

U.S. DEPARTMENT OF HEALTH  
AND HUMAN SERVICES

PERSONNEL OPERATIONS MEMORANDUM



POM 821.78  
EFFECTIVE DATE: 31 January 2020

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By Order of the Surgeon General of the U.S. Public Health Service:

VADM Jerome M. Adams, Surgeon General

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TO: All Regular Corps Officers on Extended Active Duty

SUBJECT: Guidance on Non-Health and Human Services (HHS) Agency Returns

1. This Personnel Operations Memorandum (POM) provides guidance on the process and requirements for the return of officers detailed to non-HHS agencies, pursuant to a Blanket Memorandum of Understanding/Agreement (MOU/MOA), in accordance with Commissioned Corps Directive (CCD) [121.04](#), "Non-Departmental Organization Details" and Commissioned Corps Instruction (CCI) [322.05](#), "Transfer and Reassignment of Commissioned Officers." To the extent a specific MOU/MOA is inconsistent with this POM, the provisions of the MOU/MOA take precedence.
2. This POM does not cover funding or financial responsibilities. Please refer to CCD 121.04 and CCI 322.05, and the agency's MOU/MOA for further information and governance.
3. The Surgeon General (SG) authorizes the Director, Commissioned Corps Headquarters (CCHQ) to oversee the process regarding the non-HHS agency's decision to return Corps officers to CCHQ. This authority may not be re-delegated.
4. Officers must understand the potential risk of accepting an assignment at a non-HHS agency (to include the possibility of being returned). The issuance of this POM serves as notice to officers of these potential risks. In addition:
  - a. The gaining non-HHS agency may provide counseling to its prospective officers on their responsibility and the non-HHS agency's responsibilities pursuant to the MOU/MOA, before the officer accepts a position with the non-HHS agency.
  - b. Prior to CCHQ issuing personnel orders to transfer an officer the officer must sign a Statement of Counseling (Appendix A). The officer must submit the signed Statement of Counseling to the gaining non-HHS agency liaison who will include the Statement of Counseling with the form [PHS-1662](#), "Request for Personnel Action." Both documents are placed in the officer's electronic Official Personnel Folder (eOPF) with the transfer orders. The lack of a signed Statement of Counseling does not prevent any of the actions or processes outlined in this POM.
5. As stated in the respective MOU/MOA an officer may be returned to HHS from a non-HHS agency, without his/her consent, for a variety of reasons that include, but are not limited to:

programmatic reorganization, workforce reduction, fiscal constraints, no suitable assignment, documented medical issues, documented misconduct and/or disciplinary problems, inability to maintain security clearance, or unresolved performance issues.

a. Non-HHS Agency Requirements:

- (1) The non-HHS agency point of contact (POC) for the MOU/MOA (if no POC is identified in the MOU/MOA, then the official who approved the MOU/MOA for the non-HHS agency), or his/her designee, is responsible for resolving issues related to the return of officers. The non-HHS agency will promptly notify CCHQ of any POC (or designee) personnel changes and will supply the following information for the POC (or designee):

Name and Title  
Address  
Work Phone  
Fax Number  
Email Address

- (2) Programmatic Reorganization, Workforce Reduction, No Suitable Assignment, and Fiscal Constraints. The non-HHS agency/program will make an effort to find a suitable assignment for affected officers before requesting to return them to CCHQ. The non-HHS agency/program will document all such efforts.
- (a) The non-HHS agency/liaison must notify CCHQ and officer(s) affected as early as practicable, but no later than one year in advance, of any funding issues, program reorganizations, or significant personnel plans that may result in return of officers as stated in the respective MOU/MOA.
- (b) If unable to find a suitable assignment for an officer due to programmatic reorganizations or personnel cuts due to budget constraints, the non-HHS agency will:
- (i) Certify, to the Director, CCHQ, that there are no suitable assignments in the agency or its overall department for the affected officer;
- (ii) Attempt to reassign the officer(s) to another non-HHS agency or HHS agency, via collaboration between all agency liaisons, for at least 60 days, before requesting to return an officer, certifying this attempt to the Director, CCHQ; and
- (iii) Notify, within the same correspondence, the affected officer, the Director, CCHQ, and the Administrative and Disciplinary Action Officer (ADAO), or his/her designee, of the intent to return the officer to HHS. The notification should be made within three business days of certifying that there are no suitable assignments.
- (3) Medical Issue. Prior to requesting approval from the Director, CCHQ, to return an officer for medical issues, the non-HHS agency/liaison will seek guidance from Medical Affairs Branch (MAB), CCHQ. Non-HHS agencies/liaisons should refer to Sick Leave and Disability policies for

additional information ([CCI 363.01](#), “Sick Leave,” and [CCI 393.01](#), “Medical Review Board”). If an officer has a medical issue, additional time may be needed to complete the necessary consultation and/or evaluation.

- (4) Documented Misconduct, Disciplinary Problems, Inability to Maintain Security Clearance, and Unresolved Performance Issues. As early as possible, when misconduct and performance issues arise, and prior to requesting from the Director, CCHQ, to return an officer, the non-HHS agency/liaison will consult with the ADAO for guidance on providing the officer an opportunity for improvement. When misconduct, disciplinary problems, unacceptable performance, and/or security unsuitability cannot be remedied after consulting with the ADAO and improvements are not satisfactorily made by the officer involved, non-HHS agencies/liaisons will:
  - (a) Fully document any misconduct, disciplinary problems, unacceptable performance, and/or security unsuitability and provide such documentation to the Director, CCHQ, and the ADAO. Documentation may include, but is not limited to, reports of investigation, letters of counseling, letters of reprimand, and Commissioned Officers Effective Reports (COERs).
  - (b) Fully document any opportunities the officer has been given to address and improve any identified performance deficiencies (e.g., formal performance counseling sessions, performance improvement plans, or interim COERs) and failure to correct such performance of deficiencies.
  - (c) Fully investigate and document all instances of misconduct and develop and forward a complete record of documentation to the Director, CCHQ, and the ADAO.
  - (d) Retain the ability to temporarily suspend professional clinical privileges, if applicable, in the event of suspected misconduct, then, pending the outcome of investigation, revoke privileges if appropriate. Non-HHS agencies/liaisons will report such actions no later than five business days from the suspension or revocation of privileges, or at the close of an investigation, to CCHQ. CCHQ will process any subsequent administrative actions.
- (5) Within 30 days of notifying the officer, the Director, CCHQ, and the ADAO, or his/her designee, of the non-HHS agency’s intent to return an officer, all documentation should be sent from the non-HHS agency/liaison to the Director, CCHQ, or his/her designee, and, when applicable, to MAB.
- (6) Submit written notification to the affected officer, Director, CCHQ, and the ADAO, or his/her designee, of the intent to return the officer, the reason for return to HHS within the same correspondence, and an attachment of the signed Statement of Counseling (Appendix A) if such Statement was signed by the officer. This notification will serve as the official request for return, and the effective date of the return is the date of receipt by CCHQ.
- (7) After submitting the request for the officer’s return, provide funding until the officer is removed from his/her current assignment or is reassigned to another agency in accordance with the terms and conditions specified in the non-HHS agency MOU/MOA.

## b. CCHQ Requirements:

- (1) Director, CCHQ, or his/her designee, is the manager of and primary contact for the Corps regarding MOU/MOAs.
- (2) The Director, CCHQ, will consider recommendations made by the non-HHS agency regarding referral of the officer to another assignment.
- (3) Within three business days of receiving notification from a non-HHS agency/liaison to return an officer, the ADAO or his/her designee, will inform the detailed officer of the request via phone and send an email to the officer and his/her Chief Professional Officer (CPO) which will include the following three attachments:
  - (a) A signed detail termination notification letter from the Director, CCHQ, or his/her designee. The notification letter will include the end date of the respective MOU/MOA return period and the name and contact information for the Return to Service Manager (RSM), who is the individual that serves as the CCHQ point of contact for an officer being returned after the detail notification letter has been received by the officer from the ADAO.
  - (b) Current job search spreadsheet, and
  - (c) Current contact list for agency liaisons, CPOs, and Professional Advisory Committees (PACs) Recruitment and Retention Chairs.
- (4) The RSM will send a second detail termination letter to the officer being returned, and category specific CPO, if s/he has not secured a position in 30 days from the initial detail termination notification letter.
- (5) The RSM, HHS agency liaisons, and CPOs will work expeditiously to assist the returned officer in locating appropriate reassignment and/or send before appropriate adverse action board. The category specific CPO will work with the returned officer and agency liaisons in an attempt to locate and secure a reassignment following the detail termination notification letter until a position is secured or a directed reassignment is given, whichever occurs first.

## c. Officer Requirements:

- (1) Within one week of the officer receiving notification of detail termination and an email from the RSM, the respective CPO and/or non-HHS agency liaison should document and provide job counseling to include:
  - (a) A review of the detail termination letter;
  - (b) A review of the officer's career, performance, career progression, and goals;
  - (c) A tutorial on the use of USAJOBS;
  - (d) An information sheet that compares USPHS ranks with GS equivalent levels so officers apply for rank-appropriate positions;

- (e) An information sheet on curriculum vitae (CV) tips and connecting the officer with a category specific CV reviewer, if available; and
    - (f) An interviewing tips information sheet that specifically addresses detail termination questions.
  - (2) A Job Counseling Session document should be completed by the CPO or non-HHS agency liaison and emailed to the RSM within five business days of the scheduled counseling session.
  - (3) Liaisons may keep a current list, updated monthly, of job vacancies to provide to CPOs and/or RSM upon request.
  - (4) Officers being returned are responsible for utilizing the provided spreadsheet, USAJOBS, or any other employment resource to secure a position prior to the end date of the respective MOU/MOA return period. The officer is to immediately:
    - (a) Contact their CPO, PAC, Agency Liaison, and Agency Recruiters for assistance in finding a position;
    - (b) Apply to all positions that are appropriate for his/her profession and/or experience, including positions that are hard to fill or isolated and/or outside of the officer's current geographic location;
    - (c) Update his/her CV using the latest guidance from his/her professional category and submit it to the respective CPO;
    - (d) Document job search progress by updating the job search spreadsheet every two weeks and submitting it to the RSM, or his/her designee, via email; and
    - (e) Be available to the RSM via email and/or telephone. Responses to messages left for the officer must be made within 24 hours of delivery.
  - (5) Failure to follow orders set forth in the CCHQ detail termination notification letter will be viewed as failure to follow a direct order and may result in the issuance of a Letter of Reprimand.
6. Once an officer secures a new assignment, CCHQ will process orders in accordance with [CCI 311.03](#), "Use of Form PHS-1662, "Request for Personnel Action"."
  7. If the officer is unable to secure a position 60 days prior to the end of the respective MOU/MOA return period, the officer may be subject to a CCHQ directed reassignment (see [CCI 322.05](#), "Transfer and Reassignment of Commissioned Officers"). Based on the availability of an assignment, such reassignments may be in a billet that is graded up to 2 or more grades below the officer's current pay grade.
  8. Separation from Active Duty.
    - a. Failure to Follow an Order. Failure to follow a direct order may result in referral to a Board of Inquiry (BOI), Involuntary Termination Board (ITB), or Involuntary Retirement Board (IRB).

- b. Failure to Find a Suitable Assignment. Officers have from the effective date of the return (see §5.a.(6)) until the expiration of the period of time allowed for returns in the MOU/MOA to find a suitable assignment. If the period of time allowed for returns is less than 180 calendar days, the officer is permitted a minimum of 180 calendar days to secure a suitable assignment. If an officer fails to secure a suitable assignment, the Director, CCHQ, may refer the officer to an ITB or, if the officer has more than 19 years creditable service for retirement, an IRB. The Director, CCHQ, may convene the ITB or IRB concurrent with the period of time allowed for returns (or 180 calendar days if applicable); however, if the officer secures a suitable assignment on or before the expiration of the period of time allowed for returns, the officer will not be separated from active duty. This Subsection does not apply to the following officers who may be referred to a BOI, ITB, or IRB at any time:
- (1) An officer who is referred to a BOI for any reason; and
  - (2) An officer who is referred to an ITB or IRB for reasons other than failure to find a suitable assignment.
9. If the returned officer fails to report to the CCHQ directed reassignment on the report date on the orders, the officer will be Absent Without Leave (AWOL). An officer who is AWOL for 30 or more consecutive days is subject to summary termination pursuant to [CCI 364.01 §6-3\(b\)](#), "Absent Without Leave."
10. An officer being returned for misconduct and/or disciplinary problems, or unresolved performance issues may be subject to involuntary separation from active duty, at any time, as a result of their return in accordance with [CCD 111.02](#), "Disciplinary Action," [CCI 382.03](#), "Involuntary Termination of Regular Corps Officers for Marginal or Substandard Performance," or [CCI 385.01](#), "Involuntary Retirement (20 Years)."
11. HHS strives to provide quality officers to non-HHS agencies. As such, the Director, CCHQ, or his/her designee, will hold a meeting with the non-HHS agency liaisons and appropriate personnel if more than five return requests are received from the same non-HHS agency within a calendar year. The purpose of the meeting is to assess and remedy identified causes for non-HHS agency returns.
12. Each MOU/MOA is specific to the non-HHS agency/program with which it was signed. Refer to the respective MOU/MOA for additional information and governance.
13. This POM is effective immediately and will remain in effect until rescinded.

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VADM, USPHS  
Surgeon General

**Appendix A**

Statement of Counseling – Acknowledgement of Conditions of Details to Non-HHS Agencies

The officer is fully responsible for understanding the potential that s/he may be returned to HHS after an assignment or transfer to a non-HHS agency. This acknowledgement is to ensure officers are aware of the potential for outside or non-HHS agencies to return officers per the MOU/MOA for the non-HHS agency to which the officer is assigned. Reasons for a return includes, but may not be limited to:

- 1) Programmatic reorganization
- 2) Workforce reduction
- 3) Fiscal constraints
- 4) Documented medical issues
- 5) Documented misconduct/disciplinary problems
- 6) Unresolved performance issues (marginal or substandard performance)
- 7) There is no suitable assignment for the officer
- 8) Inability to maintain security clearance

An officer requesting a non-HHS agency detail is expected to sign a statement of counseling with the gaining non-HHS agency upon accepting a position. The signed document should be submitted to CCHQ within seven (7) business days of receiving this document. Failure to sign and submit a statement of counseling in accordance with POM 821.78 may result in the delay or cancellation of orders.

**Officer Acknowledgement**

I, \_\_\_\_\_ acknowledge that I can be returned for the above mentioned reasons  
(print your name)

if I accept a position with a non-HHS agency. Additionally, if returned to HHS, and unable to secure a position 60 days prior to the end of the respective MOU/MOA return period, then I may be subject to CCHQ directed reassignment as necessary to meet the needs of the Corps. If I fail to report to a CCHQ directed reassignment as directed, I understand that I will be Absent Without Leave (AWOL) and subject to involuntary termination without my consent, disciplinary action, and/or referral to involuntary retirement. Finally, I understand that any return due to misconduct and/or disciplinary problems, or unresolved performance issues may subject me to involuntary separation from active duty.

Officer Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Non-HHS Liaison Signature: \_\_\_\_\_

Date: \_\_\_\_\_