

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Chapter CC43--Staffing
Subchapter CC43.4--Promotion
Personnel INSTRUCTION 1--Promotion of Commissioned Officers in the
Public Health Service

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Section A. Purpose and Scope

This INSTRUCTION prescribes regulations governing the promotion of regular corps and reserve corps officers on active duty in the Commissioned Corps of the U.S. Public Health Service (PHS).

Section B. Statutory Authorities

1. These regulations are issued under provisions of Section 215 of the PHS Act (42 U.S.C. 216) which authorizes the President to prescribe regulations governing the promotion of PHS commissioned officers. The President's authority to issue regulations was delegated to the Secretary of Health, Education, and Welfare, by Executive Order 11140 dated January 30, 1964.
2. The regulations implement the provisions of:
 - a. Section 210 of the PHS Act (42 U.S.C. 211) relating to the promotion of commissioned officers;
 - b. Section 206(d) of the PHS Act (42 U.S.C. 207(d)) which requires that the Secretary of Health, Education, and Welfare prescribe, by regulation, and maximum number of officers authorized to be in each of the grades of the regular corps from the Junior Assistant to the Director grade, inclusive;
 - c. Section 209(a) of the PHS Act (42 U.S.C. 210b(a)) which provides for the division of the regular corps into professional categories for the purpose of establishing eligibility of such officers for promotion; and
 - d. Section 210(1) of the PHS Act (42 U.S.C. 211(1)) which provides for the assignment of reserve corps officers to professional categories whenever the number of officers of the regular corps on active duty, plus the number of officers of the reserve corps who have been on active duty for 30 days or more, exceeds the authorized strength of the regular corps.

Section C. Definitions

1. For purposes of this regulation, the following definitions apply:
 - a. Permanent promotion is a promotion to a grade below which an officer shall not be reduced except for cause under applicable PHS Regulations.

- b. Selected promotion is a permanent promotion to a restricted grade or to the Director grade.
- c. Temporary promotion is a promotion to any grade earlier than the date on which the officer would meet the eligibility requirements for a permanent promotion. A temporary promotion may be terminated without cause at any time, as may be directed by the President.
- d. Restricted grade is the Senior grade or both the Full and Senior grades in a professional category to which promotions shall be made only if vacancies exist in such grade or grades.
- e. Seniority lists are lists for each grade of each category in both the regular and the reserve corps which shall include the names of all officers of that grade and category in the order of their seniority in grade.
- f. Promotion registers are lists for each grade of each category in both the regular corps and the reserve corps which shall include the names of all officers of that grade and category who have been recommended for permanent or temporary promotion.
- g. Category or professional category is one of the categories into which the regular corps and the reserve corps are divided for the purpose of establishing eligibility for promotion pursuant to Sections 209(a) and 210(1) of the PHS Act (42 U.S.C. 210b(a) and 211(1)).
- h. Health services category is that category to which are assigned all officers (1) who are appointed to the regular corps in one of the "related scientific specialties in the field of public health" within the meaning of Section 207(a)(1) of the PHS Act (42 U.S.C. 209(a)(1) or the reserve corps pursuant to Section 207(a)(2) of the PHS Act (42 U.S.C. 209(a)(2)), and (2) who are not otherwise qualified for assignment to any other category.
- i. Examination refers to the process of evaluating an officer for permanent or temporary promotion.

Section D. Professional Categories

The regular corps and the reserve corps shall be divided into the following professional categories for the purpose of establishing eligibility of officers for promotion: medical, dental, sanitary engineer, scientist, nurse, pharmacist, veterinary, dietitian, therapist, health services, and environmental health officer. In accordance with applicable delegations of authority, additional

professional categories may be designated for the reserve corps whenever the number of officers of the regular corps on active duty, plus the number of officers of the reserve corps who have been on active duty for 30 days or more, exceeds the authorized strength of the regular corps and such additional categories are required to meet the manpower needs of PHS.

Section E. Numbers in Grade

The following maximum number of officers is authorized to be on active duty in the regular corps in each of the permanent grades from the Junior Assistant grade to the Director grade, inclusive:

Director grade (O-6).....	670
Senior grade (O-5).....	875
Full grade (O-4).....	735
Senior Assistant grade (O-3).....	500
Assistant grade (O-2).....	20
Junior Assistant grade (O-1).....	0
 TOTAL.....	 2,800

Section F. Seniority in Grade

1. Establishment of Seniority Lists. There shall be established for each grade of each category, in the regular corps and the reserve corps, seniority lists which shall include the names of those officers on active duty who hold permanent commissions. The names of regular corps officers on each seniority list shall be arranged in the order of their seniority pursuant to Section 210(j) of the PHS Act (42 U.S.C. 211(j)). The names of reserve corps officers on each seniority list shall be arranged in the order of their creditable educational and professional training and experience date determined pursuant to PHS regulation (42 CFR 21.30) or, for certain grades and categories, the date promoted to permanent grade.

2. Seniority in Grade, Junior Assistant Grade. The order of seniority of officers of the regular corps and the reserve corps on each seniority list for the Junior Assistant grade shall be established in accordance with the length of time each officer must serve before becoming eligible for promotion to the Assistant grade. An officer having a shorter period of time to serve before becoming eligible for promotion shall assume seniority over an officer having a longer period of time to serve before becoming eligible for promotion.

3. Entitlement to Same Seniority. If two or more officers of the regular corps and the reserve corps on the same seniority list are entitled to the same seniority, their relative standing on such list shall be determined as follows:
 - a. An officer already in a grade shall have relative standing over an officer originally appointed to the grade.
 - b. If two or more officers are originally appointed to the same grade on the same day, they shall have relative standing in accordance with their numerical scores on the examinations for appointment.
 - c. If an officer is originally appointed on the same day that another officer is promoted to the same grade, the officer promoted to the grade shall have relative standing over the officer appointed to the grade.

Section G. Restricted Categories and Grades

Officers of the regular corps and the reserve corps in the nurse, dietitian, therapist, pharmacist, health services, and environmental health officer categories shall receive a permanent promotion to the Full grade and Senior grade only if vacancies exist in such grades.

Section H. Promotion to Assistant Grade

Each officer of the regular corps and the reserve corps in the Junior Assistant grade, who is examined and found qualified for promotion, shall be eligible for a permanent promotion to the Assistant grade on the first day of the month following the date on which he/she meets the qualifications prescribed for original appointment to the Assistant grade regardless of length of service in the Junior Assistant grade.

Section I. Annual Promotion Boards

1. Appointment of Promotion Boards; Powers and Duties. At least once each calendar year, one or more annual promotion boards shall be appointed for each professional category to consider the qualifications of officers of the regular corps and officers of the reserve corps for permanent and temporary promotions. Such boards shall consist of three or more individuals, the majority of whom are officers of the regular corps. Insofar as practicable, the majority of officers on a promotion board shall be of the same category as the officers to be considered for promotion.

2. Officers to be Considered for Promotion. The annual promotion board shall consider for promotion those officers of the regular corps and the reserve corps who will become eligible for permanent promotions, except selected promotions, during each ensuing period of one year or less. In addition, the board shall consider a sufficient number of officers of the regular corps and the reserve corps to meet the estimated needs of PHS for temporary or selected promotions during the same period.
3. Disqualification of a Board Member. No member of a promotion board shall participate in the second of the first two consecutive considerations of an officer for promotion to the same grade when the member served as a member of a promotion board which failed to select such officer for promotion on the first consideration.

Section J. Examination for Promotion

1. Types of Examinations. The examination for permanent or temporary promotion to the Assistant, Senior Assistant, Full, Senior, or Director grade in the regular corps and reserve corps shall consist of a review and evaluation of an officer's record with PHS, and may include an oral interview, a written or oral professional examination, or both.
2. Rating Values. The examination of every officer for permanent or temporary promotion to any grade in the regular corps and the reserve corps shall be rated, except as provided in paragraph 3., below, by a promotion board in accordance with relative values prescribed for each part of the examination.
3. Competitive Examinations. If a competitive examination for selected or temporary promotions is prescribed, the board considering officers for such promotions may be requested to recommend for promotion, out of the number of officers examined, only those officers who possess special prescribed qualifications, in which event the board shall rate only those officers who possess such qualifications.
4. Physical Examination. Every officer of the regular corps and the reserve corps being considered for a permanent promotion shall undergo a physical examination within one year prior to the effective date of the promotion. If otherwise eligible and approved for promotion, an officer may be promoted unless he/she is found to have a physical disability which is determined to render him/her physically unfit to perform the duties of his/her office under the provisions of Title 10, Chapter 61, of the U.S. Code - Retirement or Separation for Physical Disability. In the event that results of a physical examination indicate that an officer does not meet specified physical standards and that such deficiencies are correctable, a permanent promotion may be withheld until such time as the

applicable physical standards are met by the officer. If an officer is not available to be physically examined because of circumstances which would make it impracticable for PHS to require such examination, he/she may be promoted without taking such examination. However, before an officer may receive a permanent promotion without having undergone a physical examination as required by this subsection, he/she must request a postponement of the examination. The request for postponement must include a detailed statement that gives the reason the officer cannot be available for a physical examination prior to the effective date of the promotion. In addition, the request must include a proposed date for the examination which shall not be later than one year after the effective date of the promotion.

Section K. Promotion Register

Establishment of Promotion Registers. In accordance with Section I.2., above, the records of regular corps and reserve corps officers who are eligible for consideration for a permanent or temporary promotion shall be arranged by category and grade and presented to promotion boards for evaluation. Based on a review and evaluation of each officer's efficiency and progress reports, other relevant aspects of his/her personnel record, the results of any interviews conducted, and the scores of any examinations required, the promotion board shall make a determination whether to recommend for, or against promotion. For those officers recommended for promotion (1) based on competitive examinations, (2) to fill vacancies in grade, or (3) in restricted grades and categories, the promotion board shall establish a ranked order list for each grade of each category which contains the names of officers ranked according to the board's evaluation of their qualifications for promotion. The ranked order lists prepared by the promotion board shall be submitted to the convening official, who shall determine which officers of the regular corps and the reserve corps are to receive temporary promotions, which officers of the reserve corps are to receive permanent promotions, and which officers of the regular corps are to be recommended to the President for permanent promotion. The decisions and recommendations of the convening official shall be based on the number of vacancies in grade, numbers limitations, standing of officers on the ranked order lists prepared by the promotion boards, and any other relevant information including, but not limited to, reports of security violations, marginal or substandard performance, misconduct, or physical or mental disability.

Section L. Recommended for Permanent Promotion

In accordance with the requirements of Section 210 of the PHS Act (42 U.S.C. 211), the names of regular corps officers recommended for permanent promotion shall be submitted through appropriate administrative channels to the President for nomination and the Senate for confirmation. An officer of the regular corps

or the reserve corps who is recommended for, but fails to receive, a permanent promotion during the ensuing promotion year, shall be reexamined for promotion during the next promotion year. An officer of the regular corps or the reserve corps who fails to be recommended for permanent promotion, and who has not previously failed to be recommended for such promotion to the same grade, shall be reexamined for promotion during the next promotion year, unless as required by law and regulations, such failure to be recommended for promotion constitutes grounds for termination of the officer's commission.

Section M. Temporary Promotions

1. In Non-emergency Periods. To the extent that there are vacancies within the commissioned corps numbers in grade established by the Secretary pursuant to Section 210(1) of the PHS Act (42 U.S.C. 211(1)), officers of the regular corps and the reserve corps may be recommended for temporary promotions in non-emergency periods.
2. In Emergency Periods. Pursuant to Section 210(k) and 215(a) of the PHS Act (42 U.S.C. 211(k) and 216(a)) in time of war or national emergency proclaimed by the President, any officer of the regular corps or the reserve corps in any grade may be recommended to the President for a temporary promotion to any higher grade, up to and including the Director grade, whether or not a vacancy exists in such grade.
3. Basis for Temporary Promotion. Selections for temporary promotions shall be based upon consideration of the qualifications of an officer for promotion and his/her ability to perform the duties and responsibilities of the higher grade as demonstrated by his/her training, experience, and record with PHS. Any promotion made pursuant to this section may be terminated by the Secretary at any time.

Section N. Effect of Disciplinary Action

Nothing contained in this regulation shall be construed to authorize the promotion of an officer of the regular corps or the reserve corps if such promotion would be inconsistent with (1) actions pending or taken pursuant to the regulations on discipline to reduce the grade, promotion credit, or seniority of such officer, or (2) actions pending or taken pursuant to regulations and policies on marginal or substandard performance.

Approved:

FEB 15 2000

Date


Secretary