

## MILPERSMAN 1910-146

### Separation By Reason Of Misconduct - Drug Abuse

<b>Responsible Office</b>	NAVPERSCOM (PERS-832)	Phone:	DSN COM FAX	882-4432/2303 (901) 874-4432 882-2624
	NAVPERSCOM (PERS-913) Inactive Enlisted Mbrs.	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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<b>References</b>	(a) OPNAVINST 5350.4D (b) SECNAVINST 5300.28D
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1. **Separation Authority (SA)**. Refer to MILPERSMAN 1910-704 to determine SA. When an administrative separation (ADSEP) board is held, refer to MILPERSMAN 1910-710 for guidance in determining SA.

2. **Policy**

a. Processing is mandatory for the following:

(1) Positive urinalysis that was 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 shall not be identified as a drug abuser and the positive urinalysis is not a drug abuse incident. When this determination is made, the command shall notify via official correspondence;

- Office of Chief of Naval Operations (OPNAV),  
Personal Readiness and Community Support Branch (OPNAV-  
N135), **and**
- the command's immediate senior in command (ISIC)  
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 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. Notification procedures are used for the following  
situations:

(1) Member self refers to a qualified self referral  
representative with the intent of acquiring treatment and is  
found to be drug dependent by proper medical authority.

(2) Processing is based on fitness for duty or certain  
service directed urinalysis; per reference (a) (see following  
table).

(3) Voluntarily discloses evidence of prior personal  
drug abuse during course of treatment/rehabilitation.

(4) Navy Reservists testing positive on accession test into the Reserve program.

(5) Prior service applicants for Selected Reserve (SELRES) enlistments/reenlistments whose break in service from a SELRES or Regular component (RC) is more than 6 months.

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 a 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. Other than the above exceptions, drug abuse must be processed using administrative board procedures (MILPERSMAN 1910-404) with Under Other Than Honorable (OTH) being the least favorable characterization of service considered. This applies to both Regular and Reserve personnel. (Example: Drilling reservists who test positive on urinalysis may be processed for OTH regardless of when the drugs were ingested.)

d. If member waives right to administrative board, under administrative board procedures, only General Court Martial Convening Authority (GCMCA) or higher serves as SA.

**4. Use of Urinalysis Results**

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

Type	Usable in Disciplinary Proceedings	Usable as Basis for Separation	Usable for OTH Characteri- zation
<b>Search or seizure</b>			
Member's consent	Yes	Yes	Yes
Probable cause	Yes	Yes	Yes

Inspection Random sample Unit sweep	Yes Yes	Yes Yes	Yes Yes
<b>Medical</b> - general diagnostic purposes (e.g., ER treatment, annual physicals, etc.) (See Rule 1)	Yes	Yes	Yes
Fitness for duty Command directed Competence for duty (See Rule 1) Mishap/safety investigation	No No No	Yes Yes Yes	No No No
Service-directed Treatment facility staff (military) Alcohol rehab testing Naval brigs Entrance testing  Accession training pipeline	Yes No Yes No  Yes	Yes Yes Yes Yes  Yes	Yes No Yes No (See Rule 2) Yes

**b. Rules**

(1) 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 knowingly provide a urine sample.

(2) Yes for reservists recalled to active duty (AD) only (except Delayed Entry Program (DEP) participants).

5. **Characterization of Separation.** Further guidance on characterization of service provided in MILPERSMAN 1910-300. This table provides general information based on type of procedures used.

IF ...	<b>THEN least favorable characterization ...</b>
Notification Procedure is used,	is General (GEN) per MILPERSMAN 1910-308.
Administrative Board Procedure is used,	is OTH per MILPERSMAN 1910-300.

If AD member has less than 180 days of service, an Entry Level Separation may be appropriate. See MILPERSMAN 1910-308 for further guidance.