



Department of Defense INSTRUCTION

NUMBER 1332.14

January 27, 2014

Incorporating Change 1, Effective December 4, 2014

USD(P&R)

SUBJECT: Enlisted Administrative Separations

References: See Enclosure 1

1. PURPOSE. This instruction:

- a. Reissues DoD Instruction (DoDI) 1332.14 (Reference (a)), in accordance with the authority in DoD Directive (DoDD) 5124.02 (Reference (b)).
- b. Establishes DoD policy, assigns responsibilities, and provides procedures governing administrative separation of enlisted Service members from the Military Services.
- c. Implements sections 518, 572(a)(2), and 578 of Public Law 112-239 (Reference (c)).

2. APPLICABILITY. This instruction applies:

- a. To OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (referred to collectively in this instruction as the "DoD Components"). The term "Military Services," as used in this instruction refers to the Army, the Navy, the Air Force, and the Marine Corps.
- b. Only to administrative separation proceedings initiated on or after the effective date of this instruction unless the Secretary of the Military Department concerned determines that it should be applied in a particular case in which proceedings were initiated before that date.

3. POLICY. It is DoD policy that:

- a. The readiness of the Military Services be preserved by maintaining high standards of performance, conduct, and discipline. Separation promotes the readiness of the Military Services by providing an orderly means to:

(1) Evaluate the suitability of persons to serve in the enlisted ranks of the Military Services based on their ability to meet required performance, conduct, and disciplinary standards.

(2) Maintain standards of performance, conduct, and discipline through characterization of service in a system that emphasizes the importance of honorable service.

(3) Achieve authorized force levels and grade distributions.

(4) Provide an orderly means of discharge for enlisted personnel.

b. Separations are used to strengthen the concept that military service is a unique calling, different from that of a civilian occupation. The acquisition of military status, whether through enlistment or induction, involves an individual's commitment to the United States, their Military Service, fellow citizens, and fellow Service members.

c. Organizing, training, and equipping newly accessed enlisted Service members represent a substantial investment. Separation of enlisted Service members prior to completion of their obligated service periods results in a significant loss of investment and generates a requirement for increased accessions.

d. DoD will provide enlisted Service members with the training, motivation, and professional leadership to enable them to meet required standards of performance, conduct, and discipline.

(1) Reasonable efforts should be made by the chain of command to identify enlisted Service members who exhibit the likelihood for early separation and improve their chances for retention through counseling, retraining, and rehabilitation.

(2) Enlisted Service members who do not demonstrate the commitment or potential for further service should be separated.

e. Motivated enlisted Service members may be discharged or released from active service before expiration of their obligated service to further their education at a college, university, or vocational or technical school when it is determined that discharge or release is appropriate. Enclosure 6 of this instruction contains procedures for enlisted Service member separations on the basis of school enrollment.

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosures 3-6.

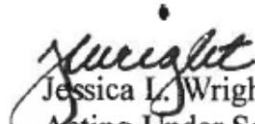
6. RELEASABILITY. **Unlimited**. *Cleared for public release*. This Instruction is ~~approved for public release and is~~ available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

7. EFFECTIVE DATE. This instruction *is effective January 27, 2014*.

~~a. Is effective January 27, 2014.~~

~~b. Must be reissued, cancelled, or certified current within 5 years of its publication to be considered current in accordance with DoDI 5025.01 (Reference (d)).~~

~~c. Will expire effective January 27, 2024 and be removed from the DoD Issuances Website if it hasn't been reissued or cancelled in accordance with Reference (d).~~


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Enclosures

1. References
2. Responsibilities
3. Reasons for Separation
4. Guidelines on Separation and Characterization
5. Procedures for Separation
6. Procedures for Early Release of Enlisted Military Personnel for College, Vocational, or Technical School Enrollment

Glossary

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ENCLOSURE 1

REFERENCES

- (a) DoD Instruction 1332.14, "Enlisted Administrative Separations," August 28, 2008, as amended (hereby cancelled)
- (b) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R)), June 23, 2008
- (c) Public Law 112-239, "National Defense Authorization Act for Fiscal Year 2013," January 2, 2013
- ~~(d) DoD Instruction 5025.01, "DoD Directives Program," September 26, 2012, as amended~~
- (ed) DoD Instruction 1205.05, "Transfer of Service Members Between Reserve and Regular Components of the Military Services," March 30, 2012
- (~~f~~e) DoD Directive 1344.10, "Political Activities by Members of the Armed Forces," February 19, 2008
- (~~g~~f) DoD Instruction 1300.06, "Conscientious Objectors," May 31, 2007
- (~~h~~g) DoD Instruction 1315.15, "Special Separation Policies for Survivorship," January 5, 2007
- ~~(i) DoD Instruction 1332.38, "Physical Disability Evaluation," November 14, 1996, as amended~~
- (~~j~~h) Title 10, United States Code
- (~~k~~i) DoD Instruction 6490.04, "Mental Health Evaluations of Members of the Military Services," March 4, 2013
- (~~l~~j) Committee on Nomenclature and Statistics, American Psychiatric Association, "Diagnostic and Statistical Manual of Mental Disorders," current edition
- ~~(mk) DoD Directive 1332.18, "Separation or Retirement for Physical Disability," November 4, 1996 DoD Instruction 1332.18, "Disability Evaluation System (DES)," August 5, 2014~~
- (~~n~~l) DoD Instruction 1215.13, "Reserve Component (RC) Member Participation Policy," May 11, 2009
- (~~o~~m) Manual for Courts-Martial, United States, 2012
- ~~(pn) DoD Directive 5200.2, "DoD Personnel Security Program," April 9, 1999 DoD Instruction 5200.02, "DoD Personnel Security Program (PSP)," March 21, 2014, as amended~~
- (~~q~~o) DoD Directive 1308.1, "DoD Physical Fitness and Body Fat Program," June 30, 2004
- (~~r~~p) DoD Instruction 1336.01, "Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)," August 20, 2009
- (~~s~~q) DoD Instruction 1010.01, "Military Personnel Drug Abuse Testing Program (MPDATP)," September 13, 2012
- (~~t~~r) DoD Instruction 1332.28, "Discharge Review Board (DRB) Procedures and Standards," April 4, 2004
- (~~u~~s) Section 5303 of Title 38, United States Code
- (~~v~~t) DoD Directive 6495.01, "Sexual Assault Prevention and Response (SAPR) Program," January 23, 2012, as amended
- (~~w~~u) DoD Instruction 6495.02, "Sexual Assault Prevention and Response (SAPR) Program Procedures," March 28, 2013
- (~~x~~v) DoD Instruction 5500.14, "Naturalization of Aliens Serving in the Armed Forces of the United States and of Alien Spouses and/or Alien Adopted Children of Military and Civilian Personnel Ordered Overseas," January 4, 2006

(~~y~~w) DoD Instruction 1332.36, "Preseparation Counseling for Military Personnel,"
February 14, 1994, as amended

ENCLOSURE 2

RESPONSIBILITIES

1. ASSISTANT SECRETARY OF DEFENSE FOR READINESS AND FORCE MANAGEMENT (ASD(R&FM)). The ASD(R&FM), under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)):

- a. Develops, maintains, and oversees procedural instructions for enlisted administrative separations.
- b. May establish, and delegate authority to establish, appropriate separation reporting requirements.

2. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments:

- a. Develop and maintain Service policies, standards, and procedures in accordance with this instruction to provide clear guidance and ensure uniform implementation of enlisted separation policy to the extent practicable for an administrative process based on command discretion.

- b. Ensure that enlisted Service member separation policies, standards, and procedures are applied consistently; fact-finding inquiries are conducted properly; abuses of authority do not occur; and failure to follow the provisions contained in this instruction results in appropriate corrective action.

- c. Establish processing time goals for the types of administrative separations authorized by this instruction.

- d. Prescribe appropriate internal procedures for periodically informing enlisted Service members about separation policies, and ensure they are provided separation information, as described in the procedures of this instruction, during the separation process.

- e. Ensure compliance with pre-separation health assessment requirements in accordance with the law as described in the procedures of this instruction.

- f. Prescribe internal procedures to ensure enlisted Service members who are convicted of a covered sexual offense and are not punitively discharged are processed for administrative separation in accordance with section 572(a)(2) of Reference (c), as described in the procedures of this instruction.

- g. Prescribe internal procedures to permit the review of a recommendation to involuntarily separate an enlisted Service member who made an unrestricted report of sexual assault in accordance with 578 of Reference (c), as described in the procedures of this instruction.

ENCLOSURE 3

REASONS FOR SEPARATION

1. EXPIRATION OF SERVICE OBLIGATION

a. Basis. An enlisted Service member may be separated upon expiration of enlistment or fulfillment of service obligation. This includes separation authorized by the Secretary concerned when the enlisted Service member is within 30 days of the date of expiration of term of service and is serving outside the continental United States (OCONUS) in a location other than the member's jurisdiction of domicile.

b. Characterization or Description. Honorable, unless the separation is under one of the following circumstances:

(1) An entry-level separation is required under subparagraph 3c(1) of Enclosure 4.

(2) Characterization of service as general (under honorable conditions) is warranted in accordance with section 3 of Enclosure 4 on the basis of numerical scores accumulated in a formal, Service-wide rating system that evaluates conduct and performance on a regular basis.

(3) Another characterization is warranted upon discharge from the Individual Ready Reserve (IRR) in accordance with section 5 of Enclosure 5.

2. SELECTED CHANGES IN SERVICE OBLIGATIONS

a. Basis. An enlisted Service member may be separated for the following reasons:

(1) General demobilization or reduction in authorized strength.

(2) Early separation of personnel under a program established by the Secretary concerned. A copy of the document authorizing such program will be forwarded to the Office of the ASD(R&FM) at least 45 days prior to the desired date of announcement of an involuntary separation board or program.

(3) Acceptance of an active duty commission or appointment, or acceptance into a program leading to such commission or appointment in any branch of the Military Services.

(4) Immediate enlistment or reenlistment.

(5) Inter-Service transfer of inactive reserves in accordance with DoDI 1205.05 (Reference (*ed*)).

b. Characterization or Description. Honorable, unless the separation is under one of the following circumstances:

(1) An entry-level separation is required in accordance with section 3 of Enclosure 4.

(2) Characterization of service as general (under honorable conditions) is warranted in accordance with section 3 of Enclosure 4 on the basis of numerical scores accumulated in a formal, Service-wide rating system that evaluates conduct and performance on a regular basis.

(3) Another characterization is warranted upon discharge from the IRR in accordance with section 5 of Enclosure 5.

3. CONVENIENCE OF THE GOVERNMENT

a. Basis. An enlisted Service member may be separated for convenience of the U.S. Government for these reasons:

(1) Early Release to Further Education. An enlisted Service member may be separated to attend a college, university, vocational school, or technical school under guidelines outlined in Enclosure 6.

(2) Early Release to Accept Public Office. An enlisted Service member may be separated to accept public office only under circumstances authorized by the Military Department concerned and in accordance with DoDD 1344.10 (Reference (~~fe~~)).

(3) Dependency or Hardship. Undue hardship does not necessarily exist solely because of altered present or expected income, family separation, or other inconveniences normally incident to military service. Upon request of the enlisted Service member and concurrence of the separation authority, separation may be directed when genuine dependency or undue hardship exists under these circumstances:

(a) The hardship or dependency is not temporary.

(b) Conditions have arisen or have been aggravated to an excessive degree since entry into military service, and the enlisted Service member has made every reasonable effort to remedy the situation.

(c) The administrative separation will eliminate or materially alleviate the condition.

(d) There are no other means of alleviation reasonably available.

(4) Pregnancy or Childbirth. A female enlisted Service member may be separated on the basis of pregnancy or childbirth upon her request, unless retention is determined to be in the best interests of the Service in accordance with section 1 of Enclosure 4 and guidance established by the DoD Military Department concerned.

(5) Parenthood. An enlisted Service member may be separated by reason of parenthood under the guidance set forth in section 1 of Enclosure 4 if, as a result thereof, it is determined that the enlisted Service member is unable to satisfactorily perform his or her duties or is unavailable for worldwide assignment or deployment. Prior to involuntary separation under this provision, the notification procedure in section 2 of Enclosure 5 will be used. Separation processing may not be initiated until the enlisted Service member has been formally counseled concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records.

(6) Conscientious Objection. An enlisted Service member may be separated if authorized in accordance with DoDI 1300.06 (Reference ~~(g)~~).

(7) Surviving Family Member. An enlisted Service member may be separated if authorized in accordance with DoDI 1315.15 (Reference ~~(h)~~).

(8) Conditions and Circumstances not Constituting a Physical Disability

(a) The Secretary concerned may authorize separation on the basis of conditions and circumstances not constituting a physical disability that interfere with assignment to or performance of duty.

~~1. Such conditions may include, but are not limited to, those specifically enumerated in paragraph E5.1.3 of Enclosure 5 to DoDI 1332.38 (Reference (i)).~~

21. Separation processing will not be initiated until the enlisted Service member has been formally counseled on his or her deficiencies and has been given an opportunity to correct those deficiencies.

32. Separation processing will not be initiated until the enlisted Service member has been counseled in writing that the condition does not qualify as a disability.

(b) The Secretary concerned may not authorize involuntary administrative separation based on a determination that the member is unsuitable for deployment or worldwide assignment because of a medical condition if a physical evaluation board has determined the member to be fit for duty for the same medical condition, unless the administrative separation is approved by the Secretary of Defense. If the Secretary concerned has reason to believe the medical condition considered by the physical evaluation board renders the member unsuitable for continued military service, the Secretary concerned may direct the physical evaluation board to reevaluate the member.

1. If, based on reevaluation by a physical evaluation board, a member is determined to be unfit to perform the duties of the member's office, grade, rank, or rating, the member may be retired or separated for physical disability consistent with chapter 61 of Title 10, United States Code (U.S.C.) (Reference ~~(j)~~).

2. A fit for duty finding by a physical evaluation board does not automatically entitle a Service member to reenlist upon completion of his or her current period of required active service. However, a Service member may not be denied reenlistment on the basis of the same condition for which a physical evaluation board found the member fit for duty.

(c) Separation on the basis of personality disorder, or other mental disorder not constituting a physical disability, is only authorized only if:

1. A diagnosis by an authorized mental health provider as defined in DoDI 6490.04 (Reference (~~k~~*i*)) utilizing the Diagnostic and Statistical Manual of Mental Disorders (Reference (~~h~~*j*)) and, in accordance with procedures established by the Military Department concerned, concludes that the disorder is so severe that the member's ability to function effectively in the military environment is significantly impaired.

a. The onset of personality disorder is frequently manifested in the early adult years and may reflect an inability to adapt to the military environment as opposed to an inability to perform the requirements of specific jobs or tasks or both.

b. Observed behavior of specific deficiencies should be documented in appropriate counseling or personnel records. Documentation will include history from supervisors, peers, and others, as necessary to establish that the behavior is persistent, interferes with assignment to or performance of duty, and has continued after the enlisted Service member was counseled and afforded an opportunity to overcome the deficiencies.

2. The enlisted Service member has been formally counseled in writing on deficiencies as reflected in appropriate counseling or personnel records and has been afforded an opportunity to overcome those deficiencies.

3. The enlisted Service member has been counseled in writing on the diagnosis of a personality disorder, or other mental disorder not constituting a physical disability.

4. For enlisted Service members who have served or are currently serving in imminent danger pay areas, a diagnosis of personality disorder or other mental disorder not constituting a physical disability will:

a. Be corroborated by a peer or higher-level mental health professional.

b. Be endorsed by the Surgeon General of the Military Department concerned.

c. Address post-traumatic stress disorder (PTSD) and other mental illness comorbidity. Unless found fit for duty by the disability evaluation system, a separation for personality disorder, or other mental disorder not constituting a physical disability, is not authorized if service-related PTSD is also diagnosed.

(d) Separation for personality disorder, or other mental disorder not constituting a physical disability, is not appropriate nor should it be pursued when separation is warranted on the basis of unsatisfactory performance or misconduct. In such circumstances, the enlisted Service member should not be separated under this paragraph regardless of the existence of a personality disorder.

(e) Nothing in paragraph 3a(8) of this enclosure precludes separation of an enlisted Service member who has a personality disorder or other condition or circumstance not constituting a physical disability under any other basis set forth in section 3 of this enclosure or for any other reason authorized by this instruction.

(f) Prior to involuntary separation under this provision, the notification procedure in section 2 of Enclosure 5 will be used. Documentation must include evidence that the Service member is unable to function effectively because of a personality disorder, or other mental disorder not constituting a physical disability.

(g) The reasons designated by the Secretary concerned will be separately reported.

(9) Additional Grounds. The Secretary concerned may provide additional grounds for separation for the convenience of the U.S. Government. A copy of the document authorizing such grounds will be forwarded to the ASD(R&FM) at least 45 days prior to the desired date of announcement of an involuntary separation board or program.

b. Characterization or Description. Honorable, unless the separation is under one of the following circumstances:

(1) An entry-level separation is required in accordance with paragraph 3c of Enclosure 4.

(2) The characterization of service is general (under honorable conditions) as warranted in accordance with paragraph 3b(2) of Enclosure 4.

c. Procedures. Procedural requirements may be established by the Secretary concerned, subject to procedures established in paragraph 3c of Enclosure 4. Prior to characterization of service as general (under honorable conditions), the Service member will be notified of the specific factors in the service record that warrant such a characterization, and the notification procedure in section 2 of Enclosure 5 will be used. However, such notice and procedure are not required when characterization of service as general (under honorable conditions) is based upon numerical scores accumulated in a formal, Service-wide rating system that evaluates conduct and performance on a regular basis.

4. DISABILITY

a. Basis. An enlisted Service member may be separated or retired for disability under the provisions of chapter 61 of Reference (j/h).

b. Characterization or Description. Honorable, unless:

(1) An entry-level separation is required in accordance with section 3 of Enclosure 4; or

(2) Characterization of service as general (under honorable conditions) is warranted in accordance with section 3 of Enclosure 4.

c. Procedures. The Military Departments may establish procedural requirements for separation or retirement due to physical disability consistent with chapter 61 of Reference (*jh*) and DoDDI 1332.18 (Reference (*mk*)). If separation is recommended, these requirements apply prior to characterization of service as general (under honorable conditions):

(1) The enlisted Service member will be notified of the specific factors in the service record that warrant such a characterization, and the notification procedure in section 2 of Enclosure 5 will be used.

(2) Such notice and procedure are not required when characterization of service as general (under honorable conditions) is warranted based on numerical scores accumulated in a formal, Service-wide rating system that evaluates conduct and performance on a regular basis.

5. DEFECTIVE ENLISTMENTS AND INDUCTIONS

a. Minority

(1) Basis. An enlisted Service member will be separated on the basis of being a minor at the time of enlistment, induction, or extension of enlistment under the guidance set forth in section 1 of Enclosure 4 and this subparagraph.

(a) Under Age 17. If an enlisted Service member is under the age of 17, the enlistment of the enlisted Service member is void, and the Service member will be separated.

(b) Age 17. An enlisted Service member will be separated in accordance with section 1170 of Reference (*jh*), except when the enlisted Service member is retained for the purpose of trial by court-martial, in these circumstances:

1. There is evidence satisfactory to the Secretary concerned that the enlisted Service member is under 18 years of age.

2. The enlisted Service member enlisted without the written consent of his or her parent or guardian.

3. An application for the enlisted Service member's separation is submitted to the Secretary concerned by the parent or guardian within 90 days of the Service member's enlistment.

(2) Description of Separation. A Service member separated under subparagraph 5a(1)(a) of this enclosure will receive an order of release from the custody and control of the Military Services by reason of void enlistment or induction. The separation of an enlisted Service member under subparagraph 5a(1)(b) of this enclosure will be described as an entry-level separation.

(3) Procedure. The notification procedure in section 2 of Enclosure 5 will be used.

b. Erroneous

(1) Basis. An enlisted Service member may be separated on the basis of an erroneous enlistment, induction, or extension of enlistment under the guidance set forth in section 1 of Enclosure 4. An enlistment, induction, or extension of enlistment is erroneous if:

(a) It would not have occurred had the relevant facts been known by the U.S. Government or had appropriate directives been followed.

(b) It was not the result of fraudulent conduct on the part of the enlisted Service member (see paragraph 5d of this enclosure).

(c) The defect is unchanged in material respects.

(2) Characterization or Description. Honorable, unless an entry-level separation or an order of release from the custody and control of the Military Services is required (by reason of void enlistment or induction) in accordance with section 3 of Enclosure 4.

(3) Procedure

(a) If the command recommends that the individual continue military service, the initiation of separation processing is not required in these circumstances:

1. The defect is no longer present; or

2. A waiver is obtained from the appropriate authority.

(b) If separation processing is initiated, the notification procedure (see section 2 of Enclosure 5) will be used.

c. Defective Enlistment Agreements

(1) Basis. A defective enlistment agreement exists in these circumstances:

(a) As a result of a material misrepresentation by recruiting personnel, upon which the Service member reasonably relied. For example, the Service member was induced to enlist with a commitment for which the Service member was not qualified;

(b) The Service member received a written enlistment commitment from recruiting personnel for which the enlisted Service member was qualified, but which cannot be fulfilled by the Military Service; or

(c) The enlistment was involuntary. See section 802 of Reference (~~h~~).

(2) Characterization or Description. Honorable, unless an entry-level separation or an order of release from the custody and control of the Military Services (by reason of void enlistment) is required in accordance with section 3 of Enclosure 4.

(3) Procedures. This provision does not bar appropriate disciplinary action or other administrative separation proceedings regardless of when the defect is raised. Separation is appropriate under this provision only in these circumstances:

(a) The enlisted Service member did not knowingly participate in creation of the defective enlistment.

(b) The enlisted Service member brings the defect to the attention of appropriate authorities within 30 days after the defect is discovered or reasonably should have been discovered by the Service member.

(c) The enlisted Service member requests separation instead of other authorized corrective action.

(d) The request otherwise meets such criteria as may be established by the Secretary concerned.

d. Fraudulent Entry Into the Military Services

(1) Basis. An enlisted Service member may be separated in accordance with section 1 of Enclosure 4 on the basis of procurement of a fraudulent enlistment, induction, or period of military service through any deliberate material misrepresentation, omission, or concealment that, if known at the time of enlistment, induction, or entry into a period of military service, might have resulted in rejection.

(2) Characterization or Description. Characterization of service or description of separation will be in accordance with section 3 of Enclosure 4. If the fraud involves concealment of a prior separation in which service was not characterized as honorable, characterization normally will be under other than honorable conditions.

(3) Procedures. The notification procedure in section 2 of Enclosure 5 will be used except as follows:

(a) Characterization of service under other than honorable conditions may not be issued unless the administrative board procedure in section 3 of Enclosure 5 is used.

(b) When the sole reason for separation is fraudulent entry, suspension of separation (see section 2 of Enclosure 4) is not authorized. When there are approved reasons for separation in addition to fraudulent entry, suspension of separation is authorized only in these circumstances:

1. A waiver of the fraudulent entry is approved.
2. The suspension pertains to reasons for separation other than the fraudulent entry.

(c) If the command recommends that the enlisted Service member be retained in military service, the initiation of separation processing is unnecessary in these circumstances:

1. The defect is no longer present; or
2. A waiver is obtained from appropriate authority.

e. Separation from the Delayed Entry Program

(1) Basis. A person who is in the Delayed Entry Program may be separated because of ineligibility for enlistment under standards prescribed by the Secretary concerned or upon his or her request when authorized by the Secretary concerned.

(2) Description of Separation. Entry-level separation.

(3) Procedure. The person will be notified of the proposed separation and the reasons for it.

a. The notice will be delivered personally or sent by registered or certified mail, return receipt requested, or by an equivalent form of notice if such service is not available by the U.S. mail at an address outside the United States. If the person fails to acknowledge receipt of notice, the individual who mails the notification will prepare a Sworn Affidavit of Service by Mail (see DoDI 1215.13 (Reference (H))) that will be inserted in the file along with Postal Service (PS) Form 3800, "U.S. Postal Service Certified Mail Receipt."

b. The person will be given an opportunity to submit to the separation authority a rebuttal statement by a specified date that is not less than 30 days from the date of delivery.

6. ENTRY-LEVEL PERFORMANCE AND CONDUCT

a. Basis

(1) An enlisted Service member may be separated while in entry-level status (see section 5 of this enclosure) when it is determined under the guidance in section 1 of Enclosure 4 that the enlisted Service member is unqualified for further military service by reason of unsatisfactory

performance, conduct, or both. Evidence of an enlisted Service member being unqualified may include lack of capability, lack of reasonable effort, failure to adapt to the military environment, or minor disciplinary infractions.

(2) When separation of an enlisted Service member in entry-level status is warranted by unsatisfactory performance, minor disciplinary infractions, or both, the enlisted Service member normally should be processed for entry-level separation. However, entry-level status does not preclude separation under another basis for separation authorized by this issuance when such separation is warranted by the circumstances of the case.

b. Counseling and Rehabilitation. Counseling and rehabilitation requirements are important aspects of this reason for separation. Separation processing may not be initiated until the enlisted Service member has been formally counseled concerning those deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. An enlisted Service member should not be separated when this is the sole reason unless appropriate efforts at rehabilitation have been made under standards prescribed by the Secretary concerned.

c. Description of Separation. Entry-level separation.

d. Procedures. The notification procedure in section 2 of Enclosure 5 will be used.

7. UNSATISFACTORY PERFORMANCE

a. Basis. An enlisted Service member may be separated when it is determined under the guidance in section 1 of Enclosure 4 that the enlisted Service member is unqualified for further military service by reason of unsatisfactory performance. This reason will not be used if the enlisted Service member is in entry-level status (see section 5 of this enclosure).

b. Counseling and Rehabilitation. Counseling and rehabilitation requirements are of particular importance to this reason for separation. Separation processing may not be initiated until the enlisted Service member has been formally counseled concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. An enlisted Service member should not be separated when unsatisfactory performance is the sole reason unless appropriate efforts at rehabilitation have been made in accordance with standards prescribed by the Secretary concerned.

c. Characterization or Description. The service will be characterized as honorable or general (under honorable conditions) in accordance with section 3 of Enclosure 4.

d. Procedures. The notification procedure (section 2 of Enclosure 5) will be used.

8. DRUG ABUSE REHABILITATION FAILURE

a. Basis

(1) An enlisted Service member who has been referred to a rehabilitation program for personal drug abuse may be separated for failure through inability or refusal to participate in, cooperate in, or successfully complete such a program in these circumstances:

(a) There is a lack of potential for continued military service; or

(b) Long-term rehabilitation is determined necessary and the enlisted Service member is transferred to a civilian medical facility for rehabilitation.

(2) Nothing in this provision precludes separation of an enlisted Service member who has been referred to such a program under any other provision of this instruction.

(3) Drug abuse rehabilitation failures will be reported separately from alcohol abuse rehabilitation failures. If separation is based on both, the primary basis will be used for reporting requirements.

(4) An enlisted Service member's voluntary submission to a DoD treatment and rehabilitation program and voluntarily disclosed evidence of prior personal drug use by the Service member as part of a course of treatment in such a program may not be used against the Service member on the issue of characterization as specified in accordance with subparagraph 3b(3)(f) of Enclosure 4.

b. Characterization or Description. When an enlisted Service member is separated under this provision, characterization of service as honorable or general (under honorable conditions) is authorized except when an entry-level separation is required in accordance with section 3 of Enclosure 4. The relationship between voluntary submission for treatment and the evidence that may be considered on the issue of characterization is set forth in subparagraph 3b(3)(f) of Enclosure 4. The relationship between mandatory urinalysis and the evidence that may be considered on the issue of characterization is in subparagraph 3b(3)(g) of Enclosure 4.

c. Procedures. The notification procedures in section 2 of Enclosure 5 will be used.

9. ALCOHOL ABUSE REHABILITATION FAILURE

a. Basis

(1) An enlisted Service member who has been referred to a program of rehabilitation for alcohol abuse may be separated for failure through inability or refusal to participate in, cooperate in, or successfully complete such a program in these circumstances:

(a) There is a lack of potential for continued military service; or

(b) Long-term rehabilitation is determined necessary and the enlisted Service member is transferred to a civilian medical facility for rehabilitation.

(2) Nothing in this provision precludes separation of an enlisted Service member who has been referred to such a program under any other provision of this instruction.

(3) Alcohol abuse rehabilitation failures will be reported separately from drug abuse rehabilitation failures. If separation is based on both, the primary basis will be used for reporting purposes.

b. Characterization or Description. When an enlisted Service member is separated under this provision, characterization of service as honorable or general (under honorable conditions) is authorized except when an entry-level separation is required in accordance with section 3 of Enclosure 4.

c. Procedures. The notification procedures in section 2 of Enclosure 5 will be used.

10. MISCONDUCT

a. Basis. An enlisted Service member may be separated for misconduct when it is determined under the guidance set forth in section 1 of Enclosure 4 that the enlisted Service member is unqualified for further military service by reason of one or more of the following circumstances:

(1) Minor Disciplinary Infractions. A pattern of misconduct consisting solely of minor disciplinary infractions. If separation of an enlisted Service member in entry-level status is warranted solely by reason of minor disciplinary infractions, the action should be processed under entry-level performance and conduct (see section 6 of this enclosure).

(2) A Pattern of Misconduct. A pattern of misconduct consisting of:

(a) Discreditable involvement with civil or military authorities; or

(b) Conduct prejudicial to good order and discipline.

(3) Commission of a Serious Offense. Commission of a serious military or civilian offense if a punitive discharge would be authorized for the same or a closely related offense in accordance with the Manual for Courts-Martial (Reference (*em*)).

(4) Civilian Conviction

(a) Conviction by civilian authorities or action taken that is tantamount to a finding of guilty, including similar adjudications in juvenile proceedings, and if these conditions are present:

1. A punitive discharge would be authorized for the same or a closely related offense in accordance with Reference (*em*); or

2. The sentence by civilian authorities includes confinement for 6 months or more without regard to suspension or probation.

(b) Separation processing may be initiated whether or not an enlisted Service member has filed an appeal of a civilian conviction or has stated an intention to do so. Execution of an approved separation should be withheld pending outcome of the appeal or until the time for appeal has passed, but the enlisted Service member may be separated before final action on the appeal upon request of the enlisted Service member or upon direction of the Secretary concerned.

b. Counseling and Rehabilitation. Separation processing for minor disciplinary infractions or a pattern of misconduct (see subparagraphs 10a(2)(a) and 10a(2)(b) of this enclosure) may not be initiated until the enlisted Service member has been formally counseled concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. If the sole basis of separation is commission of a serious offense (see subparagraph 10a(3) of this enclosure), or a civilian conviction (see subparagraph 10a(4)(a) of this enclosure), the counseling and rehabilitation requirements are not applicable.

c. Characterization or Description. Characterization of service will normally be under other than honorable conditions, but characterization as general (under honorable conditions) may be warranted under the guidelines in section 3 of Enclosure 4. For respondents who have completed entry-level status, characterization of service as honorable is not authorized unless the respondent's record is otherwise so meritorious that any other characterization clearly would be inappropriate. In such cases, separations for misconduct with an honorable characterization will be approved by a commander exercising general court-martial jurisdiction or higher authority as specified by the Secretary concerned.

(1) As an exception, the Secretary concerned may authorize general court-martial convening authorities to delegate authority to special court-martial convening authorities to approve separations with service characterized as honorable. This delegation may be done when the sole evidence of misconduct is command-directed urinalysis results that cannot be used for characterization of service, or when an administrative discharge board has recommended separation with an honorable discharge.

(2) When characterization of service under other than honorable conditions is not warranted for an enlisted Service member in entry-level status in accordance with section 3 of Enclosure 4, the separation will be described as an entry-level separation.

d. Procedures. The administrative board procedure in section 3 of Enclosure 5 will be used. However, use of the notification procedure in section 2 of Enclosure 5 is authorized if

characterization of service under other than honorable conditions is not warranted in accordance with section 3 of Enclosure 4.

11. SEPARATION IN LIEU OF TRIAL BY COURT-MARTIAL

a. Basis. Upon request by the enlisted Service member, the enlisted Service member may be separated in lieu of trial by court-martial if charges have been preferred with respect to an offense for which a punitive discharge is authorized, and it is determined that the enlisted Service member is unqualified for further military service under the guidance set forth in section 1 of Enclosure 4. This provision may not be used when Rule for Court-Martial 1003(d) of Reference (*om*) provides the sole basis for a punitive discharge unless the charges have been referred to a court-martial empowered to adjudge a punitive discharge.

b. Characterization or Description. Characterization of service normally will be under other than honorable conditions, but characterization as general (under honorable conditions) may be warranted under the guidelines in section 3 of Enclosure 4. For respondents who have completed entry-level status, characterization of service as honorable is not authorized unless the respondent's record is otherwise so meritorious that any other characterization clearly would be inappropriate. When characterization of service under other than honorable conditions is not warranted for an enlisted Service member in entry-level status in accordance with section 3 of Enclosure 4, the separation will be described as an entry-level separation.

c. Procedures

(1) The request for discharge must be submitted in writing and signed by the enlisted Service member.

(2) The enlisted Service member will be afforded an opportunity to consult with counsel qualified under section 827(b) of Reference (*jh*). These counsel qualifications are also in Article 27(b) of The Uniform Code of Military Justice (UCMJ) (Appendix 2 of Reference (*om*)). If the enlisted Service member refuses to consult with legal counsel, counsel will prepare a statement to this effect, which will be attached to the file to document that the enlisted Service member has waived the right to consult with counsel.

(3) Except when the enlisted Service member has waived the right to counsel, the request will be signed by counsel.

(4) In the written request, the enlisted Service member will state that he or she understands:

(a) The elements of the offense or offenses charged.

(b) That characterization of service under other than honorable conditions is authorized.

(c) The adverse nature of such a characterization and possible consequences thereof.

(5) The Secretary concerned will also require that one or both of these matters be included in the request:

(a) An acknowledgment of guilt of one or more of the offenses or any lesser included offenses for which a punitive discharge is authorized; or

(b) A summary of the evidence or list of documents (or copies thereof) provided to the enlisted Service member pertaining to the offenses for which a punitive discharge is authorized.

(6) The separation authority will be a commander exercising general court-martial jurisdiction or higher authority as specified by the Secretary concerned. As an exception, the Secretary concerned may authorize general court-martial convening authorities to delegate authority to the special court-martial convening authorities to approve requests for discharge in the case of enlisted Service members who:

(a) Have been absent without leave for more than 30 days.

(b) Have been dropped from the rolls of their units as absent in desertion.

(c) Have been returned to military control.

(d) Are assigned to a regional personnel control and/or separation processing facility.

(e) Are charged only with being absent without leave for more than 30 days.

(7) Statements by the enlisted Service member or the enlisted Service member's counsel submitted in connection with a request under this subsection are not admissible against the enlisted Service member in a court-martial except as authorized under Military Rule of Evidence 410 of Reference (~~em~~).

12. SECURITY

a. Basis. When retention is clearly inconsistent with the interest of national security, an enlisted Service member may be separated by reason of security and under conditions and procedures prescribed in ~~DoDD-5200.2~~ *DoDI 5200.02* (Reference (~~pn~~)).

b. Characterization or Description. Characterization of service or description of separation will be in accordance with section 3 of Enclosure 4.

c. Procedures. The procedures established by the Military Departments will be consistent with the procedures contained in this instruction insofar as practicable.

13. UNSATISFACTORY PARTICIPATION IN THE READY RESERVE

- a. Basis. An enlisted Service member may be separated for unsatisfactory participation in the Ready Reserve under criteria established by the Secretary concerned in accordance with Reference (mk).
- b. Characterization or Description. Characterization of service or description of separation will be in accordance with section 3 of Enclosure 4 of this instruction and Reference (n/).
- c. Procedures. The administrative board procedure (section 3 of Enclosure 5) will be used, except that the notification procedure (section 2 of Enclosure 5) may be used if characterization of service under other than honorable conditions is not warranted in accordance with section 3 of Enclosure 4.

14. SECRETARIAL PLENARY AUTHORITY

- a. Basis. Notwithstanding any limitation on separations provided in this instruction, the Secretary concerned may direct the separation of any enlisted Service member prior to expiration of term of service after determining it to be in the best interest of the Service.
- b. Characterization or Description. Honorable or general (under honorable conditions) as warranted in accordance with section 3 of Enclosure 4 unless an entry-level separation is required in accordance with section 3 of Enclosure 4.
- c. Procedures. The notification procedure in section 2 of Enclosure 5 will be used, except for subparagraph 2a(7) of Enclosure 5, regarding the procedure for requesting an administrative board, which is not applicable.

15. REASONS ESTABLISHED BY THE MILITARY DEPARTMENTS

- a. Basis. The Military Departments may establish additional reasons for separation for circumstances not otherwise provided for in this instruction to meet their specific requirements, subject to approval by the ASD(R&FM).
- b. Counseling and Rehabilitation. Separation processing may not be initiated until the enlisted Service member has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. An exception to these requirements may be granted when the Military Department concerned provides in its implementing document that counseling and rehabilitation requirements are not applicable for the specific reason for separation.
- c. Characterization or Description. Characterization of service or description of separation will be in accordance with section 3 of Enclosure 4.

d. Procedures. The procedures established by the Military Departments will be consistent with the procedures contained in this instruction insofar as practicable.

16. WEIGHT CONTROL FAILURE

a. Basis. An enlisted Service member may be separated for failure to meet the weight control standards established in accordance with DoDD 1308.1 (Reference (a)) when it is determined that the enlisted Service member is unqualified for further military service and meets both of the following conditions:

(1) The enlisted Service member is not medically diagnosed with a medical condition that precludes or interferes with weight control. Enlisted Service members with a medically diagnosed condition that precludes or interferes with weight control may be separated either through medical channels, if appropriate, or under the guidance in section 4 of this enclosure.

(2) The enlisted Service member fails to meet weight control standards, and the sole reason for separation is failure to meet the weight control standard.

b. Counseling and Rehabilitation. Separation processing may not be initiated until the enlisted Service member has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records.

c. Characterization or Description. Honorable, unless characterization of service as general under honorable conditions is warranted in accordance with section 3 of Enclosure 4 on the basis of numerical scores accumulated in a formal, Service-wide rating system that evaluated conduct and performance on a regular basis, or when an entry-level separation is required in accordance with section 6 of this enclosure.

d. Procedures. The notification procedure in section 3 of Enclosure 5 will be used.

ENCLOSURE 4

GUIDELINES ON SEPARATION AND CHARACTERIZATION

1. SEPARATION

a. Scope. This general guidance applies when referenced in Enclosure 3. Further guidance is set forth under the specific reasons for separation in Enclosure 3.

b. Guidance

(1) A substantial investment is made in the training of individuals enlisted or inducted into the Military Services. Thus, reasonable efforts at rehabilitation should be made prior to initiating separation proceedings for Service members who do not conform to required standards.

(2) Unless separation is mandatory, the potential for rehabilitation and further useful military service will be considered by the separation authority and, where applicable, the administrative board. If separation is warranted despite the potential for rehabilitation, consideration should be given to suspension of the separation, if authorized.

(3) Counseling and rehabilitation efforts are a prerequisite to initiation of separation proceedings only insofar as expressly set forth under specific requirements for separation in Enclosure 3. An alleged or established inadequacy in previous rehabilitative efforts does not provide a legal bar to separation.

(4) These factors may be considered on the issue of retention or separation, depending on the circumstances of the case:

(a) The seriousness of the circumstances forming the basis for initiation of separation proceedings, the effect of the enlisted Service member's continued retention on military discipline, good order, and morale.

(b) The likelihood of continuation or recurrence of the circumstances forming the basis for initiation of separation proceedings.

(c) The likelihood that the enlisted Service member will be a disruptive or undesirable influence in present or future duty assignments.

(d) The ability of the enlisted Service member to perform duties effectively in the present and in the future, including potential for advancement or leadership.

(e) The enlisted Service member's rehabilitative potential.

(f) The enlisted Service member's entire military record.

1. This may include:

- a. Past contributions to the Military Service, assignments, awards and decorations, evaluation ratings, and letters of commendation.
- b. Letters of reprimand or admonition, counseling records, records of nonjudicial punishment, records of conviction by court-martial and records of involvement with civilian authorities.
- c. Any other matter deemed relevant by the board, or the separation authority, based on the specialized training, duties, and experience of persons entrusted by this instruction with recommendations and decisions on the issue of separation or retention.

2. This guidance applies to consideration of matters under subparagraph 1b(4)(f)1 of this enclosure:

a. Adverse matters from a prior enlistment or period of military service, such as records of nonjudicial punishment and conviction by court-martial, may be considered only when such records would have a direct and strong probative value in determining whether separation is appropriate. The use of such records will ordinarily be limited to those cases involving patterns of conduct manifested over an extended period of time.

b. Isolated incidents and events that are remote in time normally have little probative value in determining whether administrative separation should be effected.

c. Limitations on Separation Actions. A Service member may not be separated on the basis of:

(1) Conduct that has been the subject of judicial proceedings resulting in acquittal or action having the effect thereof except:

(a) When such action is based on a judicial determination not going to the guilt or innocence of the respondent;

(b) When the judicial proceeding was conducted in a State or foreign court and the separation is approved by the Secretary concerned; or

(c) When the acquittal from the judicial proceedings was based on a finding of not guilty only by reason of lack of mental responsibility. Enlisted Service members in this category normally will be separated under Secretarial plenary authority (see section 15 of Enclosure 3) unless separation for disability (see section 4 of Enclosure 3) is appropriate.

(2) Conduct that has been the subject of a prior administrative board action in which the Board entered an approved finding that the evidence did not sustain the factual allegations

concerning the conduct, except when the conduct is the subject of a rehearing ordered on the basis of fraud or collusion; or

(3) Conduct that has been the subject of an administrative separation proceeding resulting in a final determination by a separation authority that the enlisted Service member should be retained, except:

(a) When there is subsequent conduct or performance forming the basis, in whole or in part, for a new proceeding;

(b) When there is new or newly discovered evidence that was not reasonably available at the time of the prior proceeding; or

(c) When the conduct is the subject of a rehearing ordered on the basis of fraud or collusion.

2. SUSPENSION OF SEPARATION

a. Suspension

(1) Unless prohibited by this instruction, a separation may be suspended for a specified period of not more than 12 months by the separation authority or higher authority if the circumstances of the case indicate a reasonable likelihood of rehabilitation.

(2) During the period of suspension, the enlisted Service member will be afforded an opportunity to meet appropriate conduct, disciplinary, and performance standards.

(3) Unless sooner vacated or remitted, execution of the approved separation will be remitted upon completion of the probationary period, upon termination of the enlisted Service member's enlistment or period of obligated service, or upon decision of the separation authority that the goal of rehabilitation has been achieved.

b. Action During the Period of Suspension

(1) During the period of suspension, if there are further grounds for separation under Enclosure 3, one or more of these actions may be taken:

(a) Disciplinary action;

(b) New administrative action; or

(c) Vacation of the suspension accompanied by execution of the separation if the enlisted Service member engages in conduct similar to that for which separation was approved

(but suspended) or otherwise fails to meet appropriate standards of conduct and duty performance.

(2) Prior to vacation of a suspension, the enlisted Service member will be notified in writing of the basis for the action and will be afforded the opportunity to consult with counsel, as provided in subparagraph 2a(6) of Enclosure 5, and to submit a statement in writing to the separation authority.

(a) The respondent will be provided a reasonable period of time, not less than 2 working days, to act on the notice.

(b) If the respondent identifies specific legal issues for consideration by the separation authority, the matter will be reviewed by a judge advocate or civilian lawyer employed by the U.S. Government before final action by the separation authority.

3. CHARACTERIZATION OF SERVICE OR DESCRIPTION OF SEPARATION

a. Types of Characterization or Description

(1) At separation, these types of characterization of service or description of separation are authorized under this instruction:

(a) Separation with characterization of service as honorable, general (under honorable conditions), or under other than honorable conditions.

(b) Entry-level separation.

(c) Order of release from the custody and control of the Military Services by reason of void enlistment or induction.

(d) Separation by being dropped from the rolls of the Military Service.

(2) Any of the types of separation listed may be used in appropriate circumstances unless a limitation is set forth in this enclosure or in Enclosure 3, which explains reasons for separation.

b. Characterization of Service

(1) General Considerations

(a) Characterization at separation will be based upon the quality of the Service member's service, including the reason for separation and guidance in subparagraph 3b(2) of this enclosure, subject to the limitations set forth under various reasons for separation in Enclosure 3. The quality of service will be determined in accordance with standards of acceptable personal conduct and performance of duty for military personnel. These standards are found in Reference

(em), directives and regulations issued by the Department of Defense and the DoD Military Departments, and the time-honored customs and traditions of military service.

(b) The quality of service of an enlisted Service member on active duty or active duty for training is adversely affected by conduct that is of a nature to bring discredit on the Military Services or is prejudicial to good order and discipline, regardless of whether UCMJ jurisdiction is exercised. Characterization may be based on conduct in the civilian community, and the burden is on the respondent to demonstrate that such conduct did not adversely affect the respondent's service.

(c) The reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. In general, characterization will be based on a pattern of behavior rather than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(d) Due consideration will be given to the enlisted Service member's age, length of service, grade, aptitude, physical and mental condition, and the standards of acceptable conduct and performance of duty.

(2) Types of Characterization

(a) Honorable. The honorable characterization is appropriate when the quality of the enlisted Service member's service generally has met the standards of acceptable conduct and performance of duty for military personnel, or is otherwise so meritorious that any other characterization would be clearly inappropriate. In the case of an honorable discharge, a DD Form 256, "Discharge Certificate, Honorable," will be awarded and a notation will be made on the appropriate copies of the DD Form 214/5 "Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)," in accordance with DoDI 1336.01 (Reference (fp)).

(b) General (Under Honorable Conditions). If an enlisted Service member's service has been honest and faithful, it is appropriate to characterize that service as general (under honorable conditions). Characterization of service as general (under honorable conditions) is warranted when the positive aspects of the enlisted Service member's conduct or performance of duty outweigh negative aspects of the enlisted Service member's conduct or performance of duty as documented in their service record.

(c) Under Other Than Honorable Conditions

1. This characterization may be issued:

a. When the reason for separation is based on a pattern of behavior that constitutes a significant departure from the conduct expected of enlisted Service members of the Military Services.

b. When the reason for separation is based on one or more acts or omissions that constitute a significant departure from the conduct expected of enlisted Service members of the Military Services. Examples of factors that may be considered include the use of force or violence to produce serious bodily injury or death; abuse of a special position of trust; disregard by a superior of customary superior-subordinate relationships; acts or omissions that endanger the security of the United States or the health and welfare of other Service members of the Military Services; and deliberate acts or omissions that seriously endanger the health and safety of other persons.

2. This characterization is authorized only if the Service member has been afforded the opportunity to request an administrative board action, except as provided in section 11 of Enclosure 3 regarding separation in lieu of trial by court-martial.

(3) Limitations on Characterization. Except as otherwise provided in section 3 of this enclosure, characterization will be determined solely by the enlisted Service member's military record during the current enlistment or period of service to which the separation pertains, plus any extensions thereof prescribed by law or regulation or effected with the consent of the enlisted Service member.

(a) Prior service activities, including records of conviction by court-martial, records of absence without leave, or commission of other offenses for which punishment was not imposed will not be considered on the issue of characterization. To the extent that such matters are considered on the issue of retention or separation (see paragraph 1b of this enclosure), the record of proceedings may reflect express direction that such information will not be considered on the issue of characterization.

(b) Pre-service activities may not be considered on the issue of characterization except in a proceeding concerning fraudulent entry into military service (see subparagraph 5.d. of Enclosure 3) and evidence of pre-service misrepresentations about matters that would have precluded, postponed, or otherwise affected the enlisted Service member's eligibility for enlistment or induction.

(c) The limitations in subparagraph 1c of this enclosure as to matters that may be considered on the issue of separation are applicable to matters that may be considered on the issue of characterization.

(d) When the sole basis for separation is a serious offense that resulted in a conviction by a court-martial authorized to impose a punitive discharge, and a punitive discharge was not imposed, the enlisted Service member's service may not be characterized under other than honorable conditions unless such characterization is approved by the Secretary concerned.

(e) Conduct in the civilian community of an enlisted Service member of a Reserve Component who is not on active duty or active duty for training may form the basis for characterization under other than honorable conditions only if such conduct directly affects the performance of the enlisted Service member's military duties. Such conduct may form the basis

of characterization as general (under honorable conditions) only if such conduct has an adverse impact on the overall effectiveness of the service, including military morale and efficiency.

(f) A Service member's voluntary submission to a DoD treatment and rehabilitation program and voluntarily disclosed evidence of prior personal drug use by the enlisted Service member as part of a course of treatment in such a program may not be used against the enlisted Service member on the issue of characterization. This limitation does not apply to:

1. The introduction of evidence for impeachment or rebuttal purposes in any proceeding in which the evidence of drug abuse (or lack thereof) has been introduced first by the Service member.

2. Taking action based on independently derived evidence, including evidence of continued drug abuse after initial entry into a treatment and rehabilitation program.

(g) The results of mandatory urinalysis may be used on the issue of characterization except as provided in DoDI 1010.01 (Reference (~~sq~~)).

c. Uncharacterized Separation

(1) Entry-Level Separation

(a) A separation will be described as an entry-level separation if separation processing is initiated while an enlisted Service member is in entry-level status, except when:

1. Characterization under other than honorable conditions is authorized under the reason for separation (Enclosure 3) and is warranted by the circumstances of the case; or

2. The Secretary concerned, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual military duty. The characterization is authorized when the Service member is separated under Enclosure 3 by reason of selected changes in service obligation (see section 2 of Enclosure 3), convenience of the U.S. Government (see section 3 of Enclosure 3), disability (see section 4 of Enclosure 3), secretarial plenary authority (see section 14 of Enclosure 3), or an approved reason established by the Military Department (see section 15 of Enclosure 3).

(b) In time of mobilization or in other appropriate circumstances, the ASD(R&FM) may authorize the Secretary concerned to delegate the authority in subparagraph 3c(1)(a)2 of this enclosure (concerning the honorable characterization) to a general court-martial convening authority with respect to Service members serving in operational units.

(c) With respect to administrative matters outside this instruction that require a characterization as honorable or general, an entry-level separation will be treated as the required characterization. This provision does not apply to administrative matters that expressly require

different treatment of an entry-level separation except as provided in subparagraph 3c(1)(d) of this enclosure.

(d) In accordance with section 12685 of Reference (j/h), an entry-level separation of a Service member of a Reserve Component for cause, except under section 12684 of Reference (j/h), will be “under honorable conditions.”

(2) Void Enlistments or Inductions. Under void enlistments or inductions, an enlisted Service member will not receive a discharge, characterization of service at separation, or an entry-level separation, except when a constructive enlistment arises and such action is required under subparagraph 3c(2)(c) of this enclosure. If characterization or an entry-level separation is not required, the separation will be described as an order of release from custody or control of the Military Services.

(a) An enlistment is void:

1. If it was effected without the voluntary consent of a person who has the capacity to understand the significance of enlisting in the Military Services, including enlistment of a person who is intoxicated or insane at the time of enlistment, in accordance with section 504 of Reference (j/h) and Article 2(b) in Appendix 2 of Reference (om).

2. If the person is under 17 years of age (section 505 of Reference (j/h)).

3. If the person is a deserter from another Military Service in accordance with section 504 of Reference (j/h).

(b) Although an enlistment may be void at its inception, a constructive enlistment will arise in the case of a person serving with a Military Service who:

1. Submitted voluntarily to military authority.

2. Met the mental competency and minimum age qualifications of sections 504 and 505 of Reference (j/h) at the time of voluntary submission to military authority.

3. Received military pay or allowances.

4. Performed military duties.

(c) If an enlistment that is void at its inception is followed by a constructive enlistment within the same term of service, characterization of service or description of separation will be in accordance with subparagraph 3b or subparagraph 3c(1) of this enclosure, as appropriate.

1. If the enlistment was void by reason of desertion from another Military Service, the enlisted Service member will be separated by an order of release from the custody and control of the Service regardless of any subsequent constructive enlistment.

2. The occurrence of such a subsequent constructive enlistment does not preclude the Military Departments, in appropriate cases, from either retaining the enlisted Service member or separating the enlisted Service member in accordance with section 5 of Enclosure 3, on the basis of the circumstances that initiated the original void enlistment or upon any other basis for separation provided in this issuance.

(3) Dropping from the Rolls. An enlisted Service member may be dropped from the rolls of the Service when such action is authorized by the Military Department concerned and a characterization of service or other description of separation is not authorized or warranted.

ENCLOSURE 5

PROCEDURES FOR SEPARATION

1. SCOPE

a. The supplementary procedures in this enclosure are applicable only when required under a specific reason for separation as set forth in Enclosure 3.

b. When an enlisted Service member is processed on the basis of multiple reasons for separation, these guidelines apply to procedural requirements (including procedural limitations on characterization of service or description of separation):

(1) The requirements for each reason will be applied to the extent practicable.

(2) If a reason for separation set forth in the notice of proposed action requires processing under the administrative board procedure, the entire matter will be processed in accordance with section 3 of this enclosure.

(3) If more than one reason for separation is approved, the guidance on characterization that provides the greatest latitude will apply.

(4) When there is any other clear conflict between a specific requirement applicable to one reason and a general requirement applicable to another reason, the specific requirement will be applied.

(5) If a conflict in separation procedures cannot be resolved by applying the guidance in subparagraphs 1b(1) through 1b(4) of this enclosure, the procedure deemed by the separation authority to be most favorable to the respondent will be used.

2. NOTIFICATION PROCEDURE

a. Notice. If the notification procedure is initiated under Enclosure 3, the respondent will be notified in writing of:

(1) The basis of the proposed separation, including the circumstances upon which the action is based and a reference to the applicable provisions of the Military Department's implementing regulation.

(2) Whether the proposed separation could result in discharge, release from active duty to a Reserve Component, transfer from the Selected Reserve to the IRR, release from custody or control of the Military Services, or other form of separation.

(3) The least favorable characterization of service or description of separation authorized for the proposed separation.

(4) The right to obtain copies of documents that will be forwarded to the separation authority supporting the basis of the proposed separation. Classified documents may be summarized.

(5) The respondent's right to submit statements.

(6) The respondent's right to consult with counsel qualified pursuant to Appendix 2, Article 27(b), of Reference (~~om~~). Non-lawyer counsel may be appointed when the respondent is deployed aboard a vessel or in similar circumstances of distance from sufficient judge advocate resources as determined under standards and procedures specified by the Secretary concerned. The respondent may also consult with civilian counsel retained at the Service member's own expense.

(7) If the respondent has 6 or more years of total active and reserve military service, the right to request an administrative board action (see section 3 of this enclosure).

(8) The right to waive subparagraphs 2a(4), 2a(5), 2a(6), or 2a(7) of this enclosure after being afforded a reasonable opportunity to consult with counsel and advised that failure to respond will constitute a waiver of the right.

b. Additional Notice Requirements

(1) If separation processing is initiated on the basis of more than one reason in accordance with Enclosure 3, the requirements of subparagraph 2a(1) of this enclosure apply to all proposed reasons for separation.

(2) If the respondent is in civil confinement, absent without leave, or in a Reserve Component not on active duty, the relevant notification procedures in paragraphs 4, 5, or 6 of this enclosure apply.

(3) Additional notification requirements in sections 3 and 4 of Enclosure 3 apply when characterization of service as general (under honorable conditions) is authorized and the enlisted Service member is processed for separation by reason of convenience of the U.S. Government or disability.

c. Response. The respondent will be provided a reasonable period of time, but not less than 2 working days, to act on the notice. An extension may be granted upon a timely showing of good cause by the respondent. The decision of the respondent on each of the rights set forth in subparagraphs 2a(4) through 2a(8) of this enclosure, and applicable provisions referenced in section 2 of this enclosure, will be recorded and signed by the respondent and counsel, subject to the following limitations:

(1) If notice by mail is authorized in accordance with sections 4, 5, or 6 of this enclosure, and the respondent fails to acknowledge receipt or submit a timely reply, that fact will constitute a waiver of rights and will be documented.

(2) If the respondent declines to respond as to the selection of rights, such declination will constitute a waiver of rights and will be documented. If the respondent indicates that one or more of the rights will be exercised, the selection of rights will be documented.

d. Separation Authority

(1) The separation authority for actions initiated under the notification procedure will be a special court-martial convening authority or higher authority.

(a) Subject to approval by the ASD(R&FM), the Secretary concerned may authorize a commanding officer in grade O-5 or above, or a commanding officer in the grade of O-4 who is on an approved list for promotion to O-5 and who is assigned to command a unit authorized a commanding officer in the grade of O-5 or above, with a judge advocate or other legal advisor available to the command, to act as a separation authority for a specified reason for separation.

(b) If the case was initiated under the administrative board procedure and the respondent waived the right to a hearing in accordance with subparagraph 3d of this enclosure, the separation authority will be an official designated under subparagraph 3f of this enclosure.

(2) The action of the separation authority will be recorded.

(3) The separation authority will determine whether there is sufficient evidence to verify the allegations set forth in the notification of the basis for separation. If an allegation is not supported by a preponderance of the evidence, it may not be used as a basis for separation.

(4) If there is a sufficient factual basis for separation, the separation authority will determine whether separation is warranted under the guidance in sections 1 and 2 of Enclosure 4. On the basis of that guidance, the separation authority will direct one of these actions:

(a) Retention.

(b) Separation for a specific reason in accordance with Enclosure 3.

(c) Suspended separation, in accordance with the guidance in paragraph 2d of this enclosure.

(5) If the separation authority directs separation or suspended separation on the basis of more than one reason in accordance with Enclosure 3, the separation authority will designate the most appropriate basis as the primary reason for reporting purposes.

(6) If separation or a suspended separation is directed, the separation authority will assign a characterization or description in accordance with section 3 of Enclosure 4.

(7) Except when characterization under other than honorable conditions is directed or the enlisted Service member is separated on the basis of a void enlistment or induction, the Secretary concerned may authorize the separation authority or higher authority to make a recommendation or determination as to whether the respondent should be retained in the Ready Reserve as a mobilization asset to fulfill the respondent's total military service obligation. This option applies in cases involving separation from active duty or from the Selected Reserve. Section 5 of this enclosure is applicable if such action is approved.

3. ADMINISTRATIVE BOARD PROCEDURE

a. Notice. If an administrative board is required, the respondent will be notified in writing of:

(1) The basis of the proposed separation, including the circumstances upon which the action is based and reference to the applicable provisions of the Military Department's implementing regulation.

(2) Whether the proposed separation could result in discharge, release from active duty to a Reserve Component, transfer from the Selected Reserve to the IRR, release from the custody or control of the Military Services, or other form of separation.

(3) The least favorable characterization of service or description of separation authorized for the proposed separation.

(4) The respondent's right to consult with counsel as prescribed in subparagraph 2a(6) of this enclosure. A non-lawyer counsel may not represent a respondent before an administrative board unless:

(a) The respondent expressly declines appointment of counsel qualified under Appendix 2, Article 27(b), of Reference (*em*) and requests a specific non-lawyer counsel; or

(b) The separation authority assigns non-lawyer counsel as assistant counsel.

(5) The right to obtain copies of documents that will be forwarded to the separation authority supporting the basis of the proposed separation. Classified documents may be summarized.

(6) The respondent's right to request a hearing before an administrative board.

(7) The respondent's right to present written statements instead of board proceedings.

(8) The respondent's right to representation at the administrative board either by military counsel appointed by the convening authority or by military counsel of the respondent's own

choice, if counsel of choice is determined to be reasonably available under regulations of the Secretary concerned, but not both.

(9) The right to representation at the administrative board by civilian counsel at the respondent's own expense.

(10) The right to waive the rights in subparagraphs 3a(4) through 3a(9) of this enclosure.

(11) That failure to respond after being afforded a reasonable opportunity to consult with counsel constitutes a waiver of the rights in subparagraphs 3a(4) through 3a(9) of this enclosure.

(12) Failure to appear without good cause at a hearing constitutes waiver of the right to be present at the hearing.

b. Additional Notice Requirements

(1) If separation processing is initiated on the basis of more than one reason under Enclosure 3, the requirements of subparagraph 3a(1) of this enclosure apply to all proposed reasons for separation.

(2) If the respondent is in civil confinement, absent without leave, or in a Reserve Component not on active duty, the relevant notification procedures in sections 4, 5, or 6 of this enclosure apply.

(3) Additional notification requirements in sections 3 and 4 of Enclosure 3 apply when characterization of service as general (under honorable conditions) is authorized and the enlisted Service member is processed for separation by reason of convenience of the U.S. Government or disability.

c. Response. The respondent will be provided a reasonable period of time, but not less than 2 working days, to act on the notice. An extension may be granted upon a timely showing of good cause by the respondent. The decision of the respondent on each of the rights set forth in subparagraphs 3a(4) through 3a(9) of this enclosure, and applicable provisions referenced in paragraph 2 of this enclosure, will be recorded and signed by the respondent and counsel, subject to these limitations:

(1) If notice by mail is authorized in accordance with sections 4, 5, or 6 of this enclosure and the respondent fails to acknowledge receipt or submit a timely reply, that fact will constitute a waiver of rights and will be documented.

(2) If the respondent declines to respond as to the selection of rights, such declination will constitute a waiver of rights and will be documented. If the respondent indicates that one or more of the rights will be exercised, the selection of rights will be documented.

d. Waiver

(1) If the right to a hearing before an administrative board is waived, the case will be processed in accordance with subparagraph 2d of this enclosure regarding notification procedures. The separation authority in such cases will be an official designated in accordance with subparagraph 3f of this enclosure.

(2) When authorized by the Secretary concerned, a respondent entitled to an administrative board hearing may exercise a conditional waiver after a reasonable opportunity to consult with counsel, in accordance with subparagraph 3a(4) of this enclosure. A conditional waiver is a statement initiated by a respondent waiving the right to a board proceeding contingent upon receiving a characterization of service or description of separation higher than the least favorable characterization or description authorized for the basis of separation set forth in the notice to the respondent.

e. Hearing Procedure. If a respondent requests a hearing before an administrative board, these procedures are applicable:

(1) Composition

(a) The convening authority will appoint to the administrative board at least three experienced commissioned, warrant, or noncommissioned officers. Enlisted personnel appointed to the board will be in grade E-7 or above and will be senior to the respondent. At least one member of the board will be serving in the grade of O-4 or higher, and a majority will be commissioned or warrant officers. The senior member will be the president of the board. The convening authority may also appoint a non-voting recorder to the board. A non-voting legal advisor may be appointed to assist the board if authorized by the Secretary concerned.

(b) If the respondent is an enlisted member of a Reserve Component, the board will include at least one Reserve officer as a voting member. Additionally, all board members will be commissioned officers if an “under other than honorable conditions” characterization from the Reserve Component is authorized to be issued. Voting board members will be senior to the respondent’s reserve grade.

(c) The convening authority will ensure that the opportunity to serve on administrative boards is given to women and minorities. However, the mere appointment or failure to appoint a member of such a group to the board does not provide a basis for challenging the proceeding.

(d) The respondent may challenge a voting member of the board or the legal advisor, if any, for cause only.

(2) Presiding Officer. The president will preside and rule finally on all matters of procedure and evidence, but the rulings of the president may be overruled by a majority of the board. If appointed, the legal advisor will rule finally on all matters of evidence and challenges except challenges to himself or herself.

(3) Witnesses

(a) The respondent may request the attendance of witnesses in accordance with the implementing instructions of the Military Department concerned.

(b) In accordance with such instructions, the respondent may submit a written request for temporary duty or invitational travel orders for witnesses. Such a request will contain:

1. A synopsis of the testimony that the witness is expected to give.
2. An explanation of the relevance of such testimony to the issues of separation or characterization.
3. An explanation as to why written or recorded testimony would not be sufficient to provide for a fair determination of the issues of separation and characterization.

(c) The convening authority may authorize expenditure of funds for production of witnesses only if the presiding officer (after consultation with a judge advocate) or the legal advisor (if appointed) determines that:

1. The testimony of a witness is not cumulative.
2. The personal appearance of the witness is essential to a fair determination on the issues of separation and characterization.
3. Written or recorded testimony will not adequately accomplish the same objective.
4. The need for live testimony is substantial, material, and necessary for a proper disposition of the case.
5. The significance of the personal appearance of the witness, when balanced against the practical difficulties in producing the witness, favors production of the witness. Factors to be considered in relation to the balancing test include, but are not limited to, the cost of producing the witness; the timing of the request for production of the witness; the potential delay in the proceeding that may be caused by producing the witness; or the likelihood of significant interference with military operational deployment, mission accomplishment, or essential training.

(d) If the convening authority determines that the personal testimony of a witness is required, the hearing will be postponed or continued if necessary to permit the attendance of the witness.

(e) The hearing will be continued or postponed to provide the respondent with a reasonable opportunity to obtain a written statement from the witness if a witness requested by the respondent is unavailable:

1. When the presiding officer or the legal officer (if appointed) determines that the personal testimony of the witness is not required;

2. When the commanding officer of a military witness determines that military necessity precludes the witness' attendance at the hearing; or

3. When a civilian witness declines to attend the hearing.

(f) Subparagraph 3e(3) of this enclosure does not authorize a federal employee to decline to appear as a witness if directed to do so in accordance with applicable procedures of the employing agency.

(4) Record of Proceedings. In cases where the board recommends separation, the record of the proceedings will be kept in summarized form unless a verbatim record is required by the Secretary concerned. In cases where the board recommends retention, a record of the proceedings is optional unless required by the Secretary concerned. However, a summarized or verbatim record will be prepared in any case where the board recommends retention and the separation authority elects to forward the matter to the Secretary concerned in accordance with subparagraph 3f(4)(b)2 of this enclosure. The board reporter will retain all materials necessary to prepare a transcript should the separation authority elect to forward the case to the Secretary. In all cases, the findings and recommendations of the board will be in verbatim form.

(5) Presentation of Evidence. The rules of evidence for courts-martial and other judicial proceedings are not applicable before an administrative board. However, reasonable restrictions will be observed concerning relevancy and competency of evidence.

(6) Rights of the Respondent

(a) The respondent may testify in his or her own behalf, subject to the provisions of Appendix 2, Article 31(a), of Reference (~~em~~).

(b) At any time during the proceedings, the respondent or counsel may submit written or recorded matter for consideration by the board.

(c) The respondent or counsel may call witnesses in his or her behalf.

(d) The respondent or counsel may question any witness who appears before the board.

(e) The respondent or counsel may present argument prior to the board convening in closed session for deliberation on findings and recommendations.

(7) Findings and Recommendations

(a) The board will determine its findings and recommendations in closed sessions. Only voting members of the board will be present.

(b) The board will determine whether each allegation in the notice of proposed separation is supported by a preponderance of the evidence. If more than one reason was contained in the notice, there will be a separate determination for each reason.

(c) The board will make recommendations on:

1. Retention or Separation. The board will recommend retention or separation in accordance with the guidance in section 1 of Enclosure 4.

2. Suspension of Separation. If the board recommends separation, it may recommend that the separation be suspended in accordance with section 2 of Enclosure 4, but the recommendation of the board as to suspension is not binding on the separation authority.

3. Characterization of Service or Description of Separation. If separation or suspended separation is recommended, the board will recommend a characterization of service, or description of separation, as authorized in Enclosure 3 in accordance with the guidance in section 3 of Enclosure 4.

4. Transfer to the Ready Reserve. Except when the board has recommended characterization of service under other than honorable conditions, the Secretary concerned may authorize the board to make a recommendation as to whether the respondent should be retained in the Ready Reserve as a mobilization asset to fulfill the respondent's total military service obligation. This option applies to cases involving separation from active duty or from the Selected Reserve. Section 5 of this enclosure is applicable if the action is approved.

f. Separation Authority

(1) The separation authority for actions initiated under the administrative board procedure will be a general court-martial convening authority or higher authority. The Secretary concerned may also authorize a commanding officer in grade O-7 or above with a judge advocate or other legal advisor available to his command to act as a separation authority in specified circumstances.

(a) When an administrative board recommends characterization of service as honorable or general (under honorable conditions), the separation authority may be exercised by an officer designated in accordance with subparagraph 2d of this enclosure.

(b) When the case has been initiated under the notification procedure and the hearing is a result of a request in accordance with subparagraph 2a(7) of this enclosure, the separation authority will be as designated in subparagraph 2d of this enclosure.

(2) In every case in which characterization of service under other than honorable conditions is recommended, the record of the board's proceedings will be reviewed by a judge advocate or civilian attorney employed by the Military Department concerned prior to action by the separation authority. Such review is not required when another characterization is

recommended unless the respondent identifies specific legal issues for consideration by the separation authority.

(3) The respondent will be provided with a copy of the board's findings and recommendations.

(4) The separation authority will take action in accordance with this subparagraph, the requirements in Enclosure 3 with respect to the reason for separation, and the guidance in Enclosure 4 on separation and characterization.

(a) If the separation authority approves the recommendations of the board on the issue of separation, characterization, or both, this constitutes approval of the board's findings and recommendations in accordance with subparagraph 3e(7) of this enclosure unless the separation authority expressly modifies such findings or recommendations.

(b) If the board recommends retention, the separation authority may take one of these actions:

1. Approve the recommendation.

2. Forward the matter to the Secretary concerned with a recommendation for separation based upon the circumstances of the case. In such a case, the Secretary may direct retention or separation. If the Secretary approves separation, the characterization of service or description of separation will be honorable, general (under honorable conditions), or an entry-level separation in accordance with the guidance in section 3 of Enclosure 4.

(c) If the board recommends separation, the separation authority may:

1. Approve the board's recommendations;

2. Approve the board's recommendations, but modify the recommendations by, when appropriate, approving the separation but suspending execution as provided in section 2 of Enclosure 4; changing the character of service or description of separation to a more favorable characterization or description; or changing the board's recommendation, if any, concerning transfer to the IRR.

3. Disapprove the board's recommendations and retain the respondent.

4. If the separation authority approves the board's findings and recommendations in whole or in part with respect to more than one reason in accordance with Enclosure 3, the separation authority will designate the most appropriate basis as the primary reason for reporting purposes.

5. If the separation authority finds legal prejudice to a substantial right of the respondent or determines that the findings of the board have been obtained by fraud or collusion, the case may be referred to a new board. No member of the new board will have served on a

prior board that considered the case. The separation authority may not approve findings and recommendations less favorable to the respondent than those rendered by the previous board unless the separation authority finds that fraud or collusion in the previous board is attributable to the respondent or an individual acting on the respondent's behalf.

4. ADDITIONAL PROVISIONS CONCERNING ENLISTED SERVICE MEMBERS CONFINED BY CIVIL AUTHORITIES

a. If proceedings under this enclosure have been initiated against a respondent confined by civil authorities, the case may be processed in the absence of the respondent. Paragraph 3a of this enclosure is not applicable except insofar as such rights can be exercised by counsel on behalf of the respondent.

b. These requirements apply:

(1) The notice will contain the matter set forth in paragraphs 2a or 3a of this enclosure regarding notice in the notification procedure or administrative board procedure, as appropriate. The notice will be delivered personally to the respondent or sent by registered mail or certified mail, return receipt requested (or by an equivalent form of notice if such service is not available for delivery by U.S. mail at an address outside the United States). If the respondent refuses to acknowledge receipt of notice, the individual who mails the notification will prepare a sworn affidavit of Service by mail (see Reference (H)), which will be inserted in the respondent's official military personnel file together with PS Form 3800.

(2) If delivered personally, receipt will be acknowledged in writing by the respondent. If the respondent does not acknowledge receipt, the notice will be sent by mail as provided in subparagraph 4b(1) of this enclosure.

(3) The notice will state that the action has been suspended until a specific date (not less than 30 days from the date of delivery) in order to give the respondent the opportunity to exercise the rights set forth in the notice. If respondent does not reply by that date, the separation authority will take appropriate action in accordance with paragraph 2d of this enclosure.

(4) The name and address of the military counsel appointed for consultation will be specified in the notice.

(5) If the case involves entitlement to an administrative board, the respondent will be notified that the board will proceed in the respondent's absence and that the case may be presented on the respondent's behalf by counsel for the respondent.

5. ADDITIONAL REQUIREMENTS FOR CERTAIN ENLISTED SERVICE MEMBERS OF RESERVE COMPONENTS

a. Service Members of Reserve Components not on Active Duty

(1) If proceedings have been initiated against an enlisted Service member of a Reserve Component not on active duty, the case may be processed in the absence of the enlisted Service member in these circumstances:

(a) At the request of the enlisted Service member;

(b) If the enlisted Service member does not respond to the notice of proceedings on or before the suspense date provided therein; or

(c) If the enlisted Service member fails to appear at a hearing as provided in subparagraph 3a(12) of this enclosure.

(2) The notice will contain the matters set forth in paragraphs 2a or 3a of this enclosure, as appropriate.

(3) If the action involves a transfer to the IRR under circumstances in which the procedures in this enclosure are applicable, the enlisted Service member will be notified that the character of service upon transfer to the IRR will also constitute the character of service upon discharge at the completion of the military service obligation unless specified conditions established by the Secretary concerned are met.

b. Transfer to the IRR. Upon transfer to the IRR, the enlisted Service member will be notified of:

(1) The character of service upon transfer from active duty or the Selected Reserve to the IRR and that the character of service upon completion of the military service obligation will be the same unless specified conditions established by the Secretary concerned are met.

(2) The date upon which the military service obligation will expire.

(3) The date by which the enlisted Service member must submit evidence of satisfactory completion of the specified conditions.

c. Notification of Admin Board. If the enlisted Service member submits evidence of completion of the specified conditions but the Military Department proposes to issue a discharge other than an honorable discharge, the notification procedure will be used. An administrative board is not required at this point notwithstanding the enlisted Service member's years of service.

d. Service Expiration. If the enlisted Service member does not submit such information on or before the date specified in the notice, no further proceedings are required. The character of discharge at the completion of the military service obligation will be the same as the character of service upon transfer from active duty or the Selected Reserve to the IRR.

e. Notice to Member. These requirements apply to the notices required by paragraphs 5a and 5b of this enclosure.

(1) Reasonable effort should be made to furnish copies of the notice to the enlisted Service member through personal contact by a representative of the command. In such a case, a written acknowledgment of the notice will be obtained.

(2) If the enlisted Service member cannot be contacted or refuses to acknowledge receipt of the notice, the notice will be sent by registered or certified mail, return receipt requested, (or by an equivalent form of notice if such service by U.S. mail is not available for delivery at an address outside the United States) to the most recent address furnished by the Service member as an address for receipt or forwarding of official mail. The individual who mails the notification will prepare a sworn affidavit of service by mail (see Reference (~~h~~)), which will be inserted in the respondent's official military personnel file together with PS Form 3800.

6. ADDITIONAL REQUIREMENTS FOR ENLISTED SERVICE MEMBERS BEYOND MILITARY CONTROL BY REASON OF UNAUTHORIZED ABSENCE

a. Determination of Applicability. If the general court-martial convening authority or higher authority determines that separation is otherwise appropriate in accordance with this instruction, an enlisted Service member may be separated without return to military control in one or more of these circumstances:

(1) Absence without authority after being sent notice of initiation of separation processing.

(2) When prosecution of an enlisted Service member who is absent without authority appears to be barred by the statute of limitations in accordance with section 843 of Reference (~~h~~) or Appendix 2, Article 43, of Reference (~~om~~).

(3) When an enlisted Service member who is an alien is absent without leave and appears to have gone to a foreign country where the United States has no authority to apprehend the Service member under a treaty or other agreement.

b. Notice. Prior to execution of the separation in accordance with subparagraphs 6a(1), 6a(2) or 6a(3) of this enclosure, the enlisted Service member will be notified of the imminent action by registered mail or certified mail, return receipt requested (or by an equivalent form of notice if such service by U.S. mail is not available for delivery at an address outside the United States) to the Service member's last known address or to the next of kin under regulations prescribed by the Military Department concerned.

(1) The notice will contain the matters set forth in paragraphs 2a or 3a of this enclosure, as appropriate, and will specify that the action has been suspended until a specific date (not less than 30 days from the date of mailing) in order to give the respondent the opportunity to return to military control.

(2) If the respondent does not return to military control by that date, the separation authority will take appropriate action in accordance with paragraph 2d of this enclosure.

c. Service Members of Reserve Components. See section 12685 of Reference (j*h*) with respect to a limitation on separation of Service members of Reserve Components.

7. ADDITIONAL REQUIREMENTS FOR ADMINISTRATIVE SEPARATION PROCESSING TIMELINES

a. The Secretaries of the Military Departments will establish a timeline designed to effect the efficient separation of enlisted Service members from their Military Service that is measured from the date of notification to the date of separation.

(1) Processing goals should not exceed 15 working days for the notification procedure (see section 2 of Enclosure 5) and 50 working days for the administrative board procedure (see section 3 of Enclosure 5).

(2) While goals of shorter processing times are encouraged, variations may be established for complex cases or cases in which the separation authority is not located on the same facility as the respondent.

(3) Separation processing timelines goals, and the procedures for monitoring effectiveness, will be set forth in the Military Departments' implementing documents.

b. Failure to process an administrative separation within the prescribed goals will not create a bar to separation or affect characterization.

8. ADDITIONAL REQUIREMENTS FOR INFORMING ENLISTED SERVICE MEMBERS ABOUT SEPARATION POLICY

a. The Secretaries of the Military Departments will prescribe procedures for periodically informing enlisted Service members about separation policy. This will include:

(1) Information on the types of separations and the basis for their issuance.

(2) The possible effects of various actions upon reenlistment, civilian employment; veterans' benefits; and related matters concerning denial of certain benefits to enlisted Service members who fail to complete at least 2 years of an original enlistment.

(3) The purpose and authority of the Discharge Review Board and the Board for Correction of Military/Naval Records, established pursuant to sections 1552 and 1553 of Reference (j*h*), and DoDI 1332.28 (Reference (t*r*)).

b. The periodic informing will take place at least each time certain provisions of the UCMJ are explained in accordance with Article 137 of the UCMJ (Appendix 2 of Reference (em)) and section 937 of Reference (jh). The required information may be provided in the form of a written fact sheet or similar document.

c. The requirement that the effects of the various types of separations be explained to enlisted Service members is a command responsibility, not a procedural entitlement. Failure on the part of an enlisted Service member to read or to understand such separation information will not create a bar to separation or affect characterization.

9. ADDITIONAL REQUIREMENTS FOR PRE-SEPARATION HEALTH ASSESSMENTS

a. The Military Department Secretary concerned will prescribe procedures to ensure compliance with statutory requirements in accordance with sections 1145 and 1177 of Reference (jh) to conduct a health assessment sufficient to evaluate the health of enlisted Service members at the time of separation. This assessment should determine any existing medical condition incurred during active duty service, provide baseline information for future care, complete a member's military medical record, and provide a final opportunity before separation to document any health concerns, exposures, or risk factors associated with active duty service.

(1) To comply with section 1177 of Reference (jh), an enlisted Service member must receive a medical examination to assess whether the effects of PTSD or traumatic brain injury (TBI) constitute matters in extenuation that relate to the basis for administrative separation if the member meets all of the following criteria:

(a) Is being administratively separated under a characterization that is not either Honorable or General (Under Honorable Conditions).

(b) Was deployed overseas to a contingency operation during the previous 24 months.

(c) Is diagnosed by a physician, clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse as experiencing PTSD or TBI, or reasonably alleges the influence of PTSD or TBI based on deployed service to a contingency operation during the previous 24 months.

(d) Is not being separated pursuant to a sentence of a court-martial or other UCMJ proceeding (Appendix 2 of Reference (em)). Administrative separation in lieu of court-martial does not constitute a court-martial or other proceeding conducted pursuant to Appendix 2 of Reference (em), and therefore, compliance with Section 1177 of Reference (jh) is required.

(2) To comply with section 518 of Reference (c), in a case involving PTSD, the medical examination required in subparagraph 9a(1) of this enclosure will be performed by a physician, clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse. In a case involving TBI, the medical examination may be performed

by a physician, clinical psychologist, psychiatrist, or other health-care professional, as appropriate.

b. An enlisted Service member receiving a medical examination in accordance with subparagraphs 9a(1) and 9a(2) of this enclosure will not be separated until the result of the medical examination has been reviewed by appropriate authorities responsible for evaluating, reviewing, and approving the separation case, as determined by the Secretary concerned.

10. ADDITIONAL COUNSELING REQUIRED FOR A DISCHARGE UNDER OTHER THAN HONORABLE CONDITIONS RESULTING FROM A CONTINUOUS, UNAUTHORIZED ABSENCE OF 180 DAYS OR MORE

a. Specific counseling is required regarding section 5303 of Title 38, U.S.C. (Reference (~~ts~~)), which states that a discharge under other than honorable conditions resulting from a period of continuous, unauthorized absence of 180 days or more is a conditional bar to benefits administered by the Department of Veterans Affairs, notwithstanding any action by a Discharge Review Board.

b. Failure on the part of the enlisted Service member to read or to understand such explanation does not create a bar to separation or affect characterization.

11. ADDITIONAL REQUIREMENTS FOR INVOLUNTARY ADMINISTRATIVE SEPARATION OF ENLISTED SERVICE MEMBERS WHO MADE AN UNRESTRICTED REPORT OF SEXUAL ASSAULT

a. An enlisted Service member who made an unrestricted report of sexual assault and who is recommended for involuntary separation from the Military Services within 1 year of final disposition of his or her sexual assault case may request a general or flag officer (G/FO) review of the circumstances of and grounds for the involuntary separation.

(1) A qualified Service member must submit his or her written request to the first G/FO in the separation authority's chain of command prior to the separation authority approving the member's final separation action.

(2) Requests submitted after final separation action is complete will not be acted upon for G/FO review, but the separated Service member may apply to the appropriate Service Discharge Review Board or Board of Correction of Military/Naval Records for consideration.

(3) A qualified member who submits a timely request may not be separated until the G/FO conducting the review concurs with the circumstances of and the grounds for the involuntary separation.

b. DoDD 6495.01 (Reference (~~vt~~)) and DoDI 6495.02 (Reference (~~wu~~)) contain comprehensive DoD policy and procedures on sexual assault prevention and response.

12. ADDITIONAL REQUIREMENT TO PROCESS FOR ADMINISTRATIVE SEPARATION ENLISTED SERVICE MEMBERS CONVICTED OF CERTAIN SEXUAL OFFENSES

a. An enlisted Service member whose conviction for rape, sexual assault, forcible sodomy, or an attempt to commit one of those offenses is final, and who is not punitively discharged in connection with such conviction, will be processed for administrative separation for misconduct in accordance with subparagraph 10a(3) of Enclosure 3 of this instruction.

(1) Any separation decision will be based on the full facts of the case, and due process will be provided to the enlisted Service member.

(2) The requirement in paragraph 12a of this enclosure will not be interpreted to limit or alter the authority of the Secretary of the Military Department concerned to process members of the Military Services for administrative separation for other offenses or under other provisions of law.

b. References (~~vt~~) and (~~wu~~) contain comprehensive DoD policy and procedures on sexual assault prevention and response.

ENCLOSURE 6

PROCEDURES FOR EARLY RELEASE OF ENLISTED MILITARY PERSONNEL FOR COLLEGE, VOCATIONAL, OR TECHNICAL SCHOOL ENROLLMENT

1. RESPONSIBILITY

a. The Military Services may permit enlisted personnel to further their education at a college, university, vocational or technical school by approving a discharge or release from active service prior to expiration of obligated service. This provides encouragement and support to enlisted personnel who seek to further their education resulting in more useful and productive citizens transitioning from military service back to the civilian workforce.

b. The provisions of this enclosure cover all military enlisted personnel with the exception of:

(1) Reservists ordered to active duty for training as provided in section 12103 of Reference (~~jh~~) and reservists ordered to active duty due to unsatisfactory participation in reserve assignment, as provided in section 12303 of Reference (~~jh~~).

(2) Aliens seeking to qualify for citizenship by completion of 3 years active duty military service unless they are to be transferred to inactive duty in a Reserve Component, as provided in DoDI 5500.14 (Reference (~~xv~~)).

2. PROCEDURES

a. General

(1) Implementation of this enclosure will apply to applicants who meet the criteria of subparagraph 2b(1) of this enclosure under these circumstances:

(a) Enlisted personnel, including aliens transferred to inactive duty in a Reserve Component as outlined in Reference (~~xv~~), who would be unduly penalized in the pursuit of their education if required to remain in service until expiration of their term of enlistment or induction, may be released early, subject to meeting all of the criteria shown in paragraph 2b of this enclosure.

(b) Separation date will be at the convenience of the U.S. Government, but will normally not be later than 10 days prior to the class starting date and in no event will be earlier than 30 days prior to such starting date.

(2) Prior to separation, personnel being separated under this instruction will be counseled in accordance with DoDI 1332.36 (Reference (~~yw~~)).

b. Criteria

(1) If the provisions of this enclosure are implemented by a Military Department, the following criteria should be used in making determinations governing the early release of enlisted personnel:

(a) In general, personnel who will have a Reserve Component obligation upon separation will not be released under this program until they have completed a minimum of 21 months active duty on their current term of obligated service.

(b) The individual's service is not critical to the mission of the assigned organization.

(c) The latest acceptable class starting date is within the last 3 months of remaining service.

(d) Applicants must:

1. Furnish documentary evidence when applying for separation that they have been accepted for enrollment, commencing with a specific school term, in a full-time resident course of instruction at a recognized institution of higher education, leading to an associate, baccalaureate, or higher degree. A recognized institution is one that:

a. Is listed in the Education Directory for Post-secondary Education published yearly by the National Center for Education Statistics of the Department of Education, (available through the U.S. Government Printing Office, Washington, DC 20402); or

b. Has been determined by the United States Department of Education to be eligible for such listing.

2. Present documentary evidence when applying for separation that they have been accepted for enrollment, commencing with a specific school term, in a full-time resident course of instruction, of no less than 3 months, at a recognized vocational or technical school. A recognized school is one that is approved by the cognizant State Board for Vocational Education, or is accredited by a nationally recognized accrediting agency or association listed by the U. S. Department of Education.

(e) The applicant must demonstrate his or her ability and willingness to make the required payment of an entrance fee, if any, if he or she has not already done so.

(f) Clearly establish that the specific school term for which he or she seeks release is academically the most opportune time to begin or resume education and that delay of enrollment until normal expiration of service would cause undue handicap.

(2) The Secretaries of the Military Departments may approve applications not fully meeting the criteria established in paragraph 2b of this enclosure in exceptional cases.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

DoDD	Department of Defense directive
DoDI	Department of Defense instruction
G/FO	general or flag officer
IRR	Individual Ready Reserve
OCONUS	outside the continental United States
PS	Postal Service
PTSD	post-traumatic stress disorder
TBI	traumatic brain injury
UCMJ	Uniform Code of Military Justice
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness

PART II. DEFINITIONS

These terms and their definitions are for the purpose of this instruction.

alien. Any person not a citizen or national of the United States.

commander. A commissioned or warrant officer who, by virtue of rank and assignment, exercises primary command authority over a military organization or prescribed territorial area that, under pertinent official directives, is recognized as a “command.”

convening authority

The separation authority; or

A commanding officer who has been authorized by the Secretary concerned to process a case, except for final action, and who otherwise has the qualifications to act as a separation authority.

discharge. Complete severance from all military status gained through enlistment or induction.

domicile. Legal residence.

dropped from the rolls. A type of release from Military Service that may be used to separate enlisted Service members who are away without official leave for 30 days or more and reported as a deserter or enlisted Service members who are confined by civilian authorities for at least 6 months. (See subparagraph 3c(3) of Enclosure 4).

enlisted Service member. A member of a Military Service serving in an enlisted grade of E-1 through E-9.

entry-level status. Upon enlistment, a Service member qualifies for entry-level status during:

The first 180 days of continuous active military service; or

The first 180 days of continuous active service after a service break of more than 92 days of active service. A Service member of a Reserve Component who is not on active duty or who is serving under a call or order to active duty for 180 days or less begins entry-level status upon enlistment in a Reserve Component. Entry-level status for such a Service member of a Reserve Component terminates:

One hundred eighty days after beginning training if the Service member is ordered to active duty for training for one continuous period of 180 days or more; or

Ninety days after the beginning of the second period of active duty training if the Service member is ordered to active duty for training under a program that splits the training into two or more separate periods of active duty. For the purposes of characterization of service or description of separation, the Service member's status is determined by the date of notification as to the initiation of separation proceedings.

military record. An individual's overall performance while a member of a Military Service, including personal conduct and performance of duty.

release from active duty. Termination of active duty status and transfer to a Reserve Component not on active duty, including transfer to the IRR.

respondent. An enlisted Service member who has been notified that action has been initiated to separate him or her from active duty military service.

separation. A general term that includes discharge, release from active duty, release from custody and control of the Military Services, transfer to the IRR, and similar changes in active or Reserve status.

separation authority. An official authorized by the Secretary concerned to take final action with respect to a specified type of separation.

Service member. An enlisted, warrant officer or commissioned officer member of a U.S. Military Service.

sexual assault. Defined in Reference (~~wu~~).

sexual offense. Rape, sexual assault, forcible sodomy, or an attempt to commit one or more of these offenses.

vacation of suspension. When suspension of an enlisted Service member's administrative separation is terminated because the enlisted Service member failed to fulfill the terms of the suspension and execution of the enlisted Service member's administrative separation proceeds.