

**FEDERAL DEPOSIT INSURANCE CORPORATION**  
**OFFICE OF INSPECTOR GENERAL**  
**Policies and Procedures Manual**

<b>PART</b>	<b>IV</b>	<b>Investigations Policies and Procedures</b>
<b>SECTION</b>	<b>OIG-440</b>	<b>Occupational Health and Welfare</b>
<b>CHAPTER</b>	<b>440.2</b>	<b>Medical Standards and Physical Requirements</b>

1. Purpose. This chapter establishes the policies and procedures concerning medical standards and physical requirements for employees in Criminal Investigator, CG-1811 (special agent), positions and applicants for these positions. This chapter also details the steps potential applicants, current employees, and OIG management will follow to ensure that special agents are physically and medically qualified to perform their job.

2. Establishing Medical Standards and Physical Requirements. The purpose for establishing medical standards and physical requirements is to:

a. comply with the United States Office of Personnel Management (USOPM) regulations which require that agencies establish medical standards and physical requirements for individuals entering and retaining law enforcement officer positions under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS);

b. comply with the Model Physical Requirements and Medical Standards for OIG Criminal Investigators, as established by the President's Council on Integrity and Efficiency;

c. provides reasonable job-related standards to ensure that applicants/employees are physically capable of safely and efficiently performing the duties and responsibilities required of the position;

d. communicate to examining physicians the medical disorders and physical conditions that could make an employee unable to meet the minimum physical requirements for the position of criminal investigator or that could place the employee or others at risk; and,

e. provides a consistent basis for physicians to evaluate an applicant's/employee's fitness for the position.

3. Policy. All applicants tentatively selected for positions covered under this policy will be required to undergo a pre-employment medical examination by an agency-designated physician to determine if they are physically and medically qualified to perform the full duties of the position. In addition, incumbent special agents will be subject to medical examinations by an agency-designated physician every two years to assess their fitness to retain the position. The AIGI or his/her designee will be responsible for maintaining a schedule of when agents are required to have a physical examination and of issuing the required notification to the employee.

#### 4. General Rules

a. Any physical condition, which would hinder an individual's full, efficient, and safe performance of the duties of a criminal investigator or failure to meet any of the required physical or medical qualifications, will usually disqualify the individual for employment, except when convincing evidence is presented that the individual can perform the essential functions of the job efficiently and without hazard to themselves or others.

b. Applicants who refuse to submit to the required examinations will not be considered for employment as a criminal investigator. Employees who refuse to submit to require periodic examinations will be subject to reassignment or appropriate disciplinary action.

#### 5. Definitions

a. Law Enforcement Officer: An employee, under CSRS and FERS, whose duties are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States. Also included in this definition are employees who move to a supervisory or administrative position (secondary position).

b. Primary Position: A position held by a special agent that involves the operational steps of criminal investigations such as interviewing witnesses; interrogating suspects; reviewing, collecting, and analyzing records, facts, and evidence; performing undercover assignments; obtaining and serving warrants; using firearms; and carrying out arrests, searches, and seizures.

c. Secondary Position: A position held by a special agent that involves managerial, supervisory, technical, or administrative positions (some with operational, policy making, and oversight responsibilities) which clearly require the first-hand knowledge, skills, abilities, and experience gained in the performance of primary law enforcement positions.

6. Physical and Mental Requirements. A special agent will be exposed to moderate to arduous physical exertion involving walking and standing, use of firearms, and exposure to inclement weather. In addition, a criminal investigator must exhibit mental stability under challenging and stressful conditions.

a. Applicants/Employees must possess the following general attributes to satisfactorily perform the duties of a criminal investigator:

- (1) Arms, hands, legs, and feet intact and functioning
- (2) Full range of motion of all joints, limbs and trunk

- (3) Average manual dexterity and hand-eye coordination
- (4) Average strength for age and build
- (5) Acceptable eyesight in both eyes
- (6) Acceptable hearing (the use of a hearing aid is permitted)
- (7) Normal vocal abilities
- (8) Emotional and mental stability

b. In general, the applicant/employee must have no physical, emotional, or mental impairments that would prevent the performance of law enforcement tasks such as using firearms, conducting searches, and/or carrying out arrests.

c. The employee must have no physical, emotional, or mental impairments that inhibit performance of required practical exercises and tasks while in mandatory training programs, either at the Federal Law Enforcement Training Center or other training facilities approved by the OIG.

7. Medical Standards. Medical standards for special agents are found in Attachment A of this chapter.

8. Medical Forms

a. Report of Medical Examination. The results of the medical examination should be reported by the examining physician on the agency-approved medical examination form.

b. Report of Medical History. The approved agency medical history form should be completed by the employee or applicant and provided to the examining physician for his/her information and assistance in conducting the examination.

9. Examining Physician's Conclusions. After the examining physician has completed the physical examination and has reviewed all of the laboratory results, his/her findings will be recorded on the approved medical examination form using one of the following statements:

a. "No Significant Findings." All medical requirements for the position of criminal investigator have been satisfied.

**Medical Standards and Physical Requirements**

b. "Significant Medical Findings." The medical findings are noted and it is the opinion of the examining physician that the individual cannot perform the essential functional requirements efficiently and without hazard to himself/herself or others.

c. "Additional Testing Requirements." Final assessment cannot be made until specific tests are conducted or repeated. A listing of the recommended tests is required.

10. Reports of Medical Findings. All completed medical reports of examinations, along with laboratory results, should be sealed in a plain envelope and forwarded to the AIGI or his designee.

11. Reconsideration. Should an applicant/employee be found to have a significant but correctable impairment that, if uncorrected, precludes him/her from selection or retention as a criminal investigator, he/she should be given the opportunity to take corrective action. If the individual can present medical documentation within 90 days that the impairment has been corrected, he/she will then be eligible for reconsideration. (The OIG reserves the right to have such individuals re-examined). Failure to present the corrected documentation within 90 days will result in medical disqualification.

12. Waiver of Medical Standards/Physical Requirements. All requests for waivers of criminal investigator medical standards and/or physical requirements will be forwarded for decision to the AIGI or his/her designee. The OIG deciding official(s) should also call upon medical consultant services whenever appropriate to assist in evaluating the waiver request.

a. Failure to meet the established medical standards or physical requirements means that the individual is not qualified for his/her law enforcement officer position unless there is sufficient evidence that he/she can perform the duties of the position safely and efficiently despite a condition that would normally be disqualifying. OIG must waive any medical standard or physical requirement for a person who is able to demonstrate the capacity to perform safely and efficiently. Factors that OIG management will consider in deciding whether or not to waive a standard or requirement include:

- (1) health and safety considerations;
- (2) recent satisfactory performance in the same or similar positions (any unsatisfactory performance appraisal not due to physical or mental condition should not be considered in this context);
- (3) successful performance of other life activities with similar physical and environmental demands;

(4) certification from a counselor of either the Veterans Administration or a state vocational rehabilitation agency;

(5) use of prosthesis or other mechanical aid (including eye glasses and hearing aid) which enables the candidate to perform the work;

(6) successful performance of a real or simulated work sample; and

(7) a determination that the condition may be reasonably accommodated (without undue hardship on the agency) to permit effective performance.

b. The decision as to whether or not an employee can perform safely and efficiently rests with the AIGI or his/her designee.

c. A decision to separate an employee for reasons of medical disqualification does not control, preempt, or otherwise supersede a U.S. OPM determination of entitlement or non-entitlement to disability retirement under section 8337 or 8451 of Title 5, United States Code.

d. A history of a medical condition may be considered disqualifying only if the condition itself is normally disqualifying, a recurrence cannot medically be ruled out, and the duties of the position are such that a recurrence would pose a reasonable probability of substantial harm to the employee or others. For example, while an early history of epilepsy by itself would not ordinarily be disqualifying for any position, a particular history of epilepsy may, depending upon the specific nature of the condition, be disqualifying for certain hazardous positions such as a criminal investigator where any loss of consciousness could have serious consequences. Each case must be decided on its own merits. Generally, as long as the candidate is presently able to do the job, he/she is qualified unless the possibility that the condition might recur would present a substantial health and safety risk.

13. Reasonable Accommodation. In accordance with the Rehabilitation Act of 1973, as amended (29 U.S.C. 701 *et seq.*), the OIG is required to make reasonable accommodation to the known physical or mental limitations of qualified handicapped employees unless the accommodation would impose an undue hardship on the operation of the OIG. Individuals seeking such accommodation must either submit to the medical examination required by the OIG or produce medical documentation to support the request if the limitation is not readily apparent.

14. Employability Determination. In general, the existence of a medical condition or impairment, or a history of such a condition, is disqualifying only when there is a direct relationship between the condition and the essential duties of the specific position to be filled. In other words, the fact that an individual had or has a medical condition that might become worse is not enough, by

itself, to support disqualification. There must be either a link between the condition and inability to perform, or a high probability of hazard because of the nature of the duties, should the person be placed in the position.

a. Employment-related decisions involving health status are fundamentally management, not medical, decisions. Medical information may be relevant, indeed dominant, in the outcome, but OIG management has both the obligation to consider issues which are not strictly medical (e.g. reasonable accommodation or undue hardship on agency operations) and the authority to hold medical information to a standard of relevance and veracity.

b. For these reasons, administrative procedures which inappropriately ask physicians to make management decisions or hold management decisions hostage to the opinion of a physician should be avoided. The role of the examining physician or practitioner with respect to employment decisions is limited to determining whether the individual meets the medical requirements of the position and the stability of the individual's medical condition. In some cases, the OIG may wish to ask the physician's opinion about the medical usefulness of possible accommodation suggested by OIG management or the employee. However, the medical examination cannot determine an individual's ability to perform the essential duties of a criminal investigator. This responsibility rests solely with OIG.

c. Before deciding to disqualify an employee because of a significant non-correctable impairment, OIG management is required to:

(1) consult with the OIG HRB regarding agency procedures for non-selection of disqualified applicants or, as appropriate, agency policies and procedures for reassignment, removal, or retirement of disqualified employees;

(2) review and consider all medical documentation received from an employee's physician;

(3) follow USOPM guidelines; and,

(4) obtain USOPM approval of any decision to medically disqualify a certified preference eligible candidate.

#### 15. Cost of Examination and Testing

a. The OIG will pay the cost associated with all pre-employment medical examinations, including specified tests and reasonable travel expenses. Additional tests

recommended by the examining physician to determine the applicant's ability to meet the standards must be approved by the AIGI before any expenditures are incurred.

b. The cost of any corrective action or follow-up treatment resulting from the examination will be borne by the employee and/or his/her medical insurance plan.

16. Frequency and Scheduling of Medical Examinations. Unless waived, all special agent applicants being considered for employment will undergo a pre-employment medical examination before entering on duty. The results of such examination should be forwarded to the OIG. The OIG may delay the entrance date if it needs additional time to evaluate an applicant's fitness for duty. A pre-employment physical may be waived by the AIGI for applicants who are currently employed as criminal investigators by other Federal agencies and who have undergone an agency periodic medical examination within the last 24 months. The applicant will be required to provide a copy of his/her last medical examination to the OIG. Periodic medical examinations will be administered for all agents at least every 24 months. All criminal investigators will be subject to a medical examination whenever there is a question about the employee's continued ability to meet the physical or medical requirements of the position.

a. Periodic medical examinations will be administered every 24 months following the last examination.

b. The AIGI or his/her designee will provide timely notification to the applicant/employee that a medical examination is required. The applicant/employee is responsible for scheduling his/her medical examination so that it will be completed in a timely manner.

c. Applicants are advised that an offer of employment is conditioned upon completion of the medical examination and an employability determination by the AIGI.

d. Employees will be granted administrative leave of up to four hours to complete the examination.

17. Records

a. When the physical examination process has been completed and reviewed by OIG management, the documentation will be permanently maintained in a secured area under the provisions of the Privacy Act. All original employee medical documentation received by the OIG will be preserved in an Employee Medical Folder (SF-66D) which be maintained by OIG in accordance with applicable regulations.

<b>Medical Standards and Physical Requirements</b>
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b. Access to the information contained in this folder will be available only to the applicant, the employee, a representative (designated in writing) of the employee, servicing personnel management specialists, medical consultants (if employed by OIG management), and OIG management officials who are involved in making employment/retention determinations. A Privacy Act Statement provides for additional disclosure of this information to other entities under certain specified conditions.

c. The medical folder will be maintained for the length of the individual's employment with the OIG. If an employee transfers to another Federal agency, the medical folder will be transferred to the gaining agency if the employee is to continue in a law enforcement position. If the employee leaves Federal service from the FDIC OIG or leaves a law enforcement position from OIG, the medical folder will be retired to the Federal Records Center.