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12.A. Separating Active Duty Commissioned and Warrant Officers

12.A.1. General

12.A.1.a. Continuation of Status


The President appoints regular Coast Guard and Coast Guard Reserve officers to an indefinite term. Once an individual legally accepts a commission or warrant in the Coast Guard and executes the oath of office, he or she acquires a status which continues until it is legally terminated.

12.A.1.b. Methods of Separation

Complete separation from the Coast Guard is accomplished by:

1. Acceptance of resignation;
2. Dismissal;
3. Revocation of commission or warrant;
4. Dropping from the rolls;
5. Termination until it is legally terminated; or
6. Discharge for cause.

12.A.1.c. Terminating Active Duty

Terminating active duty (without completely separating from the Coast Guard) includes retirement and a Reserve officer's release to inactive duty. Retirement procedures appear in  Chapter 12.C.

12.A.2. Types of Officer Discharges

12.A.2.a. General

This Article discusses the discharge types and detailed procedures approved for Coast Guard officers. Officers who totally separate from the Coast Guard or Coast Guard Reserve while on active duty are entitled to one of the following discharges.

12.A.2.b. Honorable Discharge

The Service generally grants an Honorable Discharge to officers under circumstances which would warrant such a discharge for enlisted members. The following standards govern issuing honorable discharge certificates:

1. Acceptance of unqualified resignations as described in  Article 12.A.6.a.

2. Discharge because of failure selection for promotion.
3. Administrative separation for cause for reasons specified in [☞](#) Article 12.A.15.c.1.
4. Other conditions generally resulting in an honorable discharge for enlisted members.

12.A.2.c. General Discharge

The Service grants a General Discharge to officers administratively separated for cause if the cause for separation or an officer's previous record would preclude honorable discharge but is not of such a nature as to require discharge under conditions other than honorable; for example:

1. Acceptance of resignations submitted in the form described in [☞](#) Article 12.A.6.b.
2. Separation for cause for reasons specified in [☞](#) Article 12.A.15.c.2.

12.A.2.d. Discharge Under Other Than Honorable Conditions

The Service generally grants a discharge under other than honorable conditions to officers separated for reasons other than dismissal pursuant to general court-martial sentence if the circumstances prompting separation are deemed counter to traditional naval concepts of "honor," in the following types of situations; for example:

1. Acceptance of a resignation to escape dismissal, typically for the good of the Service and submitted in the form described in [☞](#) Article 12.A.6.c.
2. Acceptance of a resignation for the good of the Service in lieu of trial by court-martial, submitted in the form described in [☞](#) Article 12.A.6.d.
3. Acceptance of a resignation for the good of the Service. Submit this type of resignation in the form described in [☞](#) Article 12.A.6.c.
4. Separation of officers for a civil authority conviction on criminal charges (except for officers dropped from the rolls under [☞](#) Article 12.A.14.).
5. Officers dropped from the rolls do not receive a certificate of discharge.
6. Separations for other reasons which would warrant a discharge under other than honorable conditions or a bad conduct discharge for enlisted members.

12.A.2.e. Dismissal Pursuant to General Court-Martial Sentence

Officers dismissed from the Service pursuant to a sentence of general court-martial do not receive a certificate of discharge. Their only separation document is a letter signed by the Secretary or an authority to which he or she has lawfully delegated the function to inform the officer concerned of his or her trial, conviction, sentence, departmental action on and approval of the sentence, and fact of dismissal. This is the lowest type of separation from the Service, and in all respects equals a dishonorable discharge.

12.A.2.f. Administrative Separation

In all cases in which an officer is recommended for administrative separation from the Service, the recommending authority shall also recommend the type of discharge that should be granted under this article.

12.A.2.g. Issuing Authority

Commander (CGPC-opm) will determine the type of discharge and direct the servicing Personnel Reporting Unit (PERSRU) to prepare the appropriate discharge certificate in the officer's separation order, either in writing or via message. Under no circumstances will any ship or station ever issue any form of discharge certificate to an individual separated from the Service as a chief warrant or commissioned officer.

12.A.3. Inter-Service Transfers of Regular and Reserve Active Duty Officers

12.A.3.a. General

Per 10 U.S.C. 716, **and notwithstanding any other provision of law, any commissioned officers of a uniformed service may be transferred from their uniformed service to, and appointed in, another uniformed service. The following applies:**

1. The officer must consent to the transfer.
2. An officer transferred from the Coast Guard may not be appointed in another Service at a higher rank or precedence than that held on the date before transfer.
3. Transfers will be made only within authorized strength limitations to officers who have fulfilled **their** obligated service requirements.

12.A.3.b. Procedure

1. Normally, an individual officer initiates a transfer by submitting a request through the chain of command to Commander (CGPC-opm). A justification of the requested transfer as being in the interest of national security and the individual officer must accompany all requests.
2. Commander (CGPC-opm) will indicate concurrence or disagreement and send the request to the Department of Defense.
3. If the Coast Guard and Department of Defense approve the request, the two affected Services will terminate the officer's current commission and reappoint him or her in the other Service without interrupting the continuity of his or her total military service.
4. An officer transferred under this Article is placed on the receiving Armed Force's applicable promotion or lineal list in an appropriate position as determined by the amount of promotion list service he or she earned in his or her parent Service on the day before transfer. Grade and date of rank are determined by applying the amount of promotion list service to the appointment laws in effect for the Service to which the officer is transferring.
5. An officer transferred under this Article is credited with the unused leave which he or she was credited at the time of transfer and the total military service with which he or she was credited on the day before transfer.

12.A.4. Vacant

12.A.5. Resignations

12.A.5.a. General

Regular and reserve officers retain their commission at the pleasure of the President. This Article lists the criteria to voluntarily terminate an officer's status as deemed necessary for current Service requirements and the needs of the officer corps.

12.A.5.b. Submitting Requests to Resign

Officers must submit voluntary requests to resign in writing to Commander (CGPC-opm) through the chain of command. Commander (CGPC-opm) carefully notes the immediate commanding officer's comments, which should contain pertinent facts or reasons that underlie the request. To receive an acknowledgment the request was received, provide your e-mail address in the letter and indicate you would like to receive acknowledgement the request was received.

12.A.5.c. Deadline

An officer may submit an unqualified request to resign (☞ Article 12.A.6.a.) not more than one year in advance but in sufficient time to reach Commander (CGPC-opm) six months before the requested resignation date. Exceptions to these time limits may be granted in hardship cases. Due to shortages that may occur in specialized communities, depending on the timing of resignation requests, approved separation dates may be up to 12 months from the date of the request should the needs of the Service require.

12.A.5.d. Acceptance

A resignation has no effect until competent authority accepts it. Upon receiving and acknowledging a request for resignation, Commander (CGPC-opm) establishes the terminal date and supplies the officer with an information letter and accounting data pending final acceptance by the Secretary of Transportation on behalf of the President.

12.A.5.e. Denying a Request

Except in very unusual circumstances, Commander (CGPC-opm) will not accept an officer's resignation under these conditions:

1. The officer has not completed active obligated service.
2. The officer has not completed one year at his or her INCONUS or two years at his or her OUTCONUS duty station.
3. A state of emergency exists during which Service needs clearly preclude accepting a resignation.
4. Commander (CGPC-opm) issued orders to duty outside the continental limits of the United States before receiving the letter tendering a resignation.

12.A.5.f. Request for Reserve Commission

An officer whose resignation is accepted and who has no obligation under 10 U.S.C. 651 is not required to accept a Coast Guard Reserve appointment. However, officers whose service has been satisfactory are encouraged to do so, since Reserve service will be desirable for the Coast Guard and advantageous to the individual. All officers requesting resignation shall state whether or not they desire a Coast Guard Reserve commission. Requests for Reserve Commissions should be submitted to Commander, (CGPC-rpm). To ensure there is no break in service, requests should be submitted at least 120 days prior to discharge. Once the officer has been appointed by the Secretary of Transportation and has executed the Acceptance and Oath of Office form (CG-9556) PERSRUs should ensure the member is accessed into the Reserve in accordance with the SDA II User Manual, HRSICINST M5231.2 (series).

12.A.5.g. Temporary Officers

An enlisted member serving as a temporary commissioned officer who resigns and has no obligation under 10 U.S.C. 651 will be discharged. Should a temporary officer who has an obligation under 10 U.S.C. 651 be granted a resignation, he or she will be given the choice of either a Reserve commission followed by release to inactive duty or reversion to permanent status and transfer to the Reserve to complete the required service. Temporary officers who resign their commission are encouraged to accept a commission in the Coast Guard Reserve.

12.A.5.h. Withdrawing a Request



Based on Service needs, Commander (CGPC-opm) may grant the officer concerned approval to withdraw a request to resign; **however, the officer must acknowledge in writing that he or she understands that he or she will be required to complete a minimum of two (2) years active duty from the date of cancellation.**

12.A.5.i. Disapproving a Request

The Commandant may decide to retain officers on active duty beyond their requested resignation date based on Service needs.

12.A.6. Forms of Officers' Resignations

12.A.6.a. Unqualified Resignation

1. The Coast Guard is interested in the reasons why an officer voluntarily separates from the Service and a Coast Guard career. Therefore, it is important for an officer submitting his or her resignation to state precisely the reasons for doing so. If an officer desires to resign to attend school, enter business, or accept a position in civilian life, he or she should say so. If an officer is resigning because he or she thinks his or her chances for promotion in the Service are poor, the pay is inadequate, or the deprivation of home life is excessive, he or she should state these reasons as well.
2. The form in which to submit an unqualified resignation is:
 - a. I hereby submit my resignation from the United States Coast Guard and request its acceptance effective [date].
 - b. [State reasons for resigning commission.]
 - c. I have been informed and understand if my request to resign is accepted, I subsequently shall receive a certificate of honorable discharge from the Coast Guard.
 - d. I [do/do not] desire a commission in the U.S. Coast Guard Reserve. I understand to receive retired pay at age 60, I must complete at least 20 years' satisfactory Federal service, the last eight years of which must be qualifying service as a Reserve component member in compliance with 10 U.S.C. 12731.
3. Officers requesting voluntary, unqualified resignation may also be eligible for Temporary Separation described in  Section 12.F. Officers are encouraged to become familiar with the provisions of  Section 12.F prior to submission of a request for voluntary, unqualified resignation.

12.A.6.b. Qualified Resignation if General Discharge Follows

An acceptable form for submitting this type of resignation is:

I hereby submit my resignation from the United States Coast Guard and request its acceptance. I have been informed and understand if my resignation is accepted, I will receive a certificate of general discharge. Although the Coast Guard considers this separation to be under honorable conditions, I understand it is not the highest qualitative type of separation provided for Coast Guard officers; and, while I will be entitled to the major portion of veterans' rights and benefits presently authorized former officers whose service has been similar to mine, if any present or future statute specifically requires honorable discharge as a condition of granting rights or benefits, my eligibility for them may be at least doubtful.

12.A.6.c. Resignation for the Good of the Service

An acceptable form for submitting this type of resignation is:

I hereby submit my resignation from the United States Coast Guard for the good of the Service and request its acceptance. I have been informed and understand if my resignation for the good of the Service is accepted, I will receive a discharge under other than honorable conditions; I may be deprived of substantial rights, benefits, and bounties Federal or State legislation confers or hereafter may confer on persons with honorable service in the Armed Forces of the United States; and I may expect to encounter substantial prejudice in civil life in situations in which the nature of service rendered in or character of separation from the Armed Forces may have a bearing.

12.A.6.d. Resignation in Lieu of Trial Before a General Court-Martial

1. The usual form for submitting this type of resignation is:

I hereby submit my resignation from the United States Coast Guard for the good of the Service and in lieu of trial before a general court-martial. I have been informed and understand if my resignation for the good of the Service and in lieu of trial by general court-martial is accepted, I subsequently **may** receive a discharge under other than honorable conditions; I may be deprived of substantial rights, benefits, and bounties Federal or State legislation confers or later may confer on persons with honorable service in the Armed Forces of the United States; and I may expect to encounter substantial prejudice in civil life in situations in which the nature of service rendered in or the character of separation from the Armed Forces may have a bearing.

2. As the form of the resignation indicates, the officer concerned submits it as an alternative to facing trial before a general court-martial and to preclude the possibility such a trial might result in conviction, with ensuing sentence perhaps extending to dismissal from the Service and imprisonment. Whenever practical, an officer desiring to submit such a resignation should be given a receipted copy of the charges and specifications preferred; or, if they actually have not been preferred, should receive a receipted set of sample charges and specifications alleging offenses for which the officer might be brought to trial. Further, it is usually required prior to permitting an officer to resign in this manner he or she submit with the resignation a complete, detailed confession to the offense(s) at issue.
3. It is desirable for a psychiatrist, or a medical officer if a psychiatrist is not conveniently available, to submit for the case record a statement with his or her professional observations and impressions of the apparent mental and physical condition of the officer submitting the resignation.
4. Officers whose resignations for the good of the Service and in lieu of trial before a general court-martial are accepted **may** be awarded a discharge under other than honorable conditions.

12.A.7. Releasing Reserve Officers to Inactive Duty

12.A.7.a. Conditions for Approval

Commander (CGPC-opm) will approve a request for release to inactive duty (RELAD) or early release from a Reserve officer who has not fulfilled his or her active duty obligation only under the conditions listed below. Reserve officers serving under an active duty agreement normally must complete the period of active duty specified by the agreement.

1. When a specific program for early releases applicable to all Reserve officers within a group has been approved, **or**;
2. When the needs of the Service clearly would be served by approving the request, **or**;
3. When a hardship of extreme degree exists which the officer's early release can alleviate.

12.A.7.b. Automatic Release

Reserve officers not serving under active duty agreements and who have no outstanding obligation for continued active service will be released automatically to inactive duty when their period of active duty expires. **This includes officers who have greater than eight, but less than 18, years total service.** Commander (CGPC-opm) normally issues release orders four months in advance.

12.A.7.c. Officers OCONUS

Members assigned to OUTCONUS units are required to complete a minimum of two years at that unit before Commander (CGPC-opm) will consider them eligible for voluntary release.

12.A.7.d. Release of RPAs

Officers whose RPA designation has been removed under Article 1.B.3.i. will be released to inactive duty.

12.A.8. Involuntary Release of Reserve Officers

1. At any time, the Commandant may release a Reserve officer involuntarily to inactive duty. Commanding officers or other officers in the chain of command may recommend an involuntary release from active duty of a Reserve officer in their command in the form of a letter to Commander (CGPC-opm) containing the following information:
 - a. Officer's name;
 - b. Length of service;
 - c. Period of time officer was observed;
 - d. Reason for recommendation;
 - e. Specific facts or circumstances relating to performance;
 - f. Medical reports or opinions, if applicable;
 - g. Nature of counseling and other steps taken to correct deficiencies, if applicable;
 - h. Officer's response to counseling, if applicable;
 - i. Special Officer Evaluation Report, if applicable.
2. The recommending officer shall grant the officer concerned an opportunity to review the recommendation and permit him or her to comment as desired by letter endorsement.
3. A panel of senior officers as described in Article 12.A.11.b.3. shall review the recommendation. After thoroughly reviewing the officer's record, the panel recommends to the Commandant either releasing the officer or closing the case.
4. Commander (CGPC-opm) sends the panel's recommendations to the Commandant for approval, modification, or disapproval (14 U.S.C. 281).

12.A.9. Discharging Active Duty Reserve Officers

When it is necessary to recommend a Reserve officer serving on active duty for discharge from the U. S. Coast Guard Reserve, the following guidance applies.

1. Reserve officers with fewer than **five** years commissioned service being considered for an honorable discharge for the reasons in Article 12.A.15.c.1. will be processed as outlined in Article 12.A.11.b. Commander, (CGPC-rpm) will serve as a member of the panel of officers established in Article 12.A.11.b.
2. Reserve officers with fewer than **five** years commissioned service being considered for a general discharge for reasons contained in Article 12.A.15.c.2. or 3. will be processed by a single, special board of officers guided by the applicable procedures outlined in Article 12.A.15.h. A Reserve officer shall serve as a member of the board.
3. All Reserve officers with at least **five** years commissioned service being considered for discharge will be processed using the three-board process described in Article 12.A.15. A Reserve officer shall serve as a member of each board if possible.
4. Reserve officers discharged due to board action or at their request in lieu of board action receive an honorable discharge if Article 12.A.15.c.1. applies and a general discharge if Article 12.A.15.c.2. or 3. applies. Determine the amount of separation pay, if entitled, by computing years of service and basic pay as defined in the U.S. Coast Guard Pay Manual, COMDTINST M7220.29 (series).

12.A.10. Physical Examination

12.A.10.a. Terminology

The term “unfit for continued service” is used in this Article rather than “not fit for duty.” “Not fit for duty” is a local medical term meaning the member is unable to perform the immediate duties to which assigned for a short period of time. A finding of “not fit for duty” does not qualify the member for processing in the Physical Disability Evaluation System (PDES), and does not mean the member is not qualified for separation. A member could be “not fit for duty” and still be separated if the existing impairment does not lead to a physical disability as defined in the Physical Disability Evaluation System, 1850.2 (series) unless Commander (CGPC-opm) or (CGPC-epm) with the advice of Commander (CGPC-adm) considers it necessary to correct a physical defect. “Unfit for continued service” means a physical disability exists which renders the member unfit to perform the duties of his or her office, grade, rank, or rating. This determination can be made only through the PDES and could lead to the member’s separation, except as provided in Article 17.A.2.

12.A.10.b. Requirement

An officer being separated shall schedule any necessary physical examination so it is completed at least 60 days before the effective date of separation or release, although Commander (CGPC-opm) will not delay a separation or release date solely because the officer failed to complete a scheduled physical examination. A scheduled separation or release date may be delayed only if a question exists about a member's unfitness for continued service so as to require convening a medical board under the Physical Disability Evaluation System, COMDTINST M1850.2 (series) or if serious disease or injury intervenes. The district commander or commanding officer of the Headquarters unit concerned will issue any travel orders necessary to obtain a physical examination.

12.A.10.c. Exemption

If an officer has had a physical examination within one year of separation or release, a physical examination is not required before separation (e.g., retirement, resignation, or discharge) or release to inactive duty.

12.A.10.d. Physical Disability Evaluation System

If an officer enters the Physical Disability Evaluation System (PDES) or serious disease or injury intervenes before a scheduled separation or release, the command shall inform Commander (CGPC-opm-1) and (CGPC-adm) expeditiously by message or **memorandum**, which if necessary shall include a request for an appropriate delay in the officer's separation or release date. Delays of not more than 30 days will be granted at a time.

12.A.10.e. Delaying Separation

An officer's separation for hospitalization, medical observation, or PDES processing may be delayed only if the officer involved consents. If the officer withdraws that consent in writing, Commander (CGPC-opm) shall separate the officer not later than 60 days from the date such notice was received (14 U.S.C. 295).

12.A.10.f. Action Upon Physical Examination Results

This general guidance addresses various outcomes of a physical examination for separation or release.

1. If an officer is found qualified for separation or release the officer is processed for separation or release as scheduled.
2. If an officer is found qualified for separation or release and disagrees with the finding, Commander (CGPC-opm) and (CGPC-adm) shall be notified immediately.

3. If a question exists about an officer's unfitness to perform duties Commander (CGPC-opm) and (CGPC-adm) shall be notified immediately by message or letter. The officer shall then be processed under the Physical Disability Evaluation System, COMDTINST 1850.2 (series), Chapter 3.
4. If a question exists about an officer's unfitness to perform duties and he or she still desires to separate, comply with Article 12.C.3.b.
5. The following chart illustrates these guidelines.

Finding of Physical Examination	Member Agrees	Member Disagrees	Officer's Command Takes This Action
Fit for Duty	X		Send DD-2808 and CG-4057 to Commander (CGPC-opm), who issues separation orders
Fit for Duty		X	Notify Commander (CGPC-opm) and comply with Article 3-B-5(e), Medical Manual, COMDTINST M6000.1 (series)
Unfit for Continued Service	X		Notify Commander (CGPC-opm) and comply with Chapter 3, Physical Disability Evaluation System, COMDTINST M1850.2 (series)
Unfit for Continued Service		X	Comply with Article 12.C.3., Personnel Manual, COMDTINST M1000.6 (series)

12.A.11. Revoking Regular Officers' Commissions in Their First Five Years of Service

12.A.11.a. General

1. The Service considers the first five years of an officer's career a probationary period during which he or she demonstrates ability to adapt to the requirements of Coast Guard life and shows capability for future development. Some officers either are unable to adapt to service life or their performance indicates it is doubtful whether the time and effort required will form them into effective officers.
2. The authority to revoke an officer's commission under this article is not designed for use when court-martial or separation for cause proceedings would be more appropriate.

12.A.11.b. Procedure

1. A commanding officer or a superior in the chain of command may recommend revoking the commission of an officer who has fewer than five years of continuous service as a Coast Guard commissioned officer. Commander (CGPC-opm) also may initiate board action to revoke an officer's regular commission based on knowledge of adverse information about the officer. A commanding officer or superior in the chain of command shall recommend revocation in the form of a letter to Commander (CGPC-opm) containing the following information.

- a. Officer's name;
 - b. Length of service;
 - c. Period of time officer was observed;
 - d. Reason for recommendation;
 - e. Specific facts or circumstances relating to performance;
 - f. Medical reports or opinions, if applicable;
 - g. Nature of counseling and other steps taken to correct deficiencies;
 - h. Officer's response to counseling;
 - i. Special Officer Evaluation Report, if applicable.
2. The recommending officer shall grant the officer concerned an opportunity to review the recommendation and permit him or her to comment as desired by letter endorsement. **If Commander (CGPC-c) initiates the action, the candidate shall be advised in writing of the contemplated actions and the reasons therefore and given the opportunity to communicate to the special board in writing via the chain of command. Any comments made by members in the chain of command shall be furnished to subject officer and subject officer shall be given 10 calendar days to respond to those comments.**
 3. A panel of senior officers, normally consisting of the Coast Guard Personnel Command's Chief, Administration Division; Chief, Officer Personnel Management Division; and a senior officer representative from the Headquarters division (or Commander (CGPC-rpm) in cases of Active Duty Reserve Officers per Article 12.A.9.1) with cognizance of the officer's specialty shall review the recommendation. **Adjustments to the panel membership may be made as necessary to represent the officer's gender or ethnic background.** After thoroughly reviewing the officer's **Headquarters Personnel Data Record (PDR) and associated documents**, the panel recommends to the Commandant either executing the revocation proceedings under this Article or closing the case. Closing an officer's case does not preclude considering a subsequent recommendation to revoke his or her commission if additional facts or subsequent actions so warrant.
 4. Commander (CGPC-opm) sends the panel's recommendations to the Commandant for approval, modification, or disapproval (14 U.S.C. 281).
 5. Nothing contained in this Article shall prevent the court-martial of any officer in appropriate circumstances.

12.A.11.c. Separation

Officers whose commissions are revoked under this Article shall be discharged not later than three months from the date the panel report is approved; however, if the officer will have accumulated three years' commissioned service during this three-month time frame, the officer will be discharged not later than the day prior to the day the officer accumulates that service.

12.A.12. Vacating a Temporary Appointment

12.A.12.a. Authority

The appointing officer may vacate a temporary appointment made under Article 1.A.3.c. at any time. An officer whose appointment is so vacated reverts to his or her permanent status (14 U.S.C. 214 (c)).

12.A.12.b. Procedure

1. A commanding officer or a superior in the chain of command may recommend vacating any temporary officer's appointment to Commander (CGPC-opm). Commander (CGPC-opm), also may initiate board action to vacate an officer's temporary commission based on adverse information about the officer. Article 12.A.11. sets forth the criteria and procedure to vacate a temporary officer's appointment.
2. If Service needs dictate, the Commandant may vacate the appointment of temporary officers without regard to the Article 12.A.11. criteria. In this circumstance, he or she will consider all officers with temporary commissions. An officer whose appointment is so vacated reverts to his or her permanent status.
3. At his or her sole discretion, the Commandant may vacate the commission of temporary officers who have completed physician assistant training but fail to attain certification from the National Commission of Certification of Physician Assistants during their first two years of commissioned service, or subsequently fail to maintain this certification. An officer whose appointment is so vacated reverts to his or her permanent status.

12.A.13. Failing Selection for Promotion or Continuation

12.A.13.a. Chief Warrant Officers

Article 5.B.4.c. if a chief warrant officer fails selection for promotion for the second time.

12.A.13.b. Ensigns

If during an ensign's first three years of commissioned service, a selection board for promotion to lieutenant (junior grade) determines his or her performance is unsatisfactory or he or she fails selection for promotion a second time, irrespective of Article 12.A.9. and 12.A.11. provisions, the Commandant may revoke the ensign's commission or vacate a temporary appointment in accordance with 14 U.S.C. 281, 14 U.S.C. 214(e), OR 10 U.S.C. 1162, as applicable.

12.A.13.c. Lieutenants (Junior Grade)

Each permanent regular Coast Guard officer serving as a lieutenant (junior grade) who fails selection for promotion to lieutenant for the second time shall:

1. Be honorably discharged not later than 30 June of the promotion year in which the second failure of selection occurs, or
2. If he or she so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if the member were discharged on the date specified in 1. above, or
3. If on the date specified for discharge in this Article, the member is eligible for retirement under any law, retire on that date (14 U.S.C. 282).

12.A.13.d. Lieutenants

1. Each permanent regular Coast Guard officer serving in the permanent grade of lieutenant who has failed selection for promotion to lieutenant commander for the second time shall:
 - a. Be honorably discharged not later than 30 June of the promotion year in which the second failure of selection occurs, or
 - b. If the member so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if the member were discharged on that date under a. above, or
 - c. If on the date specified for discharge in this article, the member is eligible for retirement under any law, retire on that date; or
 - d. If on the date specified for discharge in a. above, the member has completed at least 18 years of active service, remain on active duty and retire on the last day of the month in which he or she completes 20 years of active service, unless earlier removed under another provision of law.
2. If Service needs require, the Commandant may direct a selection board convened under Article 14.A.10.a., to recommend for continuation on active duty for terms of between two and four years a designated number of permanent regular lieutenants who otherwise would be discharged or retired under this Article. When so directed, the board shall recommend for continuation on active duty the officers under consideration who it believes are best-qualified for continuation. With the Commandant's approval and despite subparagraph 1., each officer so recommended may continue on active duty for the recommended term. When he or she completes such term, unless selected for promotion or further continuation by a subsequent board, the officer shall be discharged honorably with severance or separation pay, as applicable, computed as shown in the U.S. Coast Guard Pay Manual, COMDTINST M7220.29 (series) or, if eligible for retirement under any law, retire.

3. If an officer who continues on active duty under subparagraph 2 is not selected for promotion by a subsequent board, he or she shall be retired on the last day of the month in which he or she completes 20 years of active service unless removed earlier from active duty (14 U.S.C. 283).

12.A.13.e. Regular Officers Serving Under Temporary Appointments

A regular Coast Guard temporary officer appointed under Article 1.A.3. who serves as lieutenant (junior grade) or lieutenant and fails selection for promotion to lieutenant or lieutenant commander, respectively, for the second time shall:

1. Be honorably discharged not later than 30 June of the promotion year in which the second failure of selection occurs, or
2. If the member so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if the member were discharged on that date under 1. above, or
3. If on the date specified for discharge in this Article the member is eligible to retire under any law, retire under that law on that date.
4. Each officer subject to discharge or retirement under this Article may elect to revert to his or her permanent grade (14 U.S.C. 284).

12.A.13.f. Lieutenant Commanders and Commanders

1. **Lieutenant commanders or commanders who remain on active duty after failing selection to the next higher grade for the second time shall be mandatorily retired pursuant to Article 12.C.5., unless offered continuation as described in subparagraph 2. below.**
2. If Service needs dictate, the Commandant may direct a selection board convened under Article 14.A.10.a., to recommend for continuation on active duty a designated number of permanent Regular lieutenant commanders and commanders who would otherwise be retired under this Article. When so directed, the board shall recommend for continuation on active duty the officers under consideration who it believes are best qualified **to meet the needs of the Coast Guard.**
 - a. **An officer who holds the grade of lieutenant commander of the Regular Coast Guard may be continued on active duty for any determined period of time that does not extend beyond 24 years of total active commissioned service unless promoted to the grade of commander of the Regular Coast Guard.**
 - b. **An officer who holds the grade of commander of the Regular Coast Guard may be continued on active duty for any determined period of time that does not extend beyond 26 years of total active commissioned**

service unless promoted to the grade of captain of the Regular Coast Guard.

3. With the Commandant's approval, each officer so recommended may continue on active duty for the recommended term, unless retired by some other provision of law. When he or she completes such term, unless selected for promotion or further continuation by a subsequent board, the officer shall be retired on the first day of the first month following the month in which the period of continued service is completed.

12.A.13.g. Captains

1. If a board convened under 14 U.S.C. 289 does not recommend a captain for continuation on active duty, he or she shall retire, unless retained by the Commandant, in accordance with Article 12.C.5.
2. Permanent Regular captains may be retained up to and beyond 30 years as described in subparagraph 3. below.
3. If Service needs dictate, the Commandant may by annual action retain on active duty from promotion year to promotion year any permanent Regular duty captain who would otherwise be retired in accordance with Article 12.C.5.
4. Each officer recommended for continuation under subparagraph 2 above, unless retired under some other provision of the law, shall be retired when such term is completed, unless selected for promotion for further continuation on active duty by the Commandant, on 30 June of that promotion year in which no further action is taken to retain the officer.

12.A.13.h. Effective Date of Separation

If this Article or Article 12.C.5. would require the discharge or retirement of any officer above the grade of ensign fewer than six months after approval of the report of the board which considered but did not select the officer:

1. For promotion for the second time or continuation, that officer's discharge or retirement shall be deferred until the last day of the sixth calendar month after such approval, or
2. For promotion for the third (or more) time, that officer shall be retired effective the last day of the month in which the officer completes 20 years' active service, unless earlier removed under another provision of law.

12.A.14. Dismissing or Dropping from the Rolls

12.A.14.a. Limitation on Dismissal

No commissioned officer may be dismissed from any Armed Force except:

1. By sentence of a general court-martial;
2. In commutation of a sentence of a general court-martial; or
3. In time of war, by order of the President.

12.A.14.b. Dropping from the Rolls

The President may drop from any Armed Force's rolls any commissioned officer who:

1. Has been absent without authority for at least three months, or
2. Is sentenced to confinement in a federal or state penitentiary or correctional institution after a court other than a court-martial or other military court has found that officer guilty of an offense and whose sentence has become final (10 U.S.C. 1161).

12.A.15. Separating Regular Coast Guard Officers for Cause

12.A.15.a. Authority

Pursuant to authority contained in 14 U.S.C. 321-327, this Article contains regulations to separate commissioned Regular Coast Guard officers **with greater than five years commissioned service** for cause. While chief warrant officers are not **subject to the same** provisions, **all cases involving those officers are processed under Article 12.A.20 or 12.A.21. Officers with less than five years commissioned service are processed under Article 12.A.11.**

12.A.15.b. Discussion

1. No person has an inherent right to continue to serve as an officer. An officer retains the privilege of service only so long as he or she performs satisfactorily. Responsibility for leadership and example requires an officer to accomplish his or her duty effectively and conduct him or herself properly at all times. Retaining officers substandard in performance of duty or conduct, deficient in character, or otherwise unsuited for military service cannot be justified. There is no place for these individuals in the Coast Guard.
2. Every officer deserves a fair chance to demonstrate his or her capabilities. If an officer shows ineffective tendencies, especially if inexperienced, if possible the Service gives him or her another chance under another

commanding officer. However, commanding officers should systematically record ineffectiveness in documents specific as to the period each covers, the duties observed, and the defects noted. The Service must remove any officer who has been given a fair chance to become an effective officer and has not done so lest others pay with their lives for his or her weakness.

3. A recommendation for separation under this Article cannot be based on empty generalities or vague impressions. It is necessary to establish with exactitude the reasons why an officer is considered ineffective. Basically, this officer is one who does not get acceptable results. Inefficiency is a relative matter, and a specific definition of the ineffective officer cannot be given. Many ineffective officers are decent, well-mannered, educated, honorable, intelligent, generous, and yet ineffective. It is perfectly proper to credit an officer for good qualities in the same letter or evaluation report which reveals ineffectiveness as an officer.

12.A.15.c. Causes for Separation

1. The existence of one or more of these or similar conditions may require removing an officer for substandard performance of duty or failure to meet standards prescribed by the Commandant:
 - a. Downward trend in overall performance resulting in unacceptable service or a consistent record of substandard service.
 - b. Failure to keep pace or progress with contemporaries; e.g. consistent below- average performance when compared to other officers of the same grade and length of service or failure of physician assistants to maintain certification from the National Commission on Certification of Physician Assistants.
 - c. Failure to exercise necessary leadership or command expected of an officer of the same grade.
 - d. Failure to assimilate the technical proficiency required of his or her grade.
 - e. Failure to properly discharge assignments commensurate with his or her grade and experience.
 - f. Apathy, a pattern of conduct showing the development of a defective attitude, or other character and behavior disorders including inability or unwillingness to expend effort.
 - g. Failure to meet established weight standards.
2. Existence of one or more of these or similar conditions may require removing an officer for moral or professional dereliction:

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- a. Discreditable intentional failure to meet personal financial obligations.
 - b. Mismanaging personal affairs detrimentally affecting the officer's performance of duty.
 - c. Mismanaging personal affairs to the discredit of the Service.
 - d. Intentionally omitting or misstating facts in official statements or records for the purpose of misrepresentation.
 - e. Acts of personal misconduct prohibited by military or civilian authorities.
 - f. Homosexual conduct as defined in Article 12.D.4.
 - g. Intentional or negligent failure to perform duties or negligence in performing duties.
 - h. Conduct unbecoming an officer.
 - i. Involvement in a drug or alcohol incident as defined in Chapter 20.
 - j. One act of sexual harassment by assault or coercion, or conduct demonstrating an established pattern of sexual harassment by crude or offensive behavior, sexist behavior, and/or unwanted sexual attention. See Article 8.I. and Coast Guard Equal Opportunity Manual, COMDTINST M5350.4 (series) for definitions and guidelines on sexual harassment.
 - k. Involvement in a prohibited relationship. See Chapter 8.H. for policy guidance.
 - l. An act, either committed or omitted, or other behavior clearly not consistent with the interests of national security requires removing an officer.
 - m. An unreasonable refusal to submit to necessary and proper medical or dental treatment considered by competent medical or dental officers to be necessary to render member fit for duty (as determined by a medical board convened in accordance with the provisions of Physical Disability Evaluation System, COMDTINST M1850.2 (series)).
 - n. A repeated refusal to receive an immunization ordered by competent authority.
3. Any one of these or similar reasons causes serious doubt as to the advisability of permitting the officer concerned to retain a commission and normally prompts a review of his or her overall record. This review will determine if

this derogatory information, when viewed in conjunction with other aspects of his or her record, warrants a recommendation for separation. Standing alone any one of these conditions may not support separation. However, any one of them when combined with other known deficiencies could form a pattern which, when viewed in relation to an officer's overall record, requires separation.

- a. Punishment under the Uniform Code of Military Justice, Article 15.
 - b. Conviction by court-martial or a civil court.
 - c. Denial of security clearance.
 - d. Derogatory evaluation report.
 - e. Failure to be recommended for promotion by a selection board selecting officers for promotion on a fully qualified basis.
 - f. Failure by a Regular Coast Guard officer of any required course of training, instruction, or indoctrination at a service school.
 - g. An approved finding of misconduct by a board of investigation.
4. Officers with less than **five** years of commissioned service will normally be processed under Article 12.A.9. or 12.A.11. depending upon their status.

12.A.15.d. Relationship of Separation to Discipline

A commanding officer shall not use separation in lieu of disciplinary action under the UCMJ, but if he or she believes the Service's and officer's interests will be served better by separation proceedings rather than disciplinary action, he or she may so refer any charges. The fact a court-martial has occurred shall not prohibit subsequent proceedings under this Article; however, separation proceedings may not be initiated until a prior UCMJ proceeding is complete.

12.A.15.e. Initiating Action

Commander (CGPC-opm) shall review an officer's Personal Data Record (PDR) and weigh all facts and circumstances to determine whether an officer should be considered for action under this Article. If Commander (CGPC-opm) decides further processing is warranted, Commander (CGPC-c) will refer the case to a determination board. At any time, an area commander, district commander, maintenance and logistics commander, or unit commanding officer may request Commander (CGPC-opm) to review an officer's PDR to determine whether the officer should be considered for separation.

12.A.15.f. Requiring Officers to Show Cause for Retention

1. At any time and place Commander (CGPC) may convene a board of officers to review any Regular Coast Guard officer's record to decide whether the officer should be required to show cause for retention on active duty because:
 - a. The officer's performance of duty has declined below the prescribed standards; or
 - b. The officer has demonstrated moral or professional dereliction; or
 - c. Retention is clearly inconsistent with the interests of national security.
2. A board of officers convened to review an officer's records (a "determination board") shall consist of at least three officers in the grade of commander or above who all are serving in a grade senior to the grade of any officer they consider.
3. The determination board will impartially review the officer's PDR, the initiating officer's recommendation, and all other available information relevant to the reasons for separation to determine whether it should require the officer to show cause for retention.
4. The determination board does not examine witnesses. It is limited to considering the documents presented to it.
5. Commander (CGPC-opm) sends the determination board's findings to Commander (CGPC-c), who will notify the officer concerned the determination board has found either:
 - a. The officer should not be required to show cause for retention and the case is closed; or
 - b. The officer should be required to show cause for retention.
6. If a determination board decides an officer is required to show cause for retention on active duty, Commander (CGPC-opm) will:
 - a. Give the officer a copy of the determination board's findings and all documents pertinent to the case except those the Commandant determines should be withheld in the interest of national security;
 - b. Notify the officer in writing of the reasons for which he or she is being required to show cause for retention (notification shall be sent through the officer's commanding officer, who in turn shall state by endorsement the date of delivery to the officer concerned);

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- c. Notify the officer that Commander (CGPC-c) will convene a board of inquiry to hear the case at least 30 days after the date of notification of the determination board's findings;
 - d. Inform the officer his or her appearance before a board of inquiry is the only opportunity to appear in person on his or her own behalf before final action in the case;
 - e. Notify the officer if separated from the Service after action by a board of review or at his or her own request after a determination board's finding he or she is required to show cause for his or her retention on active duty, the officer will receive an honorable discharge if the reason for separation is one contained in Article 12.A.15.c.1. and 5., and a general discharge if the reason is contained in Article 12.A.15.c.2. or 3;
 - f. Notify the officer of his or her entitlement to severance or separation pay, as applicable;
 - g. Notify the officer that if retired after action by a board of review or at his or her own request after a determination board's finding, the officer will be subject to evaluation under Article 12.C.15. provisions as to satisfactory service in a temporary grade;
 - h. Allow the officer reasonable time, at least 30 days, to prepare his or her defense;
 - i. Allow the officer to appear in person and to be represented by counsel at proceedings before a board of inquiry; and
 - j. Allow the officer full access to and furnishes copies of records relevant to the case at all stages of the proceedings, except a board shall withhold any records the Commandant determines should be withheld in the interests of national security. If any records are withheld under this clause, the officer whose case is under consideration shall, to the extent national security permits, be given the actual records or copies of them with the classified portions deleted.
7. The officer concerned must acknowledge receipt of the determination board's findings within five days of receipt. The officer returns the receipt to Commander (CGPC-opm-1) through the chain of command.
8. An officer who has been notified a determination board has found he or she should be required to show cause for retention on active duty may apply for voluntary retirement or request early discharge from the Service. If the officer takes neither action, he or she shall be ordered to appear before a board of inquiry.

12.A.15.g. Physical Qualifications for Separation

If a determination board notifies an officer he or she must show cause for retention in the Service under Article 12.A.15.f.6., the command concerned shall ensure the officer reports immediately to the nearest medical facility for a standard physical examination as described in the Medical Manual, COMDTINST M6000.1 (series) if the officer has not completed one within the preceding three months. If travel is necessary in connection with the physical examination, the district commander or commanding officer of the Headquarters unit concerned will issue the travel orders. If the officer has a condition which requires him or her to enter the physical disability evaluation system or a serious disease or injury intervenes, Commander (CGPC-opm) and (CGPC-adm) shall be notified expeditiously by message. In these cases, the officer concerned is normally processed concurrently for cause under this Article and in the physical disability evaluation system. A final determination on the officer's status normally will not be made until both processes are completed.

12.A.15.h. Board of Inquiry

1. Purpose. The board of inquiry affords officers a fair, impartial hearing at which they have an opportunity to establish their retention in the Coast Guard is warranted. The officers concerned may present evidence to refute matters of record offered against them or otherwise establish they should be retained. The board of inquiry will consider all relevant evidence presented at the hearing and make findings and a recommendation based on a preponderance of evidence.
2. Composition.
 - a. The board of inquiry shall consist of at least three officers, but in any case an odd number, commanders or above, all of whom are senior to the grade of any officer the board is considering. No officer shall sit as a member of a board of inquiry if he or she:
 - (1) Is a witness in the case before the board;
 - (2) Was a member of the determination board in the case under consideration (this provision does not apply to Reserve officers because their cases are referred directly to a special board of officers);
 - (3) Appeared as a witness before or was a member of any previous determination board, special board, board of inquiry, or board of review which considered the officer for separation;
 - (4) Initiated, investigated, was a member of, or was the reviewing authority in a court-martial before which the officer concerned was the accused;

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- (5) Previously recommended or participated in a recommendation for the officer's demotion, removal, or relief from active duty; or
 - (6) Previously was a reporting officer on any performance evaluations the board will view.
 - b. The board of inquiry will be assigned both a non-voting recorder and a non-voting legal advisor. The legal advisor shall meet the qualifications of Article 27(b), UCMJ, and if feasible also UCMJ Article 26(b) qualifications.
3. Instructions. After the board of inquiry convenes the legal adviser will instruct it as to its purpose. These instructions will be transcribed verbatim in the board's proceedings. The instruction will include, but need not be limited to, the following items:
- a. By its action, the board establishes the minimum level of performance of duty or integrity acceptable of Coast Guard officers.
 - b. The board of inquiry is an administrative board not subject to the rules and procedures governing court or court-martial action. It does not judge the determination board's action.
 - c. As a result of the determination board's findings, the officer must show cause for retention on active duty. At the board of inquiry, the officer concerned has the opportunity to present evidence to refute matters of record offered against him or her or otherwise establish the Service should retain him or her. (Although not processed by a determination board, Reserve officers may provide evidence to refute matters of record offered against them or otherwise establish they should be retained. These same standards apply to chief warrant officers being considered for separation under Article 12.A.21.).
 - d. If the board determines it needs additional information to evaluate the case properly, it may request the information through the convening authority.
 - e. The board receives evidence presented during the board proceedings.
 - f. The board evaluates all evidence and information it receives or develops on the matter it is considering in the hearing and arrives at a clear, logical finding consistent with the information and evidence presented.
 - g. On the basis of its findings the board determines whether the Coast Guard should or should not retain the respondent.
 - h. The board makes appropriate recommendations consistent with its determination.

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- i. While the board considers old reports and records in establishing a pattern of substandard conduct or misconduct, an officer's instances of good performance or conduct in the remote past cannot negate a record of progressively deteriorating performance of duty or conduct.
- j. An officer cannot offset allegations involving a defect in character or integrity by a rebuttal which attempts to emphasize other qualities in his or her favor.
- k. The board may consider these additional items to assist it in evaluating material submitted to it:
 - (1) A record of recently improved performance may result from an unusual effort on the officer's part after learning he or she was recommended for separation for cause. By itself it does not overcome a pattern of ineffectiveness. The board may consider improved performance together with other evidence in the record to determine whether the officer has overcome the pattern.
 - (2) Promotion or selection for promotion, while proper evidence on the officer's behalf, does not necessarily justify his or her retention.
 - (3) Where poor performance is involved, it is essential for the board to examine the entire performance file in detail. In doing so, the board should consider these aspects.
 - (a) The length of time each report covers.
 - (b) The duty the officer performed and the level at which performed.
 - (c) The trend in performance—up or down—as the officer gained experience.
 - (4) Copies of all performance evaluations made available to the board will be made available to the officer concerned and vice versa. An officer's claim he or she was not aware of unfavorable remarks contained in such reports is not grounds for the board not to consider them.
 - (5) The officer concerned often solicits letters of commendation or appreciation or letters stating the officer's value to the Service. In some cases, these letters may be the only kind of evidence an officer is able to offer in refuting an accusation. The board must evaluate the circumstances under which these letters are solicited in determining what weight it should give them. In so determining, it is proper for the board to consider the letter of solicitation if one exists, the period during which the writer knew or was closely acquainted with the officer, the writer's familiarity with the officer's habits and reputation,

and the relationship between the writer and the officer, if any.

(6) The board may use punishment by court-martial or Article 15, UCMJ, for misconduct to support removal under these regulations.

4. Rights of Officer Concerned. The legal advisor shall explain to the officer concerned he or she has the following rights:
 - a. The officer may present evidence, represent him or herself, or be represented by military counsel qualified under Article 27 (b), UCMJ, or civilian counsel of his or her own choice in all open board of inquiry proceedings; the officer must pay expenses incident to retaining civilian counsel.
 - b. At any time before the Commandant's final decision, the officer may apply for voluntary retirement, if eligible, or request early discharge under Article 12.A.15.f. or 14 U.S.C. 327, as applicable.
 - c. The officer may challenge for cause any voting member of the board.
 - d. The officer may request any witness whose testimony is pertinent to the case to appear as a witness before a board of inquiry hearing. The recorder of the board will invite those witnesses who meet Article 12.A.15.h.5.(j) requirements to appear.
 - e. The officer's counsel may question any witness brought before the board.
 - f. The officer is entitled to his or her rights under Article 31, UCMJ, and may or may not submit to examination by the board of inquiry.
 - (1) If he or she desires to submit to examination or make a statement under oath, he or she will be sworn.
 - (2) If he or she does not desire to make a sworn statement, the officer or the officer's counsel may make an unsworn statement, orally, in writing, or both. If the officer concerned makes an unsworn statement, he or she will not be subject to the board's cross-examination.
 - g. The officer will be allowed full access to and furnished copies of records relevant to the case at all stages of the proceedings. However, the board shall withhold any records the Commandant determines should be withheld in the interest of national security. If a board withholds any records under this clause, the officer whose case is under consideration shall be furnished a summary of the records so withheld. Additionally, the officer will be furnished, to the extent the national security permits, the actual records or copies of them with the classified portions deleted.
 - h. The officer has the right to know how his or her officer evaluation reports

or other reports on performance of duty reflect his or her past performance.

- i. The officer or the officer's counsel may make a closing argument at the conclusion of presentation of evidence.
- j. The officer is entitled to receive a copy of the verbatim transcript of proceedings.

5. Procedure.

- a. A board of inquiry does not follow strict rules of evidence in its proceedings. The board should allow the officer concerned to present his or her case without undue interference; however, the officer should observe reasonable bounds of relevance. Decisions on the validity of these regulations and the constitutionality of the statutes authorizing this procedure are outside the board's responsibilities, and the board should not permit argument on these matters. The assigned legal adviser decides questions on the procedures prescribed by these regulations.
- b. Voting members of the board will not review the case before the hearing.
- c. The board will not allow spectators to be present during the proceedings, except those the officer concerned specifically requested in writing and the board president authorized. No one scheduled to be called as a witness or who has been a witness may be present as a spectator.
- d. A board of inquiry may call witnesses on its own motion.
- e. Witnesses appearing before the board shall testify under oath or affirmation.
- f. The board's assigned legal advisor may not present the case or cross-examine witnesses. The legal advisor is present at all open sessions, instructs the board and respondent as appropriate, rules on all questions of evidence and procedure, and may excuse a member on challenge for cause.
- g. The president may seek the legal advisor's guidance whenever necessary, but the legal advisor will advise the board in open session in the presence of the officer concerned and his or her counsel and these proceedings become a part of the record. However, after the board has announced its recommendations in open session, it may request the legal advisor to attend its closed session to assist in the final drafting of the findings and recommendations.
- h. A majority vote by secret written ballot shall decide any issue properly before the board for determination.
- i. The board shall keep a verbatim record of its proceedings in open session.

- j. On the board's behalf the recorder invites both the officer's and the Government's witnesses to appear if both are reasonably available and their testimony can contribute materially to the case. The procedures and policies in Rule 703, Rules for Courts-Martial, MCM, 1984, will be used as a general guide in determining what witnesses will be invited to appear. Article 49, UCMJ, will be used as a general guide in determining witnesses' availability. Using depositions or affidavits to obtain testimony of witnesses who are not reasonably available and of stipulations, when appropriate, is encouraged.
 - (1) If their superior determines Service requirements will not permit their appearance, the supervisor may prohibit Coast Guard members or civilian employees whose presence is requested as witnesses from appearing before the board, which then will use depositions or affidavits.
 - (2) Witnesses will travel by official military transportation when practical. If official military transportation is not available, witnesses may use commercial. The Government pays a civilian witness's fees and mileage under the Military Justice Manual, COMDTINST M5810.1 (series).
- k. Recorder's Responsibilities.
 - (1) When the board of inquiry is convened, the board's recorder will examine and become familiar with all aspects of the case.
 - (2) The recorder determines if further investigation or additional documents are necessary to evaluate the case properly. If the recorder determines additional information is needed, he or she should request it as soon as possible.
 - (3) The recorder obtains factual information about requested and prospective witnesses' availability and then determines under Article 12.A.15.h.5.j. above which requested witnesses he or she will invite to appear on both the officer's and Government's behalf.
 - (4) The recorder ensures any travel orders necessary in accordance with Article 12.A.15.h.5.j. are issued promptly.
 - (5) The recorder notifies the board members in person or in writing of the time and place set for the hearing. He or she notifies the officer concerned by letter of the time and place set for the hearing and furnishes a copy to the officer's commanding officer.
 - (6) The recorder furnishes the officer concerned a copy of any records or other documentary material the board of inquiry will consider.
 - (7) The recorder makes other necessary preparations for the orderly

progress of the case at the board hearing.

- (8) The recorder ensures that a transcript of the hearing is prepared.
- (9) The recorder also ensures the board has available a copy of these regulations.
- (10) The recorder presents any material considered relevant to assist the board in reaching its finding.
- (11) The recorder may cross-examine any witnesses called by the respondent.
- (12) The recorder may present an opening statement and a final argument for the board's consideration.

6. Deliberations.

- a. A board of inquiry must carefully consider the facts of each case and be specific with respect to the underlying facts which support its findings and recommendations. The president of the board must ensure board members are completely familiar with the facts developed in each case, as well as the purpose of the board of inquiry.
- b. Before the board determines its findings and recommendations, it should review the purpose for which it was constituted, its guidance, and the evidence present before it in considering the following:
 - (1) The determination board found the officer concerned should be required to show cause. (Not applicable for Reserve officers with fewer than three years' service or for any chief warrant officer.)
 - (2) The purpose of the board of inquiry is to afford the officer concerned an opportunity to present evidence to refute matters of record offered against him or her or to otherwise establish the Service should retain him or her.
 - (3) The officer concerned must refute the Government's evidence and present evidence affirming his or her contention he or she is qualified to retain his or her current status.
 - (4) The board must consider an officer's record as a whole and make its recommendation based on a preponderance of evidence. Refuting any single reason for removal does not necessarily refute other documented reasons the board considers.

7. Findings and Recommendations.

- a. The board determines its findings and recommendation by secret written ballot in closed session.

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- b. The board prepares a brief statement of the reason(s) (including factual data if necessary for clarification) for its findings.
 - c. After the board determines the findings, it makes an appropriate recommendation, limited to either retention or separation without qualifications.
 - d. A board of inquiry cannot concurrently recommend any proposal short of separation once it has concluded an officer should be separated for cause.
 - e. Final Action for Reserve and Chief Warrant Officer Proceedings. For Reserve officers processed for separation under Article 12.A.9. and chief warrant officers processed under Article 12.A.21.c., the president of the board shall advise the officer in open session of its recommendation and all applicable procedural matters listed as follows:
 - (1) If the special board finds the officer should be retained, the case shall be closed.
 - (2) If the special board recommends separation, its recommendation shall be sent to the Commandant who has final decision authority. The officer shall be furnished a copy of the verbatim record of the special board proceedings. Within 10 days after receiving or having access to a copy of the record of the special board proceedings, the officer or his or her counsel may submit a responsive rebuttal, limited to matters brought before the special board, to Commander (CGPC-opm-1).
 - (3) A summary of the board proceedings shall be sent to the Commandant.
8. Final Action for Regular Officers. In open session the president of the board advises the officer of its determination and all applicable procedural matters listed as follows:
- a. When a board of inquiry determines the Service should retain the officer:
 - (1) The case shall be closed.
 - (2) A summary of the board's proceedings shall be sent to Commander (CGPC-c).
 - (3) Commander (CGPC-c) notifies the officer in writing through the chain of command.
 - b. When a board of inquiry determines the officer should be separated:
 - (1) Commander (CGPC-c) notifies the officer in writing through the chain of command.

(2) A board of review will consider the case as described in Article 12.A.15.i.

(3) Within 10 days after he or she receives or has access to a copy of the record of the board of inquiry proceedings, the officer or his or her counsel may file with the president of the board of review (c/o CGPC-opm-1) a rebuttal to the board of inquiry's findings and recommendations. If the officer files such a statement, he or she shall file a copy with the recorder to the board of inquiry, who in turn has 10 days in which to file a rebuttal to the statement of rebuttal and send to the officer concerned.

c. A verbatim record of the board of inquiry proceedings shall be sent to Commander (CGPC-c) with a statement that the officer concerned was also furnished a copy.

12.A.15.i. Board of Review

1. On receiving the proceedings record of the board of inquiry which recommends separating an officer for cause, Commander (CGPC-c) convenes a board of review.
2. The board of review consists of three officers senior to the members of the board of inquiry which considered the case. An officer may not be a member of the final review board if he or she was a member of the determination board or board of inquiry which considered the case or is ineligible to be a member of the board of inquiry for any reason listed in Article 12.A.15.h.2.
3. The board of review reviews the records and documented evidence the board of inquiry considered and made a part of its proceedings and any additional information the officer concerned or the recorder submitted under Article 12.A.15.h.8., to determine whether the officer concerned has or has not established he or she should be retained in the Coast Guard.
4. The officer concerned will not appear before the board of review, nor will counsel represent him or her.
5. After reviewing the case, the board of review determines without qualification whether to retain or separate the officer.
6. The officer is notified of the review board's findings and determination in writing through the chain of command.
7. If the board of review determines to retain the officer, the case is closed and Commander (CGPC-c) so advises the officer in writing through the chain of command.

8. If the board of review determines to separate the officer, the board of review proceedings and its recommendation shall be sent to the Commandant who has final decision authority.
9. If the Commandant concurs with the board of review recommendation, the officer shall be separated. If the Commandant finds the officer should be retained, the case shall be closed. In either decision, Commander (CGPC-c) so advises the officer in writing through the chain of command of the final action taken in the case.

12.A.15.j. Separation Date

An officer removed from active duty under these proceedings who does not request voluntary retirement before the specified separation date separates as specified in 14 U.S.C. 327(b) on the first day of the second month after that in which the Commandant approves the recommendation of the board of review. For example, if the Commandant approves the recommendation on 15 May, the officer shall be separated on 01 July.

12.A.16. Revoking the Coast Guard Band Director's Designation

The Secretary may revoke any designation as Director of the Coast Guard Band. If the Secretary does so, the member's appointment to commissioned grade under Article 1.A.6. terminates and the member has the following options.

1. Discharge from the Coast Guard; or
2. Reverting to the grade and status held when designated Director (14 U.S.C. 336).

12.A.17. Releasing Retired Recalled Officers from Active Duty

12.A.17.a. General

A retired officer recalled to active duty retains his or her retired status whether temporarily or permanently retired or transferred from the Temporary Disability Retired List (TDRL) to the Permanent Retired List while on active duty.

12.A.17.b. Release From Active Duty

On completing the term of service for which recalled, the Service either continues the retired officer for a further period of service or releases him or her from active duty; the released officer is entitled to recompute retired pay for years of service under 10 U.S.C. 1402.

12.A.17.c. Physical Disability

1. If an officer permanently retired for other than physical disability is recalled to active duty and while on active duty is found to have a physical disability of more than 30 percent, the officer remains on the Permanent Retired List and is entitled to recompute retired pay under 10 U.S.C. 1402 on release from active duty.
2. An officer on the Temporary Disability Retired List or retired permanently for physical disability who is recalled to active duty and found to have a physical disability in addition to or that aggravates the physical disability for which he or she retired is entitled to recompute retired pay under 10 U.S.C. 1402 on release from active duty.

12.A.17.d. Grade on Release

Since an officer can retire only once, the officer is released from active duty. The provisions of Article 12.C.15.f. do not apply. When released from active duty the retired officer is entitled to the grade in which he or she retired, to which certified on retirement or any higher grade to which promoted after recall to active duty.

12.A.17.e. Involuntary Termination of Retired Recall Orders

1. **At any time, CGPC-opm may release an officer serving on retired recall. Commanding Officers or other officers in the chain of command may recommend an involuntary termination of retired recall orders for members in their command by sending a letter to Commander (CGPC-opm) containing the following information:**
 - a. **Officer's name;**
 - b. **Length of service;**
 - c. **Period of time officer was observed;**
 - d. **Reason for recommendation;**
 - e. **Specific facts or circumstances relating to performance;**
 - f. **Medical reports or opinions, if applicable;**
 - g. **Nature of counseling and other steps taken to correct deficiencies, if applicable;**
 - h. **Officer's response to counseling, if applicable;**
 - i. **Special Officer Evaluation Report, if applicable.**
2. **The recommending officer shall grant the officer concerned an**

opportunity to review the recommendation and permit him or her to comment as desired by letter endorsement.

12.A.18. Separating an Officer Serving in a Foreign Country

Article 12.B.46.a. applies to officers. Address requests to Commander (CGPC-opm-1).

12.A.19. Severance and Separation Pay

12.A.19.a. Discharge Date

At his or her request and with the Secretary's approval, the Service may honorably discharge a Regular commissioned officer (except a commissioned warrant officer) retained on active duty under Articles 12.A.13.d. or f. and a commissioned warrant officer retained under Article 5.B.4. at any time before the otherwise specified retirement or discharge date.

12.A.19.b. Severance Pay

1. Each Regular lieutenant (junior grade), lieutenant, lieutenant commander, or commander involuntarily honorably discharged under Article 12.A.13. is entitled to a lump sum payment. The officer must elect severance pay and be discharged from active duty before becoming retirement eligible (14 U.S.C. 286).
2. The U.S. Coast Guard Pay Manual, COMDTINST M7220.29 (series), contains computations for severance and separation pay.

12.A.19.c. Separated for Cause

A regular Coast Guard officer separated for cause under article 12.A.15.c.1. and not eligible for retirement is entitled to severance pay. A regular Coast Guard officer separated for cause with a general discharge under Article 12.A.15.c.2. for moral or professional dereliction and not eligible for retirement, is not entitled to severance pay.

12.A.19.d. Warrant Officers

A commissioned warrant officer separated under Articles 5.B.4.c., i.e., twice failing of selection, or discharged under Article 12.A.21. for reasons specified in Article 12.A.15.c.1. and not eligible for retirement is entitled to severance pay. A commissioned warrant officer separated for unfitness or unsuitability under Article 12.A.21. for reasons specified in Article 12.A.15.c.2., i.e., removal for moral or professional dereliction, and not eligible for retirement is not eligible for severance pay.

12.A.19.e. Offsetting Deductions

Accepting a lump sum payment under this article does not deprive a person of any United States retirement benefits. However, an amount equal to the lump sum

payment (14 U.S.C. 286 for Regular officers and 10 U.S.C. 1174 for Reserve officers) shall be deducted from the former member's retirement payments. Any member in receipt of separation or severance pay and who subsequently becomes entitled to retired pay will have their retired pay withheld until the former separation/severance pay recouped.

12.A.19.f. Reserve Officers

Unless the Secretary determines that the conditions under which a member was separated or discharged do not warrant such pay, a Reserve officer serving as a Reserve Program Administrator (RPA) or on extended active duty (EAD) discharged or released from active duty who has completed six or more consecutive, but fewer than 20 years' active service immediately before that discharge or release is entitled to separation pay computed under the regulations below as determined by the Commandant if the discharge or release from active duty is involuntary or the member was not accepted for an additional tour of active duty for which he or she volunteered.

1. Reserve officers involuntarily discharged, separated, or released from active duty are entitled to separation pay calculated under Section 10-J.4a.(1), U.S. Coast Guard Pay Manual, COMDTINST M7220.29 (series).
2. Reserve officers discharged or released from active duty for the causes specified in Article 12.A.15.c.1., 2., or 3. are entitled to separation pay calculated under Section 10-J-4a.(2), U.S. Coast Guard Pay Manual, COMDTINST M7220.29 (series).

12.A.20. Terminating a Chief Warrant Officer Appointment

The Secretary may terminate the appointment of a chief warrant officer of the Regular Coast Guard at any time within three years after the date he or she accepted the original appointment as a chief warrant officer. A chief warrant officer whose appointment is terminated under this Article is not entitled to severance pay but may apply to the Commandant to reenlist (10 U.S.C. 1165). If approved, he or she reenlists in a grade the Commandant directs but not in one lower than the rate he or she held immediately before appointment as a chief warrant officer (10 U.S.C. 515). The procedures described in Article 12.A.11.b. apply.

12.A.21. Separating Chief Warrant Officers for Unfitness or Unsatisfactory Performance

12.A.21.a. General

The responsibility placed on chief warrant officers requires them to accomplish assigned duties effectively and adhere to proper standards of conduct at all times. Retaining chief warrant officers substandard in performance of duty or conduct, deficient in character, or otherwise unsuited for military service cannot be justified. The causes for separation listed in Article 12.A.15.c. apply.

12.A.21.b. Special Boards

Commander (CGPC-c) may submit to a board of at least three Coast Guard officers whose permanent grade is commander or above the names, records, and reports of warrant officers who have been commissioned warrant officers for at least three years. From among the names so furnished, the board shall determine any officer whose reports and records establish, in the board's opinion, unfitness or unsatisfactory performance of duty or the officer's unsuitability for promotion. A finding of not qualified for promotion is appropriate only in cases involving an officer previously selected for promotion and being evaluated under Article 5.B.5.a.

12.A.21.c. Chief Warrant Officer Evaluation Boards

1. If a board convened under Article 12.A.21.b. finds a chief warrant officer unfit or unsatisfactory in performing duty, the officer shall be referred to an evaluation board convened by the Commander (CGPC-c). The board shall be composed of at least three Coast Guard officers whose permanent grade is commander or above.
2. A chief warrant officer whom an evaluation board convened under 1. above is considering does not appear before the board. However, the officer shall be advised of the reasons for the board and given at least 30 days to submit material on his or her own behalf.
3. If the evaluation board recommends that the officer should be retained, the case shall be closed. If the evaluation board recommends separation, the board's report shall be sent to the Commandant who has final decision authority. The officer will be notified of the Commandant's decision in writing through the chain of command.
4. In accordance with 10 U.S.C. 1166 a warrant officer whom the Commandant finds unfit or unsatisfactory following an evaluation board retires or separates on the first day of the month following 60 days after the Commandant acts on the board's recommendation as follows:

- a. If eligible for retirement under any provision of law, the officer shall be retired under that law.
 - b. If the chief warrant officer is not eligible for retirement under any provision of law but has accrued at least three years of active service creditable under Section 511 of the Career Compensation Act of 1949, as amended, since the date he or she accepted the original appointment as a regular chief warrant officer, the officer shall separate with severance pay under 14 U.S.C. 286a, unless the separation was for reasons listed in Article 12.A.15.c.2. and the officer received a general discharge. However, officers entitled to severance pay may refuse it and instead request to enlist in a grade the Commandant prescribes under 10 U.S.C. 515.
 - c. A chief warrant officer with fewer than three years of such service shall be separated under 10 U.S.C. 1165 without severance pay. However, he or she may request and, if the Commandant approves, enlist under 10 U.S.C. 515 in a grade the Commandant prescribes.
5. If the Commandant does not find a chief warrant officer unfit or unsatisfactory following an evaluation board, the case shall be closed.

12.A.22. Requests to Separate Voluntarily in Lieu of Involuntary Board Action

Officers who are undergoing the processes outlined in 12.A.11, 12.A.12, 12.A.15, or 12.A.A21 may have the opportunity to request retirement or discharge in lieu of completing these processes. If this is permitted, the officer will receive the same category of Separations Program Designator code on their DD-214s that they would receive if the board process went to completion with a decision to separate. They will also receive the same period of time to separate as they would receive if the board process went to completion. If no timelines is specified, the individual shall have no more than 90 days from the date the voluntary separation request is approved to separate.

Exhibit 12.A.1. PROCEDURAL GUIDE FOR A COAST GUARD BOARD OF INQUIRY CONDUCTED IAW 14 USC §322

The following script is to assist the Board of Inquiry:

Parties

Pres: This board will come to order. The time is _____ on _____. This hearing is being held at _____.

Rec: This board has been ordered by the Commander, Coast Guard Personnel Command by letter _____ (SSIC), dated _____, copies of which have been furnished to each member of the board, counsel for the respondent, and the respondent. This letter will be marked as Exhibit 1.

Rec: The respondent, _____, and the following persons detailed to the board are present:

President (senior member) _____

Member _____

Member _____

Counsel for the Board _____

Counsel for the respondent _____

Rec: _____ has been named reporter to this proceeding and will now be sworn. (Reporter rises and raises his or her right hand).

OATH: Do you swear or affirm that you will faithfully perform the duties of reporter to this board of inquiry so help you God?

[NOTE: If it is known in advance that one being sworn will "affirm" rather than "swear", the words "swear or" and "so help you God" should be omitted from the oath.]

Rptr: I do.

Rec: I am _____, and I have been detailed as recorder to the board. I am (not) qualified and certified under Article 27(b) of the Uniform Code of Military Justice & sworn under Article 42(a) UCMJ.

[NOTE: Mark counsel's detailing letter, if any]

Rsp Cnsl: I have been detailed to represent _____, the respondent, before this board by _____. I am qualified and certified under Article 27(b) of the Uniform Code of Military Justice and sworn under Article 42(a) UCMJ. (If a civilian attorney - I am admitted to practice law before the Supreme Court of the State of _____).

[NOTE: Mark counsel's detailing letter, if any]

Rights to Counsel

Pres: (To Respondent) _____, you have probably been advised of your rights to counsel established by the Coast Guard Personnel Manual and 14 U.S.C. 325. To insure that you fully understand those rights, I will describe them:

- (1) You may choose to represent yourself, and not have counsel to assist you.
- (2) You may be represented by
 - (a) _____ military counsel, qualified in accordance with Article 27(b), UCMJ appointed at no cost to you, or
 - (b) _____ civilian counsel of your own choice at no expense to the government.

Do you understand these rights to counsel?

Resp: [reply]

Pres: How do you choose to exercise your right to counsel?

Resp: [reply]

Pres: [To respondent's counsel] Do you perceive any actual or apparent conflicts of interest in your representation of _____?

Rsp Cnsl: [reply]

Precept for the Board

Rec: This board has been convened for the purpose of considering pertinent facts in the case of _____ USCG, who is being required to show cause for retention on active duty in the Coast Guard by reason of _____

(see determination board report & PERSMAN §12.A.15.c.)

Rec: (A copy of) the notification to the respondent that the Board of Determination in his/her case found that he/she should be required to show cause for retention on active duty in the Coast Guard and respondent's acknowledgement of same, is marked as Exhibit _____, and made part of the record.

[NOTE: The notification letter alone may not state the specific reason(s) why the officer must show cause for retention. If this information is not contained in the convening order, then include the basic Determination Board Report, without any additional documents, into the Board of Inquiry's record at this point. The only reason to incorporate the Determination Board's report into the record is to clearly establish the specific reason(s) why the officer must show cause for retention.]

Pres: The legal advisor will now instruct the board as to the purpose of the board of inquiry, as set forth in [article 12.A.15.h.3](#) of the Coast Guard Personnel Manual (COMDTINST M1000.6A).

Legal Advisor Instructions to the Board of Inquiry

Leg Ad: I am _____ and I have been appointed as legal advisor to this board. My duties are first of all to instruct the board regarding the purpose of the board and the procedural rules that the board will follow. Secondly, I will rule on questions concerning procedures, evidentiary questions, and challenges for cause presented against a member. I will also advise the president of the board on any other matters determined appropriate by the president. Any advice I give must only be given in open session, and will be made part of the record. I am required to be present for all open sessions, but I am prohibited from taking part in presenting the case or cross-examining witnesses. However, after the board has announced its recommendations in open session, it may request my presence in its closed session for the purpose of assisting in the final drafting of the findings and recommendations.

Leg Ad: The board is convened pursuant to 14 U.S.C. 321 - 327 and [Article 12-A-15](#) of the Coast Guard Personnel Manual, copies of which have been provided to the board.

Leg Ad: The purpose of the board is to afford _____ (Resp) a fair and impartial hearing at which he/she has an opportunity to establish that his/her retention in the Coast Guard is warranted. _____ may present evidence to refute matters of record offered against him/her or otherwise establish that he/she should be retained. The board of inquiry will consider all relevant evidence presented at the hearing and make findings and a recommendation based on a preponderance of evidence. The members of this board have been selected in accordance with the criteria established in the statute and the Coast Guard Personnel Manual. In summary, these provisions are:

- (1) There are at least 3 voting members.
- (2) There are an odd number of members and at least three.
 - (3) All members serve in the grade of Commander or above and are senior to the respondent.
 - (4) No officer may sit as a member of this board of inquiry if he or she:
 - (a) Is a witness in the case before the board;
 - (b) Was a member of the determination board in the case under consideration.

[Note: this provision does not apply to Reserve officers because their cases are referred directly to a special board of officers]

- (c) Appeared as a witness before, or was a member of any previous determination board, special board, board of inquiry, or board of review which considered the officer for separation;
- (d) Initiated, investigated, was a member of, or was the reviewing authority in a court-martial before which the officer concerned was the accused;
- (e) Previously recommended or participated in a recommendation for the officer's demotion, removal, or relief from active duty; or
- (f) Previously was a reporting officer on any performance evaluations the board will view.

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Leg Ad: (To the board) Does any member believe that any of these prohibitions applies to them?
[Negative response from all members OR go into detail.]

As you have previously been advised, _____ (respondent) is being required to show cause for retention on active duty in the Coast Guard. The burden of proof rests with _____ (respondent) to effectively refute the reasons why he/she was required to show cause for retention on active duty, or to otherwise produce evidence to establish that (s)he should be retained. (S)he will be represented by _____, who will present any evidence and examine and cross-examine witnesses on behalf of the respondent, and will be provided an opportunity to present a closing argument at the conclusion of the presentation of evidence.

Leg Ad: The recorder, _____, has marshaled the documentary evidence and has invited witnesses to appear (on behalf of both the government and the respondent). He/She has become familiar with all aspects of the case, and is prepared to assist the board by presenting relevant evidence to the board, and by examining and cross-examining witnesses. At the board's discretion, he/she will also be prepared to summarize the evidence and argue on behalf of the government at the end of the case.

Leg Ad: I will now advise you specifically regarding your duty as members of this board.

- (1) By its action, this board establishes the minimum level of performance of duty, integrity, or adherence to standards acceptable of Coast Guard officers. If this board determines that _____ (respondent) has established that he/she should be retained, then his/her case will be closed and the officer retained. On the other hand, if this board determines that _____ has failed to establish that he/she should be retained, then you will send a recommendation for discharge to CGPC which will initiate the additional reviews required by law.
- (2) This board of inquiry is an administrative board not subject to the rules and procedures governing court or court-martial action. It does not judge the Determination Board.
- (3) As a result of the Determination Board's findings, _____ (respondent) must show cause for retention on active duty. At this board of inquiry, _____ has the opportunity to present evidence to refute matters of record offered against him or her or otherwise establish the Service should retain him or her.

[NOTE: Although not processed by a determination board, Reserve officers may provide evidence to refute matters of record offered against them or otherwise establish they should be retained. These same standards apply to chief warrant officers being considered for separation under --> [Article 12.A.21.](#)]

- (4) If this board determines it needs additional information to evaluate the case properly, you may request the information through the convening authority.
- (5) The board only receives evidence presented during the board proceedings.
- (6) The board evaluates all evidence and information it receives or develops on the matter it is considering in the hearing and arrives at a clear, logical finding consistent with the information and evidence presented.
- (7) On the basis of its findings the board determines whether the Coast Guard should or should not retain _____ (respondent).

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- (8) Consistent with its determination, this board may cause the officer to be retained or may make a recommendation for discharge.
- (9) While the board may consider old reports and records in establishing a pattern of substandard conduct or adherence to standards, an officer's instances of good performance or good conduct in the remote past cannot negate a record of progressively deteriorating performance of duty, conduct, or adherence to standards.
- (10) An officer cannot offset allegations involving a defect in character or integrity by a rebuttal that attempts to emphasize other qualities in his or her favor.
- (11) The board may consider these additional items to assist it in evaluating any material submitted for the board's consideration:
 - (a) A record of recently improved performance may result from an unusual effort on the officer's part after learning he or she was recommended for separation for cause. By itself it does not overcome a pattern of ineffectiveness. The board may consider improved performance together with other evidence in the record to determine whether the officer has established that retention is warranted.
 - (b) Promotion or selection for promotion, while proper evidence on the officer's behalf, does not necessarily justify his or her retention.
 - (c) In cases where poor performance is involved, it is essential for the board to examine the entire performance file in detail. In doing so, the board should consider these aspects.
 - (d) The length of time each report covers.
 - (e) The duty the officer performed and the level at which performed.
 - (f) The trend in performance, up or down, as the officer gained experience.
 - (g) Copies of all performance evaluations, and all other documentary evidence, made available to the board will be made available to _____ (respondent). An officer's claim that he or she was not aware of unfavorable remarks contained in such reports is not grounds for the board not to consider them.
 - (h) The officer concerned in a board of inquiry often solicits letters of support. In some cases, these letters may be the only kind of evidence an officer is able to offer to refute the Determination Board's findings. The board must evaluate the circumstances under which these letters are solicited in determining what weight it should give them. In so determining, it is proper for the board to consider the letter of solicitation, the period during which the writer knew or was closely acquainted with the officer, the writer's familiarity with the officer's habits and reputation, and the relationship between the writer and the officer, if any.
 - (i) The board may use punishment by court-martial or Article 15, UCMJ, for misconduct to support removal under these regulations.

Procedures

Leg Ad: The following additional rules of procedural nature will apply to these proceedings.

- (1) A board of inquiry does not follow strict rules of evidence in its proceedings. The board should allow the officer concerned to present his or her case without undue interference; however, the officer should observe reasonable bounds of relevance.
- (2) Decisions on the validity of the PERSMAN and the constitutionality of the statutes authorizing this procedure are outside the board's responsibilities, and the board should not permit evidence or argument on these matters.
- (3) Spectators will not be allowed during the proceedings, unless the President so authorizes on the respondent's specific written request. No one scheduled to be called as a witness or who has been a witness may be present as a spectator.
- (4) Voting members of the board may not review the case before the hearing. The board may call witnesses on its own motion. All witnesses will be sworn.
- (5) Issues properly before the board shall be decided by a majority vote in a secret written ballot. The standard of proof applicable in these proceedings is by a preponderance of the evidence.
- (6) A verbatim record of these proceedings will be made.

Leg Ad: Mr. President, this concludes my preliminary instructions to the board. Does any member of the board have any questions regarding these instructions?

Pres: (To Respondent) _____, the legal advisor will now advise you of your rights as set forth in 14 U.S.C. 325 and [Article 12-A-15](#) of the Coast Guard Personnel Manual (COMDTINST M1000.6A). If you have any question in relation to these rights, do not hesitate to voice these questions either to me or in private consultation with your counsel.

Leg Ad: You may present evidence, represent yourself, or be represented by military counsel qualified under Article 27 (b), UCMJ, or civilian counsel of your own choice in all open board of inquiry proceedings. However, you must pay all expenses incident to retaining civilian counsel.

If this board recommends discharge then, at any time before the Commandant's final decision, you may apply for voluntary retirement, if eligible, or request early discharge under --> [Article 12.A.15.f](#). PERSMAN or 14 U.S.C. 327, as applicable.

You may challenge for cause any voting member of the board.

You may request that any witness whose testimony is pertinent to the case appear as a witness before a board of inquiry hearing. The recorder of the board will invite those witnesses who meet the requirements of [Article 12.A.15.h.5.\(j\)](#) of the Personnel Manual to appear.

You, or your counsel, may question any witness brought before the board.

You are entitled to your rights under Article 31, UCMJ. You have the right, at your option, to testify or not testify before this board. If you choose not to testify, that decision will not be considered in any manner against you and is not relevant to any determination before the board.

If you elect to testify before this board, then you may be examined or cross-examined by the recorder and this board on any matter considered relevant to these proceedings, regardless of whether or not you testified to these matters when questioned by your counsel.

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Leg Ad: Do you understand these rights?

Resp: [reply].

Leg Ad: If you desire to submit to examination or make a statement under oath, then you will be sworn.

If you do not desire to make a sworn statement, you or your counsel may make an unsworn statement, orally, in writing, or both. If you make an unsworn statement, then you will not be subject to cross-examination by the board or the recorder. However, the recorder may introduce evidence to rebut your statement.

Also, you may, if you wish, not testify or give any statement at all. If you do this, the board will not consider it against you in any way.

You have been, and will be, allowed full access to and furnished copies of records relevant to the case at all stages of the proceedings. This includes all officer evaluation reports and any other reports concerning your performance of duties. However, the board shall withhold any records the Commandant determines should be withheld in the interest of national security. If a board withholds any records under this clause, you shall be furnished a summary of the records withheld. Additionally, you will be furnished, to the extent the national security permits, the actual records or copies of them with the classified portions deleted.

You or your counsel may make a closing argument at the conclusion of presentation of evidence.

You are entitled to receive a copy of the verbatim transcript of these proceedings.

Finally, your failure to invoke any of your rights of which you have been apprised cannot be considered as a bar to the board's proceedings, findings, and recommendations.

Leg Ad: _____ Do you understand these rights as I have explained them? Do you have any questions?

Resp: [reply]

Pres: (To Respondent): _____, do you have any (other) questions about this board or these proceedings?

Resp: [reply]

(Swearing of the Board & Procedures for Challenges)

Pres: Now that the preliminary advice and instructions have been completed, we will proceed to the swearing and the qualification of the members of the board.

Leg Ad: (To Respondent) As I mentioned earlier, you have the right to challenge any "voting member" of the board for cause only. The president and the other members of the board are "voting members". The recorder and legal advisor are not "voting members" and may not be challenged.

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Leg Ad: A challenge may be made at any time during the proceedings. The grounds for challenge must show that the individual cannot be impartial on the issues before the board.

You or your counsel may question any voting member of this board in relation to any matter regarding possible grounds for a challenge for cause. I will determine any challenge for cause against a voting member.

Leg Ad: A sustained challenge will be reported to the convening authority, and, if it would reduce the number of members below three, the board will recess or adjourn until the convening authority appoints another member.

Leg Ad: (To Respondent:) _____, do you have any questions concerning this right or these procedures?

Resp: [reply]

Leg Ad: At this point the members of the board, the recorder, and I will be sworn.

(Members, recorder and legal advisor rise.)

Rec: (To members) Raise your right hand. Do you _____, _____, and _____, swear or affirm that you will faithfully perform all the duties incumbent upon you as members of this board of inquiry and that you will inquire into the matters now before you without partiality, so help you God?

Mem: I do.

Rec: (To Legal Advisor) Raise your right hand. Do you _____, swear or affirm that you will faithfully perform the duties of legal advisor for the board, so help you God?

Leg Ad: I do.

Pres: (To recorder) Raise your right hand. Do you _____, swear or affirm that you will faithfully perform the duties of recorder for the board, so help you God?

Rec: I do. (All take seats)

Rec: If any member of the board is aware of any matter which you believe may affect your ability to render a fair and impartial decision in the case now in hearing, you should now state such matters. (Ask each by name).

Mem: (I am not aware of any such matters.) (_____).

[NOTE: Any positive answers should be heard outside of the hearing of the members not involved.]

Pres: Does the respondent or counsel for the respondent wish to question any member of the board in relation to any matter regarding possible grounds for challenge for cause?

RC/Resp: [reply]

[NOTE: After the respondent has completed questioning the board member(s), the recorder and legal advisor may ask follow-up questions.]

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Pres: Is there a challenge for cause against any voting member of this board?

[NOTE: If a member is challenged, then all members should withdraw for any argument and the decision on the challenge.]

RC/Resp: Respondent (has no challenges for cause against any of the members) (challenges (member _____ on the basis that _____)).

[NOTE: If the board must be reconstituted as the result of a sustained challenge, repeat the appointing order procedures, as necessary.]

Pre-Hearing Matters

Pres: At this time, the recorder will state briefly any appropriate pre-hearing matters involving the board which should be preserved on the record, and if applicable, place into evidence any documentary material concerning same.

Rec: There are (no) (the following) pre-hearing matters to be placed before the board.
_____.

[NOTE: What may be placed on the record here as exhibits are such matters as requests for counsel, witnesses, or continuances, answers to same, proposed witness and documentary evidence lists, or any other correspondence or documents concerning the board which are deemed appropriate.]

Pres: Does the respondent or (his) (her) counsel have any comments, additions or objections to any of the foregoing concerning pre-hearing matters?

RC/Resp: [reply]

Evidentiary Matters

Leg Ad: The general procedures for hearing the evidence in the case are as follows:

- (1) The recorder will present any evidence considered relevant to a proper evaluation of the case.
- (2) The respondent will then be provided an opportunity to present evidence or call witnesses to show cause for retention on active duty.
- (3) Prior to hearing witnesses, the board, at its discretion, may recess to review the documentary evidence presented. This recess may either precede or follow the presentation of documents by the respondent.

Pres: Does the respondent, or counsel, have any questions or comments concerning the evidentiary procedures?

RC/Resp: [reply]

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Pres: The recorder will place on the record at this time the names of witnesses which are presently expected to testify before this board and their order of appearance.

Rec: The following witnesses, in the order listed, are expected to testify before this board: _____

_____.

[NOTE: If the witnesses and their order are on a written list, that document may be made an exhibit, if it is not already, with copies to the members, counsel, and respondent, in lieu of verbally listing witnesses.]

Pres: Are there any other witnesses which the respondent wishes to appear before this board?

RC/Resp: [reply]

Pres: (To Recorder) _____ you may present any additional documentary evidence relevant to the board's inquiry

[NOTE: The following general procedure should be followed for each exhibit throughout the proceedings:]

Rec: The recorder has the following documents ready for presentation to the board for consideration in these proceedings.

Rec: I have previously advised the respondent and his/her counsel concerning these documents and have made them available for their inspection. I now show these exhibits (individually) to the respondent and his/her counsel for their inspection.

Rec: Exhibit # _____ is _____.

[NOTE – give exhibits to the legal advisor who will hold until any objections are resolved.]

Pres: Does the respondent or his/her counsel have any objections concerning this exhibit?

RC/Resp: (No objection) (We object _____ because _____).

Leg Ad: (1) (Your objection(s) is (are) noted for the record.)

(2) Exhibit _____ is accepted and will be made part of the record.

(3) Exhibit _____ is excluded as being (totally irrelevant) (_____). I will retain the exhibit until the board has reached its decision. The exhibit will then be included in the record as an exhibit offered but not admitted.

[NOTE: Repeat this procedure for each exhibit.]

Rec: I have no further documentary evidence.

Pres: Does the respondent, or counsel, have any documentary evidence to submit to the board at this time?

[NOTE: Offer the respondent an opportunity to introduce documents at this time following the same general procedure. However, the respondent may wait until the recorder has presented all of his/her evidence to introduce any evidence.]

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Pres: Before calling any witnesses, I intend to recess the board so that we may familiarize ourselves with the documents which have been admitted, and thus be better able to address the issues with witnesses that follow. Does either the recorder or the respondent or counsel have any other matter to bring to the board's attention before we recess the board?

Recess to Review Documents

The Board Reconvenes

Pres: The board will come to order.

Rec: The respondent, counsel for the respondent, recorder, legal advisor, the president and all members of the board are present.

Pres: We will now hear the witnesses.

Pres: (To Recorder) _____, call the first witness.

Rec: The first witness is _____.

Rec: Do you swear, or affirm, that the testimony that you shall give in the case in hearing shall be the truth, the whole truth and nothing but the truth, so help you God?

Wit: I do.

Rec: [question the witness]

RC/Resp: [Cross-examine the witness]

[NOTE: The board members are allowed to examine the witness. This usually occurs after the recorder and counsel for the respondent/respondent have concluded questioning. However, board members are free to interject questions at any point if necessary for them to follow the testimony of a witness.]

[NOTE: Proceed to hear all witnesses in a similar fashion.]

Rec: I have no further evidence to present.

Pres: (To respondent/respondent's counsel) Do you have any additional evidence that you would like to present?

RC/Resp: [Presents evidence]

RC/Resp: The respondent has nothing further to present.

[NOTE: The recorder may introduce rebuttal evidence, if appropriate, at this point.]

Pres: Is there any more evidence that the board should consider?

Rec: [reply]

RC/Resp: [reply]

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Pres: Having no other evidence to be considered, the respondent and his/her counsel may make argument or address any other comments to the board at this time. The recorder has the option to make an opening and rebuttal argument.

Rec: [Opening argument]

RC/Resp: The respondent (waives argument) (has an argument for the consideration of the board)_____.

Rec: [Rebuttal argument if any]

Final Board Instructions

Leg Ad: Mr. President and members, I will now instruct you in certain matters which are appropriate for your consideration while the board is in closed session.

A board of inquiry must carefully consider the facts of each case and be specific with respect to the underlying facts which support its findings and recommendations. The president of the board must ensure board members are completely familiar with the facts developed in each case, as well as the purpose of the board of inquiry.

Before the board determines its findings and recommendations, it should review the purpose for which it was constituted, its guidance, and the evidence before it. You should also consider the following:

The determination board found that _____ should be required to show cause for retention.

[Not applicable for Reserve officers with fewer than three years' of service or for any chief warrant officer.]

The purpose of the board of inquiry is to afford the officer concerned an opportunity to present evidence to refute matters of record offered against him or her or to otherwise establish the Service should retain him or her.

The officer concerned, _____, must refute the Government's evidence and present evidence affirming his or her contention he or she is qualified to retain his or her current status.

The board must consider an officer's record as a whole and make its recommendation based on a preponderance of evidence. Refuting any single reason for removal does not necessarily refute other documented reasons the board considers.

The board determines its findings and recommendation by secret written ballot in closed session.

The board prepares a brief statement of the reason (including factual data if necessary for clarification) for its findings.

After the board determines the findings, it makes an appropriate statement concerning retention. This statement must be limited to either retention or separation without qualifications. A board of inquiry cannot concurrently recommend any proposal short of separation once it has concluded that an officer should be separated for cause.

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Once the board has reached a decision, you shall return to an open session. The president of the board will advise the officer of its determination and all applicable procedural matters.

[NOTE: If necessary, the legal advisor may instruct on specific issues raised by the case.]

Leg Ad: Mr. President do you, or any member of the board have any questions regarding the instructions I have given?

Pres: [reply]

Pres: At _____ hours, this board will now retire to deliberate.

Findings

Pres: The board will come to order.

Rec: The respondent, counsel for respondent, recorder, legal advisor, the president and all members of the board are present.

Pres: (To Respondent) _____, you are hereby advised that this board of inquiry recommends that you be (retained or separated).

[Continue from appropriate section below]

(IF RETENTION)

Pres: (To Respondent) _____, the board having recommended your retention on active duty, this case is now closed. The proceedings of the board of inquiry will be summarized, and you will be provided a copy of this summary. The original report will be forwarded to the Commander, (CGPC-c) who will formally notify you of the results in writing via the chain of command.

(IF SEPARATION RECOMMENDED)

Pres: (To Respondent) _____, since the board of inquiry has recommended separation, the record of the proceedings of this board will be forwarded to Commander, (CGPC-c) who will notify you of the results in writing through the chain of command.

A Board of Review will consider your case as described in [Article 12.A.15.i](#) of the PERSMAN and 14 USC §323.

You will be furnished a copy of the verbatim record of this board of inquiry, and of our findings and recommendations. If you would prefer, the copy of the record may be served on your counsel rather than yourself. Do you want the copy delivered to you or your counsel?

Resp: I wish my copy of the record be delivered to _____.

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Pres: Within 10 days after you receive or have access to a copy of the record of the board of inquiry proceedings, you or your counsel may file with the president of the Board of Review (c/o CGPC-opm-1) a rebuttal to this board of inquiry's findings and recommendation. If you or your counsel files such a statement, a copy must be provided to the recorder at this board of inquiry, who in turn has 10 days in which to file a rebuttal to your statement and send to you (your counsel) a copy.

The Board of Review will hear the case whether or not you file a statement of rebuttal. You will be furnished a copy of the report of the board of review. If the board of review recommends retention on active duty, your case is closed. If the board of review recommends separation, your case may be forwarded to the Commandant. In either case, you will be notified of the action of the board of review on the completion of its deliberations.

Pres: This completes the open session of this board of inquiry. The legal advisor is requested to join the board in closed session to assist in the final drafting of the findings and recommendation.

Pres: This board of inquiry is adjourned.