

MILPERSMAN 1910-144

SEPARATION BY REASON OF MISCONDUCT - CIVILIAN CONVICTION

Responsible Office	NAVPERSCOM (PERS-832)	Phone:	DSN	882-4432/2303
			COM	(901) 874-4432
			FAX	882-2624
	NAVPERSCOM (PERS-913)	Phone:	DSN	882-4470
	Inactive		COM	(901) 874-4470
	Enlisted Members		FAX	882-2673
NAVPERSCOM CUSTOMER SERVICE CENTER		Phone: Toll Free	1-866-U ASK NPC	

References	(a) Manual for Courts-Martial (MCM) (b) SECNAVINST 5820.4G (c) Uniform Code of Military Justice (UCMJ)
-------------------	--

1. **Separation Authority (SA)**. Refer to MILPERSMAN 1910-704 to determine SA. When an administrative separation (ADSEP) board is held, refer to MILPERSMAN 1910-710 for guidance in determining SA.

2. **Policy**

a. Members may be separated based on civilian convictions or actions tantamount to:

- (1) Findings of guilt;
- (1) Adjudication withheld;
- (2) Deferred prosecution;
- (3) Entry in adult/juvenile pretrial intervention programs; or
- (4) Any similar disposition of charges which includes imposition of fines, probation, community service, etc.;

when offense would warrant a punitive discharge, per reference (a), appendix 12 for same or closely related offense; specific circumstances of offense warrant separation; or civil sentence includes confinement for 6 or more months without regard to suspension, probation, or early release.

b. All civilian convictions (federal, state, and local) including any actions tantamount to findings of guilt are binding on issue of whether misconduct has occurred and administrative discharge board is required to find that misconduct did occur.

c. Foreign court convictions are not binding on administrative boards and do not preclude processing due to misconduct (serious offense and/or civil conviction).

NOTE: Members confined in foreign jails may be processed for separation, but may not be discharged or separated from service until completion of imprisonment and return to the United States. In unusual cases (i.e., life sentence without possibility of parole) separations may be authorized by Secretary of the Navy (SECNAV) per reference (b).

3. **Mandatory Processing**. Processing is mandatory for:

a. Violent misconduct which results in, or had potential to result in, death or serious bodily injury (e.g., homicide, arson, armed robbery, assault with a deadly weapon, etc.); or

b. Sexual misconduct - Lewd and lascivious acts, forcible sodomy, any child sexual abuse, possession of child pornography, incestuous relationships, or any form of sexual misconduct, if such acts were to be charged as a violation of any punitive article of reference (c).

(1) If child sexual abuse including incest occurs, immediately notify:

<p>Commander, Navy Installations Command (CNIC) Detachment (DET) Millington Counseling, Advocacy, and Prevention (N911) and Navy Personnel Command (NAVPERSCOM) Enlisted Performance and Separations Branch (PERS-832)/ Reserve Enlisted Personnel Branch (PERS-913)</p>
--

Administrative processing is mandatory if case is substantiated for child sexual abuse.

(2) If member is ultimately retained, NAVPERSCOM (PERS-832/913) will forward case to:

<p>CNIC DET Millington Counseling, Advocacy, and Prevention (N911)</p>

for evaluation and recommendation of long-term treatment. Regardless of acceptance into rehabilitation, NAVPERSCOM (PERS-832/913) may direct separation of member at EAOS with an RE-4 reenlistment code.

(3) If member is accepted, but later evaluated as a rehabilitation failure, reprocess per MILPERSMAN 1910-162.

4. **Procedures**. All available arrest, investigative, and court adjudication documentation must be submitted as part of recorder's exhibits at any administrative board. If members waive their boards, these same documents must be submitted as enclosures to Letter of Transmittal. Use below table to determine processing procedures.

WHEN..	THEN use..	EXCEPT when..	THEN use..
offense requires mandatory processing or commanding officer (CO) believes circumstances surrounding offense warrant an Under Other Than Honorable (OTH) per MILPERSMAN 1910-300,	Administrative Board Procedure (MILPERSMAN 1910-404),	conviction occurred preservice or in a prior enlistment and was unknown to Navy at time of enlistment or reenlistment and processing for fraudulent enlistment is not appropriate,	Notification Procedure (MILPERSMAN 1910-402) and process for erroneous enlistment (MILPERSMAN 1910-130).
offense does not require mandatory processing and CO believes circumstances do not warrant an OTH per MILPERSMAN 1910-300,	Notification Procedure (MILPERSMAN 1910-402).		

5. Characterization of Separation.

a. Further guidance on characterization of service is provided in MILPERSMAN 1910-300. This table provides general information based on type of procedures used.

IF...	THEN least favorable characterizations is...
Notification Procedure is used,	General (Under Honorable Conditions) (GEN), per MILPERSMAN 1910-308.
Administrative Board Procedure is used,	Under Other than Honorable (OTH), per MILPERSMAN 1910-300.

b. If member has less than 180 days of service, an Entry Level Separation may be appropriate. See MILPERSMAN 1910-308 for further guidance.