

## MILPERSMAN 1910-132

### SEPARATION BY REASON OF DEFECTIVE ENLISTMENTS AND INDUCTIONS - DEFECTIVE ENLISTMENTS

<b>Responsible Office</b>	NAVPERSCOM (PERS-832), Enlisted active duty members	Phone:	DSN COM FAX	882-4431 (901) 874-4431 882-2754
	NAVPERSCOM (PERS-913), Enlisted inactive duty members	Phone:	DSN COM FAX	882-4503 (901) 874-4503 882-2673

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<b>References</b>	(a) BUPERSINST 1900.8A
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1. **Separation Authority**

a. Commanding Officer, Recruit Training Command (RTC) is authorized to discharge a member who enlisted with a guarantee of training in a particular rating, occupational field, or advanced program and, who, during subsequent screening processes at RTC, is determined to be disqualified for the specific program guaranteed.

b. For members not assigned to RTC, separation authority is member's Special Court-Martial Convening Authority (SPCMCA) or higher.

c. For Selected Reserve personnel, separation authority is Navy Personnel Command (NAVPERSCOM), Reserve Enlisted Personnel Section (PERS-913).

2. **Policy.** A member may be separated by reason of defective enlistment or induction on the basis of a defective enlistment.

3. **Defective Enlistment.** A defective enlistment exists in the following circumstances:

a. The member reasonably relied upon a material misrepresentation by recruiting personnel and was induced to enlist by a commitment for which member was not qualified.

b. The member received a written enlistment commitment from recruiting personnel for which member was qualified, but which cannot be fulfilled by the Naval Service.

c. The enlistment was involuntary (induced by fraud, duress, or undue influence and not the product of a free and unconstrained choice) and exemplified by

(1) enlistment of an individual who lacks capacity to understand the significance of enlisting in the armed services.

(2) enlistment of a member whose enlistment is involuntary by reason of coercion resulting from being offered the option to enlist or being subjected to sentence(s) to confinement by a court of competent jurisdiction.

4. **Basis for Separation.** A request from a member for separation is appropriate under these provisions only if member

a. did not knowingly participate in creation of the defective enlistment;

b. brings the defect to attention of appropriate authorities within 30 days after the defect is discovered, or reasonably should have been discovered, by member; and

c. requests separation instead of other authorized corrective action.

5. **Alternatives to Discharge.** Prior to discharge, advise member of alternate programs for which member is qualified and offered every encouragement to remain in service. Retention will be effected only upon full concurrence of member. If member accepts the alternate program, acceptance will be documented on NAVPERS 1070/613 (10/81), Administrative Remarks and the defect in enlistment will be considered cured.

6. **Disciplinary Action.** The processing for discharge under these provisions does not bar appropriate disciplinary action or other administrative separation proceedings regardless of when the defect is raised.

7. **Procedures**

a. The member will certify he/she has been advised of all options available, including discharge from Navy, by signing an entry on NAVPERS 1070/613 of the service record.

b. Forward the processed case by letter of transmittal to NAVPERSCOM (PERS-832), indicating date and characterization of service awarded.

8. **Characterization of Service.** Characterization of service will be Honorable, unless an Entry-Level Separation (ELS) or an order of release from custody and control of Naval Service is warranted per MILPERSMAN 1910-300.

9. **Separation Program Designator (SPD).** Per reference (a), the following SPD codes are to be used:

<b>SPD CODE</b>	<b>EXPLANATION</b>
KDS	Voluntary discharge allowed by established directives.
MDS	Voluntary release or transfer to another service component.