

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Chapter CC29--Officers Relations, Services, and Benefits
Subchapter CC29.1--Leave of Absence
Personnel INSTRUCTION 5--Absence Without Leave (AWOL)

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Section A. Purpose and Scope

This INSTRUCTION prescribes the policies and related procedures regarding Absence Without Leave (hereinafter referred to as AWOL) for Public Health Service (PHS) Commissioned Corps officers.

Section B. Authorities

1. The statutory requirement that PHS commissioned officers forfeit all pay and allowances while in AWOL status is set forth in 37 U.S.C. 503(b). Authority to prescribe regulations relating to pay, termination of commissions, and discipline of PHS commissioned officers is found in Section 215 of the PHS Act (42 U.S.C. 216). Regulations relative to termination of commissions for officers who are AWOL are prescribed in INSTRUCTION 1, Subchapter CC43.7, "Separation of Officers in the Regular and Reserve Corps Without Consent of the Officer Involved," of the Commissioned Corps Personnel Manual (CCPM).

Authority to take disciplinary action with respect to AWOL is set forth in INSTRUCTION 1, Subchapter CC46.4, "Disciplinary Action," of the CCPM.

2. The statutory authority that prohibits retirement or separation for disability when the disability is incurred while an officer is in AWOL status is set forth in 42 U.S.C. 213a(a)(2) and 10 U.S.C. Chapter 61. Regulations governing health care for PHS commissioned officers in AWOL status are prescribed in 42 CFR 31.6.
3. The authority to administer the PHS Commissioned Corps is prescribed in Section 215 of the PHS Act (42 U.S.C. 216). The authority to administer the PHS Commissioned Corps has been delegated to the Director, Division of Commissioned Personnel (DCP).

Section C. General

1. An officer shall be considered AWOL under the following circumstances:
 - a. When absent from his/her designated place of duty for any period of time, including partial days, unless the period of absence is approved by his/her leave-granting authority as annual, sick, station, administrative, or court leave, as applicable. (See CCPM INSTRUCTION 1, Subchapter CC29.1, "Leave of Absence; General," of this manual); or
 - b. When the officer is placed in nonduty with pay status, and the officer fails to remain in the vicinity of his/her local residence and is not available to receive telephone calls, courier messages, or certified mail within 24 hours of delivery, as so directed by the Program or DCP; or
 - c. In the case of an officer who is arrested and incarcerated by authorities. The officer shall not be granted any form of leave to serve periods of confinement or incarceration.
2. For each day, or fraction thereof, of AWOL, an officer forfeits one day of his/her pay and allowances. Also, costs for travel and transportation of household goods will not be allowed. In addition, each day, or fraction thereof, that an officer is in AWOL status shall not be credited toward fulfillment of:
 - a. A special or incentive pay agreement under Title 37 of the U.S. Code;
 - b. An active-duty obligation incurred pursuant to participation in any Federal education training programs under 42 U.S.C. 218a or other statutes;

- c. An active-duty obligation incurred pursuant to participation in an Indian Health Service or a National Health Service Corps Scholarship program; or
 - d. An active-duty obligation incurred under any other provision of law or regulation.
3. An active-duty obligation of an officer shall be extended one day for each day, or fraction thereof, that he/she is in AWOL status.
 4. If an officer is placed in AWOL status, he/she shall remain in that status each day, including nonworkdays, until the officer either returns to duty or has his/her PHS commission terminated. Such termination shall be characterized as "Dropped from the rolls."
 5. An officer who fails to report to a specific duty station, yet appears in the general area of the duty station, shall be considered AWOL.
 6. An officer who is late reporting to his/her duty station, or leaves his/her duty station early, may be considered AWOL. If he/she is declared AWOL, he/she shall forfeit one day of all pay and allowances.
 7. While in AWOL status, an officer is not entitled to health care, and will not be reimbursed for such care regardless of whether the care has been preauthorized.
 8. An officer is not entitled to receive disability-retired pay or disability separation pay for a disability that is incurred, or in the case of a pre-existing condition, aggravated while in AWOL status.
 9. No annual leave is accrued during the period which an officer is on AWOL.
 10. An officer receives no pay and benefits or other service credit while in AWOL status. Although an officer forfeits his/her pay and allowances while AWOL, he/she is nevertheless on active duty during such absence and the period of such absence is creditable as active duty for certain purposes, such as longevity pay and retirement credit.
 11. The AWOL status may be rescinded if the absence is excused by the Director, DCP, as unavoidable. In this case, all forfeited pay, benefits, and allowances may be restored.

Section D. Reporting Responsibilities and Procedures

1. All AWOL must be reported promptly by the leave-granting authority of the officer concerned by a memorandum, a fax, a telegram, or an electronic mail (e-mail) message, to the Director, DCP. Notification must be sent as soon as it is known that the officer is AWOL and shall indicate the date the AWOL began. Electronic notification shall also be followed by a hard copy confirming this information.
2. A personnel order shall be issued by DCP placing the officer in AWOL status until it is determined that he/she has returned to active duty.
3. Upon the officer's return to active duty, the leave-granting authority shall send to the Director, DCP, a memorandum, fax, telegram, or an e-mail message notifying him/her of the date the officer returned to duty. This notification must be sent as soon as it is known that the officer is no longer in AWOL status and shall indicate the date the AWOL ended. Electronic notification shall also be followed by a hard copy confirming this information.
4. A personnel order shall be issued by DCP removing the officer from AWOL status. The officer will not be reimbursed for pay and allowances lost during the AWOL period.

Section E. Actions Against Officers

1. The commission of a regular or reserve corps officer who is AWOL for 30 consecutive calendar days may be summarily terminated by the Director, DCP.
2. An officer who has been in an AWOL status for any period of time may have his/her service records referred for further disciplinary action in accordance with this INSTRUCTION and as determined by the Director, DCP.

Section F. Privacy Act Provisions

Personnel records are subject to the Privacy Act of 1974. The applicable systems of records are 09-40-0001, "Public Health Service Commissioned Corps General Personnel Records, HHS/PSC/HRS," and 09-40-0010, "Pay, Leave and Attendance Records, HHS/PSC/HRS."