

MANUAL: Personnel  
Chapter Series CC--Commissioned Corps Personnel Manual  
Part 4--Regulations

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Public Health Service

Chapter CC43--Staffing  
Subchapter CC43.8--Retirement  
Personnel INSTRUCTION 1--Retirement of PHS Commissioned Officers

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Section A. Purpose

This INSTRUCTION sets forth basic regulations governing the retirement of Public Health Service (PHS) commissioned officers. For regulations governing the retirement of officers who have completed less than twenty years of active service and who have failed to be promoted, see subchapter CC43.7, INSTRUCTION 1, of this manual.

Section B. Authority

The statutory authorities for twenty-year retirements, thirty-year retirements, and retirements for age are contained in 42 U.S.C. 212; the authority for disability retirements is contained in 42 U.S.C. 213a(a)(2) and 10 U.S.C., Chapter 61.

The authority of the President to approve the voluntary retirement of certain flag-rank officers with more than 25 years of active service in PHS was delegated, without redelegation authority, to the Secretary by Executive Order 11140 (January 30, 1964).

#### Section C. Definitions

1. Active Service. For the purposes of determining an officer's eligibility to be retired based upon length of service, the term "active service," as used in this INSTRUCTION, means the sum of the following:
  - a. all active duty performed in any of the uniformed services; plus,
  - b. active employment with PHS other than as a commissioned officer, to the extent that such employment is determined to be comparable to service performed by commissioned officers of the Service (if the officer has performed more than five years of such comparable service, only the last five such years shall be included); plus,
  - c. all active duty, other than that included under items a and b, above, which is creditable for retirement purposes under laws governing the retirement of members of any of the uniformed services.
2. Senior Officer. An officer holding a grade at or above the Director grade.

#### Section D. Retirement for Age

A commissioned officer will be permitted to retire on the first day of any month following the month in which the officer attains sixty-four years of age, provided the officer has requested such retirement in accordance with procedures prescribed by the Service. This Section neither requires nor permits the involuntary retirement of a commissioned officer because of the officer's age.

#### Section E. Thirty-Year Retirement

1. Involuntary Retirement. An officer may be retired, with or without the officer's consent, on the first day of any month following completion of thirty years of active service. A retirement under this subsection shall be approved by the Surgeon General.
2. Voluntary Retirement. An officer shall be permitted to retire at his/her request on the first day of any month following completion of thirty years of active service, provided the officer has requested retirement in accordance with procedures prescribed by the Service.

Section F. Twenty-Year Retirement

1. General. Retirement of an officer under subsection 2 or 3, below, is permissible only if the officer has completed 20 or more years of active service and at least ten of those years were active service in the PHS Commissioned Corps. Retirement under subsection 2 or 3 is at the discretion of the Service with the approval of the Surgeon General; an officer is not entitled to retirement upon demand under these subsections.
2. Involuntary Retirement. An officer may be retired, with or without the officer's consent, on the first day of any month following completion of the service prescribed in subsection 1, above. A retirement action taken under this subsection shall be taken only after consideration of the recommendation of a retirement board (see Section H, below).
3. Voluntary Retirement. An officer may be retired at his/her request on the first day of any month after completing the service prescribed in subsection 1, above, provided that the officer has requested retirement in accordance with procedures prescribed by the Service. A retirement action taken under this subsection shall be taken after consideration of the recommendation of a retirement board (see Section H, below). However, the Service may prescribe policy under which officers who have obligated service that will not be completed as of the projected retirement date, may be denied retirement without the need to refer the request to a retirement board.
4. Certain Flag-Rank Retirements. Subject to the approval of the Secretary, an officer who has four or more years of service in the Assistant Surgeon General, Deputy Surgeon General, and/or Surgeon General grades, and who has not less than 25 years of active service in PHS, shall be retired at his/her request on the first day of any month. A retirement request submitted under this subsection shall be forwarded to the Office of the Secretary after such processing as is required within the Service.

Section G. Disability Retirement

1. General. An officer may be considered for disability retirement with or without a specific application from the officer for such retirement. All such cases shall be referred to a medical review board (and such subboards as deemed necessary) established pursuant to regulations contained in subchapter CC49.3, INSTRUCTION 1, of this manual.
2. Cases not Requiring a Hearing. If a medical review board finds that an officer is physically fit to perform the duties of office, and the officer involved did not specifically apply for disability retirement, the board's report shall be forwarded to the Surgeon General for disposition as prescribed in subsection 4, below.
3. Full and Fair Hearing. If a medical review board recommends that an officer be retired, or if it finds that an officer who specifically applied for disability retirement is fit to perform the duties of office, a copy of the

board's report shall be sent to the officer. The officer shall be informed that he/she has 30 days within which to request a hearing if the officer wishes to appeal the board's findings or recommendations. If the officer submits a request for a hearing within the 30-day period, a full and fair hearing shall be granted.

Upon completion of the hearing, the findings and recommendations of the hearing board, and the report of the medical review board, shall be forwarded to the Surgeon General for disposition as prescribed in subsection 4, below. If the officer states in writing that he/she does not wish to have a hearing, or if the officer fails to request a hearing within the 30-day period, the report of the medical review board shall be forwarded to the Surgeon General for disposition as prescribed in subsection 4, below.

4. Disposition. Upon receipt of the report(s) of the board(s), the Surgeon General shall determine whether to retire the officer concerned for disability or to retain the officer on active duty.

#### Section H. Retirement Boards

1. Mandatory Boards. The Surgeon General shall appoint boards to review the records of officers who are being considered for retirement under those provisions of this INSTRUCTION which require the use of a retirement board. However, in the event that retirements are being effected in connection with a reduction in the strength of the Commissioned Corps, the requirement for review by a retirement board may be waived by the Surgeon General. Retirement boards shall consist of at least five senior officers.
2. Optional Boards. The Surgeon General may appoint boards to review the records of officers who are being considered for retirement under those provisions of this INSTRUCTION which do not require the use of a retirement board. If appointed, such boards shall consist of at least five senior officers and shall meet such other criteria as the Surgeon General shall prescribe.
3. Administrative Instructions. The Surgeon General shall prescribe procedures for the operation of retirement boards and may instruct the boards as to the needs of the Service for officers by grade, category, and professional training. Each board shall issue a report which sets forth its findings and recommendations with regard to the case of each officer referred to it.

For cases involving the mandatory use of retirement boards, in which the recommendation of the board is not unanimous, that fact shall be included in the board's report. Those board members who disagree with the majority in any case may submit a separate report and recommendations.

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/s/

Secretary

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