

## MILPERSMAN 1616-040

### ENLISTED PERFORMANCE (E-6/7/8/9)

|                           |                          |                  |                      |
|---------------------------|--------------------------|------------------|----------------------|
| <b>Responsible Office</b> | NAVPERSCOM<br>(PERS-832) | Phone: Toll Free | 1-833-330-MNCC 6622) |
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| MyNavy Career Center | Phone: Toll Free<br>E-Mail:<br>MyNavy Portal: | 1-833-330-MNCC (6622)<br><a href="mailto:askmncc@navy.mil">askmncc@navy.mil</a><br><a href="https://my.navy.mil/">https://my.navy.mil/</a> |
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| <b>References</b> | (a) BUPERSINST 1610.10D<br>(b) U.S. Navy Regulations, 1990<br>(c) SECNAVINST 5510.36B<br>(d) Uniform Code of Military Justice (UCMJ) |
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1. **General Provisions.** General provisions applicable to all enlisted Service members E-6 through E-9 cases involving performance or conduct:

a. Commanding officers (CO) must notify Navy Personnel Command (NAVPERSCOM) Enlisted Performance and Separation Branch (PERS-832), preferably via encrypted e-mail: [PERS832ADSEPS.fct@navy.mil](mailto:PERS832ADSEPS.fct@navy.mil), immediately regarding incidents involving enlisted Service members in pay grades E-6 through E-9 that could possibly result in disciplinary or adverse action. Reportable items include, but are not limited to, nonjudicial punishments (NJP), courts-martial, civil arrests, administrative separations, detachment for cause requests, or any incident report made to the Department of Defense Consolidated Adjudications Facility (DoD CAF). Unless indicated otherwise, these initial notifications will be kept internal to NAVPERSCOM for information and appropriate action, but not released to boards or permanent records. Include the member's name, rate, the command's point of contact information, and a brief description of charges and or specifications.

b. If it is expected that disciplinary action (military or civilian) may be taken against an enlisted Service member in pay grade E-6, E-7, E-8, or E-9, the member should not be transferred or advanced until such action has been resolved. When a modification of orders is necessary, the following offices should be notified of the circumstances, provided recommendations, and furnished a request to issue orders (as appropriate):

(1) PERS-832,

(2) NAVPERSCOM Career Management Department (PERS-4)  
(applicable detailer branch (e.g., PERS-401, 402, 403, etc.)), and

(3) Navy Reserve Forces Command (NAVRESFORCOM) Reserve  
Assignments Division (NAVRESFORCOM N12).

c. Additionally, if it is expected that disciplinary action (military or civilian) may be taken against an enlisted Sailor selected for, or currently in, any Naval Nuclear Propulsion Program training pipeline or if the Sailor possesses a current nuclear Navy enlisted classification (NEC) code, the below listed offices will also be notified of the circumstances:

(1) Office of the Chief of Naval Operations (OPNAV) Nuclear Propulsion Program Manager Branch (OPNAV N133) and

(2) NAVPERSCOM Nuclear Power/Submarine Distribution Branch (PERS-403).

d. There is no authority to retain personnel beyond their normal release from active duty (AD) service date, unless court-martial charges have been preferred. A request to retain a Service member beyond the normal release from AD in order to impose NJP will not be granted. If it is not practicable to impose NJP prior to the release from AD, the reporting senior should make appropriate comments in the detaching evaluation report.

e. When misconduct or deficiencies in performance are discovered after the submission of the evaluation report, a supplemental evaluation, per reference (a), should be submitted (as appropriate).

f. Except as provided in [MILPERSMAN 1070-080](#), personnel must be given notice of, and an opportunity to respond to, all adverse matters, which are being forwarded to NAVPERSCOM for inclusion into their official service record. The Service member's intention not to make a statement must be indicated in writing or by the expiration of a stated period of time within which the member, after having been so advised, was afforded such an opportunity and failed to submit a statement. Any doubt as to whether a particular matter is adverse will be resolved in favor of the Service member by referring it to the member. Direct the member's attention to reference (b), article 1122 for guidelines regarding submission of a statement.

g. PERS-832 must be informed and kept apprised by appropriate means of communication of incidents involving performance or conduct that may be of widespread public interest, or those which will require action by NAVPERSCOM concerning the member's status.

h. When practical to do so, with clarity and without prejudice to the Service member concerned, facts or details requiring reports to be classified should be omitted. Information should not be classified solely because it is embarrassing or derogatory to the member.

i. Unless required for security reasons, reportable items should be designated "For Official Use Only." The preferred method of transmission is by electronic submission. Send unclassified reports to ([PERS-832](#)) via encrypted e-mail and label appropriately. If mailed, the outer envelope should be addressed to NAVPERSCOM (PERS-832) and the inner envelope marked "Enlisted Performance, For Official Use Only" (as appropriate).

j. If the CO determines that no misconduct occurred after notification of possible disciplinary or adverse action has been made to either PERS-832 or PERS-832 and DoD CAF, the command is required to forward a Report of No Misconduct, via [PERS-83 Reporting Letter Templates](#) to PERS-832.

## 2. Misconduct - Courts-Martial

a. When court-martial charges have been preferred against a Service member, the CO will immediately send a copy of the charges and specifications with explanatory information to PERS-832. The CO will keep PERS-832 informed of the status and disposition of the charges.

b. At the conclusion of trial, the CO will forward the Report of Results of Trial via [PERS-83 Reporting Letter Templates](#). The report must include a copy of the charges preferred and the disposition of each, and the final sentence adjudged (as an enclosure).

c. If a discharge was not awarded, but a guilty finding was determined on any of the charges, the CO must provide a recommendation for or against administrative separation processing. The Report of Results of Court-Martial (use [PERS-83 Reporting Letter Templates](#)) must be acknowledged by the Service member if a recommendation for separation is included in the report.

3. **Misconduct - NJP**

a. When NJP is complete, the authority imposing punishment must forward the Report of Nonjudicial Punishment, using [PERS-83 Reporting Letter Templates](#), to PERS-832 as soon as the results are final (i.e., when the member declines to appeal, does not appeal within the required time, or after the appeal has been adjudicated). Forwarding the [Report of Nonjudicial Punishment](#) via the first flag in the chain of command **is neither required nor desired**, in cases involving enlisted personnel.

b. If NJP is imposed upon an enlisted Sailor in the Naval Nuclear Propulsion Program training pipeline or one who possesses a current nuclear NEC code, the following offices will also be notified of the circumstances:

(1) OPNAV N133 and

(2) PERS-403.

c. The following documents must be forwarded with the [Report of Nonjudicial Punishment](#) as enclosures:

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| (1) | A copy of the <a href="#">NAVPERS 1626/7</a> Report and Disposition of Offense(s), which should include: <ul style="list-style-type: none"><li>- Election of rights</li><li>- List of offenses</li><li>- Circumstances surrounding the offenses</li><li>- Punishment awarded</li></ul> |
| (2) | A copy of the punitive letter (if given)                                                                                                                                                                                                                                               |
| (3) | A copy of the investigation and other documents that were considered at NJP                                                                                                                                                                                                            |
| (4) | A copy of the <a href="#">NAVPERS 1070/607</a> Court Memorandum (Navy Standard Integrated Personnel System (NSIPS) form), if applicable                                                                                                                                                |
| (5) | A summary of any statement made by the Service member at NJP                                                                                                                                                                                                                           |
| (6) | A copy of the NJP appeal and appeal decision, or the member's written declination to appeal                                                                                                                                                                                            |
| (7) | A dated acknowledgment that confirms the Service member has reviewed the report of NJP, was advised of any adverse actions recommended, and that the report will become part of the member's official Service record                                                                   |
| (8) | If an appeal is granted on only a portion of the NJP imposed, the report should be submitted with a copy of the appeal letter, which will be included in the official Service record                                                                                                   |

d. Upon receipt, PERS-832 will review the [Report of Nonjudicial Punishment](#) to ensure required documents are included, and **all third**

**party information is redacted.** Once the review is complete, the applicable forms will be submitted to NAVPERSCOM Personnel Information Management Department (PERS-3) to file into the member's official Service record.

4. **Misconduct - Civil Offenses.** In civil cases where a Service member has been arrested in connection with, or charged with, a civil offense that would constitute an offense if charged under reference (d), the CO must report initial pertinent information to PERS-832. Subsequent status reports must be submitted (as appropriate). When the results of the civil action become final, the CO must submit a Final Civil Action Report, via [PERS-83 Reporting Letter Templates](#), to PERS-832. Since the Final Civil Action Report may become a part of the member's official Service record, it must include the following documents:

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| a. | A brief description of the incident for which the Service member was investigated, arrested, or tried                                                                                                                                   |
| b. | A copy of any available police reports (if applicable)                                                                                                                                                                                  |
| c. | A statement of the charges as filed (if applicable)                                                                                                                                                                                     |
| d. | A statement of the pleading or findings (if applicable)                                                                                                                                                                                 |
| e. | A statement of the sentence imposed (if applicable)                                                                                                                                                                                     |
| f. | A statement listing any diversionary actions (e.g., community service, attend Mothers Against Drunk Driving (MADD) meetings, attend at a specified class, etc.) allowed by the court, and resulting in a dismissal of the civil charges |
| g. | A copy of the civil court document reflecting final disposition of the matter                                                                                                                                                           |
| h. | The command action being taken or recommended                                                                                                                                                                                           |
| i. | A dated acknowledgment by the Service member that member may, within 5 days of the acknowledgement, make a statement concerning the matter                                                                                              |

**Note:** A Service member's failure to submit a statement within the required time-period must not be cause for a delay in forwarding the report to PERS-832. If the member submits a statement after the report is forwarded, send the statement separately.

5. **Security Incident Reports.** Per reference (c), commanders are required to report any adverse (derogatory) information to DoD CAF expeditiously. In addition to this requirement, commanders must notify PERS-832 via encrypted e-mail when an incident report has been made with DoD CAF. The following information must be contained in the e-mail notification:

|    |                                                                      |
|----|----------------------------------------------------------------------|
| a. | A detailed description of the incident for which the report was made |
| b. | The command action being taken or recommended                        |
| c. | Modifications or updates as they occur                               |

**Note:** COMNAVPERSCOM retains authority to direct administrative separation processing under any bases, for reports of misconduct deemed detrimental to good order and discipline or mission readiness. Administrative separation processing directed by COMNAVPERSCOM is mandatory. [MILPERSMAN 1910-233](#) outlines mandatory processing.

6. **Nonpunitive Actions (Oral and Letter of Caution)**. Nonpunitive actions administered orally or by letter of caution that are not considered punishment within the purview of reference (d), must not be forwarded to COMNAVPERSCOM for inclusion in the member's official Service record.

7. **Matter of Interest Holdings**

a. COMNAVPERSCOM determines whether records or reports of formal or informal investigations, courts of inquiry, or other matters should be held to contain matters of interest in the official Service record of any present or former member. A matter of interest holding ensures the entire report of a matter, rather than excerpts, which might appear in either performance evaluations, letters of censure, or other means is available to future reviewing, examining, or selection authorities. Matters of interest are administrative actions by COMNAVPERSCOM and should not be recommended by commands in lieu of, or as a substitute for, commendatory or disciplinary action, or appropriate markings and comments in a performance evaluation.

b. In cases where additional information regarding a Service member's performance becomes available subsequent to his or her detachment and transfer to another command, or after a performance evaluation for the period in question has already been submitted, a supplementary evaluation is normally considered more appropriate than a request for a matter of interest holding. In those cases in which a matter of interest holding has been recommended and the information might be construed to reflect derogatively on a member involved, the member must be afforded the opportunity to review the matter and must submit a signed statement or declination to make a statement to NAVPERSCOM. Final determination regarding the matter of interest holding must be made by COMNAVPERSCOM after receipt of the entire case, including the member's statement.

8. Indebtedness, Nonsupport, and Paternity

a. When a CO receives information which alleges a claim of indebtedness, nonsupport of the Service member's legal dependents or paternity of a child born out of wedlock, or if it becomes apparent to a CO that members under the command have:

(1) Flagrantly mishandled personal financial affairs;

(2) Repeatedly disregarded a valid court order, current mutual support agreement, or [MILPERSMAN 1754-030](#) and controlling directives requiring them to contribute to the support of their legal dependents; or

(3) After having admitted paternity or formally adjudicated to be the father of an illegitimate child, willfully neglected to meet the obligations that may attach thereto in such a manner as to bring discredit upon the naval Service, the CO must take such action as indicated below.

b. Being guided by the merits of each case, a CO should consider:

(1) Appropriate notation in the Service member's next regular report of fitness or evaluation,

(2) CO's NJP, or

(3) Referral to court-martial.

c. The mere involvement of a Service member in any dependency, paternity, or indebtedness situation should not, of itself, be the sole factor for considering action outlined above. When a member's conduct, in such cases, does in fact bring discredit upon the naval Service, a CO's action, per this paragraph, is considered to be appropriate since a member must be morally, as well as professionally, qualified for the present rate and for advancement to the next higher grade.