



SOUTH MIAMI POLICE DEPARTMENT

GENERAL ORDER NUMBER: 3.4	DATE OF ISSUE: April 5, 2019	EFFECTIVE DATE: April 5, 2019	NUMBER OF PAGES: 5
CFA STANDARD: SUBJECT: LEOSHA Firearm Qualifications	NEW (X) RESCINDS (X) AMENDS () OTHER ()	By Order Of:  Rene Landa, CHIEF OF POLICE	

CFA STANDARD:

SECTIONS:

- 3.4.1 Qualified Retirees
- 3.4.2 Request to Attend Training
- 3.4.3 Qualification Procedures
- 3.4.4 Documentation
- 3.4.5 LEOSHA Restrictions

RESCINDS: All existing orders in conflict.

PURPOSE:

The Law Enforcement Officers Safety Act (“LEOSA”) became Federal law on July 22, 2004. LEOSA defines two classes of law enforcement officers: currently appointed officers and separated officers. LEOSA exempts these persons from the concealed firearms carry laws of the 50 States (including the District of Columbia, Puerto Rico and U.S. Possessions), as well as the political subdivisions thereof, provided they meet LEOSA’s requirements and subject to certain exceptions.

Consistent with Federal law, it is the policy of the South Miami Police Department to enhance the personal protection of current and former South Miami Police Department law enforcement officers when off-duty or following separation from service. As such, the South Miami Police Department, in accordance with this Policy, shall (1) comply with LEOSA, (2) implement certain procedures in conformity with LEOSA, and (3) permit currently appointed and separated regular and reserve South Miami Police Department law enforcement officers to carry a firearm in accordance with LEOSA and the following conditions and provisions.

SCOPE: All departmental personnel.

POLICY: It is the policy of the South Miami Police Department that it will allow retired officers from this agency to qualify with approved firearms at a time approved by the Chief of Police to achieve compliance with 18 USC 906C. The Department takes no responsibility in the use of those firearms by the retired officers other

than to see that they qualify with them in a departmentally approved course of instruction.

DEFINITIONS:

LEOSHA: Federal law, codified under 18 USC 926C, that permits certain active and specified retired law enforcement officers to carry firearms in a concealed manner as long as they pass a specified course of instruction within the last 12 months and carry identification that shows their status.

Firearms Qualification Course: A course of testing proficiency with firearms identical to that given to active officers.

Qualified Retired Law Enforcement Officer (“QRLEO”): A separated South Miami Police Department law enforcement officer who:

1. Separated from service “in good standing”;
2. Before such separation, served as a law enforcement officer for an aggregate of 10 years or more (including time served as a law enforcement officer with another agency), or separated due to a service-connected disability (as determined by the South Miami Police Department) after completing any applicable probationary period;
3. Before such separation, 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;
4. At the time of carrying a concealed firearm pursuant to the LEOSA exemption, is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance;
5. Is not prohibited by law from possessing a firearm;
6. Is a separated officer who at the time of separation was “in good standing” as follows:
 - (a) met the South Miami Police Department’s standards for separating “in good standing;”
 - (b) the separated officer was not the subject of discipline, pending discipline or an internal, administrative or criminal investigation which resulted in, or reasonably could be anticipated to have resulted in, the suspension or loss of police powers;
 - (c) the separated officer was not separated from service due to a finding by a qualified medical professional employed by the South Miami Police Department that the separated officer was unqualified to be a law enforcement officer for reasons related to the separated officer’s mental health,
 - (d) at the time of separation, the separated officer had not entered into (or subsequently did not enter into) an agreement with the South Miami Police Department

in which that individual acknowledges he or she is not qualified under LEOSA for reasons relating to mental health;

7. During the most recent 12-month period has met the standards for qualification in firearms training for active duty law enforcement officers as determined by the South Miami Police Department, the State in which the separated officer resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty law enforcement officers within that State; and

8. At the time of carrying a concealed firearm under LEOSA possesses the separated officer's South Miami Police Department photographic identification card issued to such officer upon or after separation together with proof of firearms qualification

3.4.1 Qualified Retirees:

Anyone who has served as a fulltime sworn police officer with the South Miami Police Department for a period of ten years or more and separated from service in good status, may request to prove proficiency with their privately owned firearm in a Departmentally approved course of instruction at a time and place to be approved by the Chief of Police or his designee for the purpose of being in compliance with applicable federal law allowing retired law enforcement officers to carry concealed firearms. The Chief of Police will be the final arbiter of who meets this qualification.

3.4.2. Request to Attend Training

- A. A qualified retired police officer must request in writing, either in letter form or via email to the Chief of Police to attend Departmental firearms training to achieve compliance with federal law. The letter will contain contact information of the retiree and the date of their service with the South Miami Police Department.
- B. The Chief of Police or his designee, upon receipt of the request, will check the validity of their request in light of federal law. Agency staff shall confirm that the applicant is not prohibited by law from possessing a firearm including, without limitation, by a search of the National Crime Information Center (NCIC) database and any other background investigation as shall be necessary as determined by the South Miami Police Department in its discretion. If approved, the Chief will forward in writing to the Departmental firearms instructor the request and grant permission for the person to attend the next regularly scheduled firearms class for the purpose of qualifying with their firearm.
- C. The firearms instructor will contact the retiree and advise them of the date of the next qualification class, what time to report, and what supplies may be needed.

3.4.3. Qualification Procedures

- A. The retiree will be under the direct supervision of the firearms instructor and comply with

all directives of the range master during testing. Failure to comply with instructions will be grounds for the testing to stop and the retiree to be ordered from the range. Testing is done as a courtesy by the Department and the retiree must comply with all instructions for safety and testing purposes.

- B. The firearm to be tested will be of a model previously approved by use by active on-duty officers. The firearm will be inspected by the range master to insure safe operation.
- C. The retiree will supply their own ammunition which must be of a caliber and type approved by the range master in compliance with departmental policy.
- D. Firearms qualification of retirees will occur when normal firearm qualification training occurs or when supplemental qualification training may be held to minimize the cost to the Department.

3.4.4 Documentation

Documentation will be completed after qualification training takes place.

- A. The range master will complete standard paperwork to document whether or not the retiree qualified similar to that of active officers.
- B. The paperwork will be marked “retiree” to designate it from regular qualification records.
- C. The range master will present the retiree with the required paperwork for the retiree to prove their compliance with 18 USC 906C.
- D. The range master will notify the Chief of Police of the date and time the retiree qualified. Should the retiree not qualify properly or be ordered from the range for an infraction, the Chief of Police will also be notified and this may preclude the retiree from further attendance in this program.

3.4.5 LEOSA RESTRICTIONS

LEOSA is a pre-emptive Federal law which operates to supersede the concealed firearm carry laws of the 50 States (or any political subdivision thereof). LEOSA by its terms does not permit or authorize an individual to:

1. carry a machine gun, firearm silencer, or other destructive device;
2. carry a firearm in violation of any State law which permits private persons or entities to prohibit or restrict the possession of concealed firearms on their property or prohibits or restricts the possession of firearms on any State or local government property, installation, building, base, or park;
3. carry a firearm in violation of the Gun Free School Zone Act (18 U.S. Code 922(q)) or similar State law. [NOTE: LEOSA only supersedes State and local government laws concerning the carrying of a concealed firearm. Federal laws governing the carrying of concealed firearms are not superseded by LEOSA. As such, Federal laws governing the carrying of concealed firearms on Federal government property (for example, Federal courthouses, buildings, the U.S. Post Office and other Federal government property, whether owned or leased) are not superseded by LEOSA, nor is the carrying of a firearm onto aircraft permitted (unless in an on-duty capacity in compliance with “Flying Armed” federal

regulations, Title 49 CFR Section 1544.219). Certain portions of airports are also prohibited unless permitted by Federal or State law.];

4. carry a firearm which may violate State or local government magazine capacity laws. [NOTE: LEOSA governs the carrying of concealed firearms and does not address magazine capacity; as of the date of this Policy there is no authority which provides that LEOSA supersedes the magazine capacity laws of the jurisdiction in which the individual may be located when carrying a concealed firearm.]; or

5. take off-duty action in the capacity of a law enforcement officer. [NOTE: LEOSA does not itself confer law enforcement authority on a [Name of Agency] [police officer] [deputy sheriff] or any other law enforcement officer either within or outside the State of California. Any action taken by an off-duty [Name of Agency] law enforcement officer outside California is done so as a private person (unless such officer is outside California on official Department business and the jurisdiction in which such officer is located recognizes the law enforcement authority of such officer). Any off-duty law enforcement action taken within California depends upon the peace officer authority of such officer as defined in the California Penal Code and not by reference to LEOSA.]

LEOSA does not apply if at the time of carrying a concealed firearm in reliance on the LEOSA exemption the individual is under the influence of alcohol or another intoxicating or hallucinatory drug or substance. The consumption of alcohol or the use of any such substance may invalidate the availability of LEOSA as an exemption from the concealed carry laws of the location in which the officer is carrying a firearm.