

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service

Chapter CC23--Staffing
Subchapter CC23.4--Promotion
Personnel INSTRUCTION 7--Flag Officer Selection and Assignment

CONTENTS

<u>Section</u>	<u>Subject</u>	<u>Page</u>
A.	Purpose and Scope	1
B.	Authority	2
C.	Designation of Flag Grade Billets	3
D.	Review of Flag Grade Candidates	6
E.	Selection of Nominees for Appointment and Promotion to Flag Grade	9
F.	Assignment and Promotion of Flag Grade Officers	10
G.	Privacy Act Provisions	11

Section A. Purpose and Scope

1. Purpose. This INSTRUCTION establishes the policy and procedures for:
 - a. The regular and timely identification of assignments within the Public Health Service (PHS) that provide the appropriate level of complexity, responsibility, and importance to merit designation as flag grade billets;
 - b. Selection and promotion of the most qualified PHS commissioned officers to flag grade; and
 - c. Exemption of certain positions from coverage under this policy.

2. Scope. These policies and procedures are not applicable to:
- a. Selection and assignment of the Assistant Secretary for Health (ASH), Surgeon General, and the heads of the PHS Agencies, including the Administrator, Agency for Health Care Policy and Research; the Administrator, Agency for Toxic Substances and Disease Registry; the Director, Centers for Disease Control and Prevention; the Commissioner, Food and Drug Administration; the Administrator, Health Resources and Services Administration; the Director, Indian Health Service; the Director, National Institutes of Health; and the Administrator, Substance Abuse and Mental Health Services Administration. However, if any of the above are encumbered by otherwise eligible career officers who meet the criteria set forth in Section D.2.a of this INSTRUCTION, the Surgeon General may recommend an equal number of exempt positions;
 - b. Selection and assignment of the Deputy Surgeon General pursuant to U.S.C. 206(a) and those Chief Professional Officers that have been established at flag grades in accordance with INSTRUCTION 6, Subchapter CC24.3, "Chief Professional officer Nomination Criteria and Selection Process" of the Commissioned Corps Personnel Manual (CCPM); and
 - c. Selection of PHS officers for the position of Chief Medical Officer of the Coast Guard and selection of PHS officers for flag grade positions in non-PHS Agencies and organizations to which officers may be detailed pursuant to 42 U.S.C. 215 (the positions and officers are reviewed as set forth in sections C.6. and D.4. of this INSTRUCTION).

Section B. Authority

1. The authority to establish policy and procedures for the designation of flag grade billets and the selection of flag grade officers has been delegated to the Surgeon General as part of the general authority to administer the PHS Commissioned Corps and is published at 53 Federal Register 5046, dated February 19, 1988. Pursuant to this authority, the Surgeon General has delegated the responsibility for daily administration of the corps, which includes coordination of these procedures, to the Division of Commissioned Personnel (DCP), Office of the Surgeon General (OSG).
2. The statutory authority to create temporary flag grade positions and to assign active-duty commissioned officers to these positions is set forth in 42 U.S.C. 206. The authority to create temporary flag grade positions

pursuant to 42 U.S.C. 206(c) has been delegated to the ASH without authority to redelegate. The authority to approve the promotion of officers to flag grade positions pursuant to 42 U.S.C. 206(b) and (c) has been retained by the Secretary, Department of Health and Human Services.

3. The number of officers who may serve in special temporary flag grades pursuant to 42 U.S.C. 206(c)(1) at any given time is limited by 42 U.S.C. 206(c) (2) to 1 percent of the total number of officers on active duty. For purposes of computing the maximum number of flag grade officers authorized by 42 U.S.C. 206(c)(2), up to three flag grade officers serving in policymaking positions in the Office of the Assistant Secretary of Defense for Health Affairs, Department of Defense (DoD), may be excluded pursuant to 42 U.S.C. 207(e).
4. Pursuant to 42 U.S.C. 207(a), the number of flag grade officers in flag grade O-8 or above will at no time exceed one-half of the total number of flag grade positions created by 42 U.S.C. 206(b) or pursuant to 42 U.S.C. 206(c).
5. All flag grade officers serve in flag grades O-7 or O-8, except for the Surgeon General who serves in the O-9 flag grade, and when applicable, the Assistant Secretary for Health (ASH) who serves in the O-10 flag grade.

Section C. Designation of Flag Grade Billets

1. Billet Designation. All flag grade billets, except those created by statute, must be classified in the General Report on All PHS Executives (GRAPE) Book and must be currently designated as such by the Flag Officer Billet Board (FOBB) (See Section C.4, below).
2. Notification of Vacancies. If warranted by the number of flag grade vacancies, the Surgeon General will annually request from the Office of the Assistant Secretary for Health (OASH) and from the heads of the PHS Agencies identified in Section A.2.a, above, a list, in priority order, of all encumbered flag billets as well as current and projected vacancies in positions that warrant designation as flag officer billets. The OASH and the Agency Heads may provide this information to the Surgeon General on a more frequent basis and the Surgeon General may request this information more frequently if circumstances warrant.
3. Flag Officer Billet Board.
 - a. The request of the Surgeon General, the OASH and each of the PHS Agency Heads will submit to the Surgeon General the names of at least three individuals assigned to their respective Agencies to

serve on the FOBB. These individuals must be either flag grade officers or Senior Executive Service (SES) employees of the PHS.

b. The Surgeon General will appoint members of the FOBB from the lists submitted by the OASH and the PHS Agency Heads so that the FOBB includes:

- (1) At least one representative from each PHS Agency and the OASH, and
- (2) At least one member who is permanently assigned outside the Washington, D.C. metropolitan area.

Moreover, the Surgeon General will make every effort to assure that the FOBB does not consist entirely of one gender or entirely of individuals of one race, but no FOBB member will be selected solely on the basis of gender or race.

c. If the nominees identified by the OASH and the PHS Agency Heads do not meet all the criteria set forth in Section C.3.a. and b, above, the Surgeon General will request from the OASH and the Agency Heads the names of individuals who do meet these criteria in order to obtain additional members for the FOBB.

d. Members will serve on the FOBB for no longer than 3 consecutive years, and will be appointed in a sequence which allows for replacement of two or three members each year.

4. Ranking of Billets. At the request of the Surgeon General, the FOBB will evaluate and rank order all billets submitted to the DCP that have been rated under the commissioned corps billet system as O-7 or O-8 billets and that are listed in the GRAPE Book.

a. Except for those flag billets to which this policy does not apply as set forth in Section A.2 above, the evaluation and rank order list will include all billets encumbered by flag officers, and flag grade billets encumbered by commissioned officers in O-6 pay grades and below;

b. The FOBB will not evaluate and rank order executive positions encumbered by civil service personnel unless those positions are projected to be vacated within one year from the date the FOBB meets, or the Surgeon General specifically directs the FOBB to evaluate those positions. A billet description designated as O-7 or O-8 by the commissioned corps billet system must be submitted for

vacant positions or positions encumbered by civil service personnel if they are to be evaluated and ranked;

- c. Billets submitted by Agencies outside of the PHS are reviewed in conjunction with the rank ordering process by the FOBB to provide guidance to the Surgeon General and the ASH; and
 - d. The number of positions designated as flag grade billets may be greater than 1 percent of the number of officers on active duty who may serve in flag grade billets at any given time as set forth in Section B.3.
5. Billet Ranking Process. in accordance with Section C.4, above, the FOBB will rank the flag grade billets in priority order using the criteria set forth below:
- a. Level of the Billet:
 - Level IA - Those positions identified in Section A.2., above. Those billets will not be ranked;
 - Level IB - Directors of large bureaus, institutes, centers, and areas and the principal deputy to each of those billets designated at Level IA;
 - Level IC - Directors of bureaus, institutes, centers, and areas other than those identified as Level IB;
 - Level II - Positions which are responsible for directing major operating programs and the principal deputy to each of those billets designated at Levels IB and IC above;
 - Level III - Positions which are classified as functional or associate positions, associate administrator positions, those with staff office functions, and any other deputies to the positions above; and
 - Level IV - Other specialized positions based on the unique skills required.
 - b. Level of responsibility and accountability required by the billet including the degree to which delegated authority is exercised, the level of independent judgement required, and level of direct budget authority;

- c. Degree of complexity and scope of the billet including multiple management functions and the number, configuration and diversity of the supervised staff;
 - d. Relationship with, and impact of policy and program authority on, external groups including consideration of the vulnerability of the position due to the level of visibility;
 - e. Knowledge and skills required by the billet including unique technical, programmatic or scientific skills and experience; and
 - f. The OASH or Agency head recommendations for the priorities of their respective Agencies' billets.
6. Agencies Outside of the PHS. The relative position of billets submitted by Agencies outside of the PHS will be included as an addendum to the FOBB final rank order list of flag billets submitted to the Surgeon General.
7. Approval of the PHS Flag Officer Billet Rank Order List. After the rank order priority list is established, the FOBB will submit it to the Surgeon General.
- a. The Surgeon General will review the list developed by the FOBB to determine the final priority ranking for the flag officer billets, considering the following factors, in addition to the complexity, scope, and priority of the programs to be managed:
 - (1) The relative importance of the billets in fulfilling the PHS mission;
 - (2) The number of professional positions utilized by the respective Agency in which the billet is located; and
 - (3) The number of those professional positions currently filled by PHS commissioned officers.
 - b. After determining the final priority of the flag grade billets, the Surgeon General will recommend a rank order listing of billets for approval by the ASH.

Section D. Review of Flag Grade Candidates

1. Promotion Board. With the exception of those positions set forth in Section A.2. above, all officers promoted to O-7 or O-8 flag grades will be recommended by the Flag Officer Promotion Board (FOPB).

- a. In anticipation of flag vacancies within the limits placed on the number of officers that may serve at flag grade as noted in Sections B. 3, and 4, the Surgeon General request the OASH and each Agency head submit a priority list of officers being recommended for promotion to the O-7 flag grade, and a second listing for promotion to the O-8 flag grade;
- b. Officers on the Agency priority list(s) must encumber billets on the current PHS Approved FOBB Rank Order List;
- c. Officers on the Agency priority list must meet the general eligibility requirements set forth in Section D.2. below for the proposed flag grade O-7 or O-8;
- d. The FOPB consists of the Deputy Surgeon General, who shall serve as chairperson, and four members of the FOBB appointed by the Surgeon General;
- e. The Surgeon General will attempt to rotate the membership of each successive FOPB within the membership of the FOBB to provide an opportunity for each Agency to be represented once during two successive boards;
- f. The FOPB will review and rank order the priority submission of officers assigned to approved flag billets; and
- g. Officers submitted for consideration by Agencies outside of the PHS are reviewed in conjunction with the rank ordering process by the FOPB to provide guidance to the Surgeon General, the ASH, and the Secretary.

2. Qualifications for Flag Grade Promotion Considerations.

- a. To be considered for promotion to a flag grade O-7, an officer must meet the following minimum criteria:
 - (1) The officer must be a member of the Regular Corps;
 - (2) The officer must be serving in the temporary or permanent O-6 pay grade;
 - (3) The officer must have served at least 12 years of active service in the Uniformed Services;
 - (4) The officer must have served at least 10 years of active service in the PHS Commissioned Corps; and

- (5) The officer must encumber one of the approved FOBB O-7 or O-8 billets.
- b. To be considered for promotion from the flag grade of O-7 grade to the O-8 flag grade, an officer must meet the following criteria:
 - (1) currently be serving in an O-8 billet, and have
 - (2) served for 3 years at the O-7 flag grade.
3. Ranking of Officers.
- a. Additional criteria used by the FOPB include:
 - (1) Billet ranking process criteria;
 - (2) Priority ranking prepared by the Agency as a reflection of the importance of the officer in fulfilling the Agency's mission;
 - (3) Breadth of assignments and responsibilities including prior management experience with specific consideration of responsibilities in managing and directing significant programs;
 - (4) Performance evaluations as documented on the Commissioned Officers' Effectiveness Report (COER);
 - (5) Specific or exceptional education, training and/or experience; and
 - (6) Special activities related to the PHS and the Commissioned Corps while serving at the O-7 flag grade, i.e., professional committee membership, participation on commissioned corps boards, representing the PHS and the commissioned corps to various public groups, and similar activities, if being considered for promotion to O-8 flag grade.
 - b. The final FOPB rank order list of officers recommended for flag grade will be submitted to the Surgeon General; and
 - c. If officers are eligible and recommended for promotion to the O-8 flag grade, a second rank order list of these officers will be submitted to the Surgeon General.

4. Agencies outside of the PHS. The relative position of officers submitted by Agencies outside of the PHS will be included as an addendum to the FOPB rank order list.

Section E. Selection of Nominees for Appointment and Promotion
to Flag Grade

1. The Surgeon General will assess the following in determining which of the officers from the FOPB rank order list will be forwarded for consideration and final approval:
 - a. Limits on the number of officers that may serve at the O7 and O-8 flag grades as set forth in Section B.3 and 4;
 - b. Flag grade positions listed in Section A.2a. that are encumbered by Career PHS Officers;
 - c. Number of PHS flag officers assigned to the DoD as set forth in Section B.3;
 - d. Relative standing of officers on the FOPB rank order list;
 - e. The current distribution and profile of flag grade officers throughout the PHS;
 - f. The number and level of professional positions utilized by the respective Agencies and the OASH in which the officers' billets are located and the number of those positions currently filled by the PHS commissioned officers; and
 - g. The Agency rank order and recommendation.
2. The Surgeon General may, at any time, reconvene the FOBB, to provide a more current rank order list of flag grade billets, or the FOPB, to provide a current rank order list of candidates.
3. These procedures do not preclude a request by an Agency head or line official for the assignment of an officer who is not at that time eligible for promotion to flag grade into a vacant approved FOBB billet. If such a request is made, it does not change the designation of that particular vacancy as a flag grade billet, nor does the reassignment make the officer eligible for promotion to flag grade.

Section F. Assignment and Promotion of Flag Grade Officers

1. All promotions to flag grade in the PHS Commissioned Corps are temporary, and an officer is entitled to hold a flag grade only so long as he/she serves in an approved flag grade billet. Therefore, if a flag officer is reassigned to a non-flag billet, the officer automatically reverts to the officer's highest non-flag pay grade. If a flag officer is reassigned to another approved flag grade billet, that reassignment will be submitted by the Surgeon General through the ASH for the concurrence of the Secretary, in order for the officer to retain his/her flag grade.
2. An officer must serve in the O-7 flag grade for 3 years to become eligible for promotion to the O-8 flag grade.
 - a. Officers Newly Promoted to Flag Grade from the O-6 Grade. An officer selected for promotion to flag grade, except for an officer identified in Section A.2, will serve his or her first 3 years as a flag officer in the O-7 flag grade, regardless of the billet grade and level of priority of the billet occupied.
 - (1) If the officer is appointed to an O-7 billet, the officer will not be promoted to O-8 flag grade after 3 years unless the officer is reassigned to an O-8 billet, and
 - (2) If the officer is appointed to an O-8 billet, the officer will be eligible for promotion consideration to the O-8 flag grade in accordance with Section D, above, only after serving 3 years at the O-7 flag grade.
 - b. Officers Who Have Served at the O-7 Grade for Three Years. An officer who has served at the O-7 flag grade for 3 years is eligible to be considered for promotion to the O-8 flag grade, provided the officer is assigned to an O-8 billet.
 - (1) If the officer is serving as an O-7 assigned to an O-8 billet, the officer will be considered for promotion to the O-8 flag grade, without reassignment, by the FOPB that convenes for the promotion year in which the officer will initially attain 3 years at the O-7 flag grade. All other similarly eligible officers will be considered for promotion to O-8 flag grade at the same time. The FOPB will rank order all eligible officers according to standards set forth in Section D.
 - (2) If the officer is serving as an O-7 assigned to an O-7 billet, the officer will not be eligible for promotion to the O-8 flag grade unless the officer is reassigned to an O-8 billet.

Section G. Privacy Act Provisions

Personnel records are subject to the Privacy Act of 1974. CCPM, INSTRUCTION 7, Subchapter CC26.1, "Rights, Responsibilities and Personnel Records of PHS officers Under the Privacy Act," sets forth the procedures to be followed in the maintenance of these records. The applicable system of records is 09-37-0005, "PHS Commissioned Corps Board Proceedings, HHS/OASH/OSG."