



PRIMER: ENLISTED ADMINISTRATIVE SEPARATION BOARD

You are appointed to serve as President (also referred to as Senior Member)/Member of an enlisted administrative separation board (the “Board”). The purpose of this memo is to summarize key aspects of the governing references in order to help prepare you for your duty on the Board.¹ The Board differs from an officer Board of Inquiry.

Policy. DoDI 1332.14 outlines the DoD policy on enlisted administrative separations. It is DoD policy to 1) preserve the readiness of military services by maintaining high standards of performance, conduct, and discipline; 2) make reasonable efforts to identify enlisted servicemembers who exhibit the likelihood for early separation and improve their chances for retention through counseling, retraining and rehabilitation; and 3) separate enlisted servicemembers who do not demonstrate the commitment or potential for further service.

MCO 1900.16 w/CH-2, Separation and Retirement Manual (MARCORSEPMAN) governs Marine Corps enlisted administrative separations. Five core sections relate to your role on the Board:

- **6315** governs composition of the Board and delineates specific duties and responsibilities for those composing the Board.
- **6316** governs the procedures to be employed by the Board.
- **6317** governs witnesses.
- **6319** governs the findings and recommendations of the Board and requires that “all findings and recommendations be determined by a majority of the voting board members.”
- **6320** governs the record of proceedings and Report of the Board.

Purpose.² The Marine Corps substantially invests in training every person who enters its ranks. Separation before completion of a period of obligated service represents a loss of investment, yet retaining individuals in the Marine Corps who will not or cannot conform to required standards creates high costs in terms of substandard mission performance, administrative efforts, pay and degradation of morale. Therefore, every reasonable effort must be made to identify, in a timely manner, Marines who exhibit a likelihood for early separation, and either:

- a. Improve those Marines’ chances of retention through counseling, retraining, and rehabilitation; or,
- b. Separate promptly those Marines who do not demonstrate potential for further useful naval service.

Key Roles

- **Convening Authority.** The commander who initiated the administrative separation process for a Marine and ordered the Administrative Separation Board.
- **Respondent.** The Marine who is the subject of the separation proceedings.

¹ This primer is merely a tool and is not all-encompassing. The language of the cited reference is controlling whenever any disparity between this primer and the reference exists.

² Para. 6101

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- **Counsel for the Respondent.** The Respondent shall be represented by a qualified counsel appointed by the Marine Corps Defense Services Organization or civilian counsel hired at the Respondent's own expense who represents, and advocates on behalf of, the Respondent.
- **Recorder.** The individual responsible for presenting evidence on behalf of the Marine Corps supporting the identified basis and separation.³
- **Legal Advisor.** A judge advocate responsible for ruling on procedure, admissibility of evidence, and challenges. The Legal Advisor typically is not physically present and is available via phone during the proceedings. The Legal Advisor may also be available via email for any preliminary issues. The Legal Advisor's determinations are final and are not subject to review by the President of the Board.⁴
- **President of the Board.** The senior member of the board in the grade of major or higher. The President of the Board will preserve order and decide upon matters relating to the routine business of the board. The President of the Board, subject to the Appointing Order, may grant continuances or recesses.⁵
- **Board Member.** The Board will consist of at least three members. The majority must be commissioned/warrant officers. Staff noncommissioned officers must be in the pay grade of E-7 or above.⁶ Additional rules apply to membership eligibility when the Respondent is a reservist.
- **Separation Authority.** Generally, the first general court-martial convening authority that processes the case for final action after the report of the Administrative Separation Board.

Procedures

Attendance at the proceedings of the Board is the primary duty of a member. No member shall fail to attend at the appointed time unless prevented by illness, ordered away, or excused by the Convening Authority.⁷ Upon being appointed, no member shall attempt to learn the facts and circumstances underlying the Board to include researching any terms outside of the enclosures and references. Parties may reach out to the President of the Board in advance of the Board regarding administrative matters for the Board. The President of the Board may contact the Legal Advisor with any questions regarding requests from either side.

The President of the Board will be provided a script to conduct the Board.⁸ The template script, Figure L-6, can be found in Appendix L of the MARCORSEPMAN.

The proceedings of the Board will be open to the public. The President of the Board shall clear the hearing room when it is time for deliberations, at which time all persons except voting members must leave the hearing room.⁹ Unless at least three voting members of the Board are present, no business other than declaring a recess or adjournment shall be transacted by the Board.¹⁰

³ Para. 6315.3

⁴ Para 6315.4

⁵ Para 6315.2

⁶ Para 6315.1

⁷ Para 6315.1

⁸ Appendix L, Figure L-6

⁹ Para 6316/6

¹⁰ Para 6315.1

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Prior to the presentation of evidence, the Respondent may challenge any voting member or the Legal Advisor if they believe the person cannot approach the case with impartiality.¹¹ The Convening Authority will resolve any challenge of the Legal Advisor. Any challenged member will have the opportunity to make a statement, and may be questioned by the Respondent, the Recorder, or other members of the Board. The Legal Advisor will rule on any challenges regarding any voting members.

The Board “functions as an administrative rather than a judicial body”. During the presentation of evidence and arguments, “the strict rules of evidence governing trials by courts-martial are not applicable.” It is important to note that “there is a sharp and distinct delineation between the administrative process which has as its purpose the administrative elimination of unsuitable, unfit, or unqualified Marines, and the judicial process, the purpose of which is to establish the guilt or innocence of a member accused of a crime and to administer punishment when appropriate.”¹²

The Respondent may testify under oath, make an unsworn statement, or elect to remain silent.¹³ If the Respondent testifies under oath, they are subject to cross-examination by both the Recorder and the members of the Board. If the Respondent elects to remain silent, the Board must not consider the Respondent’s election against them.¹⁴

Deliberations. Upon completion of the presentation of evidence and arguments, the Board shall deliberate and make findings and recommendations by a majority vote as set forth below in a closed session.¹⁵ The standard of proof at the Board is a “preponderance of the evidence”¹⁶ – this is less than the standard at a court-martial, which is “beyond a reasonable doubt.” A preponderance of the evidence proves a fact if more than 50% of the evidence supports the fact.¹⁷ The burden of proof at the Board is on the Recorder and never shifts. The weight of the evidence is not determined by the sheer number of witnesses or volume of evidentiary matter; it is determined by the evidence which best accords with reason and probability. The Board members shall rely on their individual judgment and experience in determining the weight and credibility to be given matters received in evidence. Following the Board, the Recorder will prepare a record of the Board’s proceedings and the President of the Board will authenticate that record, unless directed otherwise.¹⁸

1. Whether the preponderance of the evidence proves the basis or bases alleged in the notification.¹⁹

You are required to “determine whether each allegation in the notice of proposed separation [commonly referred to as “basis”] is supported by a preponderance of the evidence.”²⁰ There may be more than one basis alleged at the Board and these will be reflected in the Notification of Separation Proceedings. A finding will be made as to each noticed basis. If the Board determines none of the noticed bases are met,

¹¹ Para 6316.7

¹² Para 6316.1

¹³ Para 6304.1, 6317, Figure L-6

¹⁴ Sect V of Figure L-6, Appendix L

¹⁵ Para 6319.1

¹⁶ Para 6316.11, 6319.2

¹⁷ Figure L-6, Appendix L

¹⁸ Para 6315.3, 6320

¹⁹ Para 3.a of Figure L-9, Appendix L

²⁰ Para 6319.2

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there are no further questions for the Board to answer. If the Board determines any noticed basis is met, you must address the second question.

2. *Whether the Marine should be RETAINED or SEPARATED.*²¹

If the Board determines a basis for separation is met, you are required to “recommend retention or separation”²² of the Marine to the Separation Authority. Your recommendation should be informed by DoD and Marine Corps policy on enlisted administrative separations, the factors identified at paragraphs 6309.1.c and 6309.1.d of the MARCORSEPMAN, and the Respondent’s entire career. If the Board recommends the Marine be separated, you must address the third and fourth question.

3. *The recommended CHARACTERIZATION OF SERVICE.*²³

If the Board recommends separation, you are required to “recommend a characterization of service or description of separation”²⁴ for the Marine’s current enlistment or period of service. Your recommendation should be informed by paragraph 1004 of the MARCORSEPMAN. Characterization of the current enlistment or period of service is determined by conduct, actions, or performance during that enlistment or service plus any extensions prescribed by law or regulations or effected with the consent of the Marine.²⁵ Thus, positive or negative conduct, acts, or performance during a period of prior military service shall not be considered in determining the recommended characterization of service.

4. *Whether the separation should be SUSPENDED.*²⁶

If the Board recommends separation, you “may recommend that the separation be suspended under paragraph 6310” if warranted.²⁷ The potential for rehabilitation and further useful service shall be considered by the Board in evaluating whether the separation should be suspended.²⁸ A recommendation for suspension is not binding on the Separation Authority. If the Separation Authority suspends the separation, the Marine will continue to serve subject to service regulations.

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²¹ Para 3.b of Figure L-9, Appendix L

²² Para 6319.5.a

²³ Para 3.b of Figure L-9, Appendix L

²⁴ Para 6319.5.c

²⁵ Para 1004.a

²⁶ Para 3. b of Figure L-9, Appendix L

²⁷ Para 6319.5.b

²⁸ Para 6310.a