

MILPERSMAN 1910-144

SEPARATION BY REASON OF MISCONDUCT - CIVILIAN CONVICTION

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References	(a) Manual for Courts-Martial United States of 2019 (b) SECNAVINST 5820.4G
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1. **Separation Authority (SA)**. Refer to MILPERSMAN [1910-704](#) to determine the SA. When an administrative separation (ADSEP) board is held, refer to MILPERSMAN [1910-710](#) for guidance in determining the SA.

2. **Policy**

a. Members may be separated based on civilian convictions or actions tantamount to:

- (1) Findings of guilt,
- (2) Adjudication withheld,
- (3) Deferred prosecution,
- (4) Entry into an adult/juvenile pretrial intervention program, or
- (5) Any similar disposition of charges, which includes:
 - (a) Imposition of fines, probation, or community service;

(b) When offense would warrant a punitive discharge, per reference (a), appendix 12, for the same or closely related offense;

(c) Specific circumstances of offense warrant separation; or

(d) Civil sentence includes confinement for 6 months or more without regard to suspension, probation, or early release.

b. All civilian convictions (Federal, State, and local), including any actions tantamount to findings of guilt are binding on the issue of whether misconduct has occurred and an administrative discharge board is required to find that misconduct did occur.

c. Foreign court convictions are not binding on administrative boards and do not preclude processing due to misconduct (serious offense and or civil conviction).

Note: Members confined in foreign jails may be processed for separation, but may not be discharged or separated from Service until completion of imprisonment and return to the United States. In unusual cases (i.e., life sentence without possibility of parole), separation may be authorized by the Secretary of the Navy per reference (b).

3. **Mandatory Processing.** See MILPERSMAN [1910-233](#) for a complete list of offenses for which ADSEP processing is mandatory.

4. **Procedures.** All available arrest, investigative, and court adjudication documentation must be submitted as part of recorder's exhibits at any administrative board. If members waive their boards, these same documents must be submitted as enclosures to the Letter of Transmittal (see MILPERSMAN [1910-600](#)). Use the following table to determine processing procedures.

WHEN..	THEN use..	EXCEPT when..	THEN use..
commanding officer (CO) believes circumstances surrounding offense warrant under other than honorable (OTH) per MILPERSMAN 1910-300 ,	administrative board procedures per MILPERSMAN 1910-402 ,	conviction occurred preservice or in a prior enlistment and was unknown to Navy at time of enlistment or reenlistment, and processing for fraudulent enlistment is not appropriate,	notification procedures per MILPERSMAN 1910-402 and process for erroneous enlistment per MILPERSMAN 1910-130 .
CO believes circumstances do not warrant an OTH per MILPERSMAN 1910-300 ,	notification procedures per MILPERSMAN 1910-402 .		

5. **Characterization of Separation**

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 characterizations is...
notification procedures are used,	"general" (under honorable conditions) per MILPERSMAN 1910-402 .
administrative board procedures are used,	"under other than honorable" per MILPERSMAN 1910-402 .

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