

**U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

PERSONNEL OPERATIONS MEMORANDUM



POM 821.86
EFFECTIVE DATE: 15 March 2024

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

VADM Vivek H. Murthy, MD, MBA

TO: All Officers in the U.S. Public Health Service (USPHS) Commissioned Corps.

SUBJECT: Flag Board and Processes

1. In accordance with Commissioned Corps Instruction (CCI) [322.03](#), "Flag Grade Positions and Promotions," this Personnel Operations Memorandum (POM) establishes the guidelines for the USPHS Commissioned Corps Flag Board.
 - a. It outlines when the USPHS Commissioned Corps convenes a Flag Board, appointment and qualifications of the Flag Board's members, Public Health Service (PHS) officers' eligibility for consideration for flag grade promotion, submission of positions and officers for consideration by the Flag Board, and the process of considering a request by a non-Health and Human Services (non-HHS) agency, other than the Department of Defense (DoD), United States Coast Guard (USCG), and Federal Bureau of Prisons (BoP), for the assignment of a flag grade officer.
 - b. Flag grade positions are specific positions (billets) approved by the Assistant Secretary for Health (ASH), and flag grade promotions are approved by the Secretary. These positions are similar to civilian Senior Executive Service (SES) positions, and the Flag Board reviews each position and officer based upon their merit, level and magnitude of responsibility, and leadership within HHS and USPHS Commissioned Corps.
 - c. Flag grade promotions in the USPHS Commissioned Corps are temporary promotions, and officers may hold a flag grade only when recommended by the Flag Board and approved by the HHS Secretary, and only while encumbering an approved flag grade position.
2. Flag Board.
 - a. The Surgeon General (SG) will appoint five Flag Board members to serve for each fiscal year and may appoint alternate members for those circumstances when a member may be unavailable when a Flag Board is convened or if there is a conflict of interest in a member reviewing a position/officer. The members must meet the following criteria:
 - (1) Officers must have no history of adverse actions and be in good standing in their USPHS Commissioned Corps record.
 - (2) Officers must meet the USPHS Commissioned Corps conditions of service outlined in Commissioned Corps Directive (CCD) [111.03](#), "Conditions of Service"

- (e.g., deployment readiness, weight standards, health standards), and have satisfactory Commissioned Officers' Effectiveness Reports (COERs) or Flag Officer Performance Evaluation. For the purpose of determining if an officer meets the deployment readiness requirement, an officer is not eligible if they are marked as "Not Qualified" more than 5 times in the previous 5 years.
- (3) If the Flag Board will potentially review an officer who holds the O-7 grade for promotion to the O-8 grade, all officers on the Flag Board must hold the O-8 grade.
 - (4) At least two of the members shall be in the HHS SES.
- b. On an annual basis, the DSG will, after reviewing the current distribution and profile of flag grade officers needed for operational force readiness and response requirements, determine if additional flag grade officers are warranted to meet the HHS and USPHS Commissioned Corps' missions.
- (1) Upon determining that additional flag grade officers may be warranted and subject to the availability of flag grade positions (as outlined in 42 U.S.C. §206(c)(1), as limited by 42 U.S.C. §206(c)(2)), the DSG will set a date for the Flag Board to review Proposed Flag Grade Positions and the officers occupying those positions that the Flag Board recommends as qualifying for designation as a Designated Flag Grade Position.
 - (2) For the purpose of this POM, a Flag Board convened as a result of this annual review is referred to as the "Regular Flag Board."
- c. Convening the Flag Board.
- (1) The SG determines when the Director, Commissioned Corps Headquarters (CCHQ), will convene the Regular Flag Board to review Proposed Flag Grade Positions (O-7 and O-8) and the officers occupying those positions.
 - (a) The Director, CCHQ, will notify agencies of the nomination period to submit proposed flag grade positions and eligible officers who encumber those positions for a promotion to the O-7 grade prior to convening the Regular Flag Board. This also applies to promotion to the O-8 grade.
 - (b) The USPHS Commissioned Corps will not accept proposed flag grade positions and nominations of eligible officers for promotion outside of the timeframe of the Regular Flag Board.
 - (2) The Director, CCHQ:
 - (a) May convene an off-cycle Flag Board, as needed for the good of the Service, to make a recommendation regarding whether a position qualifies as a Designated Flag Grade Position when an OPDIV/STAFFDIV/non-HHS organization Head proposes the reassignment of a flag grade officer. If an OPDIV/STAFFDIV/non-HHS organization reassigns a flag grade officer before the ASH and/or Secretary approves the reassignment, the officer automatically reverts to their highest non-flag pay grade (see Section 6-7.a. of CCI 322.03);
 - (b) May convene an off-cycle Flag Board to make a recommendation regarding whether a position continues to qualify as a Designated Flag Grade Position when an OPDIV/STAFFDIV/non-HHS organization Head submits changes and/or proposes changes to a position already

- encumbered by a flag grade officer (see Section 6-7.b. of CCI 322.03); and
- (c) Will convene an off-cycle Flag Board to review a temporary assignment for a recommendation whether a proposed flag grade officer assignment is equivalent to a flag grade position (see Sections 6-7.c.(1), (2), and (4) of CCI 322.03).
 - (d) The Director, CCHQ, may, without a new review by a Flag Board, submit a request to the ASH to redesignate a position as a flag billet that was vacated while a Designated Flag Grade Position (i.e., a flag officer vacated the position and the position was removed from the list of Designated Flag Grade Positions) for a proposed permanent or temporary assignment.
- d. The Director, CCHQ, is responsible for the operations of the Flag Board. If the Director, CCHQ, is nominated for promotion to a flag grade, the Deputy Surgeon General (DSG) will designate a CCHQ staff member to oversee the operations of the board.
- e. Flag Board Materials.
- (1) The Regular Flag Board will review the documentation contained in Section 5. for submitted positions and officers who meet the criteria in Section 4. who are nominated for a flag grade promotion. The Regular Flag Board also will review pertinent materials to ensure that each officer has met the readiness requirements for the previous five (5) years as well as any additional information or documents that the Director, CCHQ, provides to the Board (e.g., electronic Official Personnel Folder (eOPF)).
 - (2) The Flag Board will review the documentation contained in Section 5.b. when the Director, CCHQ, convenes a Flag Board as outlined in Section 2.c.(2).
3. Agency Notification. The Director, CCHQ, will send to the Chief Human Capital Officers (CHCO) HHS, HR Directors, and [USPHS Commissioned Corps Liaisons](#) a list of officers from within their agencies who are potentially eligible for promotion to a flag grade.
4. Officer Eligibility. Officers must meet the eligibility criteria outlined in CCI 322.03, "Flag Grade Positions and Promotions," during the Flag Promotion Year (which begins on 1 July of the calendar year in which the Flag Board convenes and ends on 30 June of the following year) for the O-7 and O-8 grades as follows:
- a. Conditions of Service. To remain eligible for consideration for promotion to a flag grade, an officer must meet the conditions of service outlined in CCD 111.03, "Conditions of Service."
 - (1) Professional Competence. The officer must have a current unrestricted license on file at CCHQ as required by [CCI 251.01](#), "Professional Licensure and Certification."
 - (2) Readiness Compliance. An officer must meet the USPHS Commissioned Corps' basic force readiness standards as outlined in Section 6-3.a.(5) of CCI 322.03.
 - (3) Health Standards. The officer must have a current Periodic Health Update (PHU) in Medical Affairs Branch (MAB), CCHQ, as required by [POM 821.71](#), "Physical Examination Requirements," and not have a medical condition that would render the officer unfit for duty (see [CCI 393.01](#), "Medical Review Board").
 - (4) Weight Standards. The officer must meet the USPHS Commissioned Corps' weight standards outlined in [POM 821.66](#), "Retention Weight Standards." An

officer who is on a Documented Weight Management Plan to come into compliance with the Retention Weight Standards does not meet this criterion.

- b. **No Adverse Actions.** An officer who has had a Letter of Reprimand (LOR), been marked Absent Without Leave (AWOL), or who has had their records referred to a non-medical administrative board (e.g., Temporary or Permanent Promotion Revocation Board (TPRB) or PPRB), Involuntary Termination Board (ITB), Board of Inquiry (BOI), Involuntary Retirement Board (IRB)), at any time during their career in the USPHS Commissioned Corps, is not eligible for consideration for promotion to a flag grade.
 - c. **Agreement.** An officer must digitally sign the agreement contained in the Appendix. The officer must sign this agreement using their Common Access Card (CAC) or Personal Identity Verification (PIV) card (CCHQ will not accept an agreement signed by other means).
 - d. The Director, CCHQ, or designee, is responsible for validating and ensuring that an officer meets the criteria outlined in this Section prior to the Flag Board reviewing the officer and prior to the Secretary approving the promotion of an officer recommended for a promotion by the Flag Board.
5. **Nomination Packages.** An OPDIV/STAFFDIV Head must submit to CCHQ, by the date established by the Director, CCHQ, a complete, separate nomination package for each officer nominated (see Section 7. for whom CCHQ will accept as the OPDIV/STAFFDIV Head). The OPDIV/STAFFDIV HR Director or liaison must submit documents to the CCHQ Flag Board Application in accordance with the instructions of the Director, CCHQ, or designee. Flag assignments in non-HHS agencies must adhere to the same criteria as outlined below and in CCI 322.03 to qualify for O-7 or O-8 board review. Each officer's document package must include the following documents:
- a. A cover memorandum signed by the OPDIV/STAFFDIV Head that includes:
 - (1) A rank ordered list of all officers nominated for promotion to the O-7 grade.
 - (2) A rank ordered list of all officers nominated for promotion to the O-8 grade.
 - (3) A statement that certifies that the proposed position for each nominee is executive level in nature and otherwise would be filled by an individual at the executive level if occupied by a civilian or General/Admiral if occupied by a non-PHS officer.
 - b. **Position Information.** Each nominated officer's document package must include the following un-redacted and redacted (officer's name/identifying information removed) documents:
 - (1) A completed form PHS-7046, "Flag Grade Billet Assessment," for the position the nominee encumbers;
 - (2) An official organizational chart that shows the nominee's position in the organization of the agency and span of control of the position; and
 - (3) The position description, OF-8, and supportive paperwork if the position has been classified as a SES position.
 - c. **Officer Information.** The nominated officer must provide their OPDIV/STAFFDIV Head the following for inclusion in their nomination package:
 - (1) An updated curriculum vitae (CV).

- (2) A personal statement (maximum 2 pages, 12-point font) that includes the:
 - (a) Officer's direct involvement in the mission of the USPHS Commissioned Corps;
 - (b) Officer's proposed goals and agenda as a flag grade officer and ability to achieve those goals;
 - (c) Unique and/or exceptional education, training, and/or experience of the officer;
 - (d) Specific activities related to HHS, assigned Agency/OPDIV/STAFFDIV and the USPHS Commissioned Corps demonstrating the officer's executive leadership. For consideration for promotion to the O-8 flag grade, the candidate must meet the criteria and leadership demonstrated at the O-7 flag grade as outlined in CCI 322.03; and
 - (e) The OPDIV/STAFFDIV Head signature on the nominee's personal statement to indicate review of and concurrence with the officer's stated accomplishments, goals, and agenda as a flag officer.
 - (3) The digitally signed agreement (see Appendix).
6. Flag Assignments in non-HHS Agencies. Except as authorized by the HHS Secretary, the USPHS Commissioned Corps does not normally assign flag grade officers in non-HHS agencies except for those non-HHS agencies with which the USPHS Commissioned Corps has long-standing partnerships (i.e., DoD, USCG, and BoP). However, the Secretary of another Federal Executive Department may submit a Proposed Flag Grade Position for consideration and, if approved, may also request to assign a flag grade officer to their agency in accordance with this Section. If the ASH designates the position as a Designated Flag Grade Position, the Secretary may assign a flag grade officer to that position to meet an urgent public health need or if the assignment furthers the mission of the Department and the USPHS Commissioned Corps.
 - a. The Secretary of the other Federal Executive Department must address a memorandum to the Secretary of HHS requesting the designation of the position as a Designated Flag Grade Position. This memorandum must be submitted to the Director, CCHQ, for processing through the SG and ASH prior to submitting a flag board packet.
 - (1) The memorandum must clearly state how the assignment of a USPHS Commissioned Corps flag grade officer at their agency will further the mission of the HHS and the USPHS Commissioned Corps.
 - (2) The memorandum must include information on the position and, if a PHS officer encumbers the position, the officer. The position and officer information must adhere to the requirements of this POM (see Sections 4. and 5.). Additionally, the position information must adequately explain why the functions are outside of the normal responsibilities of HHS and why they must be achieved outside of HHS.
 - (3) This paperwork must be sent in advance of the Regular Flag Board in order for the Regular Flag Board to consider the packet. If CCHQ does not receive the request and packet within this timeframe, the packet will not be reviewed.
 - b. The Director, CCHQ, will submit the memorandum, with their recommendation, to the ASH through the SG.

- c. The ASH may deny the request to create a Designated Flag Grade Position in the non-HHS agency with or without a review of the position by the Regular Flag Board.
 - d. The Secretary of HHS must give their approval for the assignment of a flag grade officer to the non-HHS agency before the ASH approves the creation of a Designated Flag Grade Position in the non-HHS agency. However, the Regular Flag Board must review and make a recommendation regarding whether the position qualifies for designation as a Designated Flag Grade Position and, if it does, make a recommendation on whether the Secretary should assign that officer to the position.
7. In accordance with CCI 322.03, an OPDIV/STAFFDIV Head includes the Director, Administrator, Commissioner, or Assistant Secretary of an HHS OPDIV; Assistant Secretary or Director of an HHS STAFFDIV; Commandant of the USCG; and Director, BOP. Within DoD, the Secretaries of the Military Department for the military services; Joint Chief of Staff for Combatant Commands; and Under Secretaries of Defense, or equivalent, for the Defense Agencies and DoD Field Activities. For the purposes of Section 6., the Head of a non-HHS Federal Executive Department is the Secretary of that Department or equivalent level if an Independent Agency.
8. If the OPDIV/STAFFDIV/non-HHS organization makes programmatic changes that may render a position encumbered by flag grade officer as no longer qualified as a Designated Flag Grade Position and the SG concurs (after a Flag Board review), the position will remain a Designated Flag Grade Position for a period of not more than one year (or less, as determined by the SG), after which the position shall become an O-6 position and the officer will automatically revert to their highest non-flag pay grade. Such officers are required to file an OGE Form 278e, "Executive Branch Personnel Public Financial Disclosure Report," termination report within 30 days from the date of the position becoming an O-6 position. The USPHS Commissioned Corps is not responsible for reassigning flag grade officers. The return to service provisions of the Memorandum of Understanding/Agreement and [POM 821.78](#), "Guidance on Non-HHS Agency Returns," applies to those officers encumbering Flag positions at non-HHS organizations.
9. If the OPDIV/STAFFDIV/non-HHS organization makes a determination that a flag grade officer has poor performance, is not able to perform the duties needed to adequately meet the agency's mission, and/or decides to fill a political position (i.e., a position that is often filled with a non-career individual) with a political appointee, the OPDIV/STAFFDIV/non-HHS organization may reassign the flag grade officer to a different position or request that the officer seek another assignment outside of the OPDIV/STAFFDIV/non-HHS organization. If the OPDIV/STAFFDIV/non-HHS organization chooses to reassign the flag grade officer under this provision, the OPDIV/STAFFDIV/non-HHS organization is not required to reassign the officer to another Designated Flag Grade Position. In this case, if the officer is reassigned to a non-flag grade position, the officer automatically reverts to the O-6 grade pursuant to CCI 322.03, Section 6-7.d. unless the officer's grade is reduced to a lower grade through applicable Instructions (e.g., due to performance). If the Agency allows time for the officer to seek a Designated Flag Grade Position outside of the OPDIV/STAFFDIV/non-HHS organization, the OPDIV/STAFFDIV/non-HHS organization may request that the SG permit up to a six-month grace period for the officer to remain in the Designated Flag Grade Position as a means to retain the officer's flag grade. If the OPDIV/STAFFDIV/non-HHS organization needs to fill the Designated Flag Grade Position immediately, the officer may be placed on non-duty with pay status for no more than a six-month period as billets cannot be double encumbered. The USPHS Commissioned Corps is not responsible for reassigning flag grade officers and those officers who have once held flag grades have no right or entitlement to continue to hold a flag grade when a position is reassigned or eliminated.
10. Evaluations. The SG will, in consultation with the OPDIV/STAFFDIV/non-HHS organization Head, or designee, develop a performance review process for flag grade officers that will be used in lieu of the annual Commissioned Officers' Effectiveness Report (COER). The SG may authorize the OPDIV/STAFFDIV/non-HHS organization Head or designee to use the SES evaluation.

11. Ethics. Prior to, or within 90 days after, issuing personnel orders to permanently reassign a flag grade officer, OGC Ethics must clear the officer for the proposed position as outlined in CCI 322.03.
12. An officer subject to retirement under Section 6-9.b. and c. of CCI 322.03. who is serving in the O-7 or O-8 grade may have their retirement deferred by the Secretary if deemed to be in the best interest of HHS and the USPHS Commissioned Corps. Such period will not exceed 2 years for an O-7 grade officer and 4 years for an O-8 grade officer. An off-cycle Flag Board will convene and will make a recommendation to the ASH as outlined in CCI 322.03. A flag packet must be sent with the required materials as outlined in this POM.
13. Flag Chief Professional Officer (CPO) positions. This POM does not apply to the selection, assignment, and retirement of CPOs, who are mandated by statute to be assigned as O-7 flag grade officers (see [CCI 322.04](#), "Chief Professional Officer Nomination"). However, this POM does apply to such an officer who holds a flag grade that is a direct result of an assignment as CPO when the ASH has designated their position, that the officer encumbers concurrent with the duties of CPO, as a flag grade position and the Secretary has approved their appointment and promotion to the flag grade in accordance with CCI 322.03 and this POM.
14. This POM replaces POM 821.86, "Flag Board and Processes," dated 26 May 2022 and will remain in effect until superseded or rescinded.

Appendix

Agreement for Promotion to a Flag Grade

TO: The Secretary, Health and Human Services (HHS)

SUBJECT: Agreement to Serve as a Flag Grade Officer

I hereby agree to and understand the following:

- a. I will remain on active duty in the U.S. Public Health Service (USPHS) Commissioned Corps for 36 consecutive months from the effective date of a flag grade promotion to either the O-7 or O-8 temporary flag grade as required by Commissioned Corps Directive (CCD) 124.01, "Retirement," and Commissioned Corps Instruction (CCI) 322.03, "Flag Grade Positions and Promotion."
- b. I will not voluntarily seek to separate (i.e., retire, inactivate, or terminate my commission) from active duty during the 36-month period after promotion to either the O-7 or O-8 grade.
- c. This agreement does not obligate HHS nor the USPHS Commissioned Corps to retain me on active duty for the entire 36 months after promotion to the O-7 or O-8 grade.
- d. That execution of this agreement does not guarantee that I will be selected for a flag grade promotion to either the O-7 or O-8 grade.
- e. Permanent assignments and reassignments of flag grade officers are subject to Secretarial approval, therefore, if selected for a flag promotion, I will not transfer to a new assignment without approval from the Secretary and receipt of official personnel orders from Commissioned Corps Headquarters (CCHQ).
- f. Temporary assignments of flag grade officers are subject to pre-approval as outlined in Section 6-7.c. of CCI 322.03; therefore, I will not undertake a temporary assignment without having received written approval or written notification of approval from the Deputy Surgeon General (DSG).
- g. That I will continue to maintain compliance with the conditions of service (e.g., license, deployment readiness, retention weight standards, etc.) as required by CCD 111.03, "Conditions of Service," as well as associated CCIs and Personnel Policy Memoranda after promotion to the O-7 or O-8 grade.
- h. That I will support the initiatives of HHS and the USPHS Commissioned Corps, and that I will fulfill the duties of a flag officer (e.g., lead special initiatives, serve on boards and special committees).
- i. I will promptly notify the Financial Services Branch (FSB), CCHQ, if I am promoted to the O-7 grade and am receiving an Incentive Pay (IP), Retention Bonus (RB), Assignment Pay (AP), or any other pay that is not available to a flag grade officer or is otherwise affected by promotion to a flag grade.
- j. That this agreement only applies to a promotion to the flag grade for which I am currently eligible.

(Type or Print Full Name)

(USPHS Serial Number)

(Current Rank/Grade)

(Electronic CAC/PIV Card Signature)

(Date)