

§ 300.703

5 CFR Ch. I (1-1-06 Edition)

§ 300.703 Definitions.

In this subpart—

Appointment means any personnel action that brings onto the rolls of an executive agency as a civil service officer or employee as defined in 5 U.S.C. 2104 or 2105, respectively, a person who is not currently employed in that agency. It includes initial employment as well as transfer between agencies and subsequent employment after a break in service. Personnel actions that move an employee within an agency without a break in service are not covered. A break in service is a period of 4 or more calendar days during which an individual is no longer on the rolls of an executive agency.

Covered individual means a male (a) whose application for appointment is under consideration by an executive agency or who is an employee of an executive agency; (b) who was born after December 31, 1959, and is at least 18 years of age or becomes 18 following appointment; (c) who is either a United States citizen or an alien (including parolees and refugees and those who are lawfully admitted to the United States for permanent residence and for asylum) residing in the United States; and (d) is or was required to register under section 3 of the Military Selective Service Act (50 U.S.C. App. 453). Nonimmigrant aliens admitted under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101), such as those admitted on visitor or student visas, and lawfully remaining in the United States, are exempt from registration.

Executive agency means an agency of the Government of the United States as defined in 5 U.S.C. 105.

Exemptions means those individuals determined by the Selective Service System to be excluded from the requirement to register under sections 3 and 6(a) of the Military Selective Service Act (50 U.S.C. App. 453 and 456(a)) or Presidential proclamation.

Preponderance of the evidence means that degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

Registrant means an individual registered under Selective Service law.

Selective Service law means the Military Selective Service Act, rules and regulations issued thereunder, and proclamations of the President under that Act.

Selective Service System means the agency responsible for administering the registration system and for determining who is required to register and who is exempt.

§ 300.704 Considering individuals for appointment.

(a) An executive agency must request a written statement of Selective Service registration status from each covered individual at an appropriate time during the consideration process prior to appointment, and from each covered employee who becomes 18 after appointment. The individual must complete, sign, and date in ink the statement on a form provided by the agency unless the applicant furnishes other documentation as provided by paragraph (c) of this section.

(b) *Statement of Selective Service registration status.* Agencies should reproduce the following statement, which has been approved by the Office of Management and Budget for use through October 31, 1989, under OMB Control No. 3206-0166:

APPLICANT'S STATEMENT OF SELECTIVE SERVICE REGISTRATION STATUS

If you are a male born after December 31, 1959, and are at least 18 years of age, civil service employment law (5 U.S.C. 3328) requires that you must be registered with the Selective Service System, unless you meet certain exemptions under Selective Service law. If you are required to register but knowingly and willfully fail to do so, you are ineligible for appointment by executive agencies of the Federal Government.

CERTIFICATION OF REGISTRATION STATUS

Check one:

- I certify I am registered with the Selective Service System.
- I certify I have been determined by the Selective Service System to be exempt from the registration provisions of Selective Service law.
- I certify I have not registered with the Selective Service System.
- I certify I have not reached my 18th birthday and understand I am required by law to register at that time.

Office of Personnel Management

§ 300.705

NON-REGISTRANTS UNDER AGE 26

If you are under age 26 and have not registered as required, you should register promptly at a United States Post Office, or consular office if you are outside the United States.

NON-REGISTRANTS AGE 26 OR OVER

If you were born in 1960 or later, are 26 years of age or older, and were required to register but did not do so, you can no longer register under Selective Service law. Accordingly, you are not eligible for appointment to an executive agency unless you can prove to the Office of Personnel Management (OPM) that your failure to register was neither knowing nor willful. You may request an OPM decision through the agency that was considering you for employment by returning this statement with your written request for an OPM determination together with any explanation and documentation you wish to furnish to prove that your failure to register was neither knowing nor willful.

PRIVACY ACT STATEMENT

Because information on your registration status is essential for determining whether you are in compliance with 5 U.S.C. 3328, failure to provide the information requested by this statement will prevent any further consideration of your application for appointment. This information is subject to verification with the Selective Service System and may be furnished to other Federal agencies for law enforcement or other authorized use in implementing this law.

FALSE STATEMENT NOTIFICATION

A false statement may be grounds for not hiring you, or for firing you if you have already begun work. Also, you may be punished by fine or imprisonment. (Section 1001 of title 18, United States Code.)

Legal signature of individual (please use ink)

Date signed (please use ink)

(c) At his option, a covered individual may submit, in lieu of the statement described above, a copy of his Acknowledgment Letter or other proof of registration or exemption issued by the Selective Service System. The individual must sign and date the document and add a note stating it is submitted as proof of Selective Service registration or exemption.

(d) An executive agency will give no further consideration for appointment to individuals who fail to provide the

information requested above on registration status.

(e) An agency considering employment of a covered individual who is a current or former Federal employee is not required to request a statement when it determines that the individual's Official Personnel Folder contains evidence indicating the individual is registered or currently exempt from registration.

§ 300.705 Agency action following statement.

(a) Agencies must resolve conflicts of information and other questions concerning an individual's registration status prior to appointment. An agency may verify, at its discretion, an individual's registration status by requesting the individual to provide proof of registration or exemption issued by the Selective Service System and/or by contacting the Selective Service System at 888-655-1825.

(b) An agency may continue regular pre-employment consideration of individuals whose statements show they have registered or are exempt.

(c) An agency will take the following actions when a covered individual who is required to register has not done so, and is under age 26:

(1) Advise him to register promptly and, if he wishes further consideration, to submit a new statement immediately to the agency once he has registered. The agency will set a time limit for submitting the statement.

(2) Provide written notice to an individual who still does not register after being informed of the above requirements that he is ineligible for appointment according to 5 U.S.C. 3328 and will be given no further employment consideration.

(d) An agency will take the following actions when a covered individual who is age 26 or over, was required to register, and has not done so:

(1) Provide written notice to the individual that, in accordance with 5 U.S.C. 3328, he is ineligible for appointment unless his failure to register was neither knowing nor willful, and that OPM will decide whether his failure to register was knowing and willful if he