

MILPERSMAN 1910-106

SEPARATION IN LIEU OF TRIAL BY COURT-MARTIAL

Responsible Office	NAVPERSCOM (PERS-832)	Phone:	Toll Free	1-866-U ASK NPC
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References	(a) NAVSO P-6064 Manual for Courts-Martial United States (b) DoD Instruction 1332.14, Enlisted Administrative Separations, of 27 Jan 2014 (c) BUPERSINST 1900.8D
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1. **Policy**. Service members may request separation in lieu of a trial by court-martial if:

a. the preferred charges could result in a punitive discharge, per reference (a), appendix 12, Maximum Punishment Chart and

b. the commanding officer determines that the Service member is unqualified for further service.

2. **Request For Separation**

a. Service members requesting a discharge must submit a signed request using proper letter format. When counsel is consulted, the counsel's signature is also required. Use the following format:

From: (rate, name, branch of service)
To: (general court-martial convening authority/
special court-martial convening authority
(as appropriate) having jurisdiction over the Service member)
Via: (commanding officer)

Subj: REQUEST FOR SEPARATION IN LIEU OF TRIAL BY COURT-MARTIAL

Ref: (a) MILPERSMAN 1910-106

Encl: (1) Copy of court-martial charges
(2) Copy of a summary of the evidence or list of documents provided to Service member
(3) Service member's statement (if applicable)
(4) Appointed counsel statement (if applicable)

1. Per reference (a), I fully understand the elements of the offense(s) charged in enclosure (1) and I hereby voluntarily submit this request, free from any duress or promises of any kind for separation in lieu of trial by court-martial.

2. I have been afforded an opportunity to consult with counsel, and I (initial as appropriate):

() did consult with counsel.

() waive my right to consult with counsel.

3. I admit that I am guilty of: (List the offenses of which the Service member acknowledges guilt. These may be lesser included offenses, which have been referred to a special court-martial or general court-martial). A summary of the evidence provided to me pertaining to the offenses to which I acknowledge guilt is included in enclosure (2).

4. I understand that if my discharge is under other than honorable conditions, it may deprive me of virtually all veterans' benefits based upon my current period of active service. I may expect to encounter substantial prejudice in civilian life where the type of service rendered in any branch of the Armed Forces, or the character of discharge received, may have a bearing.

5. I understand that I may submit a sworn or unsworn statement on my behalf. I also understand that statements submitted by me or by my counsel, in connection with this request, are not admissible against me in a court-martial, except as provided by Military Rule of Evidence 410. I (do/do not) desire to submit a (sworn/unsworn) statement. (If applicable add the following: My (sworn/unsworn) statement is submitted as enclosure (3)).

6. I have retained a copy of this request for separation in lieu of trial by court-martial, including all enclosures.

(Signature of Service member)

Witnessed: (Signature of counsel(s))
(name, grade, corps, branch of service,
name and address of civilian counsel (if applicable),
state licensed/date)

b. If the Service member elects to have civilian counsel at their own expense, the record must indicate the name, address, and qualification of the civilian counsel.

Rule: If the Service member waives the right to consult with counsel, the command must prepare a statement to this effect, which must be enclosed, and disregard completing the witness block area, per reference b, Enclosure 3, Para. 11c(2).

c. Special court-martial convening authorities may approve or disapprove requests for Service members who have been absent without leave for more than 30 days, dropped from the rolls of their parent unit as a deserter, returned to military control, and assigned to a separation processing activity, however the Service member can only be charged with the unauthorized absence of more than 30 days. If other charges are preferred and not dismissed by the convening authority, separation per this article must be referred to a general court-martial convening authority.

d. For all cases in which Service members are diagnosed with post-traumatic stress disorder or traumatic brain injury, the separation authority is the Chief of Naval Personnel or higher authority. For such cases, see MILPERSMAN 1910-702 for guidance regarding required screening for Service members. Contact Navy Personnel Command (NAVPERSCOM), Enlisted Performance and Separations Branch (PERS-832) or the Reserve Enlisted Status Branch (PERS-913) for further guidance.

e. Since separation in lieu of court-martial is based on the voluntary request of the Service member and is considered comparable to a plea bargain, it may be approved even after the Service member's expiration of active obligated service or expiration of service.

3. Characterization of Service

a. Separation authority determines characterization of service, which is normally other than honorable, however general (under honorable conditions) or entry level separation may be assigned (as appropriate).

(1) Honorable characterization is not authorized under this reason for processing.

(2) See MILPERSMAN 1910-300 for guidance on characterization of service.

(3) If the Service member has less than 180 days of service, an entry level separation may be appropriate. See MILPERSMAN 1910-308.

b. A separation program designator must be assigned per reference (c).