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PERS-834 Officer Performance - The Basics

CAUTION

This document is designed to give consolidated, basic procedural information related to Officer Performance issues. It is not a substitute for the references listed at the end or speaking with PERS-834 in person.

BLUF/TL;DR: Six steps for Officer Misconduct and Substandard Performance:

1. Notify PERS-834 of possible adverse action via email (PERS-834@navy.mil)
2. Execute disciplinary action (NJP, Civil Court, Court Martial)
3. Build and route package to 834 for Show Cause/DFC decision
4. Board of Inquiry or notification procedures (if made to show cause)
5. SECNAV makes final determination.
6. Member is issued separation orders or notified of retention

The more complicated version:

PHASE 0 (Fleet)

1. If an officer is under investigation or pending possible disciplinary action or being submitted for substandard performance, the command should send an email to PERS-834@navy.mil with the following info:
 - a. Full Name, Rank, and Designator
 - b. Nature of the alleged misconduct
 - c. Command POC (name, email, phone #) to interface with 834. (normally COS, CO, XO, JAG, Senior Admin O).
 - d. Whether or not the member is currently in receipt of PCS/Separation orders or on a promotion list.
2. 834 will then flag the member's profile in the personnel system. This prevents PCS, Promotion, and separation (to include retirement).

NOTE

This does NOT appear in the Official Military Personnel File (OMPF)

NOTE

***If the member has released orders, do NOT let them execute those orders. 834 will examine if the orders need to be canceled or held in abeyance

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NOTE

If member has been referred to IDES, indicate in initial notification. Member's referred to IDES and submitted for misconduct will be dual processed, concurrently, for IDES and ADSEP. Member will not be retained to complete IDES. ASN(M&RA) will make final decision on method of separation

NOTE

CnD will follow guidance for SSP submission

3. Execute the disciplinary action:
 - a. NJP, to include all appeals
 - b. Get final civilian court documents (charge sheets, dispositions, sentencing, etc.)
 - c. Courts-Martial (CM)
 - d. Report of Misconduct (This is optional and used when something prevents a, b, or c, but the command still desires to report the misconduct (i.e. refusal of NJP, statute of limitations, etc.).
 - e. LOI or counseling (for SSP)

4. If member is found not guilty at NJP, Civil court, or CM, or the investigation clears the officer, send a report of no misconduct to PERS-834@navy.mil. Using the PERS-83 Reporting Letter Template(s), include all investigations and documents taken into consideration as enclosures.

5. Build Misconduct/SSP package using the PERS-83 Reporting Letter Template(s).
 - a. Basic report letter with discipline documents, investigations etc. as enclosures
 - i. Make Show Cause(SC)/No Show Cause(NSC) recommendation
 - ii. Make Detach for Cause (DFC) recommendation
 - iii. Make Promotion recommendation
 - b. 1st endorsement is by member. Give them full report to review. 10 days to acknowledge and submit a statement if desired
 - c. 2nd endorsement by originating CO. Acknowledging having read and addressing any claims by member in their statement. ****Do not introduce new material here****
 - d. 3rd endorsement by ISIC. Needs to put their own recommendations for SC/DFC/Promotion
 - e. 4th endorsement by first Flag (if ISIC or originating command is not a Flag)
 - f. Send report via email or DoD SAFE to PERS-834@navy.mil

PHASE 1 (Show Cause/DFC)

(2-3 months for SC/DFC decision from 834 receipt of package)

6. PERS-834 will prepare a package to the Show Cause Authority (SCA) for SC and DFC decision.

7. If decision is SC, proceed to Phase 1A.

NOTE

DFC, if approved, will NOT take effect until all admin actions are complete.

8. If decision is NSC, case is closed and member is retained in the Navy and available for detailing, if needed. Contact the member's detailer.
 - a. Command will receive Status in the Navy (SIN) letter to give to member, retaining them.
 - b. Command will receive DFC letter at same time (only if DFC was requested).
 - c. Promotion delay/withhold issues will begin processing with PERS-833

PHASE 1A (Notification/BOI)

(1-5 month process from SC decision)

Command Responsibilities

1. The command is responsible for issuing the notification (NOI) letter to the member and enforcing the response timeline. The Commanding Officer may authorize extensions of the 10-business day response time as he/she deems warranted.
2. IF the member fails to respond within the allotted time, the command shall endorse the blank Acknowledgement of Rights (AOR) letter, reporting the member's failure to respond in the allotted time.
3. Endorse member's AOR, forward the AOR to Pers-834 and applicable Navy Region if a Board of Inquiry (BOI) is an option.

Probationary Officers

1. Active duty officers with less than 6 years commissioned service, SELRES with less than 5-years commissioned service, and Chief Warrant Officers with less than 3 years commissioned service are considered probationary officers. They are not entitled to a BOI unless other Than Honorable (Oth) is being sought or the SCA deems necessary. All others are non-probationary.
2. Probationary officers made to show cause will receive:
 - a. Notification of rights, including option to submit another statement.
 - b. Option to resign/retire at the offered characterization of service by Navy Personnel Command
 - c. PTSD/TBI forms, if required

Non-Probationary Officers

1. Non-Probationary officers made to show cause will receive:
 - a. Notification of rights, including option to submit another statement
 - b. Option to waive their right to a BOI and resign/retire at the recommended characterization of service by Navy Personnel Command

- c. The option to have a BOI convened to hear the case for retention
 - d. PTSD/TBI forms, if required
2. If member elects a BOI, the Navy Region in your area will schedule and administer the BOI.
 - a. The member will be assigned defense JAG from DSO
 - b. Region will run the BOI to include membership, government JAG etc.
 3. BOI will convene, unless member waives their right.

PHASE 2 (Separation Decision Phase)

(2-6 months from PERS-834 receiving the AOR or results from the BOI for Separation Authority decision)

3. **Officers who don't go to a BOI:** 834 will prepare a package to Assistant Secretary of the Navy (Manpower & Reserve Affairs) (ASN M&RA) for final separation decision.
4. **Officers who go to a BOI:** If member is retained at the BOI, a Status in the Navy (SIN) letter will be issued to the member via the command. Once the results are received by PERS-834, the case will be closed, and the member is free to be detailed as needed.
5. **If the member is recommended for separation/retirement:** once the BOI report is received, a package containing the results is routed to ASN (M&RA) for final determination.
 - a. Characterization of Service (Honorable, General, Other than Honorable) is recommended by the BOI. ASN (M&RA) cannot go lower than the recommendation but can upgrade.
 - b. Paygrade for retirement or enlistment for transfer to the Fleet Reserve is recommended by the BOI, but ASN (M&RA) has full authority in determining final paygrade.
 - c. Member should begin preparing for separation/retirement in anticipation of the possible separation due to minimal time from ASN (M&RA) decision to separation date.
6. **Separation decision by ASN (M&RA) is final and cannot be appealed.**

PHASE 3 (Separation Phase)

1. **If directed for separation or retirement:** PERS-8 will initiate separation orders within 30 days of separation decision. The separation date is normally 30-60 days from release of the orders.
 - a. Retirements are always on the 1st of the month
 - b. Separations are NLT the last day of the month (Command and member can work the date locally in that specified month). The month of separation is non-negotiable.

POCs

Please call or email the assigned Action Officer for questions about your specific case.

PERS-834@navy.mil

PERS-834 Director: 901-874-2090

Deputy: 901-874-4830

References:

DODI 1332.30

SECNAV 1920.6

MPM 1611-010 Officer Misconduct

MPM 1611-020 Detach for Cause

FAQs

Q: How long does this process take?

A: Depends, but a long time. Typically, cases are processed within 6-9 months, but can be as much as 12 months or greater depending on numerous factors. See the individual estimates for each phase above.

Q: How can I make this process go faster?

A: Very difficult to speed up as the decision is often made at the SECNAV level, with lots of chops in between. PERS-834 has more than 500 active officer cases, all misconduct related, with the very severe misconduct getting the highest priority. Familiarize yourself with MILPERSMAN 1611-010 to prevent incomplete report submissions. Submitting all required documentation to prevent kickback and replying to requests for additional information can drastically increase overall processing time.

Q: Do I need two separate packages for DFC and misconduct?

A: No. Any misconduct or substandard performance package can, and should, include a recommendation for DFC. A separate DFC package is not required and is discouraged.

Q: If I submit a report of NJP, Civil Action etc, do I have to recommend show cause?

A: You must provide a show cause recommendation, but you can choose to recommend Show Cause or No Show Cause for retention. Either recommendation is acceptable, but a recommendation is required.

Q: Can I submit the report directly to PERS-834?

A: No, you must obtain a First Endorsement from the member, a Second Endorsement from the CO/originator of report, and additional endorsements from your ISIC and first Flag officer in your chain of command before submitting to PERS-834.

Q: Does my Chain of command recommendations have to agree?

A: No. Each endorser can make any recommendation they desire. CO, ISIC, and Flag could all have different recommendations if desired.

Q: Can a member PCS while going through this process?

A: Only in extreme circumstances. MILPERSMAN 1611-010 states an officer should not execute transfer orders while on legal hold. Contact PERS-834 if extenuating circumstances are present.

Q: If a DFC is approved, when will the officer be PCS'd?

A: If the officer is NOT made to Show Cause, they can be detailed immediately. If they are made to Show Cause, they will stay with the command until all PERS-834 action is complete. DFC decision will not be provided until all admin actions are complete and/or case is being closed, or separation is directed.

Q: I don't want this officer in my command while this is ongoing. What can I do?

A: Arrange for cost/no-cost TAD at a nearby command. This way, the originating command retains control of the officer while the process is ongoing. The Navy would prefer no-cost TAD, but it is from the command's TAD fund, so it is a command level decision. Contact placement to determine if member may be placed in excess to free the member's billet for a replacement.