

MANUAL: Personnel
Chapter Series CC--Commissioned Corps Personnel Manual
Part 2--Commissioned Corps Personnel Administration

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service

Chapter CC28--Personnel Records and Reports
Subchapter CC28.1--Personnel Records
Personnel INSTRUCTION 1 -- Official Personnel Folder

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Section A. Purpose and Scope

1. This INSTRUCTION prescribes the requirements for establishment and maintenance of the official personnel folder (OPF) for commissioned officers of the Public Health Service (PHS).

2. This INSTRUCTION does not apply to unofficial personnel files which may be established and maintained at the facilities to which officers are assigned. These unofficial records may consist of training records, financial management records, travel and transportation documents, approval of outside activity requests, and other documents used solely by personnel employed at a field station. See Federal Register, Volume 48, No. 219, pages 51756 through 51757, dated November 10, 1983.

3. For information on the Privacy Act, see INSTRUCTION 7, Subchapter CC26.1, of this manual, "Rights and Responsibilities of PHS Commissioned Officers Under the Privacy Act of 1974."

Section B. Authority

Authority to administer the PHS Commissioned Corps includes the authority governing the custody, use, and preservation of PHS records, papers, and property (42 U.S.C. 216(b)). Authority to maintain the OPF for PHS commissioned officers has been delegated to the Director, Commissioned Personnel Operations Division (CPOD), Office of Personnel Management (OPM), Office of Management (OM), PHS

Section C. Purpose and Use of OPF

The OPF is the official depository for the records and reports of personnel actions effected during an officer's service in the PHS Commissioned Corps. The personnel action reports and other documents, filed as permanent records in the folder (see Section H of this INSTRUCTION), give legal force and effect to personnel actions, are used to determine eligibility or entitlements of dependents, and establish an officer's rights and benefits under the pertinent laws and regulations governing service in the PHS Commissioned Corps.

Section D. Establishment and Maintenance of OPF

CPOD maintains an OPF for each officer in active, inactive, and retired status. The OPF is established when the officer is appointed. It is maintained by CPOD until two years after the officer's commission is terminated or he/she dies, except that in the case of the deceased officer who has a designated beneficiary receiving an annuity or other benefit from PHS, the OPF is maintained until the annuity payments or benefits terminate (see Section H of this INSTRUCTION concerning disposition of OPFs after the CPOD retention period). If, however, there is an action pending settlement at the end of the retention period (e.g., collection of indebtedness, litigation, or request for correction of records), the OPF will be retained by CPOD until the case is settled.

Section E. Right to Contest and Amend Records

If an officer believes that information in his/her OPF is not accurate, timely, complete, or relevant and necessary to accomplish a departmental function, the officer may request that the information be corrected or deleted, provided that the correction sought is a matter of fact as opposed to one of judgment. Requests for correction should be submitted in writing to:

Director
Commissioned Personnel Operations Division/OPM/OM
Attention: Privacy Act Coordinator
Room 4-35 Parklawn Building
Rockville, MD 20857

For detailed information on rights, duties, and responsibilities of PHS commissioned officers under the Privacy Act of 1974, see INSTRUCTION 7, Subchapter CC26.1, of this manual.

Section F. Safeguarding OPF

1. Custody. Responsibility for exercising custody over and otherwise ensuring the safekeeping of an officer's OPF is assigned to the Chief, Officer Services Branch (OSB), CPOD. Admittance to the area where the OPFs are stored is limited to authorized CPOD staff members only.
2. Access to OPF. CPOD employs safeguards to prevent disclosure from the OPF in accordance with this INSTRUCTION and the Privacy Act requirements.
 - a. Officer's Access.
 - (1) An individual's access to his/her PHS Commissioned Corps OPF will be in accordance with the policy and procedures established by the Department of Health and Human Services (DHHS) Privacy Act Regulations (45 CFR Part 5b.5), and the Privacy Act system of records notice for the PHS commissioned officer's OPF (09-37-0002).
 - (2) An officer may personally review the contents of his/her OPF in the presence of a CPOD staff member who is able to advise, counsel, or answer questions that the officer may have with respect to the OPF contents. Materials secured as privileged communications will be maintained as confidential (see exemption identified in the Privacy Act system of records for the PHS commissioned officer's OPF (09-37-0002)).
 - (3) An OPF will not be transferred outside CPOD in order to provide access of the individual to his/her record. If access by the individual to his/her record in CPOD is not possible, access will be provided by mailing a copy of the record desired to the individual in accordance with established procedures.

b. Disclosure to Individuals Other than Officer.

- (1) The OPF or information from it will not be released to anyone other than the individual to whom it pertains without the written consent of the individual, except that such release may be made without the consent of the officer as prescribed by DHHS Regulations (45 CFR Part 5b.9(b)); and as described in the purposes and routine use sections of 09-37-0002, the Privacy Act system of records for the PHS commissioned officer's OPF. A PHS official and/or an employee of DHHS who is not a CPOD staff member, who has a need for information from an officer's OPF will contact the CPOD categorical placement officer who will determine if the request for the OPF constitutes a legitimate need, and if so, what arrangements will be made for review of the OPF. All other individuals outside DHHS will contact the Chief, Transactions Section, OSB, CPOD, Room 4-35 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.
 - (2) Whenever disclosure is appropriate, the information to be disclosed shall be reviewed for accuracy, relevance, timeliness, and completeness prior to making the disclosure. If the file includes either an amendment, or a statement from the individual disagreeing with the information in his/her record, that amendment or statement of disagreement shall be disclosed only if the original information which is amended, or to which the statement applies, is disclosed.
 - (3) The OPFs will not be released for review at a location outside of CPOD, except when authorized by the Chief, OSB, or the Director, CPOD.
 - (4) To avoid loss or damage in transit, the OPFs which are approved for release outside CPOD and are being delivered by mail or messenger will be securely packaged and sealed. The envelope will be labeled "ADMINISTRATIVE-CONFIDENTIAL - TO BE OPENED BY ADDRESSEE ONLY." The person receiving the folder will be instructed to use the same process in returning the folder, including instructions about safeguarding the folder while in the individual's possession. CPOD will include an appropriate envelope with the OPF for return of the OPF to CPOD in accordance with these instructions.
3. Lost or Destroyed OPFs. Lost or destroyed OPFs will be reconstructed by making copies of all documents which the officer may furnish, and by utilizing the service record card (Form PHS-1873-1), payroll records, chronological personnel order files, and the automated and microfilmed records maintained by CPOD.

Section G. Accounting of Disclosure From OPF

1. When Accounting is Required. An accounting of disclosure from an OPF or the release of information from the OPF is required by CPOD policy when disclosure is made:
 - a. To officers and/or employees of DHHS, other than employees of CPOD, who have a need for the record in the performance of their duties (see Section F.2.b, above, concerning who makes this determination);
 - b. When required to be disclosed under the Freedom of Information Act and DHHS Freedom of Information Regulation (45 CFR Part 5);
 - c. With the written consent of the officer; and
 - d. As a routine use.
2. System of Accounting.
 - a. The accounting is recorded and includes the date, purpose of each disclosure of a record to any source, and the name and address of the source to whom the disclosure is made. The accounting formats used by CPOD are illustrated in Exhibits I and II of this INSTRUCTION. Upon request, individuals are entitled to access to the accounting records concerning themselves.
 - b. Records of accounting are retained indefinitely.
 - c. For records kept in an officer's OPF, accounting of disclosures should accompany the OPF when it is forwarded to the National Personnel Records Center (NPRC) (see Section H, below). The accountings will be filed in the fourth section of the folder and annotated to indicate that they are to be retained indefinitely.

Section H. Contents of OPF

The OPF for the PHS Commissioned Corps is a green hardback folder divided into four sections. The officer's name as shown on his/her application for appointment (last name first) is typed on the folder tab insert. If a name change occurs during an officer's service, the new name will be shown on the folder tab insert. Such a name change shall be documented by a personnel order.

1. First Section. In this section of the folder records are filed which deal with the officer's performance as a PHS commissioned officer as documented by officials in the supervisory line over the officer. Form PHS-838, Commissioned Officers' Effectiveness Report, (COER), is the official performance appraisal document for PHS commissioned officers and is filed in this section. Also filed in this section are the officer's application for

appointment to the PHS Commissioned Corps and references submitted with the application.

2. Second Section. In this section of the OPF, records and reports other than those relating to the officer's performance, effected during an officer's service in PHS are filed. This includes documents supporting the actions.
3. Third Section. In this section all correspondence concerning an officer's status and entitlements is filed. Included in this section shall be letters of commendation from individuals outside PHS.
4. Fourth Section. In this section of the folder, records of temporary value are filed. Papers about an officer which are not specified for filing in the other three sections of the OPF will be reviewed in CPOD and consideration given to their disposition. In general, these are documents leading to a formal action but not constituting a record of such action, nor making a substantial contribution to the officer's record. Temporary records will be retained in the OPF until the folder is forwarded to the NPRC. They will be evaluated at that time.
5. General. At the time a folder is forwarded to the NPRC, all papers not specifically identified for filing anywhere in the OPF will be screened by CPOD personnel to determine whether there is a permanent need for such records. Papers such as duplicate copies, envelopes, newspaper clippings, copies of articles, papers written by the officer, photographs, transmittal letters, route slips etc., and performance appraisals other than the COER, will not be placed in the OPF.
6. Records Placed in OPF at Time of Separation, Termination, or Retirement.
 - a. Medical Records. The Privacy Act system of records for PHS Commissioned Corps Medical Records is 09-37-0003. Medical records, including approved sick leave requests for the subject officer, are maintained in the Medical Branch, CPOD in a separate folder on the following officers:
 - (1) Active duty,
 - (2) Temporary disability retirees,
 - (3) COSTEP officers, and
 - (4) CORD officers.

These files are transferred, as a health record, to be placed within the OPF at the time of the officer's separation from active duty, including retirement. (Exception: A temporary disability retiree's records will be retained in CPOD until a final decision is made and the retiree's name is removed from the temporary disability retired list.)

COSTEP and CORD medical files are transferred to the OPF when the officer's commission is terminated.

- b. Pay Records. All pay documents are filed in a separate folder maintained in the Compensation Branch, CPOD. These files are transferred as a payroll record, to be placed within the OPF at the time of the officer's separation from active duty, retirement, or death.

Section I. Disposition of OPFs of Former Officers

1. Depository for OPFs of Former Officers. The NPRC at St. Louis, Missouri, is the depository for OPFs for officers who no longer hold an appointment in the PHS Commissioned Corps (see Section D of this INSTRUCTION concerning period of retention by CPOD of records of former officers).
2. PHS Action before Transferring OPF. Before releasing the OPF to the NPRC, the Chief, OSB, CPOD, or his/her designee, will review the OPF to ensure that all temporary records, where appropriate, are removed.
3. Transmission of Folder. To avoid loss or damage in transit, folders being shipped or mailed to the NPRC will be securely packaged and sealed.
4. Request for Folder of Former Officer. Requests for the OPFs of former officers from NPRC may be made only by CPOD. Procedures for obtaining the OPF are the same as requesting OPFs in the custody of CPOD (see Section F.2 of this INSTRUCTION).

Section J. Furnishing Transcripts of Service

PHS does not transfer OPFs of former commissioned officers to Federal departments and agencies when the officer is employed as either a civil service employee or appointed in one of the other uniformed services. Instead, upon request, Federal agencies are provided with a statement of commissioned service which includes the grade, date of appointment and promotion, dates of active duty service, and the reason for separation.

EXHIBIT II

PRIVACY ACT INFORMATION REQUEST

Agency Facility

Control No.

False statements subject to criminal penalties. See Pub. L. 93-579,88 stat. 1902 (5 U.S.C. 552a(i)).

THIS FORM TO BE COMPLETED BY AGENCY

SECTION I - REQUESTER AND RECORD IDENTIFICATION

1. NAME OF REQUESTER (Please print)		d. ADDRESS (Street, city, state, zip code)		b. TELE NO. (Include area code)	
2. RECORD REQUEST					
a. DESCRIPTION OF RECORD (Title, index number, etc.)					
b. LOCATION OF RECORD (Office, activity, city, organization)					
Individual whose record is being sought IF OTHER THAN REQUESTER (applies to c, d, e and f below)					
c. NAME		d. ADDRESS (Street, city, state, zip code)		e. TELE NO. (Include area code)	
f. REPRESENTATIVE'S LEGAL CAPACITY (Copy of authorizing document must be attached, e.g., court's guardianship order, power of attorney, etc.)			g. ACTION REQUESTED		
			<input type="checkbox"/> PERSONAL ACCESS <input type="checkbox"/> FILE DISAGREEMENT STATEMENT <input type="checkbox"/> REVIEW <input type="checkbox"/> AMENDMENT <input type="checkbox"/> COPY <input type="checkbox"/> OTHER (Specify)		
h. SIGNATURE OF REQUESTER				i. DATE	

SECTION II - AGENCY RESPONSE

3. ACTION TAKEN ON RECORD REQUEST (Items marked with an "X" apply to your request.)	<input type="checkbox"/> a. YOUR REQUEST HAS BEEN RECEIVED AND IS BEING PROCESSED. WE WILL RESPOND WITHIN 30 DAYS.	<input type="checkbox"/> d. WE NEED ADDITIONAL INFORMATION TO RESPOND TO YOUR REQUEST. PLEASE PROVIDE THE FOLLOWING INFORMATION (See remarks).
	<input type="checkbox"/> b. THE RECORD YOU REQUESTED IS ATTACHED. <input type="checkbox"/> NO FEE <input type="checkbox"/> SUBMIT \$ _____ FEE.	<input type="checkbox"/> e. THE RECORD YOU REQUESTED IS EXEMPT FROM DISCLOSURE UNDER THE LAW. PLEASE SEE ATTACHED EXPLANATION.
	<input type="checkbox"/> c. WE DO HAVE THE RECORD. FOR PERSONAL ACCESS, PLEASE CALL OR WRITE THE PERSON WHOSE NAME APPEARS BELOW. FOR A COPY SUBMIT \$ _____	<input type="checkbox"/> f. WE DO NOT HAVE YOUR RECORD IN OUR FILES.
	g. REMARKS	
h. SIGNATURE OF OFFICIAL		i. TITLE OF OFFICIAL
j. ADDRESS OF OFFICIAL		k. DATE

SECTION III - FOR AGENCY USE ONLY

4. AGENCY INFORMATION	a. REQUEST RECEIVED: BY _____ DATE _____	b. IDENTITY ESTABLISHED IN PERSON: APPROVED BY _____ DATE _____	
	c. ACTION ASSIGNED TO: _____	d. DATE _____	e. RESPONSE DUE DATE _____
	f. FEE DATA AMOUNT DUE _____	DATE RECEIVED _____	g. NON-COLLECTIBLE COSTS _____
	s		