



## SECNAVINST 1920.6D – Administrative Separation of Officers

### Background

On 24 Jul 19, SECNAV approved SECNAVINST 1920.6D. It cancels SECNAVINST 1920.6C CH-5 and incorporates recent statutory changes. This practice advisory highlights many of the changes, however, legal advisors and service providers should review the new instruction in its entirety.

### Significant Changes

#### **Enclosure (2), Definitions**

- The term “commissioned officer” is revised to include Regular and Reserve chief warrant officers in the grades of chief warrant officer, W-2, W-3, W-4, and W-5, who are appointed by commission.
- The term “drop from the rolls (DFR)” is revised to comply with the definition in DoD Instruction 1332.30, Commissioned Officer Administrative Separations, and to clarify that no characterization of service is awarded.
- The term “limited duty officer” is defined for clarity and addresses the distinction between temporary and permanent limited duty officers.
- The term “officer” is defined to mean a commissioned or a warrant officer.
- The term “probationary officer” is revised for clarity and consistency with applicable law.
- The term “separation” is revised for clarity.
- The term “sexual misconduct or perversion” is revised for clarity and consistency with the Uniform Code of Military Justice (UCMJ).
- The term “unlawful drug involvement” is revised for clarity and consistency with the UCMJ.
- The term “warrant officer” is defined for clarity.

#### **Enclosure (3), Policy Governing Voluntary Separation**

- Paragraph 4, Military Service Obligation, is revised for clarity and to provide additional guidance on the applicable waivers and exceptions of the eight-year military service obligation.

**Involuntary Separation Policy.** In SECNAVINST 1920.6C CH-5, enclosure (3) addressed all categories of involuntary separations. This new version promulgates involuntary separation policy in enclosures (4), (5), and (6).

#### **Enclosure (4), Policy Governing Involuntary Separation of Regular Officers - Failure of Selection for Promotion, Mandatory Retirement for Years of Active Service or Age, and Selective Early Retirement**

#### **Enclosure (5), Policy Governing Involuntary Separation of Reserve Officers - Failure of Selection for Promotion, Mandatory Separation for Years of Service or Age, and Other Bases**

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- Enclosures (4) and (5) are reorganized for clarity. The substantive guidance in many provisions is revised to achieve consistency with the governing statutory and regulatory authorities, which are cited as applicable.
  - The statutory authorities governing the involuntary separation of officers who fail of selection for promotion or who reach the statutory maximum years of service or age depend on the officer's grade and component (i.e., Regular or Reserve). For improved organization, enclosure (4) contains the involuntary separation policy applicable to Regular officers, and enclosure (5) governs Reserve officers. The procedural guidance in each enclosure is further reorganized by officer grade, stating the general rule for involuntary separation (most often established by statute) and the exceptions to the general rule. Those involuntary separation authorities which are used less frequently by the services appear at the end of enclosures (4) and (5), and are generally consistent with those in SECNAVINST 1920.6C CH-5, with the exception of some revisions to ensure consistency with applicable law.

### **Enclosure (6), Policy Governing Involuntary Separation for Cause or Parenthood**

- Separation for Cause. The failure of an officer to maintain Marine Corps physical fitness test and combat fitness test standards has been added as a basis for separation for cause. *See* enclosure (6) paragraph 1a(8).
- Misconduct, or Moral or Professional Dereliction
  - o Sexual misconduct or perversion. This provision is revised for clarity. As discussed above, "sexual misconduct or perversion" is defined in Enclosure (2). Separation processing is **mandatory** under this basis. If the member is convicted at a court-martial or in a civilian court of federal, state or local U.S. jurisdiction, then the conviction is binding on the issue of whether misconduct occurred and the BOI is required to find that misconduct did occur. *See* enclosure (6), paragraph 1b(3).
  - o A pattern of serious or recurring misconduct, punishable by military or civilian authorities, notwithstanding the fact that such misconduct has not resulted in judicial or nonjudicial punishment under the UCMJ. The phrase "unless such misconduct resulted in acquittal" is deleted to conform with DoDI 1332.30, which provides that an acquittal, whether in a civilian or military criminal proceeding or nonjudicial punishment, does not preclude an administrative discharge action. *See* enclosure (6), paragraph 1b(11).
  - o Conviction by civil authorities (foreign or domestic) or action taken tantamount to a finding of guilty, which would amount to an offense under the UCMJ. A demonstrative list of examples is included for clarity. All civilian convictions (federal, state, and local), including any actions tantamount to findings of guilt, are binding on the issue of whether misconduct occurred, and a BOI is required to find that such misconduct did occur. *See* enclosure (6), paragraph 1b(12).
  - o Substantiated incidents of misconduct resulting from the officer's active participation in extremist or supremacist activities. This basis now includes illegal discrimination on the basis of sex (including gender identity) or sexual orientation. *See* enclosure (6), paragraph 1b(13).
  - o Failure of an officer to obtain or maintain a required level of security clearance is a basis for separation. This is a new provision. All officers must be eligible to obtain a security clearance in order to be retained in the naval service. *See* enclosure (6), paragraph 1b(15).

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o Conditions Not Constituting a Physical Disability. This basis for separation implements DoD Instruction 1332.30, section 9. An officer may be subject to involuntary separation using notification procedures on the basis of a condition not constituting a physical disability that interferes with the assignment to or performance of duty and that is not specifically listed as compensable under the Veteran Affairs Schedule for Rating Disabilities. The procedural requirements are extensive and include counseling, a medical officer evaluation, the endorsement of a Medical Evaluation Board convening authority, and, in certain cases, a flag medical officer review. *See* enclosure (6), paragraph 1e.

### **Enclosure (7), Guidelines on Separation for Cause**

- Limitation for retirement-eligible officers. Enclosure (7), paragraph 4.c, authorizes the Chief of Naval Personnel (CHNAVPERS) and the Deputy Commandant for Manpower and Reserve Affairs (DC (M&RA)) to direct a retirement-eligible officer to show cause for retention in the naval service with the least favorable service characterization of General (Under Honorable Conditions) or Other Than Honorable (OTH). Other Navy and Marine Corps show cause authorities must obtain approval from CHNAVPERS or DC (M&RA) before a BOI may recommend a service characterization less favorable than Honorable.
- Processing officers recommended for separation by promotion selection boards. Enclosure (7), paragraph 5, authorizes CHNAVPERS and DC (M&RA) to initiate separate processing when a report of a promotion selection board notifies SECNAV that an officer should be required to show cause for retention in the naval service or establishes a warrant officer's unfitness or unsatisfactory performance. This provision aligns the DON's separation policy with the SECNAV's guidance in promotion selection board precepts and convening orders.
- Special Provisions. Enclosure (7), paragraph 11, imposes limitations and procedural requirements applicable to the Separation Authority's consideration of requests for reconsideration.

### **Enclosure (8), Guidelines on Characterization of Service**

- Notification of VA benefits for officers separated with an OTH. Enclosure (8), paragraph 2.c, implements the requirement in Public Law 115-91, section 528, to notify officers awarded an OTH service characterization of their Department of Veteran's Affairs (DVA) benefits.

### **Enclosure (9), Guidelines on Recommendations – Grade at Retirement**

- Enclosure (9), paragraph 1, contains new guidance on retirement grade determination under 10 U.S.C. § 1370; the three-year time-in-grade requirement applicable to retirements of commissioned officers in the grades of O-5 or O-6; and the BOI's recommendation of an officer's retirement grade.
- Satisfactory service determination. Enclosure (9), paragraph 2, contains new procedural guidance for the SECNAV's satisfactory service determination in the case of a retirement-eligible officer who committed misconduct in a lower grade. In accordance with 10 U.S.C. § 1370, as amended by the Fiscal Year 2019 National Defense Authorization Act, in the case of an officer whom SECNAV determines committed misconduct in a lower grade, SECNAV may determine the officer has not served satisfactorily in any grade equal to or higher than that lower grade. It also implements the new statutory authorities in 10 U.S.C. § 1370 governing conditional retirement grade determinations and post-retirement grade determinations.

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- Retired Officer. Enclosure (9), paragraph 4, implements the new statutory authority in 10 U.S.C. § 1370(f) governing the finality of officer retirement grade determinations.

### **Enclosure (11), Board of Inquiry Procedures**

- Travel to BOI. SECNAVINST 1920.6C, enclosure (8), paragraph 3, required Reserve officers not on active duty to fund their own travel when ordered to appear before a Board of Inquiry. SECNAVINST 1920.6D removes this requirement, leaving it to the Navy and Marine Corps to address in respective service policies.
- Rights of a respondent. Enclosure (11), paragraph 7d, contains revised guidance governing the respondent's access to records relevant to the matters to be determined by the BOI. Specifically, a respondent shall have full access to records relevant to the matters determined by the BOI, as finally determined by the convening authority and that are not privileged or otherwise exempt by law from disclosure, except that information or material must be withheld if the Show Cause Authority determines such information should be withheld in the interest of national security. If so withheld, a summary of the information will be provided to the extent the interest of national security permits.
- Notification to Board Members. Enclosure (11), paragraph 10, contains guidance which members must read before deliberations. It reminds members that "[t]he central purpose of a BOI is to protect the interests of the Navy and Marine Corps, and by extension, America's interests, by promoting readiness through the maintenance of high standards of conduct and performance." BOI members are also required to consider specific factors during deliberations.
- Decision of the BOI. Per enclosure (11), paragraph 13.b, if the BOI recommends separation in the case of a retirement-eligible officer, then the BOI must recommend: (1) the highest grade in which the officer served satisfactorily; and (2) a service characterization if authorized by CHNAVPERS or DC (M&RA).

### **Enclosure (12), Other Separation Review Requirements**

- Officers who have been referred into the Disability Evaluation System (DES) while undergoing involuntary administrative separation processing may be separated before completion of the DES process if warranted.
- If a Physical Evaluation Board has determined that an officer is fit for duty despite having a medical condition, then only SECDEF can approve the involuntary separation of an officer based on a determination that he or she is unsuitable for deployment or worldwide assignment because of the same medical condition.
- In accordance with 10 U.S.C. § 1177, pre-separation health assessments are required when administratively separating an officer diagnosed with, or who reasonably alleges the influence of post-traumatic stress disorder or traumatic brain injury.
- An officer may request General or Flag Officer review of the circumstances and grounds of a separation if the officer made an unrestricted report of sexual assault and has been recommended for involuntary separation within one year of the final disposition of his or her sexual assault case.

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- Not later than 30 days before separation, officers subject to separation processing must receive a current assessment of all benefits to which the officer may be entitled under laws administered by the DoD and the DVA, as mandated by 10 U.S.C. § 1155.

**Enclosure (13), Fact Sheet – Purpose and Authority of the Naval Discharge Review Board and the Board for Correction of Naval Records.** This new enclosure will be provided to officers in order to satisfy the statutory requirement in 10 U.S.C. § 1155, as implemented by SECNAVINST 1920.6D, enclosure (12), to receive information concerning the entitlement to benefits administered by the DoD and DVA.

**Enclosure (14), Internal Controls, Records Management, and Reports.** This new enclosure contains general administrative guidance concerning the internal controls required by SECNAVINST 5200.35 (Series), Department of the Navy Managers' Internal Control Program, as well as records management and reports.

For any questions concerning this new instruction, please contact Ms. Kathy Estes, [Katherine.estes@usmc.mil](mailto:Katherine.estes@usmc.mil), 703-693-8404.