

## MILPERSMAN 1160-050

### VOLUNTARY OR INVOLUNTARY EXTENSION OF ENLISTED PERSONNEL BEYOND EXPIRATION OF ENLISTMENT, FULFILLMENT OF SERVICE OBLIGATION, OR EXPIRATION OF TOUR OF ACTIVE SERVICE

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<b>References</b>	(a) 10 U.S.C. (b) SECNAVINST 5820.4G
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1. **Policy.** Under certain conditions, members may legally be retained beyond the date of expiration of enlistment or other period of obligated service (OBLISERV), either voluntarily or involuntarily until discharged, released to inactive duty, or transferred to the Navy Reserve and released to inactive duty. When a member is retained in service beyond expiration of enlistment, or other period of OBLISERV, an entry as to reason and authority for retention must be made on the appropriate page of the member's service record and signed per this manual.

2. **Voluntary Extension.** Enlisted members may volunteer to be held beyond expiration of their enlistment or active duty obligation or other period of OBLISERV. Refer to MILPERSMAN 1160-040.

3. **Extension of Members Serving Aboard Ship in Foreign Waters**

a. The normal date of expiration of enlistment or extension of enlistment of a member serving aboard a ship in foreign waters may be extended until return of the ship to a port of the continental United States or until transfer of member concerned to the separation activity nearest to port of debarkation. Retention for return to the U.S. may be effected by the senior officer present afloat if, in their opinion, retention is essential to public interests. Members so retained must be separated no later than 30 days after arrival in the U.S. In order to be entitled to the increase of 25 percent in basic pay

for the period of retention per article 5540 of reference (a), the member must have been retained after expiration of enlistment or extension of enlistment because their services were considered essential to public interests.

b. Specifically excluded from this provision are enlisted members who are retained beyond terms of their enlistments at shore stations, on board ships on duty in waters in or around possessions and territories of the U.S., or on board ships on duty in ports or waters within the sovereign jurisdiction of the U.S. Also excluded are members of the Navy Reserve who are retained on active service beyond the normal date of expiration of enlistment.

c. A permanent [NAVPERS 1070/613](#) Administrative Remarks entry in the member's service record must state whether retention was essential to public interests and provide the location of the ship at the time of expiration of their term of enlistment.

d. For a normal deployment, it is imperative that pre-deployment preparations include identification of members with expiring enlistments and execution of appropriate action to either extend members on board or leave members behind for separation or further transfer.

4. **Extension Pending Receipt of Records.** Members whose records and accounts are not received by the activity to which transferred for separation may be retained in service, with their consent, pending receipt of their records and accounts. Commanding officers (COs) must take immediate steps to obtain records and accounts by communicating with the ship or station from and via which member was transferred for separation. A duplicate service record may be requested from Navy Personnel Command (NAVPERSCOM), Records Management Policy Branch (PERS-313) in order to expedite separation.

5. **Extension for Temporary Officer Appointment.** Enlistments are extended automatically in the case of members whose normal date of expiration of enlistment occurs while they are serving in a temporary officer appointment.

6. **Extension for Medical Care.** Members in the Regular Navy, Navy Reserve, and Fleet Reserve on active duty other than training duty of less than 30 days, who are in need of medical care or hospitalization as a result of disease or injury

incident to service and not due to their own misconduct, may be retained with their consent beyond the date of their normal expiration of active OBLISERV. Such consent must be entered on permanent [NAVPERS 1070/613](#), and signed by member concerned. Tacit consent to retention may be assumed in cases of mental incompetency or physical incapacity where member is unable to affirmatively indicate desires, pending notification of and authorization for retention from member's next of kin. Members retained for medical care or hospitalization under this article may be retained until they have recovered to the extent that would enable them to meet physical requirements for discharge and reenlistment, or until it has been ascertained that the disease or injury is of a character that recovery to that extent is impossible. Members for whom tacit consent to retention is assumed will not ordinarily be retained more than 6 months beyond the date of their normal expiration of active obligated service (EAOS). Further retention may be authorized in meritorious cases upon proper recommendation accompanied by the supporting facts.

7. **Member Refusal of Extension for Medical Care.** If members persist in their desire to be separated, effect their separation provided they sign the following entry on [NAVPERS 1070/613](#) of their service record and on [DD-2808](#) Report of Medical Examination, witnessed by an officer, at the time examined for separation:

"I, (fill in name), desire to be separated from naval service on my normal expiration of active obligated service date. I understand that I will not be eligible for further follow-up studies or treatment at an Armed Forces medical facility, that I will be ineligible for disability benefits under law administered by Navy, and that any further treatment and or benefits will be under jurisdiction of the Department of Veterans' Affairs."

(Signature of member)

(Signature of witnessing officer)

(Grade, name, title)"

8. Extension to Accommodate Physical Evaluation Board (PEB) Proceeding

a. Members being processed before a PEB must not be released from active duty or discharged until the Secretary of the Navy (SECNAV) has completed the final action on their cases and instructions received from NAVPERSCOM, Retirements Branch (PERS-836). Untimely separation of a member who is the subject of a PEB proceeding may prejudice their case since the law requires SECNAV make necessary physical disability determinations while the member is entitled to receive basic pay, except in cases of reservists on training duty of 30 days or less. This should be explained to any member whose enlistment or term of active service is about to expire and who requests discharge or release from active duty prior to the time such determinations are made. Any request for separation that is not withdrawn following such explanation must be entered on [NAVPERS 1070/613](#) of the service record as follows:

"I, (fill in name), desire to be separated from naval service notwithstanding the fact such separation may prejudice any rights or benefits to which I may be entitled as a result of physical evaluation board hearings under 10 U.S.C., chapter 61. I have been fully advised of my rights in this matter and request I be discharged from naval service as soon as possible without further hearing and without disability retirement pay or severance pay or any compensation whatsoever. I understand I am not required and am under no obligation to give this certificate and I hereby certify that I give this certificate voluntarily."

(Signature of member)

(Signature of witnessing officer)

(Grade, name, title)"

b. The foregoing statement must be signed by member and witnessed by an officer. In all cases where the above statement is executed, notify NAVPERSCOM (PERS-836) by message, and provide information copy to Physical Review Council and convening authority of PEB. Procedures for members on inactive duty are found in MILPERSMAN 1910-168.

9. **Policy for Disability Incurred not in the Line of Duty**

a. Records and accounts of members in the following categories must not be closed until discharge is effected. Member's service record must bear appropriate entry regarding member's status.

b. The term of service of a member undergoing hospitalization for injury, sickness, or disease incurred not in the line of duty or due to their own misconduct will not be extended under provisions of "Extension to Accommodate Physical Evaluation Board Proceeding" above. Unless the term of service is extended by some other provision of this article, a member in this status should be brought before a medical board at a time that will permit action to be taken on a recommendation for disposition prior to expiration of term of service. If proceedings per law and regulations result in a determination that the member is not physically fit for service or reenlistment and is to be discharged, discharge normally will be effected because of disability rather than expiration of enlistment or fulfillment of service obligation.

c. The term of service of a member undergoing hospitalization for injury, sickness, or disease, which is the result of the member's own misconduct, is extended by such lost time. If there is reasonable belief such member will be unable to return to full duty, full circumstances of the case as then known, including prognosis, must be forwarded to NAVPERSCOM (PERS-836) for advice. Members in this status should be brought before a medical board at a time that will permit action to be taken prior to the date the term of service normally would expire if the member were not in a misconduct status. If it is determined per law and regulations that the member is not physically fit for service or reenlistment, and proper authority approves recommendation for discharge, member must be awarded the type and character of discharge considered proper based on their medical and military records.

10. **Notification Procedure for Disability Extension.** If a member is hospitalized because of injuries or disease under all conditions listed below, COs of the medical facility concerned must forward all known facts concerning member's injuries or disease to the judge advocate general (JAG) for final determination of member's status and a copy to NAVPERSCOM (PERS-836). Such notification must, if at all possible, occur prior to member's expiration of term of service when

a. it appears the injury or disease might have been incurred not in the line of duty and as a result of member's own misconduct

b. there is a reasonable possibility member will not return to full duty prior to expiration of their term of service

c. it is not reasonably possible to conduct an investigation prior to expiration of member's term of service to determine whether the injury or disease was incurred in the line of duty and not as a result of member's own misconduct.

11. **Extension for War or National Emergency.** Enlistments and periods of OBLISERV of enlisted personnel in naval service are extended, or may be extended, in time of war or national emergency per articles 506, 12103, 671, and 671b of reference (a).

12. **Involuntary Extension due to Criminal Proceedings.** Members may be extended involuntarily beyond their EAOS as a result of apprehension, arrest, confinement, investigation, or filing of charges that may result in a trial by court-martial, and execution of any sentence thereof. If such action is initiated with a view to trial because of an offense under reference (b) committed by a member prior to their official discharge or separation, even though the term of enlistment or OBLISERV may have expired, they may be retained in service for trial and punishment after their period of service would otherwise have expired. Members who are involuntarily extended due to criminal proceedings and whose term of enlistment or OBLISERV has expired, may negotiate for and receive administrative separation under MILPERSMAN 1910 series and a related characterization of service even if their enlistment contracts have expired. Administrative separation may be in lieu of trial by court-martial or part of a pre-trial agreement.

13. **Extension for Disposition of Criminal Proceedings by a Foreign Jurisdiction.** Members of the naval service awaiting disposition of criminal proceedings by a foreign jurisdiction are afforded statutory and regulatory protection and benefits attendant to their status as members of the Armed Forces. Policy of the Navy is to ensure both the member is afforded the fullest possible protection, and the Navy meets its international obligations. In implementing this policy, the following procedures will be applied in all cases where foreign

criminal jurisdiction is being, or may be exercised over a member of the naval service by action such as apprehension, arrest, investigation, or a filing of charges that may result in trial, and where foreign criminal proceedings are not likely to be completed prior to the date of member's release from service because of expiration of the member's term of service:

a. At least 1 month before EAOS, member will be offered an opportunity to extend enlistment voluntarily for the duration of legal proceedings and any subsequent punishment. Member will be informed of protection and benefits received as a member of the Navy during the foreign criminal proceedings. For example, counsel may be provided at Navy expense, court costs (but not fines) paid, and an interpreter made available; and in most countries, member will remain in U.S. vice foreign custody, at least during trial proceedings. Member will also be informed that member will remain subject to reference (b) and may be subject to processing for administrative discharge. In some situations, a uniformed judge advocate will be provided when exposure to military criminal charges is possible. Additionally, member will be advised that an election not to extend voluntarily will result in the following:

(1) foreign authorities will be advised of the impending EAOS and inability of Navy to guarantee member's presence after discharge;

(2) foreign authorities will be offered custody of member immediately prior to EAOS; and

(3) assuming custody is accepted by foreign authorities, member will be discharged from naval service as soon thereafter as is practicable, thereby terminating any special considerations member would be entitled to were they still a member of the Armed Forces.

b. If member elects to voluntarily extend enlistment, then such request will be honored, and an appropriate [NAVPERS 1070/613](#) service record entry acknowledged by member will be made.

14. Procedure for Member Not Electing to Extend while Awaiting Disposition of Criminal Proceedings by a Foreign Jurisdiction

a. Should a member elect not to extend voluntarily, foreign authorities will be notified of the inability of the Navy to guarantee presence of member after discharge due to member's impending EAOS. The foreign authorities will then be afforded opportunity to take custody of member at a mutually agreed upon time immediately prior to EAOS. If the foreign authorities desire custody, member will be transferred to the foreign authorities at the agreed upon time. After such transfer of custody, member's CO will, at EAOS, discharge member and notify the Office of the Judge Advocate General, U.S. Navy; NAVPERSCOM, Conduct and Separations Branch (PERS-832); and the respective U.S. Embassy or Consul.

b. Should the foreign authorities, upon being notified of member's impending EAOS and inability of Navy to maintain custody after discharge, state that member need not be present within the jurisdiction and is not required nor desired to be available for any further criminal proceedings, the member should be returned to the continental United States for separation or discharge. In such case, foreign authorities have in effect released Navy from any obligation to keep member within the foreign jurisdiction or to make member available for foreign criminal proceedings. This communication from appropriate foreign authorities should be in writing (if possible). If not, a memorandum for the record should be made to memorialize the agreement.

c. The foregoing policy does not apply to a member who has been in custody or confinement of foreign authorities as a result of apprehension by foreign authorities. In such a situation, provisions of chapter three of reference (b) would continue to apply, and, except under extraordinary circumstances approved by SECNAV, member would not be discharged while in custody or confinement of the foreign authorities.

15. Extension for Completion of U.S. Civilian Criminal Proceedings.

a. Members of the naval service who are not in confinement and those in confinement **as a result of delivery by military officials**, and



b. Those members in confinement **as a result of apprehension by civil authorities**, must not be extended involuntarily beyond EAOS solely for purpose of completion of civilian criminal proceedings in Federal, State, and local courts of the U.S., its territories, commonwealths, and possessions **without NAVPERSCOM (PERS-832) approval**. Requests to involuntarily extend members beyond EAOS must include whether member was delivered by military officials or apprehended by civil authorities, date of delivery or apprehension, pending charges, anticipated date of trial, and member's EAOS.

16. **Extension to Await Appellate Review of Court-Martial.**

Except as otherwise provided in this paragraph, an enlisted member sentenced to punitive discharge must be retained in service to await completion of appellate review of their court-martial case, even though the period of confinement, if any, adjudged under the sentence has been served and member's enlistment or other period of active OBLISERV has expired. Unless member is confined, service record entry prepared to reflect such retention beyond expiration of enlistment or other obligated active service should state the nature of duties performed by the member and average number of hours daily the member's services are utilized while being so retained. Nothing stated in this paragraph is to be construed as precluding administrative separation of member when directed by NAVPERSCOM (PERS-832) or granting of leave to member awaiting completion of appellate review of member's case.

17. **Extension for Indebtedness.** A member who is otherwise eligible for separation will not be retained beyond normal expiration of obligated service date to satisfy an indebtedness to the Government or an individual, or for the purpose of obtaining remission of indebtedness.