

SUBJECT: Annual Leave-Implementation of Special Leave Accrual Policy and Amendment

1. Purpose

The purpose of this Manual Circular is to implement the Public Health Service (PHS) Commissioned Corps' special leave accrual policy and amend INSTRUCTION CC29.1-I2-D2 in order to assist active-duty officers who would lose entitlement to excess annual leave because of the September 11, 2001 attacks on the United States and its aftermath. The policy will authorize active-duty officers who were unable to take annual leave because of the national emergency to carry up to 90 annual leave days from one calendar year to the next: Provided, that all officers will be required to use accumulated annual leave in excess of 60 days before the end of the third calendar year after service is terminated (before December 31, 2004).

This Manual Circular will remain in effect for one year from the date of issuance or until the INSTRUCTION is revised and signed, whichever occurs earlier.

2. Authorities

- a. Section 215 (b) of the PHS Act (42 U.S.C. 216(b)); Note that authority to administer the PHS Commissioned Corps personnel system has been delegated to the Surgeon General (SG). See 53 FR 3457 (February 5, 1988) and 53 FR 5046-5047 (February 19, 1988).
- b. Section 219 of the PHS Act (42 U.S.C. 210-1).
- c. 10 U.S.C. 701(f)(1). See also Historical and Statutory Note referencing the PHS.
- d. INSTRUCTION CC29.1-I2, "Annual Leave."

3. Policy

On September 14, 2001, President George W. Bush declared a "National Emergency by Reason of Certain Terrorist Attacks" on the World Trade Center and the Pentagon in response to the unprecedented attacks which occurred on September 11, 2001. Since then, the efforts toward response and recovery, and the continuing and immediate threat of further attacks on the United States have found many Federal agencies and the PHS Commissioned Corps involved in activities vital to our Nation. Therefore, under the current circumstances active-duty PHS officers who were unable to take annual leave from September 11, 2001 until December 31, 2001 are hereby deemed to fall within the scope of 10 U.S.C. 701 (f)(1) and may accumulate in excess of 60 days annual leave (up to 90 days annual leave) beyond December 31, 2001. Officers relying upon this policy are required however, to use their accumulated leave in excess of 60 days before the end of the third calendar year after service terminated (not later than December 31, 2004).

In addition, while this policy grants officers the right to accumulate in excess of 60 days annual leave under the circumstances specified above, this Manual Circular does not grant authority for officers to accumulate more annual leave days than they had accumulated as of December 31, 2001. For example, if an officer has 75 days of annual leave as of December 31, 2001, the officer may carry 75 annual leave days into the next calendar year (January 1, 2002-December 31, 2002), but may not carry more than 75 days of annual leave into the succeeding calendar year (starting January 1, 2003). As a result, if the officer has 80 days of annual leave at the end of calendar year 2002 (December 31, 2002), the officer would lose 5 days of annual leave starting on January 1, 2003. Because of this potential loss of annual leave days, officers are reminded that each officer has a responsibility to manage his or her leave

program and should take measures to insure that his or her annual leave days are used on an ongoing basis in accordance with INSTRUCTION CC29.1-I2.

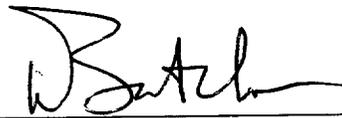
Officers are also reminded that there is a lifetime limit of 60 days of unused annual leave for which the officer may receive a lump sum leave payment at the time of his or her separation from active duty. (See 37 U.S.C. 501(f)). Accordingly, it is imperative that each officer exercise due diligence with respect to his or her leave program so that the officer does not lose any benefits that he or she may have accrued under the commissioned corps' annual leave program.

Since the national emergency is still ongoing, determinations for leave accrued during calendar year 2002 will be addressed at a later date.

Finally, INSTRUCTION CC29.1-I2-D2, "Annual Leave" is hereby amended as follows:

2. Maximum Accumulation and Special Leave Accrual Policy

Annual leave days that have accrued during a leave year but are unused at the end of such year are to be carried forward as accumulated leave for use in succeeding leave years. The maximum annual leave amount that may be carried forward from one leave year to the next is 60 days: Provided however, that an officer may be authorized to accumulate up to 90 annual leave days in circumstances where the special leave accrual provisions of 10 U.S.C. 701 apply.



Surgeon General

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| EXPIRATION DATE: | December 12, 2002 or until INSTRUCTION is revised. |
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| | MS:CC2 (Active-Duty Commissioned Officer Audience) |