Senior Management Service (SMS), may not be offered a subsequent appointment in either the SES or the SMS. Furthermore, if they leave state government, they are not eligible for rehire.

6. What if the applicant/employee did not register with Selective Service, but they are a veteran, or part-time National Guard or Reservist?

Section 12(g) of the Military Selective Service Act allows non-registrants an exemption, under specific conditions. As a veteran, or part-time National Guard or Reservist, they satisfy those conditions with their DD Form 214 showing the dates of their military service, or a current military ID card if still on active duty or a member of the National Guard and Reserves. These documents serve as evidence that their failure to register was not knowing and willful. Therefore, men who served on full-time active duty in the U.S. Armed Forces should not be denied state employment or promotional opportunities on the basis of their failure to register with Selective Service. As long as they have proof of their active duty military service, such as the DD Form 214, or current military ID card if still on active duty or a member of the National Guard or Reserves, their subsequent failure to register should not be a bar to any benefits or programs, contingent upon registration compliance, for which they are otherwise qualified.

7. What if the applicant/employee who did not register with Selective Service did not become a legal resident or citizen until after October 1, 1962?

The requirement to register for the Selective Service applies to any male applicant/employee who has entered the United States, either legally or illegally, if they meet the registration requirements. Since just the date of legal residency or citizenship is not a clear indicator of whether or not the applicant or employee may have been required to register, the agency must request that the applicant or employee obtain a letter from the Selective Service verifying whether or not they met the registration criteria and should have, but did not, register. The Selective Service will verify if they were required to register without specifying if their failure to register was willful or knowing. However, for purposes of employment eligibility, it is only necessary to establish that they were required to register.

Consequently, if it is determined that the applicant/employee was required to register, the agency can take the appropriate action in accordance with this guideline.

8. How Does Someone Aged 18 to 26 Register?

In many public high schools, registration information and forms are provided so that male students approaching the required age may meet this obligation. However, there are other ways to register with the Selective Service System:

Registration On-Line

Registration with the Selective Service may be done using the Internet. With access to the Internet, any young man can register by clicking on the "Register On Line Now" icon on the Selective Service website <http://www.sss.gov>. The applicant/employee will enter in some basic information and within seconds, they will receive their Selective Service Number. Within about two weeks, they will receive a Registration Acknowledgment Card in the mail.

The U.S. Post Office

The applicant/employee can visit the nearest U.S. Post Office, pick up a Registration Form, SSS Form 1M (UPO), complete and sign it, and mail it.

A Registration Acknowledgment Card from Selective Service should be received within 90 days.

9. How should agencies verify current employees who are not eligible for promotion, due to their failure to register by age 26?

The best way to ensure that ineligible employees are not promoted nor appointed to or within the SES or SMS is to require all male employees who were born on or after October 1, 1962 to provide proof of registration or exemption before processing the promotion or original appointment action. If they are not able to provide proof, the servicing HR office can verify registration at the Selective Service website <http://www.sss.gov>.

10. Does the requirement for Selective Service System registration apply to Other Personal Services (OPS) positions?

No. According to Section 110.1128, F.S., the requirement to register with the Selective Service System only applies to "authorized positions." OPS positions do not fall into the definition of authorized positions and are exempt from the Selective Service System registration requirement.

11. Is there a way that an individual who was required to register can request relief for having failed to register?

There is a provision within the Military Selective Service Act, 50 U.S.C. App. 462 (g)(2) which clarifies that if a person who was required to register but did not do so can show by a preponderance of the evidence that the failure to register was not a knowing and willful failure to register, then the non-registrant is not to be denied any federal benefit. However, this exception does not apply to prospective hires or candidates for promotion with the State Personnel System, because such employment or promotion is not a "federal" benefit. Since Section 110.1128, F.S., does not authorize agencies to make exceptions, anyone who failed to register and is now past the age of registering may not be hired, appointed or promoted to an authorized position in the State Personnel System.

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