

## MILPERSMAN 1910-146

### SEPARATION BY REASON OF MISCONDUCT – DRUG ABUSE

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<b>References</b>	(a) OPNAVINST 5350.4D (b) SECNAVINST 5300.28F
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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. Processing is mandatory for the following:

(1) Positive urinalysis tested and confirmed positive at a Navy drug screening lab (NAVDRUGLAB) or other Department of Defense (DoD) approved lab. If the commanding officer (CO) determines the urinalysis result was caused by administrative errors (e.g., faulty local chain of custody, evidence of tampering) or the drug use was not wrongful (e.g., prescribed medication, unknowing ingestion), then the member must not be identified as a drug abuser and the positive urinalysis is not a drug abuse incident. When this determination is made, the command must notify, via official correspondence:

(a) Office of the Chief of Naval Operations (OPNAV), Total Sailor Fitness Branch (OPNAV N170), **and**

(b) the command's immediate superior in command of the circumstances that warranted such a determination.

- (2) Admission of drug use
- (3) One or more military drug-related offense(s)
- (4) Nolo contendere, no contest plea in civil courts
- (5) Civil conviction for a drug-related offense(s)
- (6) Actions tantamount to findings of guilt in civil courts:

- (a) Deferred prosecution
- (b) Entry in a pretrial intervention program

b. Drug-related offenses include the following:

(1) **Drug Abuse** - illegal or wrongful use, possession of controlled substances, or attempts to commit drug offenses.

(2) **Drug Trafficking** - the sale, transfer, or possession with the intent to sell or transfer controlled substances.

### 3. Procedures

a. Separation on the basis of drug abuse may be processed using notification procedures when the CO believes the circumstances surrounding the offense and its disposition do not warrant an "other than honorable" (OTH) characterization pursuant to MILPERSMAN [1910-300](#). Administrative board procedures should be used when the CO believes circumstances surrounding the offense warrant an OTH pursuant to MILPERSMAN [1910-300](#).

b. Per reference (b), drug abuse is defined as the illegal or wrongful use or possession of a controlled substance or prescription medication, including steroid usage other than that specifically prescribed by competent authority, or attempts to commit drug offenses. The wrongful use of inhalants (huffing) or the misuse of designer drugs must be processed under MILPERSMAN [1910-142](#).

c. If board procedures are used and member waives right to an administrative board, under administrative board procedures, only

the general court-martial convening authority or higher serves as SA.

**Note:** Policy and procedures apply to both Active and Reserve Service members (e.g., drilling reservists who test positive on urinalysis must be processed for separation, regardless of when the drugs were ingested).

**4. Use of Urinalysis Results**

a. Use this table to determine basis for separation and characterization of service:

<b>Type</b>	<b>Usable in Disciplinary Proceedings</b>	<b>Usable as Basis for Separation</b>	<b>Usable for GEN/OTH Characterization</b>
<b>Search or Seizure</b> - Member's consent - Probable cause	Yes Yes	Yes Yes	Yes Yes
<b>Inspection</b> - Random sample - Unit sweep	Yes Yes	Yes Yes	Yes Yes
<b>Medical - General</b> - Diagnostic purposes (e.g., emergency room treatment, annual physicals, etc.) (see subparagraph 4b(1) rule)	Yes	Yes	Yes
<b>Fitness for Duty</b> - Command directed - Competence for duty (see subparagraph 4b(1) rule) - Mishap/safety investigation	No No No	Yes Yes Yes	No No No
<b>Service-Directed</b> - Treatment facility staff (military) - Alcohol rehab testing	Yes No	Yes Yes	Yes No

- Naval brigs and military confinement facilities	Yes	Yes	Yes
- Entrance testing	No	Yes	No (see sub-paragraph 4b(2) rule)
- Accession training pipeline	Yes	Yes	Yes

**Note:** Only urinalysis results from a NAVDRUGLAB or other DoD-certified lab will be used to refer a military member for appropriate disciplinary action and to establish the basis for separation and characterization of discharge.

b. **Rules.** The medical facility should immediately notify the member's command of a positive urinalysis or blood test. This notification should prompt the CO or acting CO to authorize an immediate probable cause urinalysis, conducted by the command's designated urinalysis coordinator. If the CO or acting CO will not be available in excess of 24 hours, then the command duty officer or officer of the day should authorize an immediate command-directed urinalysis. Immediate action is necessary to preclude further degradation of possible controlled substances in the system due to the passage of time. An exception to this policy is if the member is unconscious and unable to deliberately provide a urine sample.

**Note:** Reservists recalled to active duty (AD) only.

5. **Characterization of Separation.** 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 procedures are used,	is GEN per MILPERSMAN <a href="#">1910-402</a> .
administrative board procedures are used,	is OTH per MILPERSMAN <a href="#">1910-402</a> .

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