

MILPERSMAN 1910-134

SEPARATION BY REASON OF DEFECTIVE ENLISTMENTS AND INDUCTIONS - FRAUDULENT ENTRY INTO NAVAL SERVICE

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|------------------------------------|---|--------|-------------------|---|
| Responsible Office | NAVPERSCOM (PERS-832) Enlisted Active Duty Members | Phone: | DSN COM FAX | 882-4432/2303 (901) 874-4432 882-2624 |
| | NAVPERSCOM (PERS-913) Inactive Duty Enlisted Members | Phone: | DSN COM FAX | 882-4470 (901) 874-4470 882-2673 |
| NAVPERSCOM CUSTOMER SERVICE CENTER | | Phone: | Toll Free | 1-866-U ASK NPC |

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| References | (a) COMNAVCRUITCOMINST 1130.8J |
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1. **Separation Authority (SA)**. Refer to MILPERSMAN 1910-704 to determine SA. When administrative separation (ADSEP) board is held, refer to MILPERSMAN 1910-710 for guidance in determining SA.

2. **Policy**. Members may be separated for effecting a fraudulent enlistment, induction, or period of service by falsely representing or deliberately concealing any qualifications or disqualifications prescribed by law, regulation, or orders. Reference (a) refers.

3. **Processing Procedures**
 - a. Use this table to determine processing procedures.

| IF fraudulent enlistment involves | THEN use |
|--|---|
| concealing a prior separation that resulted in a punitive or Under Other Than Honorable (OTH) discharge; or concealing an offense warranting OTH, if offense occurred while on active duty and would have prevented their enlistment; | Administrative Board Procedure (MILPERSMAN 1910-404). |
| any other type of concealment, | Notification Procedure (MILPERSMAN 1910-402). |

b. Commanding officers (COs) should consider circumstances of each case in determining whether to pursue an OTH using administrative board procedures. In most instances, notification procedures are appropriate. Processing for an OTH (using administrative board procedures) should only be used for the most serious offenses. Examples where processing for an OTH would be appropriate include, but are not limited to drug trafficking, concealing a prior service dishonorable discharge, bad conduct discharge, or OTH discharge, and crimes of violence.

c. If fraudulent enlistment is detected immediately after the swearing-in ceremony at Military Entrance Processing Station (MEPS), MEPS commander will revoke any travel orders and transfer member temporary duty (TEMDU) to sponsoring Navy Recruiting District (NAVCRUITDIST). NAVCRUITDIST will process member using above procedures.

Note 1: Processing under this article is mandatory if the underlying reason for processing is mandatory per MILPERSMAN 1910-233.

4. **Limitation.** Separations for fraudulent entry may not be suspended.

5. **Granting a Waiver.** A general court-martial convening authority (GCMCA) may grant a processing waiver when CO desires member to be retained and defect is no longer present. Exceptions are on the following table:

| EXCEPTIONS | |
|--|---|
| <p>Only Navy Personnel Command (NAVPERSCOM), Enlisted Performance and Separations Branch (PERS-832) or Reserve Enlisted Status Branch (PERS-913) may grant all waivers for any of the below offenses:</p> | <p>or any combination of three or more of the following offenses:</p> |
| <ul style="list-style-type: none"> • Assault with dangerous weapon • Assault, intentionally inflicting great bodily harm • Assault with intent to commit felony • Carnal knowledge of female under 16 • Car-jacking • Grand larceny; embezzlement over \$500 • Indecent acts or liberties with child under 16 • Indecent assault • Kidnapping • Manslaughter • Murder • Rape • Sedition • Sodomy • Stalking | <ul style="list-style-type: none"> • Accessory before or after the fact of a felony • Adultery • Altering, concealing, destroying, mutilating, obliterating, or removing public records • Arson • Attempt to commit a felony • Bomb threat • Bribery • Check, worthless, making or uttering, with intent to defraud or deceive (over \$500) • Child abuse • Concealing knowledge of a felony • Criminal libel • Depositing obscene or indecent matters in mail • Extortion • Forgery • Graft • Housebreaking • Knowingly receiving stolen property (value over \$500) • Mail matter: abstracting, destroying, obstructing, opening, secreting, stealing, or taking • Pandering • Perjury • Possession or use of narcotics, dangerous drugs, or marijuana • Riot |

6. **Waiver Contents.** Waiver requests must contain the following:

- a. A description of all addressed allegations.
- b. Any finding, decision, sentence, judgment, or disposition recorded or entered by jurisdictional authority.
- c. If disposition is still outstanding, a written statement of actions taken to resolve and estimated completion date.
- d. Member's written statement explaining why fraudulent enlistment was effected, circumstances surrounding the issue, and why the issue was not disclosed at recruit training's moment of truth.
- e. CO's statement addressing fraudulent enlistment issue, member's performance of duty, and potential for further service.

7. **If Waiver is Approved**

a. GCMCA shall direct requesting command to prepare the following NAVPERS 1070/613 Administrative Remarks for counseling and warning, see MILPERSMAN 1910-204. Modify paragraph 1 of NAVPERS 1070/613 as follows:

"You are being retained in naval service despite your defective enlistment and induction due to fraudulent entry into naval service as evidenced by your failure to disclose (reason for requesting waiver). AUTHORITY: (GCMCA waiver authority letter or message)."

Note 2: This is a permanent NAVPERS 1070/613 which must be entered and verified in the electronic service record and submitted to the official military personnel file.

b. A complete copy of waiver package, to include approval and NAVPERS 1070/613, will be submitted to NAVPERSCOM (PERS-832) or NAVPERSCOM (PERS-913) (as appropriate) for filing in member's permanent record.

8. Characterization of Service

a. Further guidance on characterization of service is provided in MILPERSMAN 1910-300. This table provides general information based on type of procedures used:

| IF | THEN least favorable characterization |
|---|--|
| Notification Procedure is used, | is GEN per MILPERSMAN 1910-300. |
| Administrative Board Procedure is used, | is OTH, per MILPERSMAN 1910-300. |

b. If member has less than 180 days of service, an entry level separation may be appropriate. See MILPERSMAN 1910-308 for further guidance.

9. Exception to Rule for Navy Recruit Training Command (NAVCRUITRACOM) and Naval Service Training Command (NSTC)

a. Recruits must be administratively separated and assigned an RE-3J reenlistment code provided they:

- (1) Failed entry-level drug testing **for marijuana only;**
- (2) Did not use any illegal drugs other than marijuana while in the Delayed Entry Program; and
- (3) There is no indication that the recruit is drug dependent.

b. This exception allows potentially good recruits to overcome their drug abuse and opportunity to reenlist after a minimum 6-month waiting period.

c. If recruit does not meet criteria, process for all other reasons for which minimum criteria is met and assign RE-4 reenlistment code.