



**CC23.8.4**  
**EFFECTIVE DATE: 21 May 2008**

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**By Order of the Assistant Secretary for Health:**

**ADM Joxel Garcia, USPHS**

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SUBJECT: Involuntary Retirement (20 Years)

1. **PURPOSE:** This Instruction establishes the policy and procedures by which an officer of the Commissioned Corps of the U.S. Public Health Service (Corps) may be retired, without the officer's consent, on the first day of any month following completion of 20 years of active service. A retirement action taken under this Instruction shall be taken only after consideration of the recommendation of a retirement board (see Section 8). For information regarding involuntary retirement of an officer with less than 20 years of service, pursuant to failure to be recommended for permanent promotion, see Commissioned Corps Instruction [CC23.4.5](#) "Failure of Permanent Promotion."
2. **APPLICABILITY:** This Instruction applies to Regular and Reserve Corps officers serving on active duty.
3. **AUTHORITY:**
  - 3-1. Section 211(a)(3) of the PHS Act ([42 USC 212](#) (a)(3)) and regulations prescribed in Commissioned Corps Directive [CC43.8.1](#) authorize retirement of a Regular or Reserve Corps officer who has completed 20 or more, but less than 30 years of active service without consent of the officer concerned, provided that not less than 10 years of such service have been active commissioned service in the Corps. Computation of active service will be made in accordance with Section 211(d) of the PHS Act (42 USC 212(d)).
  - 3-2. The authority to administer the Corps is prescribed in Section 215 of the PHS Act ([42 USC 216](#)). The authority for daily administration of the Corps has been delegated to the Surgeon General (SG).
4. **PROPONENT:** The proponent of this Instruction is the Assistant Secretary for Health (ASH). The responsibility for assuring the day-to-day management of the Corps is the Surgeon General (SG).
5. **SUMMARY OF REVISIONS AND UPDATES:** This is the first issuance of this Instruction within the electronic Commissioned Corps Issuance System (eCCIS) and replaces Commissioned Corps Personnel Manual (CCPM) CC23.8.4, dated 13 August 1998. This issuance replaces the information from the previous INSTRUCTION of the CCPM, and creates a stand alone Instruction within the eCCIS. This revision incorporates the change to Subsection 6-1 contained in PPM 07-001 dated 3 November 2006.

## 6. POLICY:

An officer may be considered for involuntarily retirement for one or more of the following reasons:

- 6-1. The officer's duty performance is marginal:
  - a. As reflected by an overall score of "B" or less on the officer's Commissioned Officers' Effectiveness Report (COER) ([Form PHS-838](#)), or failure to meet and maintain force readiness standards established by the ASH; or
  - b. Based upon other documentation that indicates the officer is performing at a level below that which is expected of other officers of similar grade and category.
- 6-2. The officer has not been recommended for a permanent or temporary promotion by a regular annual promotion board;
- 6-3. The officer has engaged in conduct contrary to laws, regulations, standards of conduct, or administrative directives applicable to commissioned officers;
- 6-4. The officer has intentionally omitted or misrepresented facts in official statements, either oral or written;
- 6-5. The officer has engaged in acts of personal misconduct to the discredit of the Department of Health and Human Services (HHS), the Operating Division (OPDIV)/Staff Division (STAFFDIV) or non-HHS organization to which the officer is assigned, or the Corps;
- 6-6. The officer has failed to obtain and/or maintain a current, valid, unrestricted professional license or certification as required by the appointment standards for the officer's professional category;
- 6-7. There is a reduction in strength of the Corps because of budgetary constraints, program contraction, or numbers limitations;
- 6-8. There is a substantial reduction in funding or staffing levels within the specific OPDIV/STAFFDIV or non-HHS organization to which the officer is assigned, and after a Corps-wide review completed by the SG that indicates that there is no other suitable assignment for the officer;
- 6-9. Independent of Subsection 6-8, there is no suitable assignment for the officer; and/or
- 6-10. The officer is in a billet two or more grades below his/her pay grade for a period in excess of 1 year.

## 7. RESPONSIBILITIES:

- 7-1. When an officer attains 19 years of retirement credit, in which at least 9 of those years have been active service with the Corps, the officer's record will be reviewed by the SG to determine if the officer is qualified for retention beyond 20 years or if the record should be referred to an Involuntary Retirement Board (IRB). Thereafter, the record of an officer will be reviewed at least every 4 years by the SG for a determination as to whether referral to an IRB is warranted. Referral to an IRB shall be made by the SG.

- 7-2. In addition to Subsection 7-1, the record of an officer who has 19 or more years of retirement eligibility credit may be referred to an IRB by the SG based upon the recommendation of the Head, or designee, of the officer's OPDIV/STAFFDIV or non-HHS organization. In addition, the SG may refer such officer to an IRB if the OPDIV/STAFFDIV/non-HHS Head questions the officer's qualifications for retention on active duty.
- 7-3. With the exception of the authority to concur or non-concur on an IRB's recommendation, the SG may delegate the authorities listed in this Instruction to the Director, Office of Commissioned Corps Operations or his staff, as necessary, to carry out the requirements of the involuntary retirement program.
8. PROCEDURES:
- 8-1. Involuntary Retirement Board.
- a. An IRB will be convened as necessary for the purpose of reviewing the service records of an officer and recommending retirement or retention on active duty of officers referred for consideration under Section 7.
  - b. An IRB shall be appointed and convened by the SG. An IRB shall consist of at least five senior officers, two of whom, insofar as practicable, shall be of the same professional category as the officer(s) whose records are submitted to them for consideration. The SG make every effort to assure that boards do not consist entirely of men or women or entirely of individuals of one race, but no board member will be selected solely on the basis of gender or race.
  - c. Board deliberations are confidential.
  - d. One or more officers from the Office of the Surgeon General (OSG)/Office of Commissioned Corps Operations (OCCO) shall be appointed by the SG to provide staffing support for the board.
  - e. Each board shall issue a report to the SG that sets forth its finding(s) and recommendation(s) and lists all document(s) and evidence relied upon in reaching its recommendation; and
  - f. When a board's recommendation is not unanimous, minority views shall be listed in the report along with justification and a listing of all document(s) and evidence relied upon in reaching the minority view(s).
- 8-2. Notification of Officer and IRB Record.
- a. The SG shall provide at least 30-days written notice to any officer being referred to an IRB. At least thirty-days prior to an IRB being convened, the SG shall also provide a list of all evidence to be considered by the board and a copy of all written documentation unless such documentation is available to the officer electronically. Prior to the IRB being convened, the officer may:
    - (1) Enter into the record any pertinent facts for consideration by the board; or
    - (2) Request voluntary retirement.
  - b. Information that may be submitted to an IRB included, but is not limited to:

- (1) Reports concerning the general value of the officer;
  - (2) Evaluations by superiors of the officer's competence in the current assignment, including a statement as to whether the responsibilities are in line with the grade held; and
  - (3) Probable duration of the officer's current assignment.
- c. The SG is responsible for the collection of all evidence to be considered by the IRB and the provision of such information to the officer as indicated in Section 8-2.

8-3. Retirement vs. Retention on Active Duty.

- a. The board report, consisting of the findings and recommendations of an IRB will be based on material contained in the record submitted to it for review by the OPDIVs/STAFFDIVs/non-HHS organizations, the officer in question, and OSG/OCCO. The report will be signed by the board members. If the IRB's recommendation is not unanimous, such fact shall be so indicated in the recommendation, and those members of the board who disagree with the recommendation of the majority may submit their minority views in accordance with Section 8-1.f.
- b. The IRB's findings and recommendations, along with all documentation, will be forwarded to the SG, for concurrence or non-concurrence. The decision of the SG shall be based on the IRB's findings and recommendations, and any other relevant information in the record.
- c. An officer who is not recommended for involuntary retirement, or whose recommendation for retirement is disapproved, shall be retained on active duty with or without reassignment. However, the officer may be retired or separated under other provisions of law, or as a result of a subsequent referral of the record to an IRB.
- d. An officer will be retired if an IRB so recommends for one or more of the reasons set forth in Section 6 and the SG concurs with the IRB's recommendation.

Note 1. Regardless of the outcome of an IRB referral the SG shall provide the officer with written notice of the SG's decision by certified mail within 30 days of the SG's decision.

Note 2. The SG may reconvene the IRB for further deliberations prior to making a final decision regarding involuntary retirement under Section 8-3.d, as necessary.

8-4. Computation of Retired Pay. Retired pay for officers retired under the provisions of this Instruction is computed in the same manner as for voluntary 20 year retirements in accordance with Section 211(a)(4) of the PHS Act (42 USC 212(a)(4)).

8-5. Appeal of decision approving involuntary retirement. An officer may appeal the SG's decision approving involuntary retirement under Section 8-3.d to the ASH. The appeal shall be filed in writing within 20 days of the date the officer receives written notification of the SG's decision approving involuntary retirement. The ASH shall provide written notification to the officer of the ASH's decision within 30 days.

- 8-6. Effective Date of Retirement. The effective date of an officer's involuntary retirement shall be determined by the SG. When an appeal is made under Section 8-5, the decision to retire the officer shall be held in abeyance until a final decision is made by the ASH. Once the appeal is resolved, the SG shall establish a new effective date for the officer's involuntary retirement.

Note. By law, retirements under this Instruction must be made effective on the first day of a month.

9. HISTORICAL NOTES: This is the first issuance of this Instruction within the electronic Commissioned Corps Issuance System (eCCIS) and replaces Commissioned Corps Personnel Manual (CCPM) CC23.8.4, dated 13 August 1998. This issuance replaces the information from the previous INSTRUCTION of the CCPM, and creates a stand alone Instruction within the eCCIS. This revision incorporates the change to Subsection 6-1 contained in PPM 07-001 dated 3 November 2006.