

MILPERSMAN 1910-516

RECORD OF PROCEEDINGS FOR ADMINISTRATIVE SEPARATION (ADSEP) BOARDS

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References	(a) Uniform Code of Military Justice (UCMJ), Section 827, Article 27; and Section 831, Article 31 (b) Manual for Courts-Martial (MCM) (2008 Edition) (c) JAGINST 5800.7E, 0145 and 0146 (d) DoD Instruction 1332.14 of 28 Aug 08
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1. **Preparation of the Records.** References (a) through (d) pertain.

a. The record of proceedings shall be kept in summarized form unless the convening authority (CA) or the separation authority (SA) directs that a verbatim record be kept.

EXCEPTION: When the case involves child sexual abuse, a verbatim record shall be kept. Navy Personnel Command (NAVPERSCOM), Enlisted Performance and Separations Section (PERS-832) will grant exceptions to this policy on a case-by-case basis. The failure to keep a verbatim record is not a basis to challenge the proceeding.

b. The following abbreviations will be used throughout the record of proceedings. A recording device should be used in order that an accurate summary may be prepared.

Abbreviations	Titles
SM	Senior Member
MEM	Member of Board
REC	Recorder
RESP	Respondent
CR	Counsel for the Respondent
WIT	Witness
LA	Legal Advisor

2. **The Script.** Follow this script when conducting and preparing the record of proceedings.

SCRIPT:

From: (Senior Member of the Board)
To: (Convening Authority)

Subj: RECORD OF PROCEEDINGS OF AN ADMINISTRATIVE BOARD IN CASE
OF (respondent)

Ref: (a) MILPERSMAN 1910-500

Encl: (1) Appointment of an Administrative Board
(2) Respondent's Notice of Notification/Administrative Board Procedure
(3) Other Government Exhibits
(4) Respondent's Exhibits (if any)
(5) Any supporting documents presented to the Board
(6) Privacy Act Statement (if applicable)
(7) Board Findings/Recommendations Sheet or Homosexual Conduct Board Findings/Recommendations Sheet
(as appropriate)

1. Per reference (a), the following record of proceedings of an administrative board in case of (respondent) is submitted:

SM: The board will come to order. The recorder shall record the time, date, and place of hearing.

NOTE: The recorder should record the time and date of the opening and closing of each session of the board and the presence (or absence) of all parties (board members, recorder, respondent, and counsel for the respondent).

SM: The board is convened by an order of the convening authority (CA), _____, dated _____, a copy of which has been furnished to each member of the board, the recorder, the respondent and counsel for the respondent.

The following persons named in the appointing order are present:

Members	
	Senior Board Member
	Member
	Member
	Recorder
	Legal Advisor (if applicable)
	Respondent
	Reporter (if applicable)

The following person(s) named in the appointing order (is) (are) absent, having been excused by the CA: _____

NOTE: If a reporter has been made available for the purpose of making a verbatim record of testimony, the reporter's presence is also noted. The reporter need not be sworn.

SM: Will counsel for the respondent state his or her legal qualifications?

CR: Counsel for the respondent is (not) a lawyer within the meaning of reference (a). (If a civilian, include mailing address and phone number.)

SM: Will the recorder state his or her legal qualifications?

REC: The recorder is (not) a lawyer within the meaning of reference (a).

SM: This board has been convened for the purpose of considering the pertinent facts relating to the case of (**rate, name, component, SSN**), who is being processed for administrative separation (ADSEP) by reason(s) (state reason(s) from respondent's notice). The board will make findings of fact for each reason and will make a recommendation with respect to final action of retention, separation or suspension, and to characterization of service or description of separation. If

discharge is recommended, the reason(s) will be stated along with the type and characterization of discharge recommended.

(**RESP'S NAME**), I shall now review with you your rights in connection with this hearing. If you have any questions about any of these rights, do not hesitate to ask me, or if you wish, you may discuss your questions with your counsel.

NOTE: Respondents may waive reading of their rights and procedures.

a. You may appear in person before this board, with or without counsel. In your absence, you may be represented by counsel at all open proceedings of the board. You may have a military counsel of your own choice, provided proper authority determines the counsel requested is reasonably available. You may use civilian counsel at no expense to the Government.

b. You may challenge any voting member of the board for cause; that is, by showing that the member cannot render a fair and impartial decision. You or your counsel may question any voting member to determine whether a basis for challenging exists. The CA (or assigned legal advisor) will rule on the challenge. If any member is successfully challenged, this board proceeding will be suspended pending appointment of qualified substitute.

c. You may submit an oral or written statement in your own behalf; you may testify in your own behalf; or you may remain silent. If you choose to testify under oath, you may be cross-examined on your testimony. In the alternative, you may make an unsworn statement, personally or through counsel. You may not be cross-examined on such an unsworn statement unless you choose to answer questions about it; however, the recorder may introduce evidence to rebut anything contained in such a statement. If you decide not to testify under oath, or if you decide not to make any statement at all, that fact will not be considered against you in any way.

d. You may request the attendance of witnesses at the hearing. The request shall be in writing, dated, signed by you or your counsel, and submitted to the CA via the senior member of the board once the need for the witness is known to you or your counsel. Failure to submit a request for witnesses in a timely fashion shall not automatically result in denial of the

request, but it may be considered along with other factors in deciding whether or not to provide the witness. Further, the testimony of a witness may be excluded if the legal advisor or, in the absence of a legal advisor, the senior member of the board, determines that its value to determine the truth of the allegations against you is substantially outweighed by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(1) If production of a witness requires funding by the CA, the written request shall contain the following:

(a) A synopsis of the testimony that the witness is expected to give;

(b) An explanation of the relevance of the testimony, and

(c) An explanation as to why written or recorded testimony would not be sufficient.

(2) The CA may authorize funding for production of witnesses only if the senior member of the board (after consultation with the legal advisor, or another judge advocate if reasonably available) determines that:

(a) The testimony of a witness is not cumulative;

(b) The personal appearance of the witness is essential to a fair determination on the issues;

(c) Written or recorded testimony will not adequately accomplish the same objective; and

(d) 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 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.

(3) If the CA determines that the personal testimony of a witness is required, the hearing shall be postponed, if necessary, to permit the attendance of the witness. Military witnesses required shall be issued temporary additional duty (TEMADD) orders and civilian witnesses shall be issued invitational travel orders. Guidance for funding the travel of required witnesses may be found in reference (c).

(4) The hearing shall be postponed to provide you a reasonable opportunity to obtain a written statement from the witness if the witness requested by you is unavailable when:

(a) The senior member of the board or legal advisor determines that personal testimony of the witness is not required;

(b) The commanding officer (CO) of a military witness determines that military necessity precludes the witness' attendance at the hearing; or

(c) A civilian witness declines to attend the hearing.

e. You may, at any time before or during the proceedings, submit any answers, depositions, sworn or unsworn statements, affidavits, certificates, or stipulations. This includes, but is not limited to, depositions of witnesses not deemed to be reasonably available or witnesses unwilling to appear voluntarily.

f. The provisions of reference (a) apply to all proceedings of the board. You may submit to examination by the board if you desire. If you choose not to submit to examination by the board, the fact will not be considered against you in any way.

g. You and your counsel may question any witness who appears before the board.

h. Your failure to invoke any of these rights cannot be considered as a bar to the board proceedings, findings, or recommendations.

Now, (**respondent**), there are some procedural rules in connection with this board which I shall explain to you.

First, these proceedings are administrative in nature and the board is not bound by formal rules of evidence. Thus, the board may consider information which might not be admissible at a court-martial. Also, you should be aware that the board's decision will be based upon a preponderance of the evidence presented.

Second, if you or your counsel have any objection to any matters introduced or to any proceedings of the board, you or your counsel may state your objection and the reasons for it. I shall rule finally on all matters of procedure and evidence; however, a majority of the board may overturn any ruling that I make.

(**Respondent**), do you have any questions concerning your rights or procedures before this board?

RESP: (No, Sir/Ma'am.) (_____).

SM: Does the recorder, counsel for the respondent, or respondent wish to question any member of this board in relation to any matter which may constitute a ground for challenge for cause?

REC: (The recorder has no questions.) (_____).

RESP or CR: (The respondent has no questions.) (_____).

SM: Does either side have a challenge for cause against any voting member of this board?

REC: (The recorder does not.) (_____).

RESP or CR: (The respondent does not.) (_____).

NOTE: Grounds for challenge must show that the member cannot render a fair and impartial decision. The CA, upon being informed of the circumstances of the challenge and the recommendation of the other members, may appoint a substitute for the challenged member. At this point in the proceedings the senior member should ensure that all persons scheduled to testify as witnesses are excluded from the proceedings except when actually testifying before the board.

SM: Does either the recorder or respondent desire to make an opening statement?

REC: _____

RESP or CR: _____ (may be made now or before respondent's case).

SM: Is the recorder ready to present the Government's case in this matter?

REC: The recorder is ready to proceed. The recorder presents the following documents for the board's consideration in this case.

GOVERNMENT'S CASE

Exhibit 1: Appointment of an Administrative Board

Exhibit 2: Respondent's Notice

Exhibit 3: Copy of the most recent NAVPERS 1070/613 (Rev. 7/06), Administrative Remarks counseling/warning from respondent's service record (if such exists).

Exhibit 4: NOTE: Recorders must present, at a minimum, the information which caused the CA to convene the board.

SM: Does respondent have any objections to the board's consideration of any of these exhibits?

RESP or CR: (We have no objections.) (We object to Exhibit ___ because _____).

SM: (Your objection and my ruling will be noted for the record. Do either of the other members wish to challenge my ruling or discuss it further? (If either member indicates an interest in discussing the ruling, the board will close for deliberations on the issue. All three board members will deliberate out of hearing of other participants. At the conclusion of the deliberations, the board will re-open, and state for the record the ruling.)) Exhibits 1 through ___ are accepted and will be made a part of the record.

REC: The recorder intends to call the following witnesses:

REC: The first witness is (**full name, grade, and duty station**).

REC: Do you swear (or affirm) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth?

WIT: I do.

REC: Would you state your name, rank, unit, and armed force? (If civilian, state name and mailing address.)

WIT: _____

REC: Do you know the respondent in this case?

WIT: _____

NOTE: The recorder, counsel for the respondent, and the board members will now be afforded a full opportunity to question the witness.

SM: You may be excused.

REC: (After all witnesses have testified.) I have nothing further to present.

SM: (Respondent), you have already indicated an understanding of your rights at these proceedings. Are you and your counsel ready to proceed?

RESP: Yes, Sir/Ma'am.

RESPONDENT'S CASE

CR: Yes, Sir/Ma'am (if he or she has not already done so, counsel for the respondent may now make an opening statement).

NOTE: At this point in the proceedings, counsel for the respondent may present documentary or real evidence, stipulations, affidavits, etc., and may call witnesses to testify. The recorder may object to any documentary evidence. If an objection is registered, the senior member should rule and review with the other members, as was done during the recorder's case above. This is also the time for respondent to testify, either by way of sworn or unsworn testimony, or to make any other statement, either personally or through counsel. If counsel for the respondent calls witnesses to testify, the recorder should administer the required oaths.

Counsel for the respondent should have the opportunity to conduct direct examination. Thereafter, the recorder and board members may question the witness. Should the respondent elect to provide information to the board, the board may wish to solicit personal information from the respondent. Before the respondent provides personal information in response to such a request, the respondent must be given a Privacy Act Statement. It is recommended that, if the Privacy Act Statement is provided to the respondent in writing, a copy signed by the respondent be included in the record. The Privacy Act Statement should be signed before the board convenes, if possible.

CR: We have nothing further to present.

NOTE: Rebuttal and surrebuttal witnesses may be called, or recalled, at this point. The recorder and counsel for the respondent will then be given an opportunity to make an argument.

REC: The recorder (has a) (waives) closing argument.

CR: Counsel for the respondent (has a) (waives) closing argument.

REC: The recorder (has a) (waives) rebuttal argument.

SM: Has the recorder anything further to offer?

REC: I (do) (do not).

SM: This board will close for deliberations.

NOTE: When the board deliberates, only the voting members will be present. Prior to deliberations, the board members should review the appropriate board findings worksheet. Upon completion of the deliberations, but before the findings are announced, the board must complete the appropriate findings worksheet.

SM: This board will come to order. This administrative board has concluded its deliberations and has completed the board findings sheet with all signatures affixed. (Read boards findings/recommendations for the record.)

SM: The board is adjourned (time and date).

(Signature of senior member)

BOARD FINDINGS/RECOMMENDATIONS SHEET

Findings:

By a vote of	The preponderance of evidence		Basis
	Supports	Does Not Support	
			(1)
			(2)

Specific evidence considered relating to acts, omissions, or circumstances alleged in the Letter of Notification (LON) includes:
(1)
(2)
(3)
(4)
(5)

Recommendations (separation or retention):

By a vote of	Recommendation for (retention, separation, or suspended separation for () months)

Recommendation (only one (1) characterization if recommending separation):

By a vote of	The board recommends (Entry Level Separation (ELS)/Honorable (HON)/General (GEN)/Under Other Than Honorable (OTH)

Recommendation (regarding transfer to Individual Ready Reserve (IRR) (MILPERSMAN 1910-518 refers):

By a vote of	The board recommends/does not recommend transfer to the IRR

Transfer to Fleet Reserve (if applicable):

	The board recommends transfer to Fleet Reserve/Retired Reserve/Retired List (as applicable) in:	
By a vote of	Current Pay Grade	Reduced Pay Grade (Specify Pay Grade)

We certify that records of activities from prior enlistments, including courts-martial convictions, unauthorized absences, and commission of other offenses, were not considered on the issue of characterization.

Signatures:

Senior Member of Board Member Member

Dissenting member comments and signature:

I do/do not intend to submit a Letter of Deficiency

 (Signature, Counsel for Respondent)

A letter of deficiency must be received by the CA no later than the end of the fifth working day (or more if approved by the CA in writing) from the end of the board, or 10 days prior to member's expiration of active obligated service (EAOS), whichever is sooner. If no letter of deficiency is received by the time designated, such will be deemed a waiver, and the record will be forwarded without it. CAs are not required to allow the counsel for the respondent (or member) to review the record of proceedings, summarized testimony of witnesses, or exhibits before sending the case to the SA. Counsel for the respondent will receive a copy of the record of proceedings when it is forwarded.

NOTE: ALL BOARD MEMBERS AND COUNSEL FOR THE RESPONDENT **MUST SIGN** THIS FORM PRIOR TO THE CONCLUSION OF THE BOARD.