

Figure 3-3.--Minimum Points Required to Establish a Partial Anniversary Year as Qualifying Service

Number of Days in an Active Status		Minimum Points Required	Number of Days in an Active Status		Minimum Points Required	Number of Days in an Active Status		Minimum Points Required
FROM	THROUGH		FROM	THROUGH		FROM	THROUGH	
0	7	1	125	131	18	249	255	35
8	14	2	132	138	19	256	262	36
15	21	3	139	146	20	263	270	37
22	29	4	147	153	21	271	277	38
30	36	5	154	160	22	278	284	39
37	43	6	161	168	23	285	292	40
44	51	7	169	175	24	293	299	41
52	58	8	176	182	25	300	306	42
59	65	9	183	189	26	307	313	43
66	73	10	190	197	27	314	321	44
74	80	11	198	204	28	322	328	45
81	87	12	205	211	29	329	335	46
88	94	13	212	219	30	336	343	47
95	102	14	220	226	31	344	350	48
103	109	15	227	233	32	351	357	49
110	116	16	234	240	33	358	365/366	50
117	124	17	241	248	34			

Figure 3-3.--Minimum Points Required to Establish a Partial Anniversary Year as Qualifying Service

Figure 3-4.--Membership Points (Gratuitous)

Number of Days in an Active Status		Membership Points credited	Number of Days in an Active Status		Membership Points credited
FROM	THROUGH		FROM	THROUGH	
1	12	0	183	206	8
13	36	1	207	231	9
37	60	2	232	255	10
61	85	3	256	279	11
86	109	4	280	304	12
110	133	5	305	328	13
134	158	6	329	352	14
159	182	7	353	365	15

Figure 3-4.--Membership Points (Gratuitous)

FOR OFFICIAL USE ONLY

Figure 3-5.--Request Transfer to the Retired Reserve
Awaiting Pay At Age 60

Date:

From: _____
(Grade) (First and Last Name) (EDIPI)

To: Commandant of the Marine Corps (MMSR-5)
Via: Commander, Marine Forces Reserve (for IRR, ISL and IMA Marines
only)
Commanding Officer, (insert your SMCR Unit) (for SMCR Unit Marines
only)

Subj: REQUEST TRANSFER TO THE RETIRED RESERVE AWAITING PAY AT AGE 60

Ref: (a) MCO P1900.16G

1. Per paragraph 3016 of the reference, I request to be transferred to the Retired Reserve effective the first day of the month of _____ (Month/Year).

2. I believe I am eligible for retirement due to the completion of 20 or more qualifying federal years (with at least 50 retirement points per year) of honorable service in the Armed Forces.

3. Per the reference, I elect the following option (select one):

___ a. I do not desire to have a retirement ceremony. Please mail the package directly to my home address as follows: _____.

___ b. I desire to have a retirement ceremony. Details for my retirement ceremony are as follows (if known):

Date of ceremony: _____

Unit mailing address: _____

Grade Rank and full name of POC at unit: _____

Retiring Official (rank and full name): _____

4. I understand the following (please initial each block):

___ a. I must retire on the first day of the month.

___ b. (Enlisted only) I must retire while I am on a valid contract.

Figure 3-5.--Request Transfer to the Retired Reserve
Awaiting Pay At Age 60--Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 3-5.--Request Transfer to the Retired Reserve
Awaiting Pay At Age 60--Continued

Therefore my requested retirement date must be prior to my Reserve End of Current Contract (RECC). If I fail to obtain an extension to my current contract, I understand that my retirement request will be denied if I do not currently have sufficient time remaining on my current Reserve contract.

___c. (Officer only) I must retire on or before my Mandatory Removal Date. I may not be placed on medical hold beyond my MRD unless approved by the Secretary of the Navy prior to my MRD.

___d. (Enlisted only) My request for retirement will cause my deletion from promotion eligibility. If I have twice failed selection and my RECC is after the adjournment date of the board, I may request via message to be considered for promotion while voluntarily processing for retirement. I understand that this request must be submitted to the CMC (MMSR-5 and MMPR-2) at the time I request retirement. I understand that if selected for promotion and my name is on a promotion selection list, my request for retirement will result in the removal of my name from that list.

___e. (Officer only). (1) If my requested retirement date is approved and occurs within 90 days of the convening date of a promotion board for which I am to be considered, I will no longer be eligible for consideration. This will cause my deletion from the eligibility zone and counts as a failure of selection even if I successfully withdraw my retirement at a later date. (2) If my requested retirement date is more than 90 days after the convening date of a promotion board for which I am to be considered, and if I am selected for promotion after having submitted my request to retire, I may request withdrawal of my retirement.

___f. I must EAS at least 2 weeks prior to my desired retirement date in order to allow sufficient time for administrative transactions to properly post in MCTFS.

___g. I may not request cancellation of my application for retirement or modify the effective date except for one of the following reasons: (1) For a fully documented humanitarian or hardship circumstance that has occurred since my application was submitted. (2) In the best interest/needs of the Marine Corps. I understand that this determination will ultimately be made by HQMC and not by my present command.

___h. I can expect to retire on the date approved by CMC unless I am placed on legal or on medical hold, as authorized only by the CMC (MMSR-5), prior to my actual retirement date. I understand that if I am at service limitations or otherwise pending mandatory retirement, a deferment for medical reasons may only be accomplished if I have a complete medical board accepted by the

Figure 3-5.--Request Transfer to the Retired Reserve
Awaiting Pay At Age 60--Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 3-5.--Request Transfer to the Retired Reserve
Awaiting Pay At Age 60--Continued

president of the Physical Evaluation Board or I am hospitalized on my actual retirement date as an in-patient.

___i. A request to modify a retirement date must be submitted with appropriate justification and command endorsements no less than 45 days prior to the approved retirement date.

___j. I understand that the Defense Finance and Accounting Service, Cleveland (DFAS-CL) computes retired pay under the applicable formula established by law, according to my grade, and total number of retirement points per para 3013 of the reference.

___k. I fully understand that I may not extend my retirement date, once a date has been requested, solely to increase my retired pay.

___l. I understand that if I have received separation, severance or readjustment pay under any provision of the law for service in the armed forces, and if I am now qualified for retired pay, DFAS-CL will reduce each payment of retired pay until the total amount deducted equals the amount of separation, severance or readjustment pay.

___m. I may be eligible to receive retired pay prior to Age 60 per reference (aw) DoDI 1215.07 and National Defense Authorization Act of 2008. My date first eligible to receive retired pay will be reduced from age 60 by three months for every 90 days of qualifying active duty service per fiscal year, after 28 January 2008. Upon submission of this retirement request, MMSR-5 will calculate my date first eligible which will be included in my "awaiting pay" orders.

5. I understand that my retirement, whether voluntary decision or due to service limitations is an important milestone in my career. Understanding the laws and policies that affect my retirement is an essential part of the transition process. I understand that MMSR is committed to assisting me in making my transition as smooth as possible. Additional information is available on the Separation and Retirement Branch web page.

ACKNOWLEDGMENT OF UNDERSTANDING:

I acknowledge that I have been advised of the effects of my application for transfer to the Reserve Retired List Awaiting Pay at Age 60, the consequences of its official submission, and I am satisfied that all topics in this checklist have been adequately covered.

Signature _____ Date _____

Figure 3-5.--Request Transfer to the Retired Reserve
Awaiting Pay At Age 60--Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 3-5.--Request Transfer to the Retired Reserve
Awaiting Pay At Age 60--Continued

FIRST ENDORSEMENT Date _____

1. Forwarded recommending (approval / disapproval). I have been advised of this Marine's desire to request to retire and have discussed with this Marine his/her desire for a retirement ceremony.

(Signature of endorsing official)

(CO for SMCR; Opsponsor for IMA; MFR G1 for IRR/ISL/)

Copy to:
MMRP-20

Figure 3-5.--Request Transfer to the Retired Reserve
Awaiting Pay At Age 60

FOR OFFICIAL USE ONLY

Table 3-1.--Inactive/Active Duty Points

MINIMUM TYPE DUTY	INACTIVE TIME REQUIRED	ACTIVE AUTHORITY REQUIRED	DUTY POINTS	MAXIMUM # PTS
TEMACDU, EAD or ADT	1 day	Orders	1	365,366 per yr
Associate	4 hrs	Orders	1	2/day
Appropriate	4 hrs	Orders	1	2/day
Seminars	2 hrs	Orders	1	1/day
Attendance at 1 Conference/MCROA Convention	2 hrs	Orders military	Max 1/day	1
Acquire 1 Enl/ Reenl or Ext of Enl in USMC/USMCR acceptable to HQMC	8 hrs equiva- lent	COMMARFORRES/ CG MCIRSA Certified	4	4
JROTC Unit Assistance	4 hrs	CO, MCD	1	2/day
Acquire 1 PS IRR who joins SMCR	6 hrs	COMMARFORRES	3	3
Acquire 1 referral who enlists in USMC or USMCR	8 hrs equiva- lent	CO, RS	4	4
Correspondence Studies	3 hrs	Certified by Competent Authority	1	No max
Membership	1 yr	USMCR Membership	15	15/ann yr
IDT Periods	4 hrs	SMCR Membership	1	2/day
AFTP/ATP/RMP	4 hrs	UMS	1	2/day
EDP	4 hrs	UMS	1	2/day
MTU meetings	4 hrs	MTU Membership	1	2/day
MTU Command Duty	4 hrs	CO, MTU	1	2/day
MTU Instruction Preparation	4 hrs	CO, MTU	1	2/day

Table 3-1.--Inactive/Active Duty Points

MCO 1900.16
26 Nov 2013

This page intentionally left blank.

CHAPTER 4

ADMINISTRATIVE SEPARATION OF OFFICERS FOR CAUSE

GENERAL

	<u>PARAGRAPH</u>	<u>PAGE</u>
PURPOSE	4001	4-2
APPLICABILITY	4002	4-2
GUIDANCE TO COMMANDERS ON SEPARATION PROCESSING	4003	4-2

SECTION 1: PROCESSING FOR SEPARATION

INITIATING SEPARATION OF AN OFFICER - NOTIFICATION	4101	4-3
PROCESSING FOR SEPARATION	4102	4-3
REASONS FOR SEPARATION FOR CAUSE	4103	4-3
RETIREMENT OR RESIGNATION	4104	4-6
CHARACTERIZATION OF SERVICE	4105	4-8
SEPARATION PAY FOR INVOLUNTARY SEPARATIONS FOR CAUSE	4106	4-8

CHAPTER 4

ADMINISTRATIVE SEPARATION OF OFFICERS FOR CAUSE

GENERAL

4001. PURPOSE. To supplement established policies, standards, and procedures for the administrative separation of officers of the Marine Corps who do not maintain required standards of performance, professional, or personal conduct.

*4002. APPLICABILITY. Reference (t) SECNAVINST 1920.6C contains Department of the Navy policies, standards, and procedures regarding the administrative separation of officers for cause. Notwithstanding any provision in this chapter, the policies, standards, and procedures contained in reference (t) SECNAVINST 1920.6C control administrative separations of officers. This chapter provides supplemental guidance for the revocation of commissions, discharge, termination of appointments, release from active duty, and dropping from the rolls of Marine Corps officers. The policies, reasons for separation for cause, and provisions for characterization of service apply to all officers and warrant officers of the Regular and Reserve components. This chapter does not apply to discharge or retirement for physical disability or discharge or dismissal by reason of a sentence adjudged by court-martial. The separation of Reserve officers on inactive duty is addressed in chapter 3 of this Manual.

*4003. GUIDANCE TO COMMANDERS ON SEPARATION PROCESSING. Reference (t) SECNAVINST 1920.6C takes precedence if conflicts exist between this Manual and the SECNAVINST.

CHAPTER 4

ADMINISTRATIVE SEPARATION OF OFFICERS FOR CAUSE

SECTION 1: PROCESSING FOR SEPARATION

4101. INITIATING SEPARATION OF AN OFFICER - NOTIFICATION. Every commanding officer shall report to the CMC (JAM) all incidents (including information received through any source e.g., Naval Investigative Service, civilian law enforcement, etc.) involving any officer whose performance or conduct is such that processing for separation may be appropriate and consistent with this chapter.

4102. PROCESSING FOR SEPARATION. The CMC shall initiate processing for separation under the following circumstances:

1. Cases referred under paragraph 4101 when considered appropriate under this chapter.
2. When information is received involving officers whose performance or conduct is such that processing for separation is considered appropriate under this chapter.
3. Every officer reported to the Secretary of the Navy that has been identified for substandard performance or professional or personal misconduct by a selection board.

*4103. REASONS FOR SEPARATION FOR CAUSE. The reasons for separation are described in the current version of reference (t) SECNAVINST 1920.6C. The following information supplements that guidance:

*1. Illegal Drug Involvement. Processing for separation is mandatory. An officer will be recommended for separation if an approved finding of unlawful drug involvement is made. Illegal drug involvement includes, but is not limited to, illegal, wrongful, or improper use, possession, sale, transfer, distribution, manufacture, importation into the customs territory of the United States, exportation from the United States, or introduction on a military installation, vessel, vehicle, or aircraft used by or under the control of the armed forces, of any substance that is listed on a schedule of controlled substances by the President or in Schedules I through V of section 202 of the Controlled Substances Act (Title 21 U.S.C. section 812), or opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, marijuana, steroids, any compound or derivative of any such substance, or any other dangerous or illicit drug or other forms of substance abuse (such as designer drugs, fungi, chemicals not intended for human consumption, spice, bath salts, etc.) as defined in reference (j) SECNAVINST 5300.28E paragraph 5.c), and/or the possession, sale, or transfer of drug paraphernalia as defined in reference (j) SECNAVINST 5300.28E. Evidence obtained from an involuntary urinalysis administered pursuant to an inspection under Military Rules of Evidence or from a search and seizure under Military Rules of Evidence in the current version of reference (c) the Manual for Courts Martial, or incident to an

4103

exam conducted for a valid medical reason, may be used to characterize a Marine's discharge as under other than honorable conditions. Upon discharge, drug dependent Marines will be referred to a Department of Veterans Affairs Medical Facility or other rehabilitation center. The discharge of an officer who is drug dependent will not be delayed for medical or rehabilitation treatment for drug dependency.

*2. Sexual Harassment

*a. Sexual harassment is a form of discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

* (1) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, career, or;

* (2) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or;

* (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive work environment. Abusive work environment harassment need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or abusive. See reference (bh) MCO 1000.9A for additional information regarding Sexual Harassment.

*b. Sexual harassment may also meet the definition of sexual misconduct under paragraph 4103.3.

*c. Processing for separation is mandatory following the first substantiated incident of sexual harassment involving any of the following circumstances:

* (1) Threats or attempts to influence another's career or job for sexual favors;

* (2) Rewards in exchange for sexual favors; or,

* (3) Physical contact of a sexual nature which, if charged as a violation of the UCMJ, could result in a punitive discharge.

*d. An incident is considered substantiated when there has been a court-martial conviction, nonjudicial punishment, or the commander determines, based on a preponderance of the evidence, that sexual harassment has occurred. The limitations in paragraph 6106.1 on separation processing following acquittal at a court-martial do not apply to officers. See reference (bi) DoDI 1332.30, enclosure (3), paragraph 6.d.

*e. Only the Sexual Assault Initial Disposition Authority (SA-IDA) or higher may determine that processing under this paragraph is an appropriate

disposition. This paragraph is not intended to preclude disciplinary action to include trial by court-martial, when appropriate.

*3. Sexual Misconduct

*a. Sexual Offender

* (1) Officers, whether active duty or in a reserve status, who are required to register as a sex offender or who have been convicted of a sexual offense as outlined in The Department of Justice, National Guidelines for Sex Offender Registration and Notification, whether in a civilian court or by court-martial, if not punitively discharged, shall be processed for administrative separation. Such processing will be in accordance with reference (t) SECNAVINST 1920.6c.

* (2) Officers who have been convicted of a sexual offense while on active duty and are separated shall have the sexual offense conviction recorded in their permanent record.

* (3) Sexual offenders shall not be subject to recall for any purpose unless approved by the Secretary of the Navy.

*b. Sexual misconduct includes conduct that could form the basis for a violation of the following Articles of the UCMJ:

* (1) Article 120 - Rape and sexual assault generally

- (a) Rape
- (b) Sexual Assault
- (c) Aggravated Sexual Contact
- (d) Abusive Sexual Contact

* (2) Article 120b - Rape and sexual assault of a child

- (a) Rape of a Child
- (b) Sexual Assault of a Child
- (c) Sexual Abuse of a Child

* (3) Article 120c - Other Sexual Misconduct

- (a) Indecent Viewing, Visual Recording, or Broadcasting
- (b) Forcible Pandering
- (c) Indecent Exposure

4104

* (4) Article 125 - Forcible Sodomy

* (5) Article 80 - Attempts (to commit any of the offenses listed in subparagraphs (1) through (4)).

*c. Processing for separation is mandatory following the first substantiated incident, or substantiated attempted incident, of sexual misconduct.

*d. An incident, or attempted incident, is considered substantiated when there has been a court-martial conviction, civilian court conviction, nonjudicial punishment, or when a commander determines, based on a preponderance of the evidence, that an incident or attempted incident of sexual misconduct has occurred. The limitations in paragraph 6106.1 on separation processing following acquittal at a court-martial do not apply to officers. See reference (bi) DoDI 1332.30, Enclosure (3), paragraph 6.d.

*e. Only the Sexual Assault Initial Disposition Authority (SA-IDA) or higher may determine that processing under this paragraph is an appropriate disposition. This paragraph is not intended to preclude disciplinary action to include trial by court-martial, when appropriate.

4104. RETIREMENT OR RESIGNATION. An officer being processed for separation for cause may, at any time during proceedings, under this chapter, submit a qualified or unqualified resignation or a resignation for the good of the service, or, if eligible, request retirement under of this manual.

1. Resignations tendered under this paragraph shall not request an effective date. The retirement/resignation will be effective upon approval by the Secretary of the Navy. In addition, the resignation will not be input into the unit diary system unless approved by the Secretary of the Navy.

2. Normally, a reserve commission is not authorized for regular officers resigning under this paragraph.

3. Address requests for qualified or unqualified resignation to the Secretary of the Navy via the chain of command and the CMC (JAM). If a resignation is submitted in lieu of a recommendation for administrative separation, the resignation shall state that it is offered under this paragraph and shall contain the appropriate statement below corresponding to the type of discharge requested. If the resignation is submitted to avoid trial by court-martial, the resignation shall contain the statement in subparagraph 4104.3c and follow the procedures in paragraph 4104.4.

a. "I have been informed and understand that if my resignation in lieu of processing for administrative separation for cause is accepted, I shall subsequently receive a certificate of honorable discharge from the naval service."

b. "I have been informed and understand that if my resignation in lieu of processing for administrative separation for cause is accepted, I may

subsequently receive a certificate of general discharge from the Marine Corps; that such a separation, although considered by the Navy Department to be under honorable conditions, is not the highest qualitative type of separation provided for officers of the naval service, and that, while I shall be entitled to the major portion of veteran's rights and benefits presently authorized for former officers whose service has been similar to my own, should any present or future statutes specifically require an honorable discharge as a condition precedent to the granting of rights and benefits thereunder, my eligibility for any such rights and benefits may be at least doubtful."

c. "I have been informed and understand that if my resignation (in lieu of court-martial) (in lieu of processing for administrative separation for cause) is accepted, I may subsequently receive a characterization of service from the Marine Corps which will state upon its face that it is under other than honorable conditions; that I may be deprived of substantial rights, benefits, and bounties which Federal or State legislation confers or may hereafter confer upon persons with honorable service in, or separated from, the Armed Forces, that I may expect to encounter substantial prejudice in civilian life in situations where the nature of service rendered in, or the character of separation from, the Armed Forces may have a bearing."

4. Separation in Lieu of Trial by Court-Martial. An officer may be separated in lieu of trial by court-martial upon the officer's request if charges have been preferred with respect to an offense for which a punitive discharge is authorized. This provision may not be used as a basis for separation when Rules for Courts-Martial 1003(d) of the Manual for Courts Martial (MCM) provides the sole basis for a punitive discharge unless the charges have been referred to a court-martial authorized to adjudge a punitive discharge.

a. The following procedures apply for submission of the request to the Secretary of the Navy via the chain of command and the CMC (JAM).

(1) The request for discharge shall be submitted in writing and signed by the officer.

(2) In the written request, the officer shall indicate that the following is understood:

(a) The elements of the offense or offenses charged;

(b) That characterization of service under other than honorable conditions is authorized; and

(c) The adverse nature of such characterization and possible consequences.

b. The request shall also include:

4106

(1) An acknowledgment of guilt of one or more of the offenses charged or of any lesser included offense, for which a punitive discharge is authorized; and

(2) A summary of the evidence or list of documents (or copies) provided to the officer pertaining to the offenses for which a punitive discharge is authorized.

4105. CHARACTERIZATION OF SERVICE

1. A characterization of service or discharge will not be issued to officers separated by one of the following conditions:

a. Dismissal pursuant to approved sentence following conviction before a general court-martial. The letter or other document informing the officer concerned of the final action in such a case and effecting dismissal from the naval service shall be deemed equivalent in all respects to a dishonorable discharge.

b. Separation of an officer through dropping from the rolls of the Service.

2. In addition to the federal law specifically concerning the separation of military officers, other federal statutes provide for the dismissal or removal from office of federal officials involved in misconduct or malfeasance. Examples of the class of statutory prohibitions referred to, whether or not specifically applicable to Marine officers are:

a. Carrying on of trade or business by fiscal officers in funds, debts, or public property of Federal or State Governments.

b. Using appropriated funds to influence legislation.

c. Accepting bribes.

*3. No characterization of service will be issued to any officer specifically removed, dismissed, or otherwise disqualified from further service pursuant to one of these types of statutes.

4106. SEPARATION PAY FOR INVOLUNTARY SEPARATIONS FOR CAUSE. Reference (a) Title 10, U.S.C. section 1174, reference (ai) DoDI 1332.29 and paragraph 1303 of this manual govern entitlement to separation pay for officers who are administratively separated under the provisions of this chapter.

MCO 1900.16
26 Nov 2013

This page intentionally left blank.

CHAPTER 5

OFFICER RESIGNATIONS AND INVOLUNTARY DISCHARGES AS A RESULT
OF A SECOND FAILURE OF SELECTION FOR PROMOTION WHILE ON THE ACTIVE DUTY LIST

	<u>PARAGRAPH</u>	<u>PAGE</u>
GENERAL	5001	5-2
RESIGNATION ELIGIBILITY	5002	5-2
SUBMISSION OF RESIGNATION REQUESTS	5003	5-6
ADDITIONAL INSTRUCTIONS	5004	5-7
SEPARATION ORDERS	5005	5-10
INVOLUNTARY DISCHARGE AS A RESULT OF A SECOND FAILURE OF SELECTION FOR PROMOTION	5006	5-10
SEPARATION OF OFFICERS NOT CAREER DESIGNATED	5007	5-12
INTERSERVICE TRANSFER	5008	5-12

FIGURE

5-1 REQUEST FOR RESIGNATION	5-13
5-2 ACCEPTANCE OF RESIGNATION OF REGULAR COMMISSION IN THE U.S. MARINE CORPS WITH OBLIGATED RESERVE COMMISSION	5-15
5-3 ACCEPTANCE OF RESIGNATION OF REGULAR COMMISSION IN THE U.S. MARINE CORPS WITH RESERVE COMMISSION	5-19
5-4 ACCEPTANCE OF RESIGNATION OF REGULAR COMMISSION IN THE U.S. MARINE CORPS WITHOUT RESERVE COMMISSION	5-23
5-5 LETTER OF DISCHARGE FROM THE U.S. MARINE CORPS	5-26

TABLE

5-1 SEPARATION AND SERVICE OPTIONS AVAILABLE AFTER A SECOND FAILURE OF SELECTION FOR PROMOTION	5-29
---	------

CHAPTER 5

OFFICER RESIGNATIONS AND INVOLUNTARY DISCHARGES AS A RESULT
OF A SECOND FAILURE OF SELECTION FOR PROMOTION WHILE ON THE ACTIVE DUTY LIST

5001. GENERAL

1. This chapter pertains to voluntary resignations submitted by officers of the Regular component and involuntary discharges of officers on active duty as a result of a second failure of selection for promotion to the next higher grade. No officer will be discharged without specific authority from the Commandant of the Marine Corps.

2. The Secretary of the Navy determines the characterization of separation for officers. General guidance may be found in paragraphs 1004 and 4105. An honorable discharge is normally issued for unqualified resignations and discharges due to a second failure of selection for promotion. Honorable discharge certificates will be issued by the CMC (DC M&RA) on behalf of the Secretary of the Navy. Under no circumstances will any unit prepare a discharge certificate on an officer. General discharge certificates are no longer issued.

3. Submit resignations in lieu of administrative separation for cause or in lieu of trial by court-martial per paragraph 4104.

5002. RESIGNATION ELIGIBILITY

*1. Career designated officers serve at the pleasure of the President as determined by the Secretary of the Navy and no terminal dates are established for their commissions. The Secretary of the Navy has delegated to the CMC (DC M&RA), the authority to approve an officer's resignation on behalf of the President. The CMC will recommend approval of only those requests for resignation and subsequent requests for withdrawal which meet the criteria set forth in this Manual. When a request is disapproved, the CMC will reply by letter stating the reason for disapproval.

2. The resignation of a commission is a voluntary act and must be unconditional. Officers who submit resignations may expect favorable action provided they fulfill the requirements of this paragraph; however, the criteria may be modified as necessary to meet the existing needs of the Service. Specifically, the acceptance of an officer's resignation may be deferred or disapproved in order to maintain officer personnel strength at the necessary level. The CMC will ensure such action occurs only when critical conditions exist. The acceptance of an officer's resignation will be judged on the following:

a. Needs of the Service.

*b. Completion of the period of active commissioned service, chief warrant officer service, or warrant officer service, as specified in the officer's service agreement. Career designated officers retain their original active duty obligation. In some cases, this obligation may be

extended per paragraph 5002.3f. All active service, exclusive of active duty for training in the grade of warrant officer or above, will be counted.

c. Completion of the period of service specified in the officer's flight training agreement.

d. Completing 24 months of service after attending a service school, fellowship, or service school equivalent when the prescribed course of instruction is 20 or more weeks of duration and attendance is in compliance with official orders. The 24-month service requirement also applies to an officer who enters but does not complete a prescribed course of 20 or more weeks duration. In this case, the service requirement commences on the officer's date of transfer from the course. Officers serving their initial obligated active duty tour who are involuntarily ordered to attend such a school are excluded from the above provisions. Additionally, the resignation of officers who successfully complete a military or funded civilian course of 19 weeks or less will not be approved before the completion of 12 months of active duty following completion of the course.

e. Completion of a minimum of 24 months active duty service after:

(1) Completion of training to be an instructor at a Fleet Readiness Squadron (FRS) or in the Naval Aviation Training Command (NATC).

(2) Completion of Marine Aviation Weapons and Tactics Squadron (MAWTS-1) Weapons and Tactics Instructor Course (WTI), or Naval Fighter Weapons School (Top Gun).

(3) Completion of a tour as a participant in the Marine Corps Foreign Personnel Exchange Program (MCFPEP), aviation, or aviation ground exchange tours with U.S. services or a foreign military service. These tours include, but are not limited to, USAF exchange tours, the Navy Flight Demonstration Team tour, Royal Navy exchange tours, Royal Australian Air Force exchange tours, Italian Navy exchange tours, Spanish Navy exchange tours, and Canadian Navy exchange tours.

(4) Completion of training to be a pilot for operational support aircraft, and this includes, but is not limited to, the UC-12, UC-35 and T-39 aircraft. For operational support aircraft, the obligation is incurred at the commencement of any training toward initial qualification and begins upon completion of initial training; in the case of failure to complete training, the obligation begins on the date of transfer from the course.

f. Completion of the service requirement prescribed in the applicable Marine Corps directive in effect at the time of the officer's selection for the College Degree Program, Excess Leave Program (LAW), or other full-time or funded schooling.

g. Completing 24 months on active duty after completing a course for which financial assistance was accepted through the Tuition Assistance (TA) Program. Based upon needs of the Marine Corps, the 24 month service payback

5002

requirement may be waived, if reimbursement corresponding to the unserved portion of the 24 month period is made to the U.S. Government. Officers involuntarily separated under mandatory provisions of law are exempt from a TA service payback or reimbursement.

h. Acceptance of a Reserve commission (in the case of those officers who have not completed their initial period of obligated service as specified in their service agreement).

i. Completion of the period of service specified in the Aviation Officer Continuation Pay (AOCP) agreement.

3. Officer resignations will not be recommended for approval if:

a. The officer has been issued, or notified that he or she will be issued, Permanent Change of Station (PCS) orders before the date of the officer's request. However, officers issued, or notified that they will be issued, PCS orders, who would otherwise be eligible to resign before the estimated date of arrival at the new duty station, may request cancellation of the pending assignment provided they request resignation.

(1) The requested effective date of resignation must be no later than the last day of the month of the estimated date of arrival at the new duty station.

(2) Resignation requests involving cancellation of PCS orders must be forwarded to the CMC (MMSR-3) via written request with command endorsements.

(3) Submit the request at least 120 days before the prescribed estimated date of arrival at the new duty station, but no later than 10 working days after receipt of orders.

(4) Should the notification of orders be less than 120 days from the estimated date of arrival at the new duty station, the effective date of resignation will not be earlier than 120 days from the date of notification, unless the Marine requests otherwise.

(5) Requests that do not comply with this criteria will not normally be given favorable consideration.

b. The officer assigned (joined or attached) to a unit located within the Continental United States (CONUS) scheduled to deploy outside its immediate geographical location in excess of 90 days submits a resignation within 4 months, or 9 months in the case of a carrier (CV) deployment, of the date the deployment is scheduled to commence.

c. The officer is serving overseas and desires separation before completion of the minimum tour length prescribed by reference (aj) MCO P1300.8R, Marine Corps Personnel Assignment Policy (for this purpose, Alaska and Hawaii are considered to be overseas locations). Officers who

voluntarily extend their overseas tour will not be eligible to resign before fulfillment of that extension.

d. The officer has not completed 2 years at a current CONUS duty station (except those officers who fall under paragraph 5002.4c).

e. The officer is serving in a billet requiring contact relief, submits a request less than 120 days before the resignation date and a replacement is not available within that time frame.

*f. The officer requests to resign before completion of 2 years from the date of career designation. Officers selected for career designation incur a 2-year active duty obligation in the Marine Corps. This obligation will run concurrently with any other obligation(s) and will not serve to decrease any other legal obligation.

4. Officers serving on an overseas tour, or those officers whose orders prescribe a specific tour length, will not be allowed to resign before completion of that tour as defined in reference (aj) MCO P1300.8R. Officers desiring to request resignation from an overseas duty station, or officers who are serving in a billet where tour length is specified in the PCS orders, and who are eligible, may elect one of the following options:

a. Request resignation coinciding with rotation tour date;

b. Request resignation coinciding with completion of a tour when the tour length has been specified in PCS orders;

c. Return to CONUS on rotation date and serve a minimum of 1 year at the next duty station before resigning;

d. Accept orders from a specified tour length billet and serve the minimum time on station required before resigning. Officers who are ineligible to resign at RTD, or at the end of their specified tour length, but who will become eligible in less than a year, and who desire to resign when first eligible, may either extend their tour to coincide with the requested date of resignation or elect the option in paragraph 5002.4c. Officers resigning per this paragraph will return to CONUS (MCC W95) no later than 10 days before the requested date of resignation unless they have notified the CMC (MMOA) that separation overseas is desired.

5. When an officer requests a waiver of any of the criteria in this paragraph, the officer must justify it on the grounds of undue hardship. Such requests must include the same information required by paragraph 6407 and must clearly establish that a situation exists which is not of a temporary nature, not susceptible to relief by other means, and where approval of the resignation is the only means readily available to alleviate the hardship. **Opportunity for civilian employment does not warrant waiver of the criteria.**

5003

6. An officer may be released from active duty, permitted to resign, or discharged as appropriate, for the purpose of performing the duties of: the President of the United States, the Vice President of the United States, a Presidential appointee to a statutory office, a member of either of the legislative bodies of the United States, a Governor, any other state official chosen by the voters of the entire state or several states, or a judge of courts of record of the United States or of several states, and the District of Columbia. In the case of a Reserve officer who is eligible for the retired Reserve list or if the individual's name is already on the retired Reserve list, the officer will be released from active duty.

5003. SUBMISSION OF RESIGNATION REQUESTS

*1. The reporting senior of the officer requesting resignation will counsel the officer before submission of the resignation request. Following the completion of counseling, the following entry will be made on page 11 of the officer's OQR/ESR:

"(Date) I request to resign my commission in the Marine Corps active component effective (date) and (do) (do not) desire a Reserve commission. I have been counseled per paragraph 5003 of MCO P1900.16G. I understand, if I elect to be considered for a Reserve commission, it is not automatic and will be granted at the discretion of the Secretary of Defense."

*2. Submit requests for resignation via the unit diary per reference (aw) Online MCTFSPRIUM paragraph 5137. The entry must be made not more than 14 months nor less than 4 months before the requested date of resignation. This is the minimum time necessary for processing requests and issuing orders to the officer concerned. The MCTFS will not accept resignation requests made via unit diary outside the 4 to 14 month window. The unit must run the appropriate type transaction code (TTC) request in the unit diary to indicate whether the officer does or does not desire a Reserve commission. See procedures in appendix E. For officers who are not obligated and do not desire a Reserve commission, include a history statement stating SNO does not desire a Reserve commission. In those cases where the resignation request is submitted by separate correspondence and is received less than 4 months before the requested date, the CMC will reestablish the effective date to allow time for complete processing and billet replacement. Officers requesting resignation are cautioned not to make significant personal commitments (such as buying or selling a house or business, enrolling in graduate school, etc.) based upon mere submission of a request. Problems which may arise from such premature commitments will not be used as a basis for subsequent expeditious or preferential processing of an officer's request.

*3. The reporting unit will be advised of the receipt of an officer's request for resignation via the diary feedback report (DFR). Specifically, the CMC will post a "pending" planned reenlistment or retirement (RER) flag to the MCTFS. The CMC will also notify the unit via DFR once a request is approved.

5004

4. Submit a letter requesting resignation (figure 5-1) via the chain of command to the CMC (MMSR-3) when:

a. A waiver of the eligibility criteria of paragraph 5002 is required, or

b. An officer requests a Reserve commission, but is not recommended for one by the commanding officer.

5. Resignation for Cause. All requests for resignation in lieu of a recommendation or processing for administrative separation for cause or in lieu of trial by court-martial will be submitted to the CMC (JAM) according to reference (t) SECNAVINST 1920.6C.

5004. ADDITIONAL INSTRUCTIONS

1. Reserve Commissions

a. Per reference (a), Title 10 U.S.C section 651, all officers are obligated for at least 6 years but not more than 8 years of commissioned service, as provided in regulations prescribed by the Secretary of Defense, whether in an active or inactive status. Unless otherwise mandated by the CMC, an officer with obligated service who submits an unqualified resignation will not be separated if they decline a Reserve commission.

*b. Officers who complete their initial statutory period of commissioned service will be automatically considered for appointment in the Reserve component unless the officer is no longer obligated and does not desire a Reserve commission and so states in a resignation letter per figure 5-1. Per reference (ax) DoDI 1310.02, Reserve commissions are approved by the Secretary of Defense. This constitutional requirement includes regular officers transitioning to the Reserve Component (RC) with or without military service obligation (MSO) remaining (Transitional appointments); and former Marine officers with no current military affiliation seeking reappointment into the RC (original appointments or reappointments).

*(1) Nonadverse information process: Scrolls (list of officers to be appointed to the RC) are prepared once a month. All officers are screened by the Staff Judge Advocate to the Commandant of the Marine Corps and Inspector General of the Marine Corps for adverse information. Officers without adverse information in any department of the Navy system of record are then placed on the nonadverse scroll and routed from HQMC, RA Division via the Deputy Commandant for Manpower and Reserve Affairs to the Secretary of Defense (SecDef). The nonadverse transitional scrolling process may require a longer lead time than the minimum length of time required by the resignation process (four months per MARCORSEPMAN MCO P1900.16G para. 5003). The nonadverse transitional scrolling process does not begin until HQMC (RA Division) receives notice of an officer's commission request.

5004

* (2) Notification

* (a) If SECNAV denies an active component officer for an appointment to the RASL, the officer will be notified by letter from HQMC, Director, RA Division along with a copy of the memo signed by the CMC and the SECNAV. Both documents will be placed in the officer's official military personnel file. The CMC (MMSR-3) will then issue a discharge certificate for the officer. If the officer is not career designated, the discharge certificate will be issued by CMC (MMOA-3).

* (b) An officer with remaining obligated service, who is not recommended for an appointment to the RASL by the SECNAV, will be given a final discharge indicating no further obligated service remaining. Officers involuntarily discharged as a result of a second failure of selection may be entitled to separation pay. Separation pay will only be authorized if the officer signs a written agreement to serve in the Ready Reserve for three years.

* (3) Adverse information process: Information on the adverse appointment process is provided in order to ensure all affected officers, and potential gaining and losing commanders understand the timelines associated with these nominations, and the impact on the determining separation dates, as well as availability for affiliation and mobilization.

* (a) For purposes of SecDef nominations "Adverse information" is defined as "any substantiated adverse finding or conclusion from an officially documented investigation or inquiry." "Alleged adverse information" is defined as "any allegation of conflict of interest, failure to adhere to required standards of conduct, abuse of authority, misconduct or information serving as the basis for an incomplete or unresolved official investigation or inquiry into a possible conflict of interest or failure to adhere to standards of conduct or misconduct." The officer need not have been subject to administrative or judicial processes as a result of these investigations or inquiries in order to require processing as an adverse nomination. Adverse nominations are routed via the Commandant of the Marine Corps (CMC) and the Secretary of the Navy (SECNAV) to the SecDef for decision. Adverse information or alleged adverse information relating to officer cases is identified through Judge Advocate Division/Inspector General Marine Corps screenings prior to preparing appointment nomination scrolls. If a Marine's adverse material has been previously vetted through SecNav favorably, such as a promotion, then the officers adverse information would not require re-vetting and the officer would be placed on the nonadverse scroll.

* (b) The adverse scrolling process may take up to twelve months before final determination is made by the SECNAV to recommend the officer for appointment. An officer appointment is a privilege and not a right; thus officers are not afforded an opportunity to provide additional information on their cases (to include letters of recommendation) or rebut final

decisions). If a career designated officer, resigning and approaching their EAS, is still pending a decision by SECNAV/SecDef, the officer can request to either remain on active duty until the final determination is made or be given a separation code indicating a final discharge. The officer should contact both the CMC (MMSR-3) and their monitor to coordinate their request.

* (c) Officers with adverse information or alleged adverse information may not have their names forwarded for a RASL appointment if the Service finds the officer unqualified, even if the officer has MSO remaining. A Marine may be discharged before fulfilling a MSO when the Secretary of the Navy has determined that the Marine has no potential for service under the conditions of full mobilization. An officer with obligated service remaining who is not recommended for an appointment to the RASL by the SecNav will be given a final discharge indicating no further obligated service remaining.

*c. Officers are cautioned not to make personal commitments based upon mere submission of a request for resignation.

*2. Withdrawal or Modification of Resignation Requests. When an officer's resignation has been accepted, the officer shall be separated from the service at a date specified by the CMC. A request for withdrawal or modification of a resignation may be made any time before 45 days from the effective date of the resignation or commencement of separation leave. If an officer desires to withdraw or modify a resignation, a written request must be submitted to the CMC (MMSR-3), endorsed by the chain of command and must contain the reason(s) for modification of resignation date or retention on active duty. The officer's immediate commanding officer will include in the forwarding endorsement a specific recommendation concerning the modification or withdrawal of resignation and, if retention is recommended and must contain the reason(s) why the officer desires to modify the date.

3. Expunging Resignation-Related Material

a. Officers whose resignations are withdrawn or disapproved may have their resignation letters and related correspondence expunged from their official records upon their written request. Material for expunging:

(1) For officers on active duty: resignation requests and related correspondence in its entirety.

(2) For officers who resign and subsequently return to active duty in the naval service: portions of resignation correspondence which contain reasons for resigning which might prejudice success on active duty and/or selection for promotion.

b. Other resignation-related material such as separation orders, fitness reports, and Certificates of Release or Discharge (DD Form 214) will not be expunged.

*c. Send requests for removal of resignation related material to the CMC (MMRP-10).

5006

4. Separation Leave. Commanding officers may authorize separation leave in conjunction with a resignation pursuant to reference (v) MCO P1050.3J, Regulations for Leave, Liberty, and Administrative Absence and paragraph 1010 of this Manual. Should an officer desire separation leave, the request for resignation must be submitted in advance of the minimum 4-month submission time for at least a period of time equal to the amount of leave desired.

5005. SEPARATION ORDERS

*1. Approval/disapproval of a resignation request and authority to release is issued via the unit diary through the MCTFS. Units will be notified via DFR. Issue separation orders per figures 5-2 through 5-5. Written authority to release, or issuance of orders, by the CMC is not provided except as specified in paragraphs 5005.2 and 5005.3.

2. The CMC (MMSR) will issue message orders and unit diary instructions granting authority to discharge active duty officers involuntarily separated except for those officers twice having failed of selection to the next higher grade. Separation authority for those officers twice having failed of selection is only issued via the unit diary. Commanders will prepare and issue orders in the appropriate format prescribed in figures 5-2 through 5-5. Under no circumstances will the commander change or hold in abeyance the separation of an officer without prior approval from the CMC (MMSR-3).

3. The CMC (MMSR) will issue separation orders for officers who are separated for other than the reasons in paragraph 5005.2.

4. In all cases, the CMC (MMSR) will issue officer discharge certificates. Commanding Officers are required to issue an appointment acceptance and record (NAVMC 763) for officers accepting a commission in the U.S. Marine Corps Reserve.

5006. INVOLUNTARY DISCHARGE AS A RESULT OF A SECOND FAILURE OF SELECTION FOR PROMOTION

1. Each officer on the active duty list serving in any grade of chief warrant officer, first lieutenant, captain, or major, who has twice failed selection for promotion to the next higher grade, will be discharged from the service unless: otherwise continued on active duty, in the sanctuary zone with between 18 and 20 years of active service and serving until retirement eligible, retired, or, if a permanent limited duty officer, reverted to a warrant officer or enlisted status. Guidance on actions taken in regard to officers incurring a second failure of promotion is contained in reference (t) SECNAVINST 1920.6C. General guidance is contained in Table 5-1 of this Manual.

2. Within 30 days after publication of the board's results, officers covered under this provision will receive a status letter from the CMC (MMSR) via the chain of command. This letter will inform such officers of their options concerning entitlement to severance or separation pay and the latest date which they may elect discharge. Included with this letter is an enclosure

that the officer will complete and return to the CMC (MMSR) making known the officer's pay and separation date choices.

3. The discharge or retirement of an officer pursuant to this provision shall be considered to be an involuntary separation for the purpose of any other provision of law. Except as indicated below, under no circumstances will an officer directed to separate for twice failing selection to promotion be retained beyond the mandatory discharge date.

a. Retention beyond an involuntary separation date for a commissioned officer may only be authorized by the Secretary of the Navy if an officer's medical condition is so serious as to warrant disability determination by the Physical Evaluation Board or if separation without further medical treatment will seriously jeopardize the health of the Marine. Deferment of retirement or separation for medical reasons is governed by reference (a) Title 10, U.S.C. 640. The CMC (MMSR) must be immediately notified by naval message of any officer in such situation(s).

b. The Secretary of the Navy may defer a warrant officer's mandatory separation, for not more than 4 months if, because of unavoidable circumstances, evaluation of the officer's physical condition and determination of his entitlement to retirement or separation for physical disability requires hospitalization or medical observation that cannot be completed before the date of involuntary separation; reference (a) Title 10, U.S.C. 580(6)(b).

c. When any action commences against an officer with a view to trying the officer by court-martial and the officer is scheduled to be separated or retired under this Manual, reference (a) Title 10, U.S.C. section 639 allows the Secretary of the Navy to delay the separation or retirement of the officer, without prejudice to such action, until completion of the action. Additionally, personnel may be retained if determined by the commanding officer to be subject to the initiation of a preliminary inquiry, subject to information of a discreditory nature that may lead to a preliminary inquiry or the assumption of jurisdiction, to include, but not limited to, a restraining order against their person. Immediately notify the CMC (JAM and MMSR) of an officer in this situation.

4. The continued military service of officers who are not sufficiently qualified for promotion to the grade of first lieutenant is inconsistent with mission requirements and the productivity and efficiency of the Marine Corps. An officer found not qualified for promotion to the grade of first lieutenant shall be honorably discharged at the end of the 18 month period beginning on the date on which the officer is first found not qualified for promotion.

5. Continuation Boards. Captains and majors subject to DOPMA, who have twice failed selection to the next higher grade are subject to the provisions of reference (a) Title 10, U.S.C. 637. Warrant officers who have twice failed selection to the next higher grade are subject to the provisions of reference (a) Title 10, U.S.C. section 580. See Table 5-1.

5008

*6. Eligibility for Separation Pay. Officers involuntarily discharged as a result of a second failure of selection may be entitled to separation pay. Separation pay will only be authorized if the officer signs a written agreement to serve in the Ready Reserve for 3 years. Per reference (f), DoDFMR 7000.14-R prescribes actual entitlements and methods of computation. The CMC (MMSR) will complete a statement of service to include a statement of qualifying service which will be included in the separation orders. An officer that contributed to his or her failure of selection through written communication to the board requesting/indicating not to be selected, or who declines continuation or promotion is not eligible for separation pay. For further information on separation pay eligibility refer to reference (a) Title 10, U.S.C. section 1174, reference (ai) DoDI 1332.29 and chapter 1, section 3 of this Manual.

*5007. SEPARATION OF OFFICERS NOT CAREER DESIGNATED. The CMC (MMAA-3) is responsible for issuing release from active duty orders for all officers on active duty who are not career designated. Non-career designated officers who have completed their statutory period of commissioned service must positively apply for a reserve commission. Since officers in this category are not resigning, the resignation provisions of para. 5004 (1) do not apply. Prior service officers may verify if they fall into this category by checking their basic individual record to determine if their EAS date is later than their EOS date. If so, officers in this category are highly encouraged to request a reserve commission by contacting RA Division, Reserve Continuation and Transition Branch (RCT).

5008. INTERSERVICE TRANSFER. Procedures for requesting an interservice transfer and concurrently resigning are found in reference (az) SECNAVINST 1000.7F.

Figure 5-1.--Request for Resignation

(Letterhead)

From: (Officer Concerned)
To: Commandant of the Marine Corps (MMSR-3)
Via: Chain of Command

Subj: REQUEST FOR RESIGNATION

*Ref: (a) MCO P1900.16G (MARCORSEPMAN) par. 5002

1. I tender my resignation of commission in the United States Marine Corps, per the reference, and request an effective date of _____.

*2. I (do) (do not) desire to accept a commission in the U.S. Marine Corps Reserve. I understand the Reserve Commission is not automatic and can only be granted at the discretion of the Secretary of Defense. I understand if I have adverse material on file, up to 12 months may be required to process my Reserve Commission. (Use this sentence for officers with no remaining obligation as defined in paragraph 5004.1.).

OR

*3. I will accept a commission in the U.S. Marine Corps Reserve, if tendered. I understand the Reserve Commission is not automatic and can only be granted at the discretion of the Secretary of Defense. I understand if I have adverse material on file, up to 12 months may be required to process my Reserve Commission. (This sentence must be used when officers have not completed their statutory obligation as defined in paragraph 5004.1.).

4. My (reason/justification) for submitting my letter of resignation/termination of permanent appointment is _____.

(Signature)

FIRST ENDORSEMENT

From: Commanding Officer
To: Commandant of the Marine Corps (MMSR-3)
Via: Chain of Command

1. Forwarded recommending _____ *Note 1 _____.

(Signature)

Figure 5-1.--Request for Resignation--Continued

Figure 5-1.--Request for Resignation--Continued

Subj: REQUEST FOR RESIGNATION

*Note 1: The reporting senior must recommend and justify either offering or not offering a Reserve commission to the officer submitting the resignation regardless of whether or not they are obligated by law to accept a Reserve commission.

Figure 5-1.--Request for Resignation

FOR OFFICIAL USE ONLY

Figure 5-2.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Obligated Reserve
Commission

***ADDITIONAL PARAGRAPHS MAY BE ADDED AS DIRECTED BY THE COMMAND**

(Letterhead)

From: (Issuing Command)
To: (Officer Concerned)

Subj: ACCEPTANCE OF RESIGNATION OF REGULAR COMMISSION IN THE U.S. MARINE
CORPS AND APPOINTMENT IN THE MARINE CORPS RESERVE (OBLIGATED)

Ref: *(a) MCO P1900.16G (MARCORSEPMAN)
(b) NAVMED P-117 (MANMED) Chap 15
*(c) MCO P1070.12K (IRAM) par. 3003
*(d) Online MCTFSPRIUM
(e) JFTR par U5125-A

Encl: (1) Appointment Acceptance and Record Form (NAVMC 763)
(2) Honorable Discharge Certificate

1. Your request for resignation is approved, per reference (a), provided you accept a commission in the Marine Corps Reserve in order to fulfill your commissioned military service obligation stipulated in your service agreement. You are obligated to serve in the inactive Reserve until (EOS).

2. Effective 2359 on (PRR), you will be released from active duty and assigned to inactive duty in the Marine Corps Reserve.

3. Your entitlement to pay and allowances terminates on (PRR). You are entitled to mileage and such other allowances as are authorized in the case of an officer being separated from the Regular Marine Corps. As no active duty is authorized as a Reserve officer, you are not entitled to constructive travel time or pay and allowances while traveling to your home following your separation from the Regular Marine Corps.

4. The officer having custody of your records is directed to accomplish the following:

a. Ensure the discharge action authorized in paragraph 2 is not effected in the event you do not execute enclosure (1). Should you not execute the NAVMC 763, your commanding officer is directed to make a page 11 entry in your service record reporting this fact.

b. Ensure you obtain a medical evaluation before separation to determine your fitness for separation from the Regular Marine Corps and for your appointment in the Marine Corps Reserve. The Standard Form 88, Report of

Figure 5-2.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Obligated Reserve
Commission--Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-2.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Obligated Reserve
Commission--Continued

Subj: ACCEPTANCE OF RESIGNATION OF REGULAR COMMISSION IN THE U.S. MARINE
CORPS AND APPOINTMENT IN THE MARINE CORPS RESERVE (OBLIGATED)

Physical Examination, must include the certification required by reference
(b).

c. Refer to subparagraph 3003.4 of the IRAM concerning the old and new
NAVMC 763.

d. NAVMC 763: complete item 21d, administer the oath of office, and
complete item 22 on the original and all copies of enclosure (1) per
reference (c). Should separation leave be authorized, administer the oath of
office before the leave period. To the left of item 22 insert the
effective date. This date will be the date following the effective date of
discharge.

e. Insert the following in the Officer Qualification Record:

- (1) The appropriate copy of the DD Form 214.
- (2) A copy of these orders with all endorsements and modifications.
- (3) Copy 1 of the NAVMC 763.

f. Deliver copy 3 of the NAVMC 763 to you.

g. Report discharge per reference (d) and Appendix E of reference (a).

h. By endorsement:

* (1) Transfer you by service records to the Commanding General, Marine
Corps Mobilization Command, 2000 Opelousas Ave., New Orleans, LA 70146.

(2) State the point you elect for mileage allowance per reference
(e).

i. Transmit the HQMC copy of the DD Form 214 with a copy of these orders
to HQMC, (MMRP-20), 2008 Elliot Road, Quantico, VA 22134 within 3 working
days after effective date of discharge.

j. Forward the Officer Qualification Record to the Commanding General,
Marine Corps Mobilization Command.

Figure 5-2.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Obligated Reserve
Commission--Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-2.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Obligated Reserve
Commission--Continued

Subj: ACCEPTANCE OF RESIGNATION OF REGULAR COMMISSION IN THE U.S. MARINE
CORPS AND APPOINTMENT IN THE MARINE CORPS RESERVE (OBLIGATED)

k. Provide your disbursing officer with the following information:

(1) Separation authority: MARCORSEPMAN, paragraph (AUTH).

(2) Character of separation: (PLANNED CHAR).

(3) SPD code: (PLANNED SPD). Narrative reason: (Per Appendix A
MARCORSEPMAN).

5. You are directed to accomplish the following:

a. Immediately upon receipt of these orders, furnish two certified
copies to the disbursing officer carrying your pay accounts.

b. Within 30 days following your separation, report by letter to the
Commanding Officer, Marine Forces Reserve (COMMARFORRES), enclosing a copy of
these orders with any modifications and endorsements.

c. Keep the Commander, Marine Forces Reserve (COMMARFORRES), informed at
all times of your current mailing address.

6. Expenditures under these orders are located on the Marine Corps Total
Force System (MCTFS) D860 remarks page.

7. Enclosure (2) recognizes your honorable discharge from the Regular Marine
Corps.

8. The Commandant appreciates the many contributions you have made to the
Marine Corps and wishes you every success in the future.

By direction

Copy to:
Disbursing Officer
OMPF

Figure 5-2.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Obligated Reserve
Commission--Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-2.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Obligated Reserve
Commission--Continued

ELECTION ENDORSEMENT

I certify that I have selected my (Home of Record/Place of Commission (*))
for the purposes of travel allowances incident to my discharge. I further
certify and understand that this selection, once made and travel allowance is
received for travel thereto, is irrevocable and no further entitlement to
travel allowances shall accrue.

(Signature)

(Date)

NOTES:

1. Insert at the (*) either the Home of Record or Place of Commission based on the officer's desires.
2. All blank spaces should be filled with the appropriate data elements from the RETM screens in MCTFS.
3. The PRR should be in "DD Month YYYY" format. Under no circumstances may a PRR be changed without prior approval from the CMC (MMSR).

Figure 5-2.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Obligated Reserve
Commission

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-3.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Reserve Commission

***ADDITIONAL PARAGRAPHS MAY BE ADDED AS DIRECTED BY THE COMMAND**

(Letterhead)

From: (Issuing Command)
To: (Officer Concerned)

Subj: ACCEPTANCE OF RESIGNATION OF REGULAR COMMISSION IN THE U.S. MARINE
CORPS AND APPOINTMENT IN THE MARINE CORPS RESERVE (NON-OBLIGOR)

Ref: *(a) MCO P1900.16G (MARCORSEPMAN)
(b) NAVMED P-117 (MANMED) Chap 15
*(c) MCO P1070.12K (IRAM) par. 3003
*(d) Online MCTFSPRIUM
(e) JFTR par U5125-A

Encl: (1) Appointment Acceptance and Record Form (NAVMC 763)
(2) Honorable Discharge Certificate

1. Your request for resignation is approved, per reference (a). You have been considered for and tendered a commission in the Marine Corps Reserve.

2. Effective 2359 on (PRR), you will be released from active duty and assigned to inactive duty in the Marine Corps Reserve.

3. Your entitlement to pay and allowances terminates on (PRR). You are entitled to mileage and such other allowances as are authorized in the case of an officer being separated from the Regular Marine Corps. As no active duty is authorized as a Reserve officer, you are not entitled to constructive travel time or pay and allowances while traveling to your home following your separation from the Regular Marine Corps.

4. The officer having custody of your records is directed to accomplish the following:

a. Ensure the discharge action authorized in paragraph 2 is not effected in the event you do not execute enclosure (1). Should you not desire the Reserve commission tendered, your commanding officer is directed to make a page 11 entry in your service record reporting this fact. These orders will be immediately canceled and new discharge orders issued.

b. Ensure you obtain a medical evaluation before separation to determine your fitness for separation from the Regular Marine Corps and for your appointment in the Marine Corps Reserve. The Standard Form 88, Report of Physical Examination, must include the certification required by reference (b).

Figure 5-3.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Reserve Commission--
Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-3.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Reserve Commission--
Continued

Subj: ACCEPTANCE OF RESIGNATION OF REGULAR COMMISSION IN THE U.S. MARINE
CORPS AND APPOINTMENT IN THE MARINE CORPS RESERVE (NON-OBLIGOR)

c. Refer to subparagraph 3003.4 of the IRAM concerning the old and new
NAVMC 763.

d. NAVMC 763: complete item 21d, administer the oath of office, and
complete item 22 on the original and all copies of enclosure (1) per
reference (c). Should separation leave be authorized, administer the oath of
office before the leave period. To the left of item 22, insert the effective
date. This date will be the date following the effective date of discharge.

e. Insert the following in the Officer Qualification Record:

- (1) The appropriate copy of the DD Form 214.
- (2) A copy of these orders with all endorsements and modifications.
- (3) Copy 1 of the enclosed NAVMC 763.

f. Deliver copy 3 of the NAVMC 763 to you.

g. Report discharge per reference (d) and Appendix E of reference (a).

h. By endorsement:

* (1) Transfer you by service records to the Commanding General, Marine
Corps Mobilization Command, 2000 Opelousas Ave, New Orleans, LA 70146.

(2) State the point you elect for mileage allowance per reference
(e).

i. Transmit the HQMC copy of the DD Form 214 with a copy of these orders
to HQMC, (MMRP-20), 2008 Elliot Road, Quantico, VA 22134 within 3 working
days after effective date of discharge.

j. Forward the Officer Qualification Record to the Commanding General,
Marine Corps Mobilization Command.

k. Provide your disbursing officer with the following information:

- (1) Separation authority: MARCORSEPMAN, paragraph (AUTH).
- (2) Character of separation: (PLANNED CHAR).

Figure 5-3.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Reserve Commission--
Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-3.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Reserve Commission--
Continued

Subj: ACCEPTANCE OF RESIGNATION OF REGULAR COMMISSION IN THE U.S. MARINE
CORPS AND APPOINTMENT IN THE MARINE CORPS RESERVE (NON-OBLIGOR)

(3) SPD code: (PLANNED SPD). Narrative reason: (Per Appendix A
MARCORSEPMAN).

5. You are directed to accomplish the following:

a. Immediately upon receipt of these orders, furnish two certified
copies to the disbursing officer carrying your pay accounts.

b. Within 30 days following your separation, report by letter to the
Commander, Marine Forces Reserve (MARFORRES), enclosing a copy of these
orders with any modifications and endorsements.

c. Keep the Commander, Marine Forces Reserve (MARFORRES), informed at
all times of your current mailing address.

6. Expenditures under these orders are located on the Marine Corps Total
Force System D860 Remarks page.

7. Enclosure (2) recognizes your honorable discharge from the Regular Marine
Corps.

8. The Commandant appreciates the many contributions you have made to the
Marine Corps and wishes you every success in the future.

By direction

Copy to:
Disbursing Officer
OMPF

FOR OFFICIAL USE ONLY

Figure 5-3.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Reserve Commission--
Continued

FOR OFFICIAL USE ONLY

Figure 5-3.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Reserve Commission -
Continued

ELECTION ENDORSEMENT

I certify that I have selected my (Home of Record/Place of Commission (*))
for the purposes of travel allowances incident to my discharge. I further
certify and understand that this selection, once made and travel allowance is
received for travel thereto, is irrevocable and no further entitlement to
travel allowances shall accrue.

(Signature)

(Date)

NOTES:

1. Insert at the (*) either the Home of Record or Place of Commission based on the officer's desires.
2. All blank spaces should be filled with the appropriate data elements from the RETM screens in MCTFS.
3. The PRR should be in "DD Month YYYY" format. Under no circumstances may a PRR be changed without prior approval from the CMC (MMSR).

Figure 5-3.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps With Reserve Commission

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-4.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps Without a Reserve
Commission

***ADDITIONAL PARAGRAPHS MAY BE ADDED AS DIRECTED BY THE COMMAND**

(Letterhead)

From: (Issuing Command)
To: (Officer Concerned)

Subj: ACCEPTANCE OF RESIGNATION OF REGULAR COMMISSION IN THE U.S.
MARINE CORPS

Ref: *(a) MCO P1900.16G (MARCORSEPMAN)
(b) NAVMED P-117 (MANMED) Chap 15
*(c) Online MCTFSPRIUM
(d) JFTR par U5125
*(e) MCO P1070.12K (IRAM)

Encl: (1) Honorable Discharge Certificate

1. Your request to resign your Regular commission is approved, per reference (a). Effective 2359 on (PRR), you are discharged from the U.S. Marine Corps.
2. Your entitlement to pay and allowances terminates on (PRR). You are entitled to mileage and such other allowances as are authorized in the case of an officer being discharged from the Regular Marine Corps. You are not entitled to constructive travel time or pay and allowances while traveling to your home following your separation from the Marine Corps.
3. The officer having custody of your records is directed to accomplish the following:
 - a. Ensure the discharge action authorized in paragraph 1 is effected.
 - b. Ensure you obtain a medical evaluation before separation to determine your fitness for separation from the Regular Marine Corps. The Standard Form 88, Report of Physical Examination, must include the certification required by reference (b).
 - c. Insert the following in the Officer Qualification Record:
 - (1) The appropriate copy of the DD Form 214.
 - (2) A copy of these orders with all endorsements and modifications.
 - d. Report discharge per reference (c) and Appendix E of reference (a).

Figure 5-4.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps Without a Reserve
Commission--Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-4.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps Without a Reserve
Commission--Continued

Subj: ACCEPTANCE OF RESIGNATION OF REGULAR COMMISSION IN THE U.S.
MARINE CORPS

e. By endorsement state the point you elect for mileage allowance per reference (d).

f. Transmit the HQMC copy of the DD Form 214 with a copy of these orders to the CMC (MMRP-20) within 3 working days after effective date of discharge.

g. Close out the service record and health (includes medical and dental) records per reference (e).

h. Provide your disbursing officer with the following information:

(1) Separation authority: MARCORSEPMAN, paragraph (AUTH).

(2) Character of separation: (PLANNED CHAR).

(3) SPD code: (PLANNED SPD). Narrative reason: (Per Appendix A MARCORSEPMAN).

4. Immediately upon receipt of these orders, you are directed to furnish two certified copies to the disbursing officer carrying your pay accounts.

5. Expenditures under these orders are located on the Marine Corps Total Force System D860 Remarks page.

6. Enclosure (1) recognizes your honorable discharge from the Regular Marine Corps.

7. The Commandant appreciates the many contributions you have made to the Marine Corps and wishes you every success in the future.

By direction

Copy to:
Disbursing Officer
OMPF

Figure 5-4.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps Without a Reserve
Commission--Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-4.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps Without a Reserve
Commission--Continued

ELECTION ENDORSEMENT

I certify that I have selected my (Home of Record/Place of Commission (*))
for the purposes of travel allowances incident to my discharge. I further
certify and understand that this selection, once made and travel allowance is
received for travel thereto, is irrevocable and no further entitlement to
travel allowances shall accrue.

(Signature)

(Date)

NOTES:

1. Insert at the (*) either the Home of Record or Place of Commission based on the officer's desires.
2. All blank spaces should be filled with the appropriate data elements from the RETM screens in MCTFS.
3. The PRR should be in "DD Month YYYY" format. Under no circumstances may a PRR be changed without prior approval from the CMC (MMSR).

Figure 5-4.--Acceptance of Resignation of Regular Commission
in the U.S. Marine Corps Without a Reserve
Commission

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-5.--Letter of Discharge from the U.S. Marine Corps

***ADDITIONAL PARAGRAPHS MAY BE ADDED AS DIRECTED BY THE COMMAND**

(Letterhead)

From: (Issuing Command)
To: (Officer Concerned)

Subj: DISCHARGE FROM THE U.S. MARINE CORPS

Ref: *(a) MCO P1900.16G (MARCORSEPMAN)
(b) NAVMED P-117 (MANMED) Chap 15
*(c) Online MCTFSPRIUM
(d) JFTR par U5125
*(e) MCO P1070.12K (IRAM)

Encl: (1) Discharge Certificate

1. Effective 2359 on (PRR), you are discharged from the U.S. Marine Corps.

2. Your entitlement to pay and allowances terminates on (PRR). You are entitled to mileage and such other allowances as are authorized in the case of an officer being discharged from the Marine Corps. You are not entitled to constructive travel time or pay and allowances while traveling to your home following your separation from the Marine Corps.

3. The officer having custody of your records is directed to accomplish the following:

a. Ensure the discharge action authorized in paragraph 1 is effected.

b. Ensure you obtain a medical evaluation before separation to determine your fitness for separation from the Marine Corps. The Standard Form 88, Report of Physical Examination, must include the certification required by reference (b).

c. Insert the following in the Officer Qualification Record:

(1) The appropriate copy of the DD Form 214.

(2) A copy of these orders with all endorsements and modifications.

d. Report discharge per reference (c) and Appendix E of reference (a).

e. By endorsement, state the point you elect for mileage allowance per reference (d).

f. Transmit the HQMC copy of the DD Form 214 with a copy of these orders to the CMC (MMRP-20) within 3 working days after effective date of discharge.

Figure 5-5.--Letter of Discharge from the U.S. Marine Corps--Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-5.--Letter of Discharge from the U.S. Marine Corps--
Continued

Subj: DISCHARGE FROM THE U.S. MARINE CORPS

g. Close out the service record and health (includes medical and dental) records per reference (e).

h. Provide your disbursing officer with the following information:

(1) Separation authority: MARCORSEPMAN, paragraph (AUTH).

(2) Character of separation: (PLANNED CHAR).

(3) SPD code: (PLANNED SPD). Narrative reason: (Per Appendix A MARCORSEPMAN).

(4) Separation pay: (Per unit diary history statement, insert "FULL," "HALF," or "NOT ENTITLED," as appropriate).

4. Immediately upon receipt of these orders, you are directed to furnish two certified copies to the disbursing officer carrying your pay accounts.

5. Expenditures under these orders are located on the Marine Corps Total Force System D860 Remarks page.

6. Enclosure (1) recognizes your discharge from the Marine Corps.

7. The Commandant appreciates the many contributions you have made to the Marine Corps and wishes you every success in the future.

By direction

Copy to:
Disbursing Officer
OMPF

Figure 5-5.--Letter of Discharge from the U.S. Marine Corps--
Continued

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY

Figure 5-5.--Letter of Discharge from the U.S. Marine Corps--
Continued

ELECTION ENDORSEMENT

I certify that I have selected my (Place of Commission or Home of Selection (*)) for the purposes of travel allowances incident to my discharge. I further certify and understand that this selection, once made and travel allowance is received for travel thereto, is irrevocable and no further entitlement to travel allowances shall accrue.

(Signature)

(Date)

NOTES:

1. For reference (d), use paragraph U5125 for those officers discharged with separation pay who have less than 8 years continuous active duty; use U5130 for those officers discharged with separation pay who have more than 8 years continuous active duty with no single break of more than 90 days.
2. Insert at the (*) either the Home of Record, Place of Commission, or Home of Selection per the joint travel regulations.
3. All blank spaces should be filled with the appropriate data elements from the RETM screens in MCTFS.
4. The PRR should be in "DD Month YYYY" format. Under no circumstances may the PRR be changed without prior approval from the CMC (MMSR).

Figure 5-5.--Letter of Discharge from the U.S. Marine Corps
FOR OFFICIAL USE ONLY

Table 5-1.--Separation and Service Options Available After
a Second Failure of Selection for Promotion

Component	Grade	Status	Note	Note	Note	Note	Note
			1	2	3	4	5
Regular & Reserve	1STLT & CAPT	Unrestricted	X		X	X	X
Regular	MAJ	Unrestricted		X	X		X
Reserve	MAJ	Unrestricted			X		
Regular	1STLT & CAPT	LDO			X	X	X
Regular & Reserve	WO-1 & CWO-2	Permanent	X		X	X	X
Regular & Reserve	CWO-3	Permanent		X	X		X

NOTES:

1. Unless eligible to retire or separated sooner under some other provision of law, an officer will be honorably discharged not later than the first day of the 7th month after the board results were approved.
2. A major and a CWO-3 may be selected for continuation to retirement eligibility.
3. If within 2 years of retirement eligibility from the last date a commissioned officer would otherwise be discharged, the officer will be retained on active duty until eligible for retirement.
4. In lieu of discharge, an officer may request reenlistment in an enlisted status; or, if a permanent LDO, revert to a warrant officer or enlisted status.
5. An officer may be selected for continuation until eligible for retirement. CWO-2s and captains with 15 or more years of service should contact HQMC (MMSR) regarding their continuation status.

Table 5-1.--Separation and Service Options Available After
a Second Failure of Selection for Promotion

MCO 1900.16
26 Nov 2013

This page intentionally left blank.

CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

	<u>PARAGRAPH</u>	<u>PAGE</u>
GENERAL	6001	6-6
DEFINITIONS	6002	6-6

SECTION 1: POLICY AND GUIDANCE

POLICY	6101	6-9
PROCESSING TIME GOALS	6102	6-9
PERIODIC EXPLANATION	6103	6-10
PROVIDING INFORMATION DURING SEPARATION PROCESSING	6104	6-10
COUNSELING AND REHABILITATION	6105	6-10
LIMITATIONS ON SEPARATION ACTION	6106	6-13
CHARACTERIZATION OF SERVICE	6107	6-17
RECOUPMENT OF ENLISTMENT/REENLISTMENT BONUSES	6108	6-17
ELECTRONIC SIGNATURES AND ELECTRONIC RECORD OF PROCEEDINGS	6109	6-17
MEDICAL EVALUATIONS PRIOR TO ADMINISTRATIVE SEPARATIONS	6110	6-17

SECTION 2: INVOLUNTARY ADMINISTRATIVE SEPARATIONS

GENERAL	6201	6-20
CHANGE IN SERVICE OBLIGATION	6202	6-20
CONVENIENCE OF THE GOVERNMENT	6203	6-20
DEFECTIVE ENLISTMENT AND INDUCTION	6204	6-25
ENTRY LEVEL PERFORMANCE AND CONDUCT	6205	6-27
UNSATISFACTORY PERFORMANCE	6206	6-28
RESERVED FOR FUTURE USE	6207	6-29
RESERVED FOR FUTURE USE	6208	6-29
ALCOHOL ABUSE REHABILITATION FAILURE	6209	6-29
MISCONDUCT	6210	6-30

SECTION 2: INVOLUNTARY ADMINISTRATIVE SEPARATIONS
(CONTINUED)

	<u>PARAGRAPH</u>	<u>PAGE</u>
NEW ENTRANT DRUG AND ALCOHOL TESTING	6211	6-37
SECURITY	6212	6-39
UNSATISFACTORY PARTICIPATION IN THE READY RESERVE	6213	6-39
SEPARATION IN THE BEST INTEREST OF THE SERVICE	6214	6-39
WEIGHT CONTROL/BODY COMPOSITION FAILURE	6215	6-40

SECTION 3: ADMINISTRATIVE PROCEDURES

PART A: INITIATING COMMAND ACTION

GENERAL	6301	6-44
INITIATION OF SEPARATION PROCESSING	6302	6-44
NOTIFICATION PROCEDURES	6303	6-45
ADMINISTRATIVE BOARD PROCEDURES	6304	6-51
COMMAND RECOMMENDATION	6305	6-55

PART B: SEPARATION AUTHORITY ACTION

GENERAL	6306	6-57
SEPARATION AUTHORITIES	6307	6-57
SEPARATION AUTHORITY REVIEW	6308	6-59
SEPARATION AUTHORITY FINAL ACTION	6309	6-60
SUSPENSION OF SEPARATION	6310	6-63
ADMINISTRATIVE ACTION AFTER DECISION	6311	6-64
SEPARATION OF MARINES BEYOND MILITARY CONTROL BY REASON OF UNAUTHORIZED ABSENCE	6312	6-65
SEPARATION OF MARINES PENDING CONCURRENT DISCIPLINARY/ ADMINISTRATIVE AND DISABILITY PROCEEDINGS	6313	6-66

SECTION 3: ADMINISTRATIVE PROCEDURES
(Continued)

	<u>PARAGRAPH</u>	<u>PAGE</u>
PART C: ADMINISTRATIVE SEPARATION BOARD		
CONVENING AUTHORITIES	6314	6-72
COMPOSITION	6315	6-72
PROCEDURE	6316	6-75
WITNESSES	6317	6-78
OATHS	6318	6-80
FINDINGS AND RECOMMENDATIONS	6319	6-80
RECORD OF PROCEEDINGS AND REPORT OF THE BOARD	6320	6-81
SUBSEQUENT ADMINISTRATIVE SEPARATION BOARD PROCEEDINGS . .	6321	6-83

SECTION 4: VOLUNTARY ADMINISTRATIVE SEPARATIONS

GUIDELINES	6401	6-95
DEFECTIVE ENLISTMENT/REENLISTMENT AGREEMENTS	6402	6-96
CHANGES IN SERVICE OBLIGATION FOR RESERVISTS ON INACTIVE DUTY	6403	6-98
CHANGES IN SERVICE OBLIGATION FOR ACTIVE DUTY MARINES . .	6404	6-98
EARLY RELEASE TO FURTHER EDUCATION	6405	6-99
EARLY RELEASE TO ACCEPT PUBLIC OFFICE	6406	6-103
DEPENDENCY OR HARDSHIP	6407	6-103
PREGNANCY	6408	6-107
CONSCIENTIOUS OBJECTION	6409	6-107
SURVIVING FAMILY MEMBER AND SOLE SURVIVING FAMILY MEMBER .	6410	6-108
OFFICER CANDIDATE DISENROLLMENT	6411	6-110
NOT SELECTED FOR PROMOTION TO STAFF SERGEANT	6412	6-110
REDUCTION FROM SNCO TO SERGEANT OR BELOW	6413	6-111

SECTION 4: VOLUNTARY ADMINISTRATIVE SEPARATIONS
(CONTINUED)

	<u>PARAGRAPH</u>	<u>PAGE</u>
RESERVIST BECOMES A MINISTER	6414	6-111
TRANSFER TO THE NAVY HOSPITAL CORPS	6415	6-112
MARINES MARRIED TO OTHER SERVICE MEMBERS	6416	6-112
TRANSFER TO THE NAVY AS A RELIGIOUS PROGRAM SPECIALIST . .	6417	6-113
SEPARATION OF SELECTED MARINE CORPS RESERVISTS IN THE DELAYED ENTRY PROGRAM (DEP)	6418	6-113
SEPARATION IN LIEU OF TRIAL BY COURT-MARTIAL	6419	6-113
RESERVED FOR FUTURE USE	6420	6-115
SEPARATION VIA SECRETARIAL AUTHORITY ("BEST INTEREST OF THE SERVICE")	6421	6-115

FIGURE

6-1 COMMANDS DESIGNATED BY CMC (SJA) AS SEPARATION AUTHORITY FOR OTHER COMMANDS		6-85
6-2 SAMPLE FORMAT FOR NOTIFICATION WITHOUT AN ADMINISTRATIVE SEPARATION BOARD		6-86
6-2a SAMPLE FORMAT FOR ACKNOWLEDGEMENT OF NOTIFICATION <u>WITHOUT</u> AN ADMINISTRATIVE SEPARATION BOARD		6-88
6-3 SAMPLE FORMAT FOR NOTIFICATION WITH AN ADMINISTRATIVE SEPARATION BOARD		6-89
6-3a SAMPLE FORMAT FOR ACKNOWLEDGEMENT OF NOTIFICATION WITH AN ADMINISTRATIVE SEPARATION BOARD		6-92
6-4 NOTIFICATION OF ELIGIBILITY FOR MATERNITY CARE		6-116
6-5 SAMPLE REQUEST FOR EARLY RELEASE TO FURTHER EDUCATION		6-117
6-6 SAMPLE NOTIFICATION LETTER FOR VACATING SUSPENSION OF ADMINISTRATIVE DISCHARGE		6-119
6-7 SAMPLE ACKNOWLEDGEMENT OF RIGHTS BY RESPONDENT OF VACATION OF SUSPENSION OF ADMINISTRATIVE DISCHARGE		6-120

SECTION 4: VOLUNTARY ADMINISTRATIVE SEPARATIONS
(CONTINUED)

	<u>PARAGRAPH</u>	<u>PAGE</u>
TABLE		
6-1	GUIDE FOR CHARACTERIZATION OF SERVICE	6-42
6-2	GUIDE FOR THE REVIEW OF SEPARATION PACKAGES	6-67
6-3	SEPARATION AUTHORITY FOR VOLUNTARY SEPARATIONS	6-121

CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

6001. GENERAL

1. The procedures and instructions in this chapter pertain to the administrative separation of Marines before completion of active or obligated service. Unless specifically authorized by separate order, only the reasons contained in this chapter may form the basis for a Marine's separation, whether voluntary or involuntary.

2. Procedures and instructions for separating Marines at expiration of active service or upon completion of obligated service are contained in chapter 1. Disability separating processing is discussed in chapter 8.

3. Mandatory Separation Processing. Throughout this chapter reference is made to a requirement to "process (a Marine) for separation." While discharge is one possible outcome resulting from separation processing, so are retention and suspension of the discharge. "Mandatory processing" means that the commander must initiate the involuntary separation process to the separation authority. This term does not mean that a board hearing is mandatory or that separation of the respondent is mandated.

6002. DEFINITIONS OF COMMON ADMINISTRATIVE SEPARATION TERMS. See paragraph 1002 for additional definitions.

1. Administrative Separation. Discharge or release from active duty upon or before expiration of enlistment, period of induction, or other required period of service, in the manner prescribed in this Manual, by law, by the Secretary of Defense or the Secretary of the Navy, but specifically excluding punitive separation by the sentence of a general or special court-martial.

*2. Broken Service. Active duty or active duty for training in any branch of military service of the United States broken by any period greater than 24 hours and after completing a minimum of 12 consecutive weeks of active duty or active duty for training, unless such service results in continuous service as defined below.

3. Continuous Service: Enlisted Personnel

*a. Service in the Regular Marine Corps or Marine Corps Reserve which is continued by reenlistment "within 3 months" following discharge or release from active duty. A Marine who is reenlisted on the same day of the month, 3 calendar months from the date of discharge or release from active duty, is reenlisted "within 3 months."

b. Reenlistment "within 6 months" following discharge or release from active duty provided the member is classified RE-1, recommended for preferred reenlistment, and holds an MOS listed as a "reenlistable" MOS. A Marine who reenlisted on the same day of the month, 6 calendar months from the date of discharge or release from active duty, is reenlisted "within 6 months."

6002

4. Convening Authority. (1) The separation authority or (2) a commanding officer empowered to convene a special court martial, who has been authorized by the Secretary of the Navy to process a case for final action and who otherwise has the qualifications to act as a separation authority.

5. Counsel. A lawyer qualified and certified under Article 27(b), Uniform Code of Military Justice (UCMJ), assigned to represent a service member during separation processing, or a civilian lawyer retained at the member's expense.

6. Entry-Level Status. Upon enlistment, a member qualifies for entry-level status during: (1) the first 180 days of continuous active military service; or, (2) the first 180 days of continuous active service after a service break following more than 92 days of active service. A member of a Reserve component who was not on active duty or is serving under a call or order to active duty for 180 days or less begins entry-level status upon enlistment in a Reserve component. Entry level status for such a member of a Reserve component terminates as follows: (1) 180 days after beginning training if the member is ordered to active duty for training for one continuous period of 180 days or more; or, (2) 90 days after the beginning of the second period of active duty training, if the member is ordered to active duty for training under a program that splits the training into two or more separate periods of active duty. For the purposes of characterization of service or description of separation, the member's status is determined by the date of notification as to the initiation of separation proceedings. The period of entry level status is not interrupted by unauthorized absence or desertion.

7. General Courts-Martial Convening Authority (GCMCA). Article 22 of the Uniform Code of Military Justice (UCMJ) and paragraph 0120(a) of the manual of the Judge Advocate General defines the GCMCA.

8. Illegal Drug Involvement. Wrongful or improper use, possession, manufacture, sale, transfer or distribution of any psychoactive substance to include: amphetamine or similarly acting sympathomimetics; cannabis; cocaine; hallucinogens; inhalants; opiates; phencyclidine (PCP) or similarly acting arylcyclohexylamines; and sedatives, steroids, hypnotics, anxiolytics, or other controlled substances or drug paraphernalia. The term "Controlled Substances" means a drug or other substance included in Schedules I, II, III, IV, or V of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) as updated and published under the provisions of that Act.

9. Respondent. A Marine who is the subject of separation proceedings.

*10. Separation. A general term which includes discharge, dismissal, dropping from the rolls, revocation of an appointment or commission, termination of an appointment, release from active duty, release from custody and control of the Marine Corps, or transfer from active duty to the: IRR, Fleet Marine Corps Reserve, Retired List, Temporary or Permanent Disability List, or Retired Reserve and similar changes in an active or reserve status.

11. Separation Authority. The Secretary of the Navy or an official authorized by the Secretary of the Navy to take final action with respect to a specified type of separation.

12. Separation Processing. Processing is initiated on the date a command receives a written request for separation for a Marine, or on the date a command delivers a Marine notice of separation proceedings per section 3 of this chapter. Processing is not completed until the appropriate separation authority takes final action.

*13. Sexual Assault Initial Disposition Authority (SA-IDA). An O-6 Special Court-Martial Convening Authority who has the non-delegable responsibility for initial disposition under R.C.M. 306, per reference (c), Manual for Courts Martial (MCM), for certain sexual assault offenses.

*14. Sex Offender. A person having been convicted of a criminal offense according to guidelines in the Sex Offender Registration and Notification Act of 2006 (Title 42, U.S.C., Section 16912 and the National Guidelines for Sex Offender Registration and Notification July 2, 2008. Reference (g) 73 Federal Register 38030-69)

*15. Sexual Harassment. A form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

*a. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, career, or;

*b. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or;

*c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive work environment. Abusive work environment harassment need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or abusive. See reference (bh) MCO 1000.9A for additional information regarding Sexual Harassment.

*16. The Secretary. The Secretary of the Navy; includes the Under Secretary of the Navy or an Assistant Secretary of the Navy when acting under the authority delegated to them by the Secretary of the Navy.

CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

SECTION 1: POLICY AND GUIDANCE

6101. POLICY

1. 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 while requiring increased accessions. Conversely, retaining individuals in the Marine Corps who will not or cannot conform to required standards of conduct, discipline, and performance creates high costs in terms of substandard mission performance, administrative efforts, pay and degradation of morale. Both situations represent an inefficient use of limited resources. 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, and recoup (pro rata), as provided by applicable regulations, monies expended for bonuses paid and/or education/training dollars paid to a Marine in return for enlisting, reenlisting, or extending a service obligation when that service is administratively terminated before successful completion.

2. The standards and procedures established within this chapter are intended to achieve consistency of application throughout the Marine Corps based on command responsibility, accountability, and discretion.

3. Release from Active Duty. Commanders will ensure that Marines who meet the criteria for separation under this chapter are processed promptly rather than allowing them to continue on active duty until they reach their normal Expiration of Active Service (EAS) or Expiration of Current Contract (ECC).

4. Transfer to the Individual Ready Reserve (IRR). As a general rule, Marines on active duty who are not qualified to remain on active duty and who meet the criteria for separation under this chapter will be discharged (meaning their military status is completely severed) unless the reason for separation does not affect their eligibility for active duty or future mobilization. The criteria for retaining a Marine in the IRR are in paragraph 6311.3.

6102. PROCESSING TIME GOALS. Once separation action has begun, prompt forwarding, review, and decision in each case is essential. Proceedings are initiated on the date a command receives a written request for separation from a Marine or on the date a command delivers a notice of separation proceedings per section 3 of this chapter. The following listed time goals are established for the administrative separations authorized by this chapter. The goals are measured from the date of notification or initiation of a voluntary request until the actual date of separation. Failure to complete an action within the prescribed time in no way bars separation or

6105

affects characterization. Every effort should be made, however, to meet the established goals.

1. Separation Without Board Action. If a board is not required or is waived, separation action should be completed within 15 working days after the Marine received notification of separation. When the initiating command and the separation authority are not located in the same geographical region, processing should be completed within 30 working days.

2. Separation With Board Action. If a board is required, action should be completed within 50 working days after the Marine received notification of separation. When the case is forwarded to the Secretary of the Navy, the case should be sent to the Secretary within 55 working days after the Marine received notification of separation.

6103. PERIODIC EXPLANATION. Each time the Uniform Code of Military Justice (UCMJ) is explained to enlisted Marines as required by Article 137 of the UCMJ, an explanation will be made of the types of administrative separation; the basis for their issuance; possible characterization of service; the possible effects of characterization upon reenlistment, civilian employment, veterans benefits and related matters; and the possible denial of certain benefits to Marines who fail to complete at least two years of an original enlistment. This explanation may be done by fact sheet or other document. A summarization of veteran benefits is contained in Appendix K. This requirement is a command responsibility, not a procedural entitlement. Failure by a Marine to receive or to understand such explanations does not create a bar to separation or characterization of service.

6104. PROVIDING INFORMATION DURING SEPARATION PROCESSING

1. During separation processing of all Marines (except those separated for immediate reenlistment), provide a copy of Appendix D to the Marine, which informs the Marine about the Naval Discharge Review Board and the Board for Correction of Naval Records and advises that a discharge under other than honorable conditions, resulting from a period of continuous unauthorized absence of 180 days or more, is a conditional bar to benefits administered by the Department of Veterans Affairs, notwithstanding any action by the Discharge Review Board. A summarization of service benefits is contained in Appendix K.

2. Providing information about these boards is a command responsibility, not a procedural entitlement. Failure by a Marine to receive and understand the explanation required by this paragraph does not prevent separation or accurate characterization.

6105. COUNSELING AND REHABILITATION

1. Marine Corps policy is that reasonable efforts at rehabilitation should be made before initiation of separation proceedings.

2. Unless separation is mandatory, the potential for rehabilitation and further useful military service will be considered by the separation authority and, where applicable, the administrative board. If separation is

Signature of Marine

Signature of Commanding Officer

* (2) Use this entry to document problems for a Marine who is currently being processed for administrative or judicial action. The purpose of this format is to document problems that are the bases for impending or current judicial or administrative processing when the Marine has previously been counseled and given an opportunity to overcome problems or when the basis for separation (such as commission of a serious offense) does not require that the Marine be given such an opportunity. It may also be used to document additional problems arising after judicial or administrative processing has already begun. This entry **is not** a prerequisite to civilian or military judicial action or to administrative separation.

" Date : Counseled this date concerning the following deficiencies: _____ . Specific recommendations for corrective action are _____ and to seek assistance, which is available through the chain of command and _____. I understand that I am being processed for the following judicial or adverse administrative action: _____. I was advised that within 5 working days after acknowledging this entry I may submit a written rebuttal which will be filed on the document side of the service record. I choose to ___ /not to ___ make such a statement.

Signature of Marine

Signature of Commanding Officer

f. If the individual Marine annotates their desire "not to" make a statement, the entry is appropriately annotated as such and no further administrative action is required. When the individual Marine desires to make a statement, the following guidance applies:

(1) Complete the statement using white paper, preferably type written or printed and ensure the statement is dated and signed.

(2) The Marine's statement must conform to article 1122, U.S. Navy Regulations regarding temperate language, limited to pertinent facts concerning the deficiencies identified in the page 11 entry and shall not question or impugn the motives of another person.

(3) This is not the forum for surfacing issues more timely and appropriately handled at either request mast or through an Article 138 UCMJ, Complaints of Wrongs hearing.

4. The commanding officer must also determine, on a case-by-case basis, whether the Marine has effectively overcome the noted deficiencies after the counseling and page 11 entry have been made. There are no requirements for subsequent imposition of nonjudicial punishment or other administrative or judicial actions as a prerequisite for separation proceedings. There must be some evidence in the administrative separation proceedings, however, indicating the Marine has not overcome the noted deficiencies.

6106

5. A Marine being processed for separation under one of the bases requiring counseling under paragraph 6105 may only be processed if the counseling entry reasonably relates to the specific basis for separation ultimately recommended.

*6106. LIMITATIONS ON SEPARATION ACTION

1. A Marine may not be separated on the basis of the following:

a. Conduct that has been the subject of military or civilian judicial proceedings (including summary courts-martial) resulting in an acquittal or action having the effect of an acquittal except:

(1) When such action, having the effect of an acquittal, is based on a judicial determination not based on the issue of factual guilt of the respondent;

(2) When the judicial proceeding was conducted in a state or foreign court and separation is in the best interest of the Marine Corps as determined by the Secretary of the Navy on a case-by-case basis; or,

(3) When the acquittal was solely by reason of lack of mental responsibility. Marines in this category will be processed for disability separation. When disability separation is not appropriate, process the Marine for separation in the best interest of the service per paragraph 6214.

b. Conduct that has been the subject of a prior administrative board proceeding in which the separation authority approved the board's finding that the evidence did not sustain the factual allegations. Such conduct may form the basis for separation, however, if the separation authority determines that the finding was materially influenced by fraud or collusion on the part of the respondent or some other person acting on the respondent's behalf.

c. Conduct that has been the subject of a prior administrative separation proceeding resulting in a final determination by a separation authority that the Marine should be retained, unless:

(1) Subsequent conduct or performance forms the basis, in whole or in part, for a new proceeding;

(2) There is new or newly discovered evidence that was not reasonably available at the time of the prior proceedings; or

(3) The finding has been determined by the separation authority to have been materially influenced by fraud or collusion on the part of the respondent or some other person acting on the respondent's behalf and an administrative board, in a rehearing, recommends separation.

*d. Guidance for Marines Found Fit by the Physical Evaluation Board.

* (1) Marines who have been Found Fit by the PEB may not later be involuntarily administratively separated for the same medical condition(s) for which they were found fit without approval of the SECDEF. Therefore,

such separations would be expected to be the rare exception. Marines Found Fit should be retained in their current duties, re-assigned or their case reevaluated for disability separation by the ASN (M&RA). Only medical conditions that are potentially rateable by the PEB and limit assignability should be submitted for disability reevaluation. Contact CMC (MMSR-3) on Fit cases considered for either disability reevaluation or administrative separation for further guidance. The restrictions in this paragraph do not apply to other bases for administrative separation, separation at the end of active service obligation or any prioritization at reenlistment.

* (2) Administrative separation for condition not a disability and those separation program designator (SPD) codes must comply with the requirements in paragraph 6203.2.

2. A prior court-martial conviction for a serious offense is not a bar to administrative separation processing based on that offense. See subparagraph 1004.4 regarding characterization limitations.

*3. Time limitations. No "statute of limitations" exists for administrative separations. Accordingly, a Marine may be processed for separation based on conduct notwithstanding (1) the length of time between the conduct and the notification of separation or (2) the expiration of a statute of limitations for court-martial or nonjudicial punishment. However, Marines undergoing administrative separation processing will not be involuntarily retained on active duty or administratively separated past their release date (EAS) that was established by an enlistment/re-enlistment contract or a valid extension of such a contract (see paragraph 1008).

*4. FMCR/Retired List Eligible Marines. A Marine being considered for administrative separation processing who is otherwise eligible for transfer to the FMCR/Retired List may, at his or her request, be considered for transfer to the FMCR/Retired List before the command initiates administrative separation processing (see paragraph 1002.52 for the definition of Separation Processing). CMC(MM) may approve the request for transfer to the FMCR/Retired List; or CMC(MM) may disapprove such a request and, based on adverse information submitted by the Marine's chain of command or adverse material contained in the Marine's official records, direct administrative separation processing to ensure a Marine is afforded the procedural rights of a respondent prior to making a separation, grade and characterization of service decision. CMC(MM) may only direct administrative processing if the information submitted by the Marine's chain of command or material contained in the Marine's official records forms one of the specific reasons for involuntary separation in this chapter. See paragraph 7012 for additional information regarding FMCR/Retired List grade determinations.

*a. If the Marine does request, and is allowed to transfer to the FMCR/Retired List prior to the command initiating administrative separation processing, he or she may not be recalled to active duty except with the review and approval of the CMC(MM).

*b. If the Marine does request transfer to the FMCR/Retired List, but CMC(MM) disapproves the request directing administrative separation processing, the convening authority shall proceed with administrative processing per the guidance in CMC(MM)'s correspondence, this chapter, and

6106

paragraph 7012. Administrative Board procedures under paragraph 6304 shall be used.

* (1) The final report of the board and the findings and recommendation worksheet, in these cases, shall include recommendations to CMC (MM) on separation, characterization of service, and grade determination if transfer to the FMCR/Retired list is recommended. FMCR/Retired List eligible Marines who have had administrative separation processing directed by CMC (MM), after their request to transfer to the FMCR/Retired List was disapproved by CMC (MM), may only be reduced one inferior pay grade and only after having been afforded the procedural rights of a respondent per paragraph 6304 (Administrative Board Procedures).

* (2) The DC, M&RA shall use the following criteria when making a final determination regarding reducing a Marine one inferior grade prior to transfer:

* (a) Nature and severity of the misconduct and its relationship to and effect upon the performance of military duties.

* (b) All performance evaluations and other portions of the service record bearing on performance in the current pay grade, and whether the misconduct was known by the reporting seniors, and if not, what effect, if any, it might have had on the respondent's records.

* (c) Time in current grade and its relationship to the time of the misconduct.

* (d) Other relevant matters presented by the record of the respondent.

* (3) The automatic reduction to pay grade E-3 for Marines serving in pay grade E-4 or above transferred to the FMCR/Retired list with an under other than honorable conditions characterization of service does not apply when the Marine requests transfer to the FMCR/Retired List but (CMC) MM disapproves the request and directs administrative separation processing.

*c. Pre-Board Waiver. A Marine subject to administrative separation processing initiated by their command, at the direction of CMC (MM), that did not originally waive their right to an administrative discharge board at notification, may choose to waive their right to an administrative separation board using Figure 7-3, prior to the conduct of the board (See paragraph 7012 for additional information). In these cases, DC, M&RA will make the final determination as to whether or not the Marine shall be transferred in the grade currently held or reduced one inferior grade prior to transfer. The DC, M&RA will also determine the characterization of service at transfer. Submission of Figure 7-3 through the chain of command does not constitute termination of administrative separation proceedings. Board proceedings will be held in abeyance pending DC, M&RA's acceptance, grade and characterization of service determination, and issuance of an effective date of transfer to the FMCR/retired list.

6106

*d. Post-Board Waiver. A Marine subject to administrative separation processing initiated by their command, at the direction of CMC(MM), where the board has already been conducted may choose to waive continued administrative separation processing and request DC, M&RA make an immediate grade and characterization of service determination, and issue an effective date of transfer to the FMCR/Retired List. Figure 7-3 shall also be used. Submission of Figure 7-3 through the chain of command does not constitute termination of administrative separation proceedings. DC, M&RA may choose to take immediate action or disapprove the waiver pending final submission of the complete administrative separation package through the chain of command.

*e. If a Marine does not request transfer to the FMCR/Retired List prior to initiation of administrative separation processing, the convening authority shall proceed with administrative separation processing per the guidelines of this chapter. The following information pertains to a Marine, otherwise eligible, who does not request transfer to the FMCR/Retired List prior to initiation of administrative separation processing:

* (1) Possible loss of all retainer/retired pay and benefits if separation is approved.

* (2) Possible separation with an under other than honorable conditions characterization of service if separation is approved subject to the guidelines contained and Chapters 1 and 6, of this manual.

* (3) If separated with an under other than honorable conditions characterization of service and serving in paygrade E-4 or above, reduction to pay grade E-3, effective upon separation.

* (4) May request transfer to the FMCR/Retired List after notification that separation has been directed by the appropriate separation authority. Submit FMCR/Retirement List requests within 30 days of the date of separation to CMC (MMSR-2). The final determination of retirement grade and characterization of service at transfer to the FMCR/Retired List, in these cases, rests exclusively with DC, M&RA.

* (5) Not entitled to an administrative separation board if, upon notification that separation has been directed, the Marine requests transfer to the FMCR/Retired List. The final determination of retirement grade and characterization of service at transfer to the FMCR/Retired List, in these cases, rests exclusively with DC, M&RA.

*f. The waiver process under paragraph 6304.5 shall be followed for Marines, otherwise eligible, who do not request transfer to the FMCR/Retired List prior to the command initiating administrative separation processing. [Note: Figure 7-3 may only be used by eligible Marines (20 or more years of active duty) whose request to transfer to the FMCR/Retired List was disapproved and administrative separation processing was directed by CMC (MM).]

*g. The final determination of FMCR/Retirement grade and characterization of service rests exclusively with DC, M&RA [see paragraph 6307.1d]. Commanders are not authorized to enter into agreements, pre- or post-trial,

6110

express or implied, in which a retirement eligible Marine is to be retired at a particular pay grade.

6107. CHARACTERIZATION OF SERVICE. The separation authority must determine the appropriate character of service once the separation is approved. Commanders initiating separation action must make specific recommendations based upon the circumstances of the particular case and the guidelines in paragraph 1004 and Table 6-1.

*6108. RECOUPMENT OF ENLISTMENT/REENLISTMENT BONUSES. Recoupment of unearned portions of enlistment/reenlistment/career status bonuses is associated with the corresponding Separation Program Designator (SPD) code.

1. Notice of Recoupment. A Marine who may be subject to recoupment must be so advised before submitting a request for voluntary separation. A recoupment notice is contained in figures 6-2 and 6-3.

6109. ELECTRONIC SIGNATURES AND ELECTRONIC RECORD OF PROCEEDINGS

1. The electronic signature of a separation authority is a valid and legally sufficient signature of the separation authority's final action in all involuntary administrative separation proceedings described in this chapter.

2. Electronic records of involuntary administrative separation proceedings described in this chapter are valid and legally sufficient for all purposes, to include processing, review, separation authority final action and record retention by the Commandant of the Marine Corps (MMRP).

*6110. MEDICAL EVALUATIONS PRIOR TO ADMINISTRATIVE SEPARATIONS

*1. Prior to approving any involuntary administrative separation initiated for Marines with more than 180 days of active duty, the Separation Authority must ensure that a medical evaluation of the Marine is performed. This evaluation must be reviewed and specifically addressed by the Separation Authority as to any medical condition affecting (or not affecting) the basis for separation. These medical evaluations shall be completed by appropriately privileged medical providers authorized to perform separation evaluations and shall be sufficient in scope and timing to meet separation medical requirements. The intent of performing these evaluations is to ensure that separation authorities have all pertinent information about any medical condition(s) that may have a material impact on a Marine's behavior, including Post-traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI). Inherent in any separation action is that authority's discretion to direct additional medical treatment and determine the date of separation or direct retention as appropriate.

*a. These medical evaluations are standard separation evaluations per Chapter 15 of the Manual of the Medical Department. Minimum requirements are: (1) the Marine's completion of DD Form 2807-1 (Report of Medical History), (2) an interview and completion of DD Form 2808 by an appropriately privileged medical provider, and (3) the medical provider's completion and signature on these and any other required documents. The separation authority shall review this report and any post deployment health assessments for consideration of any medical issues affecting separation.

6110

*b. Medical providers, the commanding officer or separation authority may direct further medical evaluation as warranted by the circumstances of each case.

*2. The Separation Authority for entry level Marines or Reserve Marines not on active duty with no history of combat service or deployment will be exempt from reviewing the final medical evaluation; however, the commander initiating separation will be required to certify that these Marines had no combat service or deployment and were not diagnosed with PTSD or TBI. The final medical evaluation will also be exempted in instances where Reserve Marines have a history of combat service or deployment, are undergoing administrative separation proceedings and do not respond to notification and other requirements for administrative separation.

*3. A Marine shall receive a medical evaluation to assess whether the effects of post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI) constitute matters in extenuation that relate to the basis for administrative separation if the Marine meets any of the following criteria:

*a. Is being administratively separated under a characterization Under Other Than Honorable Conditions.

*b. Was deployed overseas to a contingency operation during the previous 24 months.

*c. Is diagnosed by an appropriately privileged medical provider such as a physician, clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse as experiencing PTSD or TBI, or reasonably alleges the influence of PTSD or TBI.

*(1) In a case involving PTSD, the medical evaluation will be performed by an appropriately privileged medical provider such as a physician, clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse.

*(2) In a case involving TBI, the medical evaluation will be performed by an appropriately privileged medical provider such as a physician, clinical psychologist, psychiatrist, or other health-care professional as appropriate.

*d. Is not being separated pursuant to a sentence of a court-martial or other UCMJ proceeding (appendix 2 of (Reference (n))).

*e. These medical evaluations are performed per paragraph 6110 and reference (p) Manual of the Medical Department, and these appropriately privileged medical providers determine medical evaluation requirements.

*f. A Marine receiving a medical evaluation in accordance with this paragraph will not be separated until the result of the medical evaluation has been reviewed by appropriate authorities responsible for evaluating, reviewing, and approving the separation.

*g. PTSD and TBI evaluations must specifically include comments on the presence or absence of these conditions and, if present, the extent to which they affected the Marine's judgment and may have been a contributing factor in the basis for separation. For those cases in which PTSD or TBI was

6110

determined by an appropriately privileged medical provider such as a physician, clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse to be a contributing factor to one or more of the bases for separation, the GCMCA's separation endorsement shall, in light of an identified PTSD or TBI contributing factor, explain the reasons for the respondent's separation and the characterization of service.

*4. If the medical evaluation results in a diagnosis of PTSD or TBI and the Separation Authority determines it is service related, sufficiently mitigating, and possibly a disability, the Separation Authority should consider processing for separation under Chapter 8 of this manual for physical disability.

*5. Marines separated under these provisions shall be directed to consult with a representative from the Department of Veteran Affairs regarding veteran benefits and services prior to separation with that counseling dated and signed in DD Form 2648, pre-separation counseling checklist.

*6. This policy does not provide an additional procedural basis of appeal or redress for respondents.

*7. See Paragraph 6307 of this Manual for information regarding separation authority.

CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

SECTION 2: INVOLUNTARY ADMINISTRATIVE SEPARATIONS

6201. GENERAL. This section lists the reasons a commander may recommend involuntary separation of a Marine before the Marine's expiration of current contract and sets up the necessary administrative rules for separating a Marine under any of the reasons given.

*1. Reference. Reference (an) DoDI 1332.14.

2. Format. The general bases for separation are identified by the title at the beginning of major numbered paragraphs. For example, "Convenience of the Government" is a general basis for separation. Specific bases for separation are identified in paragraphs under the general bases for separation. For example, "Parenthood" is a specific basis for separation under the general basis "Convenience of the Government." For some general bases such as "Alcohol Abuse Rehabilitation Failure", there are no specific bases. Refer to Section 4 for details on reasons for voluntary separation.

6202. CHANGE IN SERVICE OBLIGATION. Separation authorities may separate Marines when the CMC directs separation as part of a general demobilization or reduction in force. Characterize service as honorable, general (under honorable conditions), or uncharacterized under the rules in Table 6-1.

6203. CONVENIENCE OF THE GOVERNMENT. A Marine may be separated for the Convenience of the Government for the reasons set forth below. Characterize service as honorable, general (under honorable conditions), or uncharacterized under the rules in paragraph 1004 and Table 6-1.

1. Parenthood. Marines are Marines 24 hours per day, 7 days per week. Specific duties, assignments, or circumstances, not to mention the fundamental mission of the Marine Corps, require all Marines, regardless of marital status, to be responsive to command and Marine Corps needs. When a Marine's parental responsibilities result in repeated absenteeism, interfere with a Marine's effective performance of duty, or preclude present or future availability for worldwide assignment, separation is required unless the Marine can resolve the conflict to the commanding officer's satisfaction. Before initiating separation action, commanding officers must formally counsel the Marine per paragraph 6105 concerning specific deficiencies and give the Marine an opportunity to overcome the noted deficiencies. When the performance of duty still does not conform to commonly acceptable standards, follow the procedures in section 3.

*2. Condition Not a Disability. See reference (ba) SECNAVINST 1850.4E.

*a. Whenever a Marine's performance deteriorates or has an adverse effect on others in the unit, commanding officers and subordinate leaders will try to determine the cause. When the command suspects a physical or mental condition interferes with the Marine's effective performance of duty, the Marine should be referred to the appropriate medical authority. Commanders must comply with reference (bb) SECNAVINST 6320.24A and reference (bc) DoDI 6490.04 when referring a Marine for a mental health evaluation. If

6203

examination by a medical officer confirms that the Marine is suffering from a physical or mental condition apparently beyond the individual's control and indicates that the condition is not a disability, initiate separation proceedings per paragraph 6303 or 6304 as appropriate. Condition(s) must be certified by an appropriately privileged medical provider as not ratable by the PEB.

*b. Certain conditions and defects of a developmental nature designated by the reference (ba) SECNAVINST 1850.4E do not constitute a physical disability and are not ratable in the absence of an underlying ratable causative disorder. These conditions include, but are not limited to, those listed below.

- * (1) Enuresis
- * (2) Sleepwalking and/or Somnambulism
- * (3) Dyslexia and Other Learning Disorders
- * (4) Attention Deficit Hyperactivity Disorder
- * (5) Stammering or Stuttering
- * (6) Incapacitating fear of flying confirmed by a psychiatric evaluation
- * (7) Airsickness, Motion, and/or Travel Sickness
- * (8) Phobic fear of Air, Sea and Submarine Modes of Transportation
- * (9) Certain Mental Disorders including:
 - * (a) Uncomplicated Alcoholism or other Substance Use Disorder
 - * (b) Personality Disorders
 - * (c) Mental Retardation
 - * (d) Adjustment Disorders (except Chronic Adjustment Disorders which are a ratable disability effective 10 April 2013)
 - * (e) Impulse Control Disorders
 - * (f) Sexual Gender and Identity Disorders and Paraphilias
 - * (g) Sexual Dysfunction
 - * (h) Factitious Disorder
- * (10) Obesity
- * (11) Overheight
- * (12) Psuedofolliculitis barbae of the face and/or neck

6203

*(13) Medical Contraindication to the Administration of Required Immunizations

*(14) Significant allergic reaction to stinging insect venom

*(15) Unsanitary habits

*(16) Certain Anemias (in the absence of unfitting sequelae) including Glucose-6-Phosphate Dehydrogenase Deficiency (G6PD), other inherited Anemia Trait, and Von Willebrand's Disease.

*(17) Allergy to Uniformed Clothing or Wool

*(18) Long sleeper syndrome

*(19) Hyperlipidemia

*c. Separation under this basis requires written notification per paragraph 6303 or 6304, as appropriate, and that the Marine's condition does not qualify as a naval service disability.

*d. Marines who have been found Fit by the PEB may not later be involuntarily administratively separated for the same medical condition(s) for which they were found fit without approval from the SECDEF.

*3. Personality Disorder

*a. Basis for processing. Separation under this paragraph is authorized only if, due to personality disorder (PD), the Marine's ability to function effectively in the military environment is significantly impaired and if no other basis for separation applies. For example, if separation can be based on another basis, including another basis under Convenience of the Government, misconduct, or unsatisfactory performance, use one of those bases. Initiate separation proceedings per paragraph 6303 or 6304 as appropriate.

*b. Counseling. Before initiating separation, the command must have counseled the Marine in accordance with paragraph 6105; given the Marine a reasonable opportunity to correct deficiencies; and have documentation of failure to correct those deficiencies. The opportunity to correct deficiencies need not extend for a protracted observation period. At any time after formal counseling, Marines repeating or continuing behaviors that interfere with the performance of their duties or disrupt the good order and discipline of their unit may be processed for administrative separation.

*c. Documentation. PD separation documentation requirements are as follows:

*(1) Commanders must comply with reference (bb) SECNAVINST 6320.24A and reference (bd) DoDI 6490.04 when referring a Marine to a mental health evaluation. Diagnosis must be made by a psychiatrist or Ph.D.-level psychologist.

6203

* (2) Per reference (p), Article 15-23 of the MANMED, the diagnosis must include a statement from the psychiatrist or Ph.D.-level psychologist that the Marine's disorder is so severe that the Marine's ability to function effectively in the military environment is significantly impaired. Written nonmedical evidence must be submitted to show specific examples of how the Marine is unable to function in the Marine Corps. These can be counseling entries on page 11 of the SRB/ESR or statements from witnesses.

* (3) Separation under this basis requires written notification per paragraph 6303 or 6304, as appropriate, and that the Marine's condition does not qualify as a naval service disability.

* (4) Diagnosis must be corroborated by a peer psychiatrist or Ph.D.-level psychologist or higher level mental health professional.

* (5) Diagnosis must address PTSD, TBI, or other mental illness comorbidity. Unless found fit by the disability evaluation system, a separation for personality disorder is not authorized if service-related post-traumatic stress disorder (PTSD) is also diagnosed.

* (6) Diagnosis must be endorsed by the Regional Naval Medical Commander.

* (7) Separation solely for PD warrants a re-enlistment code of 3P.

* (8) Characterization of service is honorable unless the separation is an entry level separation or a general, under honorable conditions characterization of service is warranted.

*d. The Separation Authority's endorsement will include the following paragraph. "All requirements in MCO 1900.16G, paragraph 6203.3, Personality Disorder Administrative Separation, have been completed and documented in the attached case file."

4. Action in lieu of approved punitive discharge. A Marine may be separated if placed on appellate leave pursuant to reference (a), Title 10 U.S.C. 706 and whose punitive discharge is set aside, suspended, remitted, or disapproved during the review process. In this case, separation processing must be based upon an applicable provision of this chapter and may proceed without the Marine being present. The Marine, however, must have been notified of the separation processing prior to beginning appellate leave, or be afforded the rights under paragraph 6303 or 6304, as appropriate, and either waive those rights or fail to respond within 30 days of receipt of notification of separation proceedings. Further, the characterization limitations of paragraph 6203 do not apply and characterization will be based upon the guidelines contained in paragraph 1004.

5. Disenrolled Involuntarily from Officer Candidate Program. A member may be separated after being involuntarily disenrolled from an officer candidate program under conditions in which the candidate did not incur, or does not have, any remaining service obligation. (For voluntary disenrollment, see paragraph 6411).

6. Failure or Disenrollment From Lateral School Seat Assignment. A Marine who reenlisted under reference (ae) MCO 1040.31, Lateral Move Program, may

6203

be separated for failure to comply with an express condition of enlistment/reenlistment; e.g., after failing, or being voluntarily or involuntarily disenrolled from, an MOS school/OJT under conditions not resulting in a service obligation to the Marine.

*7. Refusal of Medical Treatment

a. A Marine may be separated for refusing medical treatment and that refusal interferes with duty. The commander must determine if the refusal is "reasonable" or "unreasonable" and warrants separation based upon the situation and the following considerations.

*b. In accordance with reference (p), Navy Medical Publication P-117, The Manual of the Medical Department (MANMED), article 18-22, states that medical, dental, and surgical treatment will not be performed on a mentally competent Marine who does not consent to the recommended procedure. When a Marine refuses medical treatment a medical evaluation board must be convened per the MANMED article and the results forwarded to the Physical Evaluation Board (PEB). See chapter 8 regarding the medical board and PEB process. The PEB will make a determination of "reasonable" or "unreasonable" refusal of medical treatment according to reference (ba) SECNAVINST 1850.4E, paragraph 3413. A medical evaluation board and PEB action are necessary because a determination of unreasonable refusal and intentional misconduct/willful neglect will result in denial of Department of Veterans Affairs and Social Security Administration medical treatment for the Marine in the future.

*c. If the refusal of medical treatment is determined to be reasonable, the Marine may still be separated at the commander's discretion per this Manual. If unsatisfactory performance of duty or misconduct are not considerations, separation, for physical condition not a disability, may be appropriate with the assignment of reenlistment codes RE-3P or RE-3C.

*d. If the PEB determines that the refusal of medical treatment was "unreasonable" or provides a finding of intentional misconduct/willful neglect, the commander may consider the following:

* (1) Administrative separation for unsatisfactory performance per paragraph 6206 or misconduct per paragraph 6210.

* (2) Administrative reduction. See reference (be) MCO P1400.32D regarding nonpunitive reductions relating to professional incompetence and competency review boards.

* (3) Characterization of Service. If a finding of intentional misconduct/willful neglect or other negative aspects of a Marine's performance outweigh positive aspects of performance, to include proficiency and conduct average markings, and administrative separation is warranted, the least favorable characterization of service is general (under honorable conditions).

*e. Refusing inoculations. Service members are required to submit to required immunizations according to Navy Regulations, article 1144. The medical evaluation board and PEB procedures described in paragraph 6203.7b are not required for Marines refusing inoculations. Disciplinary action and

6204

separation for orders violations may be appropriate based upon the commander's decision.

*f. Separation processing may not be initiated until the Marine has been counseled and allowed an opportunity to correct the deficiency per paragraph 6105. If a Marine is separated for "unreasonable" refusal of medical treatment, the following items must be included as part of the written notification requirements of paragraph 6303 or 6304 as appropriate:

*(1) A reenlistment code of RE-4, not recommended for reenlistment, will be assigned and the Marine will be discharged and not transferred or eligible for service in the IRR.

*(2) A finding of intentional misconduct/willful neglect requires the following notifications:

(a) Assignment of separation code _____ (basis determined).

(b) The Marine is not disabled and the condition did not occur in the line of duty.

(c) The Department of Veteran Affairs and the Social Security Administration may deny future medical benefits for this condition.

*(3) The Marine's condition does not qualify as a naval service disability.

*8. Physical Standards. Marines may be involuntarily administratively separated under the Convenience of the Government basis of additional grounds, for failure to meet or obtain minimum standards required for a military occupational specialty (MOS). Examples include failing to meet physical readiness requirements for MOS performance standards, combat fitness test, physical fitness test, etc. This basis may be used when failure to meet the standard results from personal limitations, lack of motivation, or lack of suitability caused by conditions or circumstances not ratable by the PEB and not covered by a more specific or appropriate discharge category. Use SPD code GFT, HFT, and JFT as appropriate and the narrative reason for separation shall be Physical Standards for these types of discharges. Prior to involuntary separation under this code, consideration must be given to the potential for conversion to a specialty that would enable the Marine to continue service vice administrative separation. This may be an appropriate basis when paragraph 6203.2, condition not a disability, is not warranted. *Separation under this basis requires written notification per paragraph 6303 or 6304, as appropriate, and that the Marine's condition does not qualify as a naval service disability. See paragraph 6106.1.d for limitations on administrative separation for the same medical condition(s) for which a Marine was found Fit by the PEB.

6204. DEFECTIVE ENLISTMENT AND INDUCTION. Marines may be separated for the following specific reasons:

1. Minority

6204

a. If a Marine is under age 17, the enlistment is void and the Marine shall be separated. The Marine shall receive an order of release from the custody and control of the Marine Corps. There is no characterization or description of service. The separation will be an entry level separation. The separation authority is the GCMCA.

b. A Marine who is age 17 shall be separated under the following circumstances unless retained for the purpose of trial by court-martial.

(1) There is evidence that the Marine is under age 18.

(2) The Marine enlisted without the written consent of the Marine's parent or guardian.

(3) An application for the Marine's separation is submitted to the CMC by the parent or guardian within 90 days of the Marine's enlistment.

c. The Marine will be given an entry level separation.

d. The notification procedures in paragraph 6303 shall be used.

2. Erroneous Enlistment/Reenlistment

a. A Marine may be separated on the basis of an erroneous enlistment, induction, reenlistment, or extension of enlistment in the following circumstances, if:

(1) The action would not have occurred had the relevant facts been known by the Marine Corps or had appropriate directives been followed;

(2) The action was not the result of fraudulent conduct on the part of the Marine; and

(3) The defect is unchanged in material respects.

b. Any case brought to a commander's attention which purports to be of this nature shall be investigated and a complete report included in the Marine's service record book.

c. Service is characterized as honorable, or uncharacterized per Table 6-1. Initiate separation proceedings following the procedures in paragraph 6303 or 6304 as appropriate.

*d. The separation authority is the GCMCA. If an individual has already sworn in, but fails to ship, or is determined to be ineligible for enlistment and has not yet reported to a MCRD, the CG, MCRC is the discharge authority.

*e. For individuals in the Delayed Entry Program (DEP) being separated because of ineligibility for enlistment, the poolee shall be notified of the proposed separation and the reasons. The poolee shall be given the opportunity to submit to the separation authority a statement in rebuttal by a specified date (not less than 30 days from the date of delivery). The notice should be delivered personally or sent by certified mail, return receipt requested (or by an equivalent form of notice if such service is not available at an address outside the United States). If the Poolee fails to acknowledge receipt of notice, the individual who mails the notification

6205

shall prepare a Sworn Affidavit of Service by Mail that shall be inserted in the poolee's residual record along with Postal Service Form 3800. An individual is ineligible for enlistment when he/she:

- * (1) No longer meets the number of dependents criteria;
- (2) No longer meets physical or mental qualifications;
- (3) Unfavorable ENTNAC/NAC investigation or unfavorable police record is completed subsequent to entry into the DEP;
- (4) Adverse security screening occurs; or
- (5) Identified as a drug user or alcohol abuser.

3. Fraudulent Entry into the Marine Corps

a. Marines who procure a fraudulent enlistment, reenlistment, induction, or period of active service will be processed for separation unless the fraud is waived or the fraud no longer exists. An enlistment, induction, or period of service is fraudulent when there has been deliberate material misrepresentation, including the omission or concealment of facts which, if known at the time, would have reasonably been expected to preclude, postpone, or otherwise affect the Marine's eligibility for enlistment or induction.

*b. The separation authority may waive the Marine's fraud and authorize retention provided the existing defect could have been waived by the commanding general of a recruit depot, or lower authority, during the initial enlistment processing. If the defect could not have been waived by a commanding general of a recruit depot, the case must be sent to the CG, MCRC (ENLRCTG), if the separation authority desires to retain the Marine. See reference (bf) MCO P1100.72C (MPPM, ENLPROC) to identify cases where only the CMC may authorize retention.

c. Refer to reference (bf) MCO P1100.72C (MPPM, ENLPROC) for the retention authority the commanding generals of the recruit depots may exercise. When a fraudulent enlistment waiver is granted, an appropriate administrative entry, citing the waiver letter, will be made in block 37 of the DD Form 1966 (Application for Enlistment). Recruits whose waiver requests are disapproved will be discharged per this chapter.

*d. Characterization of service under other than honorable conditions may only be issued when the fraud involves concealment of a prior separation in which service was not characterized as honorable (the administrative board procedure of paragraph 6304 must be used if characterization under other than honorable conditions is desired). In all other cases, the notification procedure of 6303 will be used and service will be characterized as honorable, general (under honorable conditions), or uncharacterized. If the material misrepresentation included personality disorder, the GCMCA will weigh the evidence and determine the characterization of discharge. See Table 6-1 for characterization limitations.

*6205. ENTRY LEVEL PERFORMANCE AND CONDUCT

6206

*1. A member may be separated while in an entry level status, if unqualified for further service by reason of entry level performance and/or conduct, as evidenced by incapability, lack of reasonable effort, failure to adapt to the Marine Corps environment, or minor disciplinary infractions.

*2. When separation in an entry level status is warranted by unsatisfactory performance and/or minor disciplinary infractions, the member normally should be separated under this paragraph. However, nothing cited in this paragraph precludes separation under another provision of this Manual.

*3. A Marine with broken service may be separated while in indoctrination or MOS training for failure to satisfactorily complete such training. When separation of a recruit for failure to satisfactorily complete indoctrination training is warranted, the recruit should normally be separated under this paragraph. Nothing cited in this paragraph, however, precludes separation for another reason listed in this Manual.

4. Separation processing may not be initiated until the member has been counseled per paragraph 6105 concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling and personnel records. This requirement is particularly important because military service is a calling different from any civilian occupation. A member should not be separated when this is the sole reason unless there have been efforts at rehabilitation. Such efforts must include the following and be documented in the member's service record:

- a. Written notification concerning deficiencies or impairments;
- b. Specific recommendations for corrective action, indicating any assistance available;
- c. Comprehensive explanation of the consequences of failure to successfully take the recommended corrective action; and,
- d. Reasonable opportunity for the Marine to take the recommended corrective action.

5. The discharge will be uncharacterized.

6. Follow the procedures of paragraph 6303.

7. Commanding officers of Marine Corps Districts may discharge Reservists who are members of the DEP or members of the Selected Marine Corps Reserve awaiting initial active duty for training under this provision. Separation will be uncharacterized.

8. Within the parameters of "Entry Level Status" established in paragraph 6002, all personnel administratively separated from recruit training will be processed under this reason except in those limited cases where processing under a more serious basis is appropriate and where discharge characterization under other than honorable conditions is warranted.

6206. UNSATISFACTORY PERFORMANCE. A Marine may be separated if the Marine is unqualified for further service by reason of unsatisfactory performance.

6209

1. Unsatisfactory performance is characterized by:

a. Performance of assigned tasks and duties in a manner that does not contribute to unit readiness and/or mission accomplishment, as documented in the service record; or,

b. Failure to maintain required proficiency in grade, as demonstrated by below average proficiency/conduct numerical marks or adverse fitness report markings or comments accumulated in the Performance Evaluation System.

2. This basis for separation will not be used for separation of a member in entry level status.

3. Separation processing may not be initiated until the Marine has been counseled per paragraph 6105. If the Marine does not respond to counseling, commanders may initiate separation following the procedures in paragraph 6303 or 6304 as appropriate. Do not make arbitrary or capricious use of this authority to force the separation of Marines who possess the potential to be rehabilitated under the guidelines of paragraph 6105.

4. Characterization will be honorable or general (under honorable conditions) per Table 6-1.

5. A Marine may be separated for unsatisfactory performance as follows:

a. Unsanitary Habits. The term "unsanitary habits" includes, but is not limited to, the repeated occurrence of venereal disease infections during the Marine's current enlistment or period of service.

b. Unsatisfactory Performance of Duties. A Marine may be separated when it is determined the Marine is unqualified for further service by reason of unsatisfactory performance, as defined in paragraph 6206.1. A Marine may also be separated under this basis for failure to conform to weight and/or body composition standards as a result of apathy or a lack of self discipline.

*6207. RESERVED FOR FUTURE USE.

*6208. RESERVED FOR FUTURE USE.

*6209. ALCOHOL ABUSE REHABILITATION FAILURE.

*1. Commanders shall process Marines for administrative separation in the following circumstances:

*a. Any Marine who demonstrates a lack of potential for continued naval service; or

*b. Any Marine who refuses, fails to participate in, or does not successfully complete a prescribed alcohol abuse or dependency treatment/aftercare program; or is deemed a treatment failure by a credentialed and privileged physician or psychologist.

6210

*c. Any Marine who incurs a subsequent alcohol related incident after entering a prescribed alcohol abuse or dependency treatment/aftercare program precipitated by a prior alcohol related incident.

2. Initiate separation proceedings following the procedures in paragraph 6303 or 6304 as appropriate.

3. Characterization is honorable, general (under honorable conditions), or uncharacterized per Table 6-1.

*4. Nothing in this paragraph precludes separation under other provisions in this Manual. See reference (d) MCO 5300.17 for further information.

6210. MISCONDUCT

1. Whenever a Marine is involved in misconduct, as described in the following paragraphs, commanders shall process the Marine for separation unless rehabilitation and retention are warranted under the guidelines in paragraph 6105. Characterization of service normally shall be under other than honorable conditions, but characterization as general (under honorable conditions) may be warranted in some circumstances. For Marines who have completed entry level status, characterization of service as honorable is not authorized unless the Marine's record is otherwise so meritorious that any other characterization clearly would be inappropriate and the separation is approved by the GCMCA. When characterization of service under other than honorable conditions is not warranted for a Marine in entry level status, the separation shall be uncharacterized. Separation processing for a series of minor disciplinary infractions or a pattern of misconduct may not be initiated until the Marine has been counseled per the guidelines for counseling in paragraph 6105. Counseling per paragraph 6105 and rehabilitation are not required if the basis of separation is commission of a serious offense, a civilian conviction, or a similar juvenile adjudication, or drug abuse. Process per provisions of paragraph 6303 or 6304 as appropriate. Actions on related misconduct separations:

*a. Misconduct involving a fraudulent entry shall be processed under paragraph 6204.3;

*b. Offenses involving drug abuse shall be processed for separation by reason of the appropriate drug abuse offense in paragraph 6210.5, as well as other applicable reasons in this Manual;

*c. See reference (be) MCO P1400.32D, Enlisted Promotion Manual regarding nonpunitive reductions relating to professional incompetence and competency review boards; and

*d. Sexual Misconduct based discharges shall be processed under paragraphs 6210.6 or 6210.7.

2. Minor Disciplinary Infractions. A Marine may be separated when there is, in his or her service record book, a documented series of at least THREE minor disciplinary infractions, during the current enlistment, of a nature which have been or would have been appropriately disciplined under Article 15, UCMJ, nonjudicial punishment. When multiple offenses have been the subject of one nonjudicial punishment, they remain separate offenses for the

6210

purpose of determining eligibility for processing under this paragraph. If separation of a member in entry level status is warranted solely by reason of minor disciplinary infractions, the processing should be under Entry Level Performance and Conduct. Separation processing may not be initiated until the Marine has been counseled per paragraph 6105. The notification procedure contained in paragraph 6303 may be used if characterization of service under other than honorable conditions is not warranted.

3. A Pattern of Misconduct

a. A minimum of **TWO** incidents occurring within one enlistment is required. Misconduct occurring in an extension of an enlistment is considered to be within one enlistment. The infractions may be minor or more serious. There must be discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline. The misconduct need not have been the subject of NJP or military or civilian conviction. Such incidents include, but are not limited to, an established pattern of minor unauthorized absences; an established pattern of dishonorable failure to pay just debts; or an established pattern of dishonorable failure to contribute adequate support to family members or comply with orders, decrees, or judgments of a civil court concerning support of family members. The incidents of misconduct do not have to be of the same nature.

b. Separation processing may not be initiated until the Marine has been counseled per paragraph 6105. The notification procedure contained in paragraph 6303 may be used if characterization of service under other than honorable conditions is not warranted.

*4. Sexual Misconduct

*a. Sex Offender. "Sex Offense" is not a specific basis for discharge. Marines who are convicted of a sex offense under the guidelines of the Sex Offender Registration and Notification Act, whether in a civilian criminal court or court-martial, and in the case of a court-martial conviction, if not punitively discharged, shall be processed for separation under paragraph 6210.6 or 6210.7, as appropriate.

*b. Sexual misconduct includes conduct that could form the basis for a violation of the following Articles of the UCMJ:

* (1) Article 120 - Rape and sexual assault generally

- (a) Rape
- (b) Sexual Assault
- (c) Aggravated Sexual Contact
- (d) Abusive Sexual Contact

* (2) Article 120b - Rape and sexual assault of a child

- (a) Rape of a Child

6210

(b) Sexual Assault of a Child

(c) Sexual Abuse of a Child

* (3) Article 120c - Other Sexual Misconduct

(a) Indecent Viewing, Visual Recording, or Broadcasting

(b) Forcible Pandering

(c) Indecent Exposure

* (4) Article 125 - Forcible Sodomy

* (5) Article 80 - Attempts (to commit any of the offenses listed in subparagraphs (1) through (4)).

*c. Processing for separation is mandatory following the first substantiated incident, or substantiated attempted incident, of sexual misconduct, as determined by the Sexual Assault-Initial Disposition Authority (SA-IDA) or higher. Only the SA-IDA or higher can decide that processing under this paragraph is an appropriate disposition. This authority may not be further delegated. The decision to initiate processing must be documented in accordance with reference (bg) MCO 1752.5B. This paragraph is not intended to preclude disciplinary action to include trial by court-martial, when appropriate.

*d. An incident, or attempted incident, is considered substantiated when there has been a court-martial conviction, civilian court conviction, nonjudicial punishment, or when a commander determines, based on a preponderance of the evidence, that an incident or attempted incident of sexual misconduct has occurred. See paragraph 6106 for limitations on separation action.

*e. Substantiated incidents of sexual misconduct or attempted sexual misconduct may constitute both a basis for administrative separation processing and a violation of the UCMJ. The SA-IDA should wait until the completion of all criminal investigations until determining the appropriate disposition.

*f. Investigation

* (1) Reporting Requirement. See Enclosure (1), Chapter 4 of reference (bh) MCO 1752.5B for reporting and Military Criminal Investigative Organization investigative requirements.

* (2) No preliminary inquiry pursuant to reference (c) the MCM or administrative investigation pursuant to reference (r) Chapter II, JAGMAN 5800.7F shall be conducted until the commander has contacted the staff judge advocate and the appropriate Military Criminal Investigative Organization.

*g. Procedures

6210

* (1) The basis for separation shall be under paragraph 6210.6 (Commission of a Serious Offense) or 6210.7 (Civilian Conviction), as applicable. Counseling per paragraph 6105 is not required for processing a Marine for separation under this paragraph.

* (2) The procedures contained in paragraph 6304 shall be used when separating a Marine when any part of the basis for separation includes a substantiated incident of sexual misconduct.

* (3) The administrative separation board recorder, in all cases of substantiated incidents of sexual misconduct or attempted incidents of sexual misconduct, must be a judge advocate certified under Article 27(b), UCMJ.

*5. Drug Abuse

*a. Commanders shall process Marines for administrative separation for illegal, wrongful, or improper use, possession, sale, transfer, distribution, manufacture, importation into the customs territory of the United States, exportation from the United States, or introduction on a military installation, vessel, vehicle, or aircraft used by or under the control of the armed forces, of any substance that is listed on a schedule of controlled substances by the President or in Schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), or opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, marijuana, steroids, any compound or derivative of any such substance, or any other dangerous or illicit drug or other forms of substance abuse (such as designer drugs, fungi, chemicals not intended for human consumption, spice, bath salts, etc.) as defined in reference (j) SECNAVINST 5300.28E paragraph 5.c), and/or the possession, sale, or transfer of drug paraphernalia as defined in reference (j) SECNAVINST 5300.28E. Commanders shall also process Marines who attempt to engage in any of the aforementioned activities. Evidence obtained from an involuntary urinalysis administered pursuant to an inspection under Military Rules of Evidence in the current version of reference (c) the Manual for Courts Martial (MCM), or from a search and seizure under Military Rules of Evidence 311-317, or incident to an examination conducted for a valid medical reason may be used to characterize a Marine's discharge as under other than honorable conditions. The procedures contained in paragraph 6304 shall be used when separating a Marine under these provisions, unless a characterization of service more favorable than other than honorable is warranted.

b. Except as provided below, all Marines (regardless of pay grade) identified for mandatory processing under the criteria of paragraph 6210.5a will be processed for administrative separation by reason of misconduct, due to drug abuse, on the first offense. Processing is not required if:

(1) The offense has been adjudicated at a general or special court martial, for which the sentence approved by the convening authority includes a punitive discharge (suspended or unsuspended), or

(2) The limitations of paragraph 6106.1 apply.

6210

c. Self-referral for drug use constitutes confirmation of illegal drug abuse and requires a Marine to be processed for administrative separation. The Voluntary Drug Exemption Program is no longer applicable. However, a Marine's voluntary submission to a DoD treatment and rehabilitation program, and evidence voluntarily disclosed by the Marine as part of the course of treatment in such a program may not be used against the Marine on the issue of characterization of service. This limitation does not apply to:

(1) The introduction of evidence for the purpose of impeachment or rebuttal in any proceeding in which evidence of drug abuse has been first introduced by the Marine; or

(2) The taking of action based on independently derived evidence, including evidence of continued drug abuse after initial entry into a treatment and rehabilitation program.

*d. Marines separated for drug abuse, will be screened for drug dependency at a Substance Abuse Counseling Center (SACC) and, if found to be drug or alcohol dependent, provided treatment prior to separation. If the Marine is not within a reasonable commuting distance from a SACC, he/she may be screened by an appropriate credentialed health care provider, either civilian or military. Under special circumstances, Marines will be referred to the Department of Veterans Administration (VA) or other rehabilitation centers for counseling and/or treatment. Commanders must comply with reference (d) MCO 5300.17 for VA referral requirements.

*e. Reserve Marines not on active duty or inactive duty for training are not required to be screened for alcohol or drug dependency incident to processing for administrative discharge. Screening and treatment may be authorized at the discretion of the commander.

6. Commission of a Serious Offense

a. A Marine may be processed for separation for commission of a serious military or civilian offense under the following circumstances:

(1) The specific circumstances of the offense warrant separation; and

(2) A punitive discharge would be authorized for the same or a closely related offense under the UCMJ.

b. A military or civilian conviction is not required for discharge under this provision.

*c. The notification procedure contained in paragraph 6303 may be used if characterization of service under other than honorable conditions is not warranted except when the factual basis for separation is based on sexual misconduct under paragraph 6210.4.

7. Civilian Conviction

a. Commanders may process Marines for separation when civilian authorities (foreign or domestic) have convicted a Marine or taken action which is tantamount to a finding of guilty, including similar adjudication in juvenile proceedings, when:

6210

- (1) the specific circumstances of the offense warrant separation, and
- (2) a punitive discharge would be authorized for the same or a closely related offense under the UCMJ; or
- (3) the sentence by civilian authorities includes confinement for 6 months or more without regard to suspension or probation.

b. Separation processing may be initiated whether or not a Marine has filed an appeal of a civilian conviction or has stated an intention to do so. However, execution of an approved separation should be withheld pending outcome of the appeal or until the time for appeal has passed, unless the Marine has requested separation or the Marine's separation has been directed by the CMC. Such requests must be approved by the Secretary of the Navy who may direct that the member be separated before final action on the appeal.

c. For special provisions regarding characterization of discharge based upon civilian conviction in the case of a Reservist, see paragraph 1004.4d.

*d. The notification procedure contained in paragraph 6303 may be used if characterization of service under other than honorable conditions is not warranted except when the factual basis for separation is based on sexual misconduct under paragraph 6210.4.

*8. Sexual Harassment

*a. Sexual harassment is a form of discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, career, or;

(2) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or;

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive work environment. Abusive work environment harassment need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or abusive. See reference (bh) MCO 1000.9A for additional information regarding Sexual Harassment.

*b. Sexual harassment may also meet the definition of sexual misconduct under paragraph 6210.4. The procedures contained in paragraph 6304 shall be used when separating a Marine when any part of the basis for separation includes a substantiated incident of sexual misconduct.

*c. Processing for separation is mandatory following the first substantiated incident of sexual harassment involving any of the following circumstances:

6210

* (1) Threats or attempts to influence another's career or job for sexual favors;

* (2) Rewards in exchange for sexual favors; or,

* (3) Physical contact of a sexual nature which, if charged as a violation of the UCMJ, could result in a punitive discharge.

*d. Only the Sexual Assault Initial Disposition Authority (SA-IDA) or higher may determine that processing under this paragraph is an appropriate disposition. This paragraph is not intended to preclude disciplinary action to include trial by court-martial, when appropriate.

*e. An incident is considered substantiated when there has been a court-martial conviction, a civilian court conviction, nonjudicial punishment, or the commander determines, based on a preponderance of the evidence, that sexual harassment has occurred.

*f. The basis for separation shall be under paragraph 6210.2 (Minor Disciplinary Infractions); 6210.3 (Pattern of Misconduct); 6210.6 (Commission of a Serious Offense); or 6210.7 (civilian conviction). Counseling per paragraph 6105 is not required for processing a Marine for separation under this paragraph, unless the Marine is processed under paragraph 6210.2 or 6210.3.

9. Participation in Supremacist or Extremist Organizations or Activities

a. Processing for separation is mandatory following the first substantiated incident of misconduct resulting from the Marine's participation in extremist or supremacist activities which, in the independent judgment of an administrative separation board convening authority, is more likely than not to undermine unit cohesion or be detrimental to the good order, discipline, or mission accomplishment of the command. Such misconduct must relate to:

(1) Illegal discrimination based on race, creed, color, sex, religion, or national origin; or

(2) Advocating the use of force or violence against any Federal, State, or local government, or any unit or agency thereof, in contravention of Federal, State, or local laws.

b. An incident is considered substantiated when there has been a court martial conviction, nonjudicial punishment, or an administrative separation board convening authority determines, based on a preponderance of the evidence, that the Marine has engaged in supremacist or extremist conduct.

c. The basis for separation shall be under paragraph 6210.2 (minor disciplinary infractions); 6210.3 (pattern of misconduct); 6210.6 (commission of a serious offense); or 6214 (separation in the best interest of the service). Note, however, that paragraph 6210.2 and 6210.3 may not be used unless the Marine has been previously counseled concerning misconduct per paragraph 6105.

6211

d. The least favorable characterization is under other than honorable conditions, if an administrative board procedure (paragraph 6304) is used. Characterization is honorable, general (under honorable conditions), or uncharacterized (entry level separation), if the notification procedure (paragraph 6303) is used. Refer to paragraph 6210.2, 6210.3, 6210.6, and 6214 to determine the applicability of paragraphs 6303 and 6304.

*10. Driving Under the Influence

a. A Marine may be processed for separation for driving under the influence following a substantiated incident.

b. An incident is considered substantiated when there has been a court martial conviction, nonjudicial punishment, a civilian conviction, or an administrative separation board convening authority determines based on a preponderance of the evidence that the Marine has engaged in the act of driving under the influence.

c. The basis for separation shall be under paragraph 6210.3 (pattern of misconduct); 6210.6 (commission of a serious offense); 6210.7 (civilian conviction); or 6214 (separation in the best interest of the service). Note, however, that paragraph 6210.3 may not be used unless the Marine has been previously counseled concerning misconduct per paragraph 6105. The least favorable characterization is under other than honorable conditions, if an administrative board procedure (paragraph 6304) is used. Characterization is honorable, general (under honorable conditions), or uncharacterized (entry level separation), if the notification procedure (paragraph 6303) is used. Refer to paragraphs 6210.3, 6210.6, 6210.7, and 6214 to determine the applicability of paragraphs 6303 and 6304.

*e. Processing for separation for driving under the influence is mandatory following the second substantiated incident during a Marine's naval career. For the purposes of mandatory processing under this paragraph, a second substantiated incident is defined as a conviction at court-martial for operating a vehicle impaired or with a blood alcohol concentration that exceeds the limit proscribed in Article 111, UCMJ, a civilian conviction for driving under the influence that is substantially equivalent to a violation of Article 111, or nonjudicial punishment for driving under the influence in violation of Article 111. The first substantiated incident necessary to trigger mandatory processing need not have occurred during the Marine's current enlistment. The Marine's service record book must indicate that the Marine was counseled concerning the earlier substantiated incident per paragraph 6105. Preservice misconduct shall not be considered for determining whether mandatory processing is required.

*6211. NEW ENTRANT DRUG AND ALCOHOL TESTING

1. The enlistment of any person determined to have been dependent on drugs or alcohol at the time of such enlistment shall be voided, and the Marine shall normally be given an uncharacterized separation. The following guidelines apply:

6211

a. The basis of separation for Marines found dependent on drugs or alcohol at the time of enlistment shall be a void enlistment (10 U.S.C. 978).

b. Dependency will be determined by a medical officer using appropriate medical/psychiatric criteria.

c. Prepare a DD Form 214 for all individuals separated under this paragraph per section 2 of chapter 1 with the following exceptions:

(1) Enter zeros in all blocks of item 12 for non-prior service individuals. For individuals with prior service, enter zero in blocks a, b, c, and i and complete the remaining portion as appropriate.

(2) Enter "VOID ENLISTMENT" in blocks 23 and 24.

(3) Enter "10 U.S.C. 978" in block 25.

(4) Assign separation code, JFU1.

(5) Assign reenlistment code, RE-3C.

d. A person whose enlistment is voided due to alcohol or drug dependency shall be referred to a civilian treatment facility.

e. This paragraph also applies to officer candidates undergoing initial training in an enlisted status.

2. Marines who test positive, but are not found dependent, for drugs or alcohol during an initial entry drug or alcohol test shall be processed for separation per the appropriate provision of paragraph 6204 (defective enlistment and induction). Commanding officers are not precluded in appropriate cases from taking disciplinary action against a Marine or processing a Marine for separation, with or without a characterization, under an alternative basis for separation.

*a. Separation of personnel who refuse to consent to testing or evaluation during initial entry on active duty (IEAD) or who are confirmed positive for illegal drug use (other than marijuana) may not be waived. The determination of a waiver for a confirmed positive for illegal marijuana use during IEAD should be made at the Recruit Depots prior to the recruit's graduation and follow-on MOS school assignment. Thereafter, it should be presumed that a waiver was appropriate and granted. Conforming service record book entries should be made.

b. Personnel confirmed positive for marijuana use alone (except for officer candidates) will be processed for separation unless the GCMCAs of the recruit depots or their delegated authorities waive this provision on a case-by-case basis. Separation of officer candidates for confirmed marijuana use may not be waived.

c. Personnel confirmed positive at a 0.05 blood alcohol level or greater shall be processed for separation unless the GCMCAs of the recruit depots and OCS (in the case of officer candidates) or their delegated authorities waive this provision on a case-by-case basis.

6214

6212. SECURITY. When retention is clearly inconsistent with the interests of national security, a Marine may be separated by reason of security and under conditions and procedures established by the Secretary of Defense. Characterization will be honorable, general (under honorable conditions), under other than honorable, or uncharacterized under the rules in Table 6-1. The separation authority is the CMC (MMSR); however, the CMC may refer any particular case to the Secretary of the Navy.

6213. UNSATISFACTORY PARTICIPATION IN THE READY RESERVE. A Marine may be separated for unsatisfactory participation in the Ready Reserve under criteria established in reference (bj) DoDI 1215.13, reference (e) MCO P1001R.1K (MCRAMM), and the Commander, Marine Forces Reserve (MARFORRES). The separation authority is the GCMCA. Characterization of service will conform to paragraph 1004 and the rules of Table 6-1.

*6214. SEPARATION IN THE BEST INTEREST OF THE SERVICE

1. The Secretary of the Navy may direct the separation of any Marine before the expiration of that Marine's term of service after determining that such separation is in the best interest of the Marine Corps. For example, the Secretary may use secretarial plenary authority to separate a Marine whose personal conduct reflects discredit upon the service, adversely affects the good order and discipline of the unit, or adversely affects the Marine's performance of duty. Requests for this type of discharge should only be made in unusual cases where such action is essential in the interest of justice, discipline, and proper administration in the naval service.

2. Requests for separation under this paragraph shall be forwarded to the Secretary of the Navy via the CMC (MMSR-3) for review.

*3. Separation under this provision should only be made in unusual cases not covered by any other provisions of this chapter or when a Marine has been processed for separation under any other basis of this chapter and the separation authority, pursuant to paragraph 6309.2c, disagrees with the administrative board's recommendation for retention. Renotification under paragraph 6303 is required prior to forwarding to CMC (MMSR) for review when a Marine has been processed for separation under another basis of this chapter and the separation authority, pursuant to paragraph 6309.2c, disagrees with the board's recommendation for retention. In all other cases initiated under this paragraph, the basis for discharge will be under separation in the best interest of the service.

4. Notification procedures under paragraph 6303 shall be used. The procedures for requesting an administrative separation board, including for a Marine with 6 or more years of service, do not apply. The notification shall state why no other reason for separation under this chapter is appropriate and why separating the Marine is in the best interest of the Marine Corps.

5. Characterization of service will be honorable or general (under honorable conditions).

6. See paragraph 6421 regarding voluntary requests for separation under the secretarial plenary authority.

6215

7. All separations in the best interest of the service shall be submitted to the Secretary or the Secretary's delegated representative for decision.

8. Marines separated under this paragraph with an honorable or general (under honorable conditions) characterization of service normally rate full separation pay. The Secretary of the Navy or the Secretary's delegated representatives will determine approval of half or no separation pay.

*6215. WEIGHT CONTROL/BODY COMPOSITION PROGRAM (BCP) FAILURE. When the **sole** reason for separation is failure to meet height/weight and body composition standards, and the Marine's performance and conduct otherwise conform with established standards, if separation is warranted, the Marine will be separated under this paragraph.

1. Basis for processing

a. Medical problems: Obesity. Marines with a medically diagnosed condition that precludes or interferes with BCP adherence may be separated through appropriate medical channels.

b. No medical problems: BCP Failure. The following criteria must be met to meet this basis for separation:

(1) The Marine is unqualified for further service;

* (2) The Marine failed to meet height/weight and body composition standards under MCO 6110.3;

(3) The Marine has no medically diagnosed condition precluding or interfering with BCP compliance;

* (4) The Marine made a reasonable effort to conform to Marine Corps height/weight and body composition standards by adhering to the regimen prescribed by the appropriately credentialed health care provider (ACHCP) and the commander as prescribed in MCO 6110.3. A reasonable effort consists of adherence to a reasonable diet combined with a regular physical training regimen and a steady loss of weight/body fat. Processing of Marines who fail to make a reasonable effort will be under paragraph 6206 (unsatisfactory performance of duties), not this paragraph; and

(5) Body Composition Program failure is the only basis for separation and the Marine's performance and conduct otherwise conform with established standards. This basis will NOT be used if another basis (such as misconduct or unsatisfactory participation or performance) is appropriate.

2. Documentation. The following must be included to support separation:

*a. Completed BCP Evaluation Form (NAVMC 11621) for any assignment or extension. The BCP Evaluation form must be signed by a Medical Officer, ACHCP, Commanding Officer and the Marine.

*b. Periodic Weigh-in and Body Composition Evaluations (BCE) results as determined on the BCP Form.

6215

*c. Counselings (6105). Before initiating separation, the command must counsel the Marine according to paragraph 6105, giving the Marine corrective guidance and a reasonable opportunity to correct deficiencies, and document any failure to correct those deficiencies. PROPER 6105 COUNSELING REGARDING THE BODY COMPOSITION ASSIGNMENT SHOULD BE RECORDED IN THE SRB/ESR ON THE SAME DAY THE MARINE IS ASSIGNED TO THE BCP. The 6105 counselings are required for administrative discharge (initial, 4th month evaluation and termination or extension), but a page 11 entry is not required to record assignment to the BCP for unit diary purposes. Ensure that command reevaluation is conducted 6 months after the initial assignment to the BCP.

3. Characterization. Honorable or general (under honorable conditions) as warranted under paragraph 1004 and Table 6-1. Table 1-1, Rule 8, is not used for this separation.

4. This paragraph will not be used for entry level separation.

5. "Weight control failure" and "BCP failure" (as stated in reference (bt) MCO 6110.3) are synonymous. "Weight Control Failure" is used for paragraph 6215 in compliance with Department of Defense standards and reference (an) DoDI 1332.14. In addition, "Weight Control Failure" will be used as the narrative reason in block 28 of the DD Form 214 for Marines separated under this paragraph.

Table 6-1.--Guide for Characterization of Service

	HON	GEN	OTH	UNCHARACTERIZED
Par. 6202 Change in Service Obligation	X 1,4	X 1,4		X
Par. 6203 Convenience of the Government	X 1,4	X 1,4		X
Par. 6204.1a Minor under 17	Order of release from the custody and control of the Marine Corps			
Par. 6204.1b Minor 17 years old				X
Par. 6204.2 Erroneous Enlistment/ Reenlistment	X 1			X
Par. 6204.3 Fraudulent Entry Into the Marine Corps	X 1,4	X 1,4	X 5	X
Par. 6205 Entry Level Performance and Conduct				X
Par. 6206 Unsatisfactory Performance	X 4	X 4		
Par. 6209 Alcohol Abuse Rehab Failure	X 1,4	X 1,4		X
Par. 6210 Misconduct	X 2	X 1,3	X	X 3
Par. 6211 New Entrant Drug/Alcohol Testing				X
Par. 6212 Security	X 1,4	X 1,4	X	X 3
Par. 6213 Unsat Part in Ready Reserve	X 2	X 1,4	X	X
Par. 6214 Separation in the Best Interest of the Service	X 1,4	X 1,4		X

Table 6-1.--Guide for Characterization of Service--Continued

Table 6-1.--Guide for Characterization of Service--Continued

	HON	GEN	OTH	UNCHARACTERIZED
Par. 6215 Weight Control/Body Composition Failure	X 1,4	X 1,4		

NOTES:

1. Authorized unless Marine is in an entry level status.
2. Not authorized unless Marine's record is otherwise so meritorious that any other characterization clearly would be inappropriate.
3. Authorized only if OTH is not warranted.
4. Authorized in accordance with the guidance in paragraph 1004.
5. Authorized only when the fraud involves concealment of a prior separation in which service was not characterized as honorable.

CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

SECTION 3: ADMINISTRATIVE PROCEDURES

PART A: INITIATING COMMAND ACTION

6301. GENERAL. This section establishes the administrative procedures for separation and provides detailed procedures for administrative separation boards. In light of the unique nature and requirements of the Reserve component and problems inherent in contacting Marines of the SMCR and IRR, the Commander, MARFORRES may supplement these procedures and figures with procedures and figures that facilitate the separation process yet ensures fairness to Reserve Marines.

6302. INITIATION OF SEPARATION PROCESSING

*1. When a Marine's performance or conduct falls within any of the reasons within section 2 and all required command attempts at leadership and rehabilitation of the Marine have been unsuccessful, the commanding officer should initiate separation processing, subject to the specific requirements found in this chapter. At the command level, the process involves identification of a particular case, notification to the Marine, and preparation of a recommendation to the separation authority with evidence supporting the recommendation. Marines should be processed for all general bases for which minimum criteria for processing are met in Chapter 6. However, separation authorities must choose the most appropriate single basis when actually effecting the separation.

2. A separation authority is not precluded from initiating separation processing for a Marine under his or her command. If a separation authority initiates separation processing, no recommendation from a subordinate commander is required, however, all other notification requirements shall be completed in compliance with this chapter.

3. Notification letters and command recommendations will be signed personally by the commanding officer. During the commanding officer's official absence, such correspondences will be signed "Acting" by the officer temporarily succeeding to command. By direction signatures are not authorized. However, inspector-instructors and site commanders are authorized to sign notification letters and command letters of recommendation for discharge on behalf of Reserve commanding officers when the Reserve commanding officer is not available for signature, but concurs in the action or recommendation.

*4. Before initiating separation processing the command should take the following steps as well as consulting the checklist in Figure 6-2.

a. Step One: Review limitations on separation. Review paragraph 6106 and determine if separation is precluded.

b. Step Two: Determine the Marine's status. Determine precisely the status of the Marine since status and basis for separation can determine the separation authority, the nature of separation, and the rights afforded to the Marine.

(1) Proximity to expiration of active service, current contract, obligated service, and eligibility for transfer to the FMCR or retirement.

6303

* (a) Holding beyond release date. A Marine may not be held on active duty involuntarily beyond his or her release date for administrative discharge. See paragraph 1008. Similarly, a Marine of the IRR or SMCR may not be held beyond RECC or EOS for administrative discharge.

(b) Marine eligible or within two years of eligibility for retirement or transfer to the FMCR. See paragraph 6106 and 6307.

(2) Amount of active and inactive service;

(3) Reservist (if Active Reserve, SMCR or IRR; if SMCR obligor or non-obligor);

(4) Eligibility of SMCR Marine to transfer to the IRR.

(a) Mandatory participants in the SMCR. An SMCR Marine with a mandatory participation requirement ("obligor") may be retained involuntarily in the SMCR for administrative discharge. See MCRAAM paragraph 3301. Do NOT transfer such a Marine to the IRR without MARFORRES approval.

(b) Non-mandatory participants in the SMCR. An SMCR Marine without a mandatory participation requirement ("non-obligor") and not subject to a separate written agreement to train (SWAT, MCRAAM paragraph 3102) CANNOT be retained involuntarily in the SMCR for administrative separation. See MCRAAM paragraph 3301.2b. If such a Marine facing administrative discharge requests transfer to the IRR, such transfer must be granted. The SMCR command must then contact MARFORRES (SJA) Division) to initiate proceedings to separate the Marine from the IRR.

c. Step Three: Review limitations on characterization. Review paragraph 1004.4. Especially important are paragraphs 1004.4a and 1004.4b (prior service and pre-service activities) and 1004.4d (conduct in the civilian community by a reservist not in a duty status).

d. Step Four: Identify the separation authority. Review paragraph 6307.

*e. Step Five: Drug and alcohol dependency. Evidence of alcohol or drug abuse/dependence requires that an active duty respondent be screened at a SACC or an equivalent facility (i.e., military MTF, or other DOD counseling facility) and offered treatment before the case is referred to a board or forwarded to the separation authority. See reference (d) MCO 5300.17 for evaluation, counseling, and treatment requirements. For Reservists, see paragraph 6210.5.e.

*6303. NOTIFICATION PROCEDURES

1. The procedures and requirements outlined in this paragraph are applicable under any specific reason for separation contained in section 2.

2. When a Marine is processed on the basis of multiple reasons for separation, the following guidelines apply to procedural requirements, limitations on characterization of service, or description of separations:

6303

a. The requirements for each reason will be applied to the extent practicable.

b. If a reason for separation, stated in the notice of proposed action, requires processing under the Administrative Board procedure, process per paragraph 6304. See Table 6-2 for bases requiring administrative board procedures.

c. If more than one reason for separation is approved, the guidance on characterization that provides the greatest latitude may be applied.

d. When there is any conflict between a specific requirement applicable to one reason and a general requirement applicable to another reason, the specific requirement shall be applied.

e. If a conflict in procedures cannot be resolved, the procedures most favorable to the respondent shall be used.

f. If the separation authority approves two or more bases for separation, the authority shall further indicate the primary single basis to appear on the Marine's DD Form 214.

*3. Notification Requirements. If there is evidence of alcohol or drug abuse/dependence, the respondent must be screened at a SACC or an equivalent facility (i.e., military MTF, or other DOD counseling facility) and offered treatment before the case is referred to a board or forwarded to the separation authority. Refer to reference (d) MCO 5300.17 for evaluation, counseling, and treatment requirements. For Reservists, see paragraph 6210.5.e.

a. Notice. A commanding officer must provide written notice to any Marine being recommended for separation. Sample letters of notification and acknowledgment forms are provided in Figure 6-2. Commands may develop their own procedures; however, such written notice shall include the following:

(1) Each of the specific reasons for separation in section 2 which forms the basis of the proposed separation, including the circumstances upon which each action is based and a reference to the applicable provisions of this chapter;

(2) Whether the proposed separation could result in discharge, release from active duty to a Reserve component, transfer from the Selected Reserve to the IRR, release from custody or control of the naval services, or other form of separation;

(3) The least favorable characterization of service or description of separation authorized for the proposed separation, and the characterization recommended by the commanding officer;

(4) If the Marine is FMCR/Retired List eligible and has refused to request transfer to the FMCR/Retired List under paragraph 6106.4, the respondent's notification letter shall include a statement reflecting such refusal and acknowledging the respondent's understanding that, if separation is approved, he/she may lose all retainer/retired pay and benefits;

6303

(5) A statement of the Marine's right to obtain copies of documents that will be forwarded to the separation authority supporting the basis of the proposed separation. Classified documents shall be summarized;

(6) A statement of the Marine's right to submit statements;

(7) A statement of the Marine's right to consult with counsel per paragraph 6303.3b, and a statement that it is in the Marine's best interest to consult with counsel before waiving any rights;

* (8) A statement of the right to request an administrative board if the Marine has 6 or more years of total active and inactive service at the time of notification of separation proceedings or if the least favorable characterization of service is other than honorable;

(9) A statement of the right to waive the rights afforded in paragraph 6303.3a(6) through 6303.3a(9), after being afforded a reasonable opportunity to consult with counsel and that failure to respond shall constitute a waiver of these rights;

(10) If the respondent is in civil confinement, absent without authority, in a Reserve component not on active duty, or upon transfer to the IRR, the relevant notification procedures in paragraph 6303.4 apply; and

(11) The notification requirements outlined in this paragraph do not apply when the Marine is processed for separation by reason of the Convenience of the Government for disability and the character of service is based upon average proficiency and conduct markings.

(12) Use if applicable for convenience of the government bases. The basis for which you are separated does not qualify as a naval service disability.

b. Counsel. A respondent has the right to consult with a lawyer qualified counsel, or non-lawyer counsel before returning the acknowledgement of rights. "Qualified Counsel" is a trial or defense counsel certified under Article 27b of the UCMJ, or a civilian attorney authorized to practice law.

(1) A respondent has the right to consult with qualified counsel when the notification procedure is initiated, except when all of the following conditions are met:

(a) The respondent is away from or deployed outside the United States, or attached to a vessel away from its overseas home port, or attached to a shore activity remote from judge advocate resources;

(b) No qualified counsel is assigned and present at the vessel, unit, or activity; and

(c) The commanding officer does not anticipate having access to qualified counsel from another vessel, unit, or activity, for at least the next 5 days if qualified counsel is assigned and present on another naval vessel, unit, or activity located in the same geographic area where the

6303

Marine's vessel, unit, or activity is located, or will be located within the next 5 days. It is considered that, for purposes of this Manual, the commanding officer has access to qualified counsel unless that counsel is currently absent from duty station; i.e., leave, or TAD outside the immediate geographic area; and

(d) The commanding officer determines that the requirements or needs of the Marine Corps warrant processing before qualified counsel will be available.

(2) Non-lawyer counsel shall be appointed whenever qualified counsel is not available. An appointed non-lawyer counsel shall be a commissioned officer with no prior involvement in the circumstances leading to the basis of the proposed separation, and no involvement in the separation process itself. The non-lawyer counsel shall be encouraged to consult by telephone or by any other means with any available judge advocate regarding any legal issues relevant to the case. When a non-lawyer counsel is appointed, the appointing letter shall contain an explanation by the commanding officer setting out in detail why qualified counsel is unavailable and why the requirements or needs of the Marine Corps warrant processing before qualified counsel will be available. A copy of the appointing letter will be attached to each copy of the written notice of separation processing.

(3) The Marine may also consult with a civilian counsel retained at the respondent's own expense. The fact that a respondent indicates to the commanding officer that the respondent will be consulting, or has consulted with a civilian counsel does not relieve the obligation of the commanding officer to furnish military counsel. Consultation with civilian counsel shall not delay orderly processing in accordance with this Manual.

c. Response. The respondent shall be provided a reasonable period of time, but not less than 2 working days to respond to the notice. An extension may be granted upon a timely showing of good cause by the respondent. The respondent's selection as to each of the rights in paragraph 6303, shall be recorded and signed by the respondent and respondent's counsel, if counsel is not waived, subject to the following limitations:

(1) If notice by mail is authorized and the respondent fails to acknowledge receipt or submit a timely reply, that fact shall constitute a waiver of rights and an appropriate notation shall be recorded on a retained copy of the appropriate form.

(2) If the respondent declines to respond as to the selection of rights, such declination shall constitute a waiver of rights and an appropriate notation will be made on the form provided for respondent's reply. If the respondent indicates that one or more of the rights will be exercised, but declines to sign the appropriate form, the selection of rights will be noted and an appropriate notation as to the failure to sign will be made.

(3) The respondent's commanding officer shall forward a copy of the notice and the respondent's reply to the separation authority. Where appropriate, the commanding officer should also make recommendations to the separation authority, pursuant to paragraph 6106.4, as to the pay grade in

6303

which a respondent eligible for transfer to the Fleet Marine Corps Reserve/retired list should be allowed to transfer.

4. Additional Notification Requirements

a. Marine Confined by Civil Authorities

(1) If separation proceedings under section 2 have been initiated against a respondent confined by civil authorities, the case may be processed in the absence of the respondent. When a board is appropriate or required, there is no requirement that the respondent be present at the board hearing. Rights of the respondent before the board can be exercised by counsel on behalf of the respondent.

(2) The following additional requirements apply:

(a) The notice shall contain the matter set forth in paragraph 6303 or 6304, as appropriate. The notice shall be delivered personally to the respondent or sent by certified mail, return receipt requested (or by an equivalent form of notice if such service is not available for delivery by U.S. Mail at an address outside the United States). If the Marine refuses to acknowledge receipt of notice, the individual who mails the notification shall prepare a Sworn Affidavit of Service by Mail which will be inserted on the document side of the Marine's service record together with PS Form 3800.

(b) If delivered personally, receipt shall be acknowledged in writing by the respondent. If the respondent does not acknowledge receipt or refuses to accept delivery, the person attempting delivery shall make an appropriate note on the form.

(c) The notice shall state that the action has been suspended until a specific date (not less than 30 days from the date of delivery) to give the respondent the opportunity to exercise the rights in the notice. If the respondent does not reply by such date, the separation authority shall treat the failure to respond as a waiver of rights and take appropriate action. Once the respondent makes an election of rights, action need not remain suspended.

(d) The name and address of the military counsel appointed for consultation shall be specified in the notice.

(e) If the case involves entitlement to an administrative board, the respondent shall be notified that the board will proceed in the respondent's absence and that the case may be presented on respondent's behalf by counsel for the respondent.

b. Certain Members of Reserve Components

(1) Members of Reserve components not on active duty:

(a) If separation proceedings under section 2 have been initiated against a member of a Reserve component not on active duty, the case may be processed in the absence of the member in the following circumstances:

1 At the request of the Marine;

6303

2 If the Marine does not respond to the notice of proceedings on or before the suspense date provided therein; or

3 If the Marine fails to appear at a hearing without good cause.

(b) The notice shall contain the matter set forth in paragraph 6303 or 6304, as appropriate.

(c) If the action involves a transfer to the IRR, the Marine will be notified that the characterization of service upon transfer to the IRR will constitute the characterization of service upon discharge after completing the military service obligation unless the following conditions are met:

1 The Marine takes affirmative action to affiliate with the SMCR, and

2 The Marine satisfactorily participates as a member of the SMCR for a period of time which, when added to any prior satisfactory service during this period of obligated service, equals the period of obligated service.

(2) Upon transfer to the IRR, the Marine will be notified of the following:

(a) The characterization of service upon transfer from active duty or the SMCR to the IRR and that the characterization of service upon completion of the military service obligation in the IRR will be the same.

(b) The date upon which the military service obligation will expire.

(c) The date by which the Marine must submit evidence of satisfactory completion of the conditions in paragraph 6303.4b(1)(c).

(3) If the Marine submits evidence of completion of the conditions specified in paragraph 6303.4b(1)(c), but the separation authority proposes to discharge the with a characterization of service as general (under honorable conditions), the notification procedure in paragraph 6303 shall be used. An administrative board is not required at this point notwithstanding the Marine's years of service.

(4) If the Marine does not submit such information on or before the date specified in the notice, no further proceedings are required. The characterization of service is the same as the characterization of service upon transfer from active duty or the SMCR to the IRR.

(5) The following requirements apply to the notice required in paragraphs 6303.4b(1) and 6311.3a:

(a) Reasonable effort should be made to furnish copies of the notice to the Marine through personal contact by a representative of the command. A written acknowledgment of the notice shall be obtained.

6304

(b) If the Marine cannot be contacted or refuses to acknowledge receipt of the notice, the notice shall be sent by certified mail, return receipt requested (or by an equivalent form of notice, if such service is not available for delivery by U.S. Mail at an address outside the United States) to the most recent address furnished by the Marine as an address for receipt or forwarding of official mail. If the Marine refuses to acknowledge receipt of notice, the individual who mails the notification shall prepare a Sworn Affidavit of Service by Mail to be inserted on the document side of the service record together with PS Form 3800.

(6) Per reference (a) Title 10, U.S.C. 12685, no Marine of a Reserve component may be discharged under other than honorable conditions unless that is separated under the approved findings of a board of commissioned officers. If a Marine of a Reserve component, as a respondent, is separated under the approved findings of an administrative board which had one or more Marines who were not commissioned officers, the respondent will be discharged under honorable conditions. Characterization may be under other than honorable conditions if the Marine consents to or waives administrative discharge proceedings or a court-martial or a board.

c. Reimbursement Requirement. In those cases that may be subject to a reimbursement requirement for recoupment of advance education assistance costs, bonuses, or special pays, the respondent must be advised of such requirement before making a decision on an involuntary separation resulting from alleged misconduct. Failure to provide such advisement, however, shall not constitute grounds for avoiding a reimbursement requirement unless otherwise expressly provided by law or superior regulation.

d. Marines Recommended for Separation Under a Basis that does not Qualify as a Naval Service Disability. In those cases where a Marine is being processed for separation under paragraphs 6203.2, condition not a disability; 6203.3, personality disorder; 6203.7, refusal of medical treatment; and 6203.8, physical standards, the notice shall state that the specific diagnosis/condition does not qualify as a naval service disability (see paragraph 6203 and figures 6-2 and 6-2a for further guidance).

*6304. ADMINISTRATIVE BOARD PROCEDURES

*1. Notice. If an administrative board is required, the Marine shall be notified in writing per the example in Figure 6-3 or by the forms provided by the CMC(MM) (see paragraph 6106.4), as appropriate, by the Marine's commanding officer of the following matters:

a. The basis of the proposed separation, including the circumstances upon which the action is based and reference to the applicable reason for separation.

b. Whether the proposed separation could result in discharge, release from active duty to a Reserve component, transfer from the SMCR to the IRR, release from the custody and control of the Marine Corps, or other form of separation.

c. The least favorable characterization of service or description of separation authorized for the proposed separation and the characterization recommended by the commanding officer.

6304

d. The respondent's right to consult with counsel per paragraph 6304.3 and that it is in the Marine's best interest to consult with counsel before waiving any rights.

e. The right to obtain copies of documents that will be forwarded to the separation authority supporting the basis of the proposed separation. Classified documents may be summarized.

f. The respondent's right to request a hearing before an administrative board.

g. The respondent's right to present written statements to the separation authority in lieu of a hearing.

h. The respondent's right to representation at the administrative board by counsel per paragraph 6304.3.

i. The right to representation at the administrative board by civilian counsel at the respondent's own expense.

j. The right to appear in person before the board.

k. The right to make a sworn or unsworn statement before the board subject to the rights accorded under Article 31, UCMJ.

l. The right to challenge voting members of the board or the legal advisor for cause.

m. The right to examine evidence presented by the board, cross-examine witnesses appearing before the board, submit evidence before the board, and make a final argument before the board.

n. The right to waive the rights in paragraph 6304.1d through 6304.1m.

o. That failure to respond after being afforded a reasonable opportunity to consult with counsel constitutes a waiver of the rights in paragraph 6304.1d through 6304.1m, and

p. Failure to appear without good cause at a hearing constitutes waiver of the right to be present at the hearing.

*2. Additional Notice Requirements

a. If separation processing is initiated on the basis of more than one reason in section 2 and at least one basis for separation entitles the respondent to a hearing before an administrative separation board, the requirements of paragraph 6304.1 apply to all proposed reasons for separation.

b. If the respondent is in civilian confinement, absent without authority, in a Reserve component not on active duty, or upon transfer to the IRR, the relevant notification procedures in paragraph 6303.4, 6311.3a, and 6312 apply.

6304

c. The notification requirements in paragraph 6303 shall be used when characterization of service as general (under honorable conditions) is authorized, the Marine has less than six years of active service and inactive service at the time of notification, and the Marine is processed for separation by reason of Convenience of the Government, and the characterization is not based on proficiency and conduct markings. See paragraph 6303.4.d for notification requirements for separation by reason of Convenience of the Government for those bases that do not constitute a naval service disability.

d. In those cases that may be subject to a reimbursement requirement for recoupment of advance education assistance costs, bonuses, or special pays, the respondent must be advised of such requirement before making a decision on an involuntary separation resulting from alleged misconduct. Failure to provide such advisement, however shall not constitute grounds for avoiding a reimbursement requirement unless otherwise expressly provided by law or superior regulation.

*e. If the Marine is FMCR/Retired List eligible and has refused to request transfer to the FMCR/Retired List prior to initiation of administrative separation processing, the Marine must be notified that failure to request transfer may result in loss of all retainer/retired pay and benefits. In cases involving misconduct, the Marine must be notified that an under other than honorable conditions characterization of service and automatic reduction to pay grade E-3 for Marines serving in pay grade E-4 or above may be assigned at separation.

*f. If a Marine is FMCR/Retired List eligible, has requested transfer to the FMCR/Retired List, and CMC (MM) has denied the Marine's request and directed processing for administrative separation, the Marine must be notified that processing has been directed by CMC due to adverse information submitted by the Marine's chain of command or discovery of adverse material contained in the Marine's official records that forms one of the specific reasons for involuntary separation contained in Chapter 6 of this manual, and that the procedural rights associated with an administrative separation board are being provided to afford the Marine the opportunity to argue grade and characterization of service determinations at transfer.

*g. If the respondent is serving in the pay grade of E-4 or above and is administratively separated with an under other than honorable conditions characterization of service, the respondent shall be administratively reduced to pay grade E-3 with such reduction to become effective upon separation. The provisions of paragraph 6106.4b(3) pertain for Marine's who have requested transfer to the FMCR/Retired List, but CMC directs administrative separation processing.

3. Counsel

a. A respondent has the right to consult with counsel per paragraph 6303.3b, before electing or waiving any rights under paragraph 6304.1d through 6304.1m.

b. If a hearing is requested, the respondent shall be represented by a qualified counsel appointed by the responsible detailing authority from the Marine Corps Defense Services Organization or a Navy Defense Service Office.

6304

The respondent may also request to be represented by a military counsel of his own selection, if that counsel is reasonably available following the procedures set forth in reference (bu), Chapter 2, MCO P5800.16A w/ch-6 (LEGADMINMAN) or reference (r) paragraph 0131, JAGMAN 5800.7F.

c. The respondent shall have the right to consult with civilian counsel of the respondent's own choice and may be represented at the hearing by that or any other civilian counsel, all at the respondent's own expense. Exercise by the respondent of this right shall not waive any of the respondent's other rights to counsel. Consultation with civilian counsel shall not unduly delay administrative separation board proceedings. If undue delay appears likely, the convening authority may require the respondent to proceed without the desired civilian counsel. In this event, the convening authority will set forth the full circumstances in the record and will appoint available 6304 military counsel for the respondent or will permit the respondent to be represented by reasonably available military counsel of the respondent's choice.

d. Nonlawyer counsel may not represent a respondent before an administrative separation board unless:

(1) The respondent expressly declines appointment of counsel qualified under Article 27(b)(1) of the UCMJ and requests a specific nonlawyer counsel; or

(2) The separation authority assigns nonlawyer counsel as assistant counsel.

4. Response to Notice. The respondent shall be given a reasonable period of time, but not less than 2 working days, to respond to the notice. An extension may be granted upon a timely showing of good cause. The selection of the respondent as to each of the rights in paragraph 6304.1d through 6304.1m, and applicable provisions referenced in paragraph 6304.2, shall be recorded and signed by the respondent and respondent's counsel, subject to the following limitations:

a. If notice by mail is authorized and the respondent fails to acknowledge receipt or submit a timely reply, that fact shall constitute a waiver of rights and a notation shall be recorded on a retained copy of the appropriate form.

b. If the respondent declines to respond as to the selection of rights, such refusal shall constitute a waiver of rights and an appropriate notation will be made on the form provided for respondent's reply. If the respondent indicates that one or more of the rights will be exercised, but declines to sign the appropriate form, a notation as to the failure to sign will be made.

5. Waiver. A respondent entitled to an administrative board may request a conditional waiver after a reasonable opportunity to consult with counsel per paragraph 6304.3a. A conditional waiver is a statement initiated by the respondent waiving the right to a hearing contingent upon receiving a favorable characterization of service, but normally no higher than general (under honorable conditions).

6305

a. Conditional waivers may be granted on a case-by-case basis per paragraph 6308.1b.

b. Separation authorities may disapprove requests for conditional waivers per paragraph 6308.1b. The separation authority may also delegate authority to disapprove requests for conditional waivers, regardless of basis, to the convening authority. Those units which report to HQMC for discharge authority are hereby delegated the authority to disapprove requests for conditional waivers, regardless of the basis.

*c. In cases in which the separation authority is CMC or the Secretary of the Navy, and the Marine is not eligible for transfer to the FMCR/Retired List, conditional waivers will be disapproved without referral to CMC unless the GCMCA (or convening authority for units which report to HQMC) specifically supports the requested waiver. For FMCR/Retired List eligible Marines, who have requested transfer to the FMCR/Retired List but CMC (MM) disapproved the request and directed administrative separation processing, Figure 7-3 is the appropriate waiver request, and will be forwarded via the Marine's chain of command with comments per Figures 7-4 and 7-5.

*6305. COMMAND RECOMMENDATION

1. Once the notification requirements contained in paragraph 6303 and 6304 have been met, and provided the commanding officer desires to continue separation processing, the commanding officer must forward the recommendation for separation, copies of the appropriate notification, the Marine's acknowledgment and necessary supporting documentation to the separation authority via the normal chain of command. The commanding officer's recommendation will bear significant weight, provided the requirements of this chapter and separate Marine Corps directives (when applicable) have been observed. It must include a specific recommendation for:

- a. Discharge or retention; and
- b. The characterization of service and type of discharge.

*c. For FMCR/Retired List eligible Marines who have had administrative processing directed by CMC (MM), recommendation as to whether the Marine should transfer in grade currently held or reduced one inferior pay grade and characterization of service at transfer.

The commanding officer need not restate what is evident within enclosed documentation, but should strive to present a concise "snapshot" of the case amplifying unique aspects when necessary. Though such recommendations will lend themselves to a general format, commanding officers must ensure that the specific content accurately reflects the circumstances of the case being considered.

2. Supporting documentation may take the form of existing official records or written statements from personnel familiar with some aspect of the case. This includes, but is not limited to:

*a. SRB/ESR Pages. Pages 3, 11, 12, 13 (if applicable), and Record of Service often are valuable supporting documents, but should be submitted only if germane. When administratively more practical, data within the SRB/ESR

6305

can be incorporated into the commanding officer's recommendation. For example, average duty proficiency and conduct marks may be submitted vice page 23 or Record of Service.

b. Training Records/Related Documents. Separations which relate to performance or remedial programs such as weight control/body composition or personal appearance require specific actions and administrative procedures. Refer to the MCO for the specific program. Documentation must demonstrate substantial compliance with the intent of any such program.

c. Supporting Statements. In most cases before initiation of separation processing, Marines have been involved in leading, counseling, and assisting the Marine concerned. Statements from these NCO's, SNCO's, and officers are typically very helpful to the separation authority in deciding a Marine's case.

d. Information Directly Supporting Reason for Separation. Investigation reports, police reports, or any other documentation directly relating to the primary reason for separation must be forwarded as part of any recommendation. If a recommendation includes a report of investigation or statements gathered by the Naval Criminal Investigative Service (NCIS), and the CMC or the Secretary of the Navy is the separation authority, include the report as an enclosure. If the separation authority is other than the CMC, do not include NCIS reports or statements, since these documents cannot be filed in OMPF's. Identification of the report or statement as a reference to the commanding officer's letter recommending separation will suffice.

*e. Administrative Separation Medical Evaluation. Based on the requirements of paragraph 6110, address relevant considerations from the medical evaluation, particularly PTSD and TBI if present, and specifically address any impact or mitigating circumstances effecting discharge, retention, or characterization of service and whether disability processing is appropriate.

*3. A copy of the separation endorsement, directing separation, must be provided to the S-1 and Personnel Administration Center for compliance with administrative reporting per reference (i) MCO P1070.12K (IRAM), promotion restrictions per reference (be) MCO P1400.32D and disbursing requirements.

CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

SECTION 3: ADMINISTRATIVE PROCEDURES

PART B: SEPARATION AUTHORITY ACTION

6306. GENERAL. To properly examine the case of a Marine being recommended for discharge, the separation authority has several basic concerns. First, the proceedings must be thoroughly reviewed to ensure procedural and legal completeness with paramount focus directed towards ensuring that the Marine has been afforded the opportunity to exercise all rights due a respondent. Along the same line, the discharge package should be processed expeditiously in accordance with the time processing goals. Next, the separation authority will review the circumstances involved in the proposed discharge to determine whether the facts meet the criteria for discharge contained within this chapter. Should separation be warranted, the separation authority will ascertain the appropriate characterization of service per the facts and other guidance provided in this chapter.

*6307. SEPARATION AUTHORITIES

1. The separation authority for separations under this chapter is the Marine officer having general court-martial convening authority (GCMCA) over the respondent, or that officer's temporary successor in command, or as designated in figure 6-1 except:

a. When the authority is specifically limited in section 2 to the DC, M&RA or the Secretary of the Navy;

b. When a specific provision of this chapter or separate Marine Corps order or directive authorizes another separation authority;

*c. When the Marine is being processed for involuntary separation and has 18 years or more total active military service (sanctuary period, i.e., within 2 years of becoming eligible for military retired or retainer pay), the separation authority is the DC, M&RA. Determinations of "No Further Service" will not be made for Regular enlisted Marines who have entered the sanctuary period. However, the DC, M&RA may direct the Marine's command to convene an administrative separation board (providing the command a copy of the Marine's complete OMPF pursuant to paragraph 2800.5d and 2800.6b of the Marine Corps Manual and reference (x) Title 5 U.S.C. §552a(b)(1)), and process the Marine for administrative separation per chapter 6, section 3, of this manual in order to identify substandard performers or unqualified Regular enlisted Marines ineligible for further service who are within the sanctuary period;

*d. When a Marine, eligible for transfer to the FMCR/Retired List, does request transfer to the FMCR/Retired List, but CMC(MM) disapproves the request directing administrative separation processing per the guidelines of this chapter; the authority to take final action regarding characterization of service and pay grade determination, at transfer to the FMCR/Retired List, is the DC, M&RA.

6307

e. The involuntary separation of Reservists on active duty (other than for training) who are within 2 years of becoming eligible for retired pay or retainer pay under a purely military retirement system must be approved by the Secretary of the Navy (reference (a) Title 10 U.S.C. §12686);

*f. When a separation authority specifically delegates authority for certain separations, subject to the limitations in paragraph 6307.2 and 6307.3. Tables 6-2 and 6-3 identify the separation authorities for involuntary and voluntary separation, respectively.

2. When the sole basis for separation is a serious offense that resulted in a conviction by a general or special court-martial that did not impose a punitive discharge, and an under other than honorable discharge is warranted, the DC, M&RA is the separation authority (refer to paragraph 1004.4.c for additional guidance).

*3. With the exception of those cases contained in paragraphs c., d., and e. below, officers exercising GCMCA may, at their discretion, delegate to any officer exercising special court-martial convening authority (SPCMCA) within their command the authority to take action subject to guidance in this Manual on recommendations or requests submitted under this chapter in which retention, separation under honorable conditions, general (under honorable conditions), or entry level separation is recommended. Commanding generals electing to exercise subordinate separation authority under this paragraph will appoint such authority by letter and include the extent and limitation to authority being delegated and any additional guidelines relative to such delegation. Except in the normal operation of succession of command, separation authority cannot be delegated to a subordinate who has no independent convening authority.

a. The Commanding General at either Marine Corps Recruit Depot may further extend their delegation to the Commanding Officer, Recruit Training Regiment, for recruits only.

b. The CMC may delegate separation authority to the Commanding General, Marine Corps Combat Development Command (MCCDC), for voluntarily or involuntarily disenrolled officer candidates. The Commanding General, MCCDC, may delegate that authority to a general officer directly supervising Officer Candidates School. That general officer may in turn delegate the authority to the Commanding Officer, Officer Candidates School.

*c. The separation authority for all administrative separation actions involving any Marine who made an unrestricted report of a sexual assault or any Marine who was the victim of sexual assault (whether or not an unrestricted report was made) that occur within one year of final disposition of his or her sexual assault case shall be a general officer exercising GCMCA and may not be delegated further. See reference (bk) DoDI 6495.02 and Section 578, H.R. 4310: Public Law No. 112-239, National Defense Authorization Act for Fiscal Year 2013.

*d. The separation authority for all administrative separation actions for Marines processed for separation per the procedural guidelines of paragraphs; 6203.3 (personality disorder) and 6210.4 (sexual misconduct) shall be an officer exercising general court-martial convening authority.

6308

*e. The separation authority for Marines diagnosed with PTSD or TBI where a determination has been made by an appropriately privileged medical provider such as a physician, clinical psychologist, psychiatrist, licensed clinical social worker, psychiatric advanced practice registered nurse or other health-care professional as appropriate that PTSD or TBI was a contributing factor to one or more of the bases for separation shall be an officer exercising general court-martial convening authority. See paragraph 6110 of this Manual for additional PTSD/TBI medical evaluation requirements.

4. When an administrative board finds that the preponderance of the evidence supports one or more of the bases for separation contained in the notification, but recommends retention and the convening authority (who is the normal separation authority) does not agree, the sole separation authority is the Secretary of the Navy. Paragraph 6309.2 provides more specific guidance.

*6308. SEPARATION AUTHORITY REVIEW

1. The initial review of any recommendation or request for separation under this chapter is normally conducted by specified personnel on the separation authority's staff. It is essential that personnel assigned such responsibilities be well-versed on all separation procedures. Upon receipt, cases are screened per this paragraph.

a. Compliance with Prescribed Directives. This review should ensure that the package is physically and administratively complete (i.e., all enclosures are attached and all specific requirements of this chapter met). If not, initiate immediate corrective action. Table 6-2 is provided to assist in reviewing involuntary separations. For specific requirements, refer to the appropriate paragraph in section 2. If neither an administrative board nor judge advocate's review is required as indicated below, refer the case to the separation authority for decision.

*b. Administrative Board Required. Upon completion of the screening for completeness in paragraph 6308.1a and when a board is required, follow the detailed procedures in part C of this section. When a Marine conditionally waives the right to a board subject to receipt of no less than a general (under honorable conditions) discharge per paragraph 6304.5, the separation authority is not obligated to approve the request. If the circumstances of the case are such that the least favorable characterization authorized is clearly not warranted (a higher characterization is appropriate), the separation authority may approve the conditional waiver per paragraph 6304.5. If the least favorable characterization may be warranted, requests for conditional waivers should be disapproved, the case referred to a board, and the Marine given the opportunity to exercise rights under paragraph 6304. The conditional waiver is intended as an administratively expeditious procedure for those cases in which the least favorable characterization authorized is clearly not warranted. The conditional waiver is not to be used as a plea bargaining device by Marines to obtain a characterization of service higher than truly deserved or as a means to request retention or any other conditional benefits. See paragraphs 6304.5c and 7012 for additional guidance regarding the waiver process for Marines who have had processing directed by CMC (MM) after submission of a request to transfer to the FMCR/Retired List.

6309

*c. Legal Review

(1) In the following cases, the record of proceedings shall be reviewed by a judge advocate, or civilian attorney employed by the Navy or Marine Corps, before action by the separation authority:

* (a) When the separation authority is required by paragraph 6307 of this Manual to be a GCMCA or above;

* (b) When an administrative board has been held or characterization of service under other than honorable conditions is recommended;

* (c) When an administrative board has been held and the respondent identifies specific legal issues for consideration by the separation authority;

* (d) When action is taken to vacate a previously suspended separation and the respondent identifies specific legal issues for consideration by the separation authority.

(2) The original or a signed copy of the review will be attached as a permanent part of the record of proceedings. The form and content will be as required by the separation authority. Normally a typed, stamped, or printed statement that the proceedings have been reviewed and found sufficient in law and fact is adequate. If the respondent has raised specific legal issues, the review will comment on the merits of the issues raised. If the proceedings are not found to be correct in law and fact, the review shall set forth the facts and reasoning leading to such a determination, and recommend corrective action, if appropriate.

6309. SEPARATION AUTHORITY FINAL ACTION. The final action of the separation authority shall be recorded in writing.

*1. Without Administrative Board

a. The separation authority shall determine whether the allegations in the notification of the basis for separation are substantiated by a preponderance of the evidence. If not, the Marine will be retained.

b. If the separation authority determines that there is sufficient factual basis for separation, the separation authority may direct:

(1) Retention;

(2) Separation for a specific reason contained in the notice of separation proceedings and listed in section 2; or

(3) Suspended separation per the guidance in paragraph 6310.

* (4) At the discretion of the CMC, if the Marine is FMCR/Retired List eligible, suspend separation to afford the respondent the opportunity to request transfer to the FMCR/Retired List within 30 days. The final

6309

determination of transfer/retirement grade rests exclusively with DC, M&RA. See paragraph 6106.4.

c. The following factors may be considered on the issue of retention or separation, depending on the circumstances of the case:

(1) The seriousness of the circumstances forming the basis for initiation of separation proceedings, and the effect of the Marine's continued retention on military discipline, good order, and morale.

(2) The likelihood of continuation or recurrence of the circumstances forming the basis for initiation of separation proceedings.

(3) The likelihood that the Marine will be a disruptive or undesirable influence in present or future duty assignments.

(4) The ability of the Marine to perform duties effectively in the present and in the future, including potential for advancement or leadership.

(5) The Marine's rehabilitative potential.

(6) The Marine's entire military record, including:

(a) Past contributions to the Marine Corps, assignments, awards and decorations, evaluation ratings, and letters of commendation;

(b) Letters of reprimand or admonition, counseling records, records of nonjudicial punishment, records of conviction by court-martial, and records of involvement with civilian authorities;

(c) Any other matter deemed relevant based upon the specialized training, duties, and experience of persons entrusted by this chapter with recommendations and decisions on the issue of separation or retention.

d. Adverse matter from a prior enlistment or period of military service, such as records of nonjudicial punishment and convictions by court-martial, may be considered only when such records have a direct and strong probative value in determining whether separation is appropriate. The use of such records shall normally be limited to those cases involving patterns of conduct manifested over a period of time. Isolated incidents and events that are remote in time normally have little value in determining whether administrative separation is appropriate.

(1) Adverse matter from a prior enlistment or period of military service shall not be used to characterize the service of a Marine who is administratively separated.

(2) If adverse matter from a prior enlistment or period of military service is considered on the issue of retention or separation, the record shall include a statement that such matter was not considered by the separation authority on the issue of characterization.

*2. Action by the Separation Authority With an Administrative Separation Board

6309

a. If the board finds that a preponderance of the evidence supports one or more of the alleged reasons for separation and recommends separation, the separation authority may take one of the following actions:

(1) Approve the board's findings and recommendations; or

(2) Approve the board's findings, but modify the recommendation by one or more of the following actions, when appropriate:

(a) Approve the separation, but suspend execution as provided in paragraph 6310;

(b) Approve the separation, but disapprove suspension of the separation;

(c) Change the recommended characterization of service to one more favorable, or to an appropriate uncharacterized description of separation;

* (d) At the discretion of DC, M&RA, if the Marine is FMCR/retired list eligible, approve the separation, but suspend execution to afford the respondent the opportunity to request transfer to the FMCR/retired list within 30 days; or

(e) Change the board's recommendation concerning transfer to the IRR.

(3) Approve the board's findings but disapprove the board's recommendation and retain the Marine.

b. If the board finds that a preponderance of the evidence supports one or more of the alleged reasons for separation, but then recommends retention, the separation authority may:

(1) Approve the board's findings and recommendations; or

(2) Submit the case to the Secretary of the Navy recommending separation for one of the specific reasons which the board found supported by the preponderance of the evidence with a characterization of service as honorable or general (under honorable conditions). The specific reason(s) for separation will be those that the board found were supported by the preponderance of the evidence and approved by the convening authority; or

* (3) If the Marine is eligible and requests transfer to the FMCR/Retired List, approve the transfer per paragraphs 6106 and Chapter 7.

c. If the board finds that a preponderance of the evidence does not support one or more of the reasons for separation alleged and recommends retention, the separation authority may:

(1) Approve the board's findings and recommendations; or

(2) If the findings of the board are clearly contrary to the substantial weight of the evidence in the record, submit the case to the

6310

Secretary of the Navy recommending separation. The basis for separation will be paragraph 6214 of this manual, Secretarial Authority (also known as "Best Interest of the Service"). Follow the guidelines contained in paragraph 6214.4 of this manual. The separation authority must specify the evidence of record relied upon in reaching the conclusion that a preponderance of the evidence of record supports the reasons for separation alleged; or

* (3) If the Marine is eligible and requests transfer to the FMCR/Retired List, approve the transfer per paragraphs 6106 and Chapter 7.

*6310. SUSPENSION OF SEPARATION

1. Suspension

a. Except for discharge by reason of fraudulent enlistment, a separation may be suspended for a specified period of not more than 12 months by the separation authority or higher authority if the circumstances of the case indicate a reasonable likelihood of rehabilitation. Only the separation authority who directs discharge in a case (or a higher authority) may suspend an approved separation. The following general guidance shall pertain to suspension of separation:

(1) Retaining individuals in the Marine Corps who will not or cannot conform to acceptable standards of conduct, discipline, and performance creates a high cost in terms of substandard mission performance, administrative efforts, pay and degradation of morale.

(2) Unless separation is mandatory, the potential for rehabilitation and further useful service shall be considered by the separation authority and, where applicable, the administrative board. If separation is warranted despite the potential for rehabilitation, consideration should be given to suspension of the separation, if authorized under the provisions of this Manual.

(3) Counseling and rehabilitation efforts are a prerequisite to initiation of separation proceedings only insofar as expressly set forth under specific requirements for separation.

b. During the period of suspension, the Marine shall be afforded an opportunity to meet appropriate standards of conduct and duty performance.

c. Unless sooner vacated or remitted, execution of the approved separation shall be remitted upon completion of the probationary period, upon termination of the Marine's enlistment or period of obligated service, or upon decision of the separation authority that the goal of rehabilitation has been achieved.

2. During the period of suspension if further grounds for separation under this chapter arise or the Marine fails to meet appropriate standards of conduct and performance, one or more of the following actions may be taken:

- a. Disciplinary action;
- b. New administrative action; or

6311

c. Vacation of the suspension and execution of the separation.

*3. Before vacation of a suspension, the Marine shall be notified in writing of the basis for the action and shall be afforded the opportunity to consult with counsel and to submit a statement in writing to the separation authority. The respondent shall be provided a reasonable period of time, but not less than 2 working days, to act on the notice. If the respondent identifies specific legal issues for consideration by the separation authority, the matter shall be reviewed by a judge advocate before final action by the separation authority. Sample Notification Letters for Vacating Suspension and Acknowledgement of Rights by Respondent of Vacation can be found in Figures 6-6 and 6-7.

6311. ADMINISTRATIVE ACTION AFTER DECISION

1. If the separation authority directs separation on the basis of more than one reason, the separation authority shall designate the most appropriate basis as the primary reason for reporting purposes.

2. If separation or suspension is directed, the separation authority shall assign a characterization or description of service in accordance with the guidance in section 1 and under the specific reason for separation in section 2.

3. The separation authority shall make a determination as to whether the respondent should be retained in the IRR as a mobilization asset to fulfill the respondent's total military obligation, except when characterization under other than honorable conditions is directed or the Marine is separated on the basis of misconduct, drug trafficking, defective enlistment, or when there are medical reasons why the respondent would not be available to meet mobilization requirements. This determination applies in cases involving separation from active duty or from the Selected Marine Corps Reserve. The following is applicable when the separation authority determines that a respondent should be retained in the IRR.

a. Upon transfer to the IRR, the Marine will be notified of the following:

(1) The characterization of service upon transfer from active duty or the Selected Marine Corps Reserve to the IRR, and that the characterization of service upon completion of the military service obligation in the IRR will be the same.

(2) The date upon which the military service obligations will expire.

(3) The date by which the Marine must submit evidence of satisfactory completion of the conditions set forth in paragraph 6303.4b(1)(c).

b. If the Marine submits evidence of completion of the specified conditions but the separation authority proposes to separate the Marine with a characterization of service less than honorable, use the notification procedures in paragraph 6303. An administrative board is not required at this point regardless of the Marine's years of service.

6312

c. If the Marine does not submit such information on or before the date specified in the notice, no further proceedings are required. The characterization of service is the same as the characterization of service upon transfer from active duty or the Selected Marine Corps Reserve to the IRR.

4. Commanders who approve recommendations for separation should, whenever possible, designate a specific date for separation and direct the separating unit to immediately report the separation date as a new ECC via a unit diary entry.

5. Final action of the separation authority must be recorded. After final action in cases where a Marine receives an approved unsuspended separation, all papers shall be forwarded to the CMC (MMRP-20) for inclusion in their OMPF. In cases where an approved separation is suspended, forward all papers to the CMC (MMRP) for inclusion in the OMPF if the suspension is later vacated.

6. Refer to reference (i) MCO P1070.12K (IRAM) for permissible service record entries when an administrative separation has been suspended or a respondent has been retained despite board findings that one or more allegations are supported.

7. Recoupment. The separation authority should initiate recoupment of reenlistment bonuses, advance educational assistance, etc., by using the procedures in the DoD Financial Management Regulation, Volume 7A.

8. When a Marine serving in pay grade E-4 or above is administratively separated with an other than honorable characterization of service, the Marine shall be administratively reduced to pay grade E-3 with such reduction to become effective upon separation.

6312. SEPARATION OF MARINES BEYOND MILITARY CONTROL BY REASON OF UNAUTHORIZED ABSENCE

1. Determination of Applicability. If the GCMCA or higher authority determines that separation is otherwise appropriate under this chapter, a Marine may be separated without return to military control in one or more of the following circumstances:

a. Absent without authority after receiving notice of initiation of separation processing;

b. When prosecution of a Marine who is absent without authority appears to be barred by the Statute of Limitations, Article 43, UCMJ and the statute has not been tolled (exhausted) by any of the conditions set out in Article 43(d), UCMJ;

c. When a Marine, who is an alien, is absent without leave and appears to have gone to a foreign country where the United States has no authority to apprehend the Marine under a treaty or other agreement.

2. Notice. Before execution of the separation under paragraph 6312.1.b or 1.c, the Marine will be notified of the imminent action by certified mail, return receipt requested (or by an equivalent form of notice if such service

6313

by U.S. Mail is not available for delivery at an address outside the United States) to the Marine's last known address or to the next of kin under regulations prescribed by the Department of the Navy. The notice shall contain the matter set forth in paragraph 6303 or 6304, as appropriate, and shall specify that the action has been suspended until a specific date (not less than 30 days from the date of mailing) in order to give the respondent the opportunity to return to military control. If the respondent does not return to military control by such date, the separation authority shall treat the failure to respond as a waiver of rights and take appropriate action.

*6313. SEPARATION OF MARINES PENDING CONCURRENT DISCIPLINARY/ADMINISTRATIVE AND DISABILITY PROCEEDINGS. See paragraph 8308.

*Table 6-2.--Guide For the Review of Separation Packages

Specific Reason for Separation	Specific Authority Paragraph	NOTES											Separation Authority*
		1	2	3	4	5	6	7	8	9	10	11	
<u>CONVENIENCE OF THE GOVERNMENT</u>													
Parenthood	6203.1	Y	Y	Y	Y	Y	Y	X	X	Y	Y	Y	DC, MRA or GCMCA
*Condition Not a Disability	6203.2	Y	Y	Y	Y	Y	Y	X	X	Y	Y	Y	DC, MRA or GCMCA
Personality Disorder	6203.3	Y	Y	Y	Y	Y	Y	X	X	Y	Y	Y	DC, MRA or GCMCA
*The separation authority for the basis of personality disorder (6203.3) shall be an officer exercising general court martial convening authority.													
Involuntary Disenroll from Officer Candidate Program	6203.5	Y	Y	Y		X	X	X	X	Y	Y	Y	CG, MCRC or CG, MCCDC
Fail/Disenroll Lat School	6203.6	Y	Y	Y		X	X	X	X	Y	Y	Y	GCM Authority
Physical Standards	6203.8	Y	Y	Y		Y	Y	Y	X	X	Y	Y	DC, MRA or GCMCA
All other CoG	As Specified	Y	Y	Y		Y	Y	X	X	Y	Y	Y	DC, MRA or GCMCA

DEFECTIVE ENLISTMENT

Minority	6204.1	Y	Y	Y		Y	Y			Y		Y	DC, MRA or GCMCA
Erroneous Enlistment/ Reenlistment	6204.2	Y	Y	Y		Y	Y	X	X	Y	Y	Y	DC, MRA or GCMCA
Fraudulent Entry Into the Marine Corps	6204.3	Y	Y	Y		Y	Y	#	#	Y	Y	Y	DC, MRA or GCMCA

*Note: GCMCA may delegate separation authority to SPCMCA only for cases of honorable or general under honorable conditions characterization. See paragraph 6307 for exceptions to this rule and those bases/cases that SEPARATION AUTHORITY SHALL NOT BE DELEGATED TO A SPCMA.

*Table 6-2.--Guide For the Review of Separation Packages--Continued

*Table 6-2.--Guide For the Review of Separation Packages--Continued

Specific Reason for Separation	Specific Authority Paragraph	NOTES											Separation Authority*
		1	2	3	4	5	6	7	8	9	10	11	
<u>ENTRY LEVEL</u>													
Entry Level Performance And Conduct	6205	Y	Y	Y	Y	Y	Y				Y		DC, Y MRA or GCMCA
<u>UNSATISFACTORY PERFORMANCE</u>													
Unsanitary Habits	6206.5a	Y	Y	Y	Y	Y	Y	X	X	Y	Y		DC, Y MRA or GCMCA
Unsatisfactory Performance of Duty	6206.5b	Y	Y	Y	Y	Y	Y	X	X	Y	Y		DC, Y MRA or GCMCA
<u>ALCOHOL ABUSE</u>													
Alcohol Abuse Rehab Failure	6209	Y	Y	Y		Y	Y	X	X	Y	Y		DC, Y MRA or GCMCA
<u>MISCONDUCT</u>													
Minor Discp Infractions	6210.2	Y	Y	Y	Y	Y	Y	#	#	Y	Y		DC, Y MRA or GCMCA
Pattern of Misconduct	6210.3	Y	Y	Y	Y	Y	Y	#	#	Y	Y		DC, Y MRA or GCMCA
*Sexual Misconduct	6210.4	Y	Y	Y		Y	Y	Y	Y	Y	Y		DC, Y MRA or GCMCA
<p>*The separation authority for the procedural guidelines of paragraph 6210.4 shall be an officer exercising general court-martial convening authority. The procedures contained in paragraph 6304 shall be used when separating a Marine when any part of the basis for separation includes a substantiated incident of sexual misconduct.</p>													
Drug Abuse	6210.5	Y	Y	Y		Y	Y	#	#	Y	Y		DC, Y MRA or GCMCA
Commission of Serious Off.	6210.6	Y	Y	Y		Y	Y	#	#	Y	Y		DC, Y MRA or GCMCA
Civilian Conviction	6210.7	Y	Y	Y		Y	Y	#	#	Y	Y		DC, Y MRA or GCMCA

*Note: GCMCA may delegate separation authority to SPCMCA only for cases of honorable or general under honorable conditions characterization. See paragraph 6307 for exceptions to this rule and those bases/cases that SEPARATION AUTHORITY SHALL NOT BE DELEGATED TO A SPCMA.

*Table 6-2.--Guide For the Review of Separation Packages--Continued

*Table 6-2.--Guide For the Review of Separation Packages--Continued

Specific Reason for Separation	Specific Authority Paragraph	1	2	3	4	5	6	7	8	9	10	11	Separation Authority*
Sexual Harassment	6210.8	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y	DC, MRA or GCMCA
Sexual harassment may also meet the definition of sexual misconduct under paragraph 6210.4. The procedures contained in paragraph 6304 shall be used when separating a Marine when any part of the basis for separation includes a substantiated incident of sexual misconduct.													
*Supremacist Organizations	6210.09	Y	Y	Y		Y	Y	#	#	Y	Y	Y	DC, MRA or GCMCA
*Driving Under Influence	6210.10	Y	Y	Y		Y	Y	#	#	Y	Y	Y	DC, MRA or GCMCA
<u>NEW ENTRANT DRUG AND ALCOHOL TESTING</u>													
New Entrant Drug and Alcohol Testing	6211	Y	Y	Y		Y	Y	X	X	Y	Y	Y	DC, MRA or GCMCA
<u>SECURITY</u>													
Security	6212	Y	Y	Y		Y	Y	#	#	Y	Y	Y	DC, MRA or SECNAV
<u>UNSATISFACTORY PARTICIPATION IN THE READY RESERVE</u>													
Unsat Participation in Ready Res	6213	Y	Y	Y		Y	Y	#	#	Y	Y	Y	DC, MRA or GCMCA
<u>SECRETARIAL PLENARY AUTHORITY</u>													
Separation in Best Interest of the Service	6214	Y	Y	Y		Y	Y			Y	Y	Y	SECNAV
<u>WEIGHT CONTROL FAILURE</u>													
Weight Control Failure	6215	Y	Y	Y	Y	Y	Y	X	X	Y	Y	Y	DC, MRA or GCMCA
Unsat Perform of Duties	6206.5b	Y	Y	Y	Y	Y	Y	X	X	Y	Y	Y	DC, MRA or GCMCA

*Note: GCMCA may delegate separation authority to SPCMCA only for cases of honorable or general under honorable conditions characterization. See paragraph 6307 for exceptions to this rule and those bases/cases that SEPARATION AUTHORITY SHALL NOT BE DELEGATED TO A SPCMA.

*Table 6-2.--Guide For the Review of Separation Packages--Continued

*Table 6-2.--Guide For the Review of Separation Packages--Continued

LEGEND

Y - Yes.

X - Only if Marine has 6 or more years of active and inactive service at the time of notification of separation proceedings.

- Only if Marine has 6 or more years of active and inactive service at the time of notification of separation proceedings, or the Marine is notified that an other than honorable discharge is the least favorable characterization that can be received.

NOTES:

1. Marine must be notified of the proposed discharge action, the general and specific basis, factual circumstances, and the type of discharge certificate that may be issued. (MARCORSEPMAN, paragraph 6303)
2. Marine must be given the opportunity either to submit a statement in rebuttal to the proposed discharge action or decline to make a statement. (MARCORSEPMAN, paragraph 6303)
3. Marine must be notified of and explained to his or her understanding the purpose and scope of the Naval Discharge Review Board and the Board for Correction of Naval Records. (MARCORSEPMAN, paragraph 6104)
4. Marine must be afforded a reasonable opportunity to overcome his or her deficiencies after being notified and counseled. SRB/ESR, page 11 entry must summarize counseling conducted. (MARCORSEPMAN, paragraph 6105)
5. Marine must be given the opportunity to consult with a judge advocate before exercising or waiving any of the Marine's rights. (MARCORSEPMAN, 6303 or 6304)
6. Marine must be advised that it is in their best interest to consult with a judge advocate before waiving any of his or her rights. (MARCORSEPMAN, paragraph 6303 or 6304)
7. Marine must be afforded the right to present his or her case before an administrative separation board with the advice and assistance of counsel. (MARCORSEPMAN, paragraph 6304)
8. Marine must be afforded and explained the rights of the respondent concerning administrative separation board proceedings. (MARCORSEPMAN, paragraph 6304)

*Note: GCMCA may delegate separation authority to SPCMCA only for cases of honorable or general under honorable conditions characterization. See paragraph 6307 for exceptions to this rule and those bases/cases that SEPARATION AUTHORITY SHALL NOT BE DELEGATED TO A SPCMA.

*Table 6-2.--Guide For the Review of Separation Packages--Continued

*Table 6-2.--Guide For the Review of Separation Packages--Continued

NOTES: (continued)

9. Commander must refer Marine's case, together with his or her recommendations and all evidence, to the separation authority.

10. Separation package must be reviewed per paragraph 6308.1c when an administrative board has been held or separation under other than honorable conditions has been recommended, when an administrative board has been held and the respondent identifies specific legal issues for consideration by the separation authority, and when the separation authority is required by paragraph 6307 to be a GCMCA. For Marines with 18 or more years of service, paragraph 6307.1c applies.

*11. Prior to approving any involuntary administrative separation initiated for Marines with more than 180 continuous days of Active Duty, the separation authority must ensure that a medical evaluation of the Marine is performed and must review the results of that evaluation. The separation authority for entry level Marines or Reserve Marines with no history of combat or combat deployment will be exempt from reviewing the final medical evaluation. Refer to paragraph 6110.

*Note: GCMCA may delegate separation authority to SPCMCA only for cases of honorable or general under honorable conditions characterization. See paragraph 6307 for exceptions to this rule and those bases/cases that SEPARATION AUTHORITY SHALL NOT BE DELEGATED TO A SPCMA.

*Table 6-2.--Guide For the Review of Separation Packages

CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

SECTION 3: ADMINISTRATIVE PROCEDURES

PART C: ADMINISTRATIVE SEPARATION BOARD.

*6314. CONVENING AUTHORITIES

*1. Convening Sexual Misconduct/Harassment Administrative Separation Boards

a. An administrative separation board as required by this chapter in which the underlying misconduct falls within paragraph 6210.4, Sexual Misconduct, or 6210.8, Sexual Harassment, shall be convened in writing by an SA-IDA (O-6 SPCMCA) or GCMCA.

b. A SPCMCA who is not an SA-IDA cannot convene a board if the underlying misconduct falls within paragraph 6210.4, Sexual Misconduct, or 6210.8, Sexual Harassment, unless an SA-IDA or GCMCA has first decided administrative separation is appropriate and delegated authority to convene the board.

c. When a board is convened pursuant to delegated authority and the underlying misconduct falls within paragraph 6210.4 or 6210.8, the order appointing the board shall contain specific reference to the source of such delegated authority (i.e., the SA-IDA or GCMCA).

d. For administrative separation boards in which the underlying misconduct falls within paragraph 6210.4 or 6210.8, an SA-IDA may delegate authority to convene such boards only to an officer who already possesses SPCMCA. For example, a Regimental O-6 SPCMCA SA-IDA may delegate authority to convene such a board to an O-5 Battalion Commander who has SPCMCA, but not an O-5 officer in charge who does not have SPCMCA.

*2. Convening Non-Sexual Misconduct/Harassment Administrative Separation Boards

a. In all other cases not covered by paragraph 1, an administrative separation board as required by this chapter shall be convened in writing by any commander having SPCMCA, or by any other commanding officer or officer in charge when specifically authorized to do so by a superior authority who is a Marine commander having general court-martial jurisdiction.

b. When a board is convened under delegated authority, the order appointing the board shall contain specific reference to the source of such delegated authority (i.e., the GCMCA).

6315. COMPOSITION

1. Members

a. The convening authority shall appoint to the administrative board at least three commissioned/warrant or staff noncommissioned officers of the Armed Forces of the United States of America (or Reserve components thereof). Enlisted personnel appointed to the board shall be in the pay grade of E-7 or above and be senior to the respondent. At least one member of the board will

6315

be in the pay grade of O-4 or above and a majority shall be commissioned or warrant officers. When the respondent is an active duty Marine, the senior member must be on the active duty list of the Service. When no active duty-list officer is reasonably available, the convening authority may substitute a Reserve officer designated for duty in the Active Reserve (AR) Program who has served on continuous active duty for more than 12 months immediately before appointment to the board.

b. If the respondent is an enlisted Marine of a Reserve component or holds an appointment as a Reserve commissioned or warrant officer, the board shall include at least one Reserve commissioned officer as a voting member. Voting members shall be senior to the respondent's Reserve grade. If the respondent is a member of a Reserve component and an other than honorable discharge is authorized by this Manual, all board members shall be commissioned officers.

c. The convening authority shall ensure that the opportunity to serve on administrative boards is given to women and minorities. The mere appointment or failure to appoint a member of such a group to the board, however, does not provide a basis for challenging the proceeding.

d. 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. If a voting member will be absent for more than a short period of time and the member's absence reduces the voting membership present to fewer than three members, the convening authority will be advised and will appoint (an) additional member(s) to ensure that at least three voting members of the board are present during the conduct of all business by the board.

e. The board, in the absence of a voting member, may proceed if at least three voting members are present and the senior member present is a major or higher. Where a new member of the board has been appointed (i.e., following a successful challenge against a former member), or where a member of the board who has been temporarily absent returns, that part of the proceedings conducted may be orally summarized in open session by the recorder, or the summarized record of that part of the proceedings conducted in absence shall be examined by that member and that examination noted in the record. The appointment of a new member, or the temporary absence of a member, does not preclude that member's full participation in the deliberations of the board relating to its findings of fact, opinions, and recommendations.

f. Attendance at the proceedings of an administrative separation board becomes 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.

g. If any of the above prescribed mandatory requirements for the composition of a board cannot be met in a particular case from the officer personnel locally available, the convening authority will notify the CMC (MMSR-3) and request appropriate instructions. Locally includes officers from higher headquarters in the chain of command of the convening authority and units of other services geographically co-located with the convening authority. Convening authorities should consult their command staff judge advocate before notifying the CMC (MMSR-3).

6315

h. The convening authority may delegate the power to excuse members before the convening of the board's initial session to the cognizant staff judge advocate, legal services support section officer in charge, or law center director. The convening authority's delegate may not excuse more than one-third of the total number appointed.

2. Presiding Officer

a. The senior member of the board in the grade of major or higher shall serve as president and shall preserve order and decide upon matters relating to the routine business of the board (Members frocked to pay grade of O-4 cannot serve as president of administrative separation boards). The president may grant a continuance, recess, and adjourn the board to meet at a time and a place most convenient and proper. The president shall preside and rule finally on all matters of procedure and evidence, but the rulings of the president may be overruled by a majority of the board. If appointed, the legal adviser shall rule finally on all matters of procedure, evidence, and challenges, except challenges to the legal advisor. The president's rulings are subject to objection by any voting member of the board. Should a voting member object to the president's ruling on any matter, a vote shall be taken in closed session and the question shall be decided by a majority vote.

b. Motions or objections pertaining to any matter other than to continuances, recesses, or adjournments do not require ruling by the president of the board. Such motions or objections should be heard and merely noted in the record for resolution by the separation authority.

3. Recorder. A non-voting recorder will be appointed by the convening authority to each administrative separation board. An assistant recorder may be appointed. The convening authority may delegate the authority to appoint the nonvoting recorder or assistant recorder to the cognizant staff judge advocate, legal services support section officer in charge, or law center director. A recorder or assistant recorder may be changed at any time by the convening authority or their delegate. The assistant recorder, at the direction of the recorder, may perform any duty or function which the recorder is required or empowered to perform. The recorder's primary responsibility is to exploit all practical sources of information and to bring out all the facts in a manner to permit the board to make fully informed findings and recommendations concerning the respondent. The recorder and assistant recorder should be experienced officers and shall be warrant or commissioned officers. Staff non-commissioned officers may be appointed to act as recorders upon approval by the convening authority's cognizant Staff Judge Advocate. The recorder and/or the assistant recorder may be a lawyer within the meaning of UCMJ, Article 27b(1). The recorder is responsible for ensuring that the board is presented only such materials and documents which may properly be considered by it. The recorder is also responsible for ensuring that the board is presented all testimony, materials, and documents which may properly be considered by it, which are necessary to arrive at such findings, opinions, and recommendations, as will permit the discharge authority to make a proper disposition of the case. The recorder will conduct a preliminary review of all available evidence, screen out improper matter, and obtain such additional evidence as appears necessary. The recorder will arrange for the time, date, and place of the hearing after consulting with the president of the board and the counsel for the respondent. The recorder will also arrange for the attendance of all

6316

material witnesses authorized to appear at the hearing pursuant to paragraph 6317, except those witnesses whose attendance is arranged by the respondent. At the hearing, the recorder will conduct the direct examination of all witnesses, except those requested or called by the respondent. The recorder will not participate in the closed sessions of the board or in the determination of the board's findings, opinions (if any), and recommendations. Under the direction of the president of the board, the recorder will prepare or cause to be prepared a record of the board's proceedings. The convening authority of the board may appoint a reporter to provide other clerical assistance for the purpose of assisting the recorder in preparing the record.

4. Legal Advisor. At the discretion of the convening authority, a non-voting legal advisor, who is a judge advocate certified in accordance with Article 27b(1), UCMJ, may be appointed to the board. If appointed, the legal advisor shall rule finally on all matters of procedure, evidence and challenges, except challenges to the legal advisor. A legal advisor shall not be both junior to and in the same direct chain of command as any voting member of the board. If the convening authority desires to appoint a legal advisor but does not have a judge advocate readily available, the convening authority should contact the CMC (MMSR-3) for assistance.

*6316. PROCEDURE. The following rules shall govern the procedures to be employed by an administrative separation board. Where questions arise as to matters of procedure not covered in this Manual, such questions will be resolved at the discretion of the board or the convening authority.

*1. Rules of Evidence. An administrative separation board functions as an administrative rather than a judicial body. Accordingly, in the board's proceedings, the strict rules of evidence governing trials by court-martial are not applicable. The admissibility of evidence is a matter within the discretion of the president of the board. 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. No evidence will be rejected from consideration solely on the grounds that it would be inadmissible in court-martial proceedings. Reasonable restrictions shall be observed, however, concerning relevancy and competency of evidence. The president of the board has full authority to decline to accept evidence whose probative value is outweighed by the prejudicial effect on the respondent, or which would cause unnecessary embarrassment to a witness or victim involved in the case (e.g., evidence offered to prove that any alleged victim engaged in other sexual behavior or offered to prove any alleged victim's sexual predisposition). Within the discretion of the president of the board, the respondent or recorder may present the results of a polygraph and testimony or information about the polygraph procedure. If the results are presented to the board, the respondent or recorder may present evidence to rebut that evidence or to rebut the validity of polygraph evidence in general.

2. Explanation of Respondent's Rights. At the onset of the proceedings, the board will ascertain whether or not the respondent has been fully advised of and understands their rights under paragraph 6304. The assurance of the respondent's counsel in this regard will normally suffice. If the board is not satisfied that the respondent has been so advised, or the respondent does

6316

not fully understand any explanation previously given, the board will clearly explain those rights to the respondent.

3. Exercise and Waiver of Respondent's Rights. The respondent will be given a reasonable opportunity to exercise any and all rights before the board. The failure of the respondent to exercise or invoke any of the specified rights, after having been apprised of the same, will not be considered as a bar to the board proceedings, findings, opinions, and recommendations. Such rights will be conclusively presumed to be waived.

4. Eliciting Further Information. Whenever it appears desirable to the members of the board to elicit or develop additional information for a proper hearing of the matters before the board, the president will advise the recorder and may direct the calling of a witness, pursue further lines of questioning, or direct that other evidence be presented.

5. Security Matters. If any matter to be heard by the board requires a security clearance and individual counsel for the respondent or other participants in the board's proceedings have not been granted such clearance, consult the convening authority for further guidance (see OPNAVINST 5510.1 and reference (r) JAGMAN 5800.7F, section 0144).

6. Sessions. The proceedings of the board will be open to the public unless the convening authority directs otherwise. At the direction of the president of the board, the hearing room may be cleared at any time for deliberations by the board members. At such times, all persons except voting members will withdraw from the hearing room.

7. Challenges

a. The respondent may challenge any voting member or legal advisor for cause only. The basis for such challenge is that the challenged person cannot approach the case with impartiality and an open mind. A challenged person will be given the right to make a statement with respect to the challenge. The board will not receive a challenge to more than one person at a time. After disclosing the grounds for challenge, the respondent may examine the challenged person as to matters relating to their competency to sit in that particular case. This examination may or may not be under oath or affirmation at the discretion of the respondent. When the respondent desires oath or affirmation the election to swear or affirm resides with the challenged person. The recorder and other members of the board may also examine the challenged person. Other evidence relevant to the challenged person's competency to sit on the board may also be heard.

b. The burden of persuasion in establishing a challenge is on the respondent.

c. The convening authority shall rule finally on all challenges for cause of legal advisors, when appointed, and of board members when a legal advisor has not been appointed.

d. If a challenge is sustained as to any member or legal advisor, such person is excused from further participation in the case.

6316

e. If a sustained challenge reduces the number of members below three or leaves the board without a member in the grade of major or higher, the convening authority shall be notified immediately. The board will stand adjourned until the convening authority appoints such additional voting members as required under paragraph 6315.1.

8. Order of Presenting Evidence

a. The testimony of witnesses and the presentation of other evidence will normally be in the following order:

- (1) Witnesses called and evidence presented by the recorder;
- (2) Witnesses called and evidence presented by the respondent;
- (3) Witnesses called and evidence presented by the recorder in rebuttal;
- (4) Witnesses called and evidence presented by the respondent in rebuttal;
- (5) Witnesses called and evidence presented at the request of the board.

b. The order of examining each witness is:

- (1) Direct examination.
- (2) Cross examination.
- (3) Redirect examination.
- (4) Recross examination.
- (5) Examination by the board.

c. The foregoing order of presentation and examination of witnesses need not be followed when the board determines that a different order will secure a more effective presentation of evidence.

9. Final Arguments. The recorder and counsel for the respondent will be permitted to present final argument, if they so desire. The recorder has the right to make opening final argument and, if argument is made on behalf of the respondent, the closing final argument.

10. Burden of Proof. The burden of proof before administrative separation boards rests upon the Government. This burden never shifts. After the presentation of the Government's case, certain justifiable inferences which are adverse to the respondent may be drawn from the evidence by the board, the convening authority, and the separation authority. In this latter instance, the burden of going forward with evidence to avoid the adverse effect of these justifiable inferences may then shift to the respondent.

11. Standard of Proof. The standard of proof is a preponderance of the evidence as to all matters before an administrative separation board.

6317

12. Weight and Credibility of Evidence. The board will rely upon its own judgment and experience in determining the weight and credibility to be given material or testimony received in evidence.

6317. WITNESSES. Testimonial evidence may be presented to the administrative board through the personal appearance of the witness, through the use of oral or written depositions, unsworn written statements, affidavits, testimonial stipulations, or any other accurate and reliable means for presenting testimonial evidence. The testimony of a witness may be excluded if the legal advisor or president of the board determines that its probative value is substantially outweighed by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

1. Attendance. Within a reasonable period of time before the date set for the administrative board hearing, the respondent or the respondent's counsel will submit a written request to the convening authority, via the president of the board, for all witnesses requested to testify on behalf of the respondent. Failure to submit a request for witnesses in a timely fashion shall not automatically result in denial of the request, but if it would be necessary to delay the hearing in order to obtain a requested witness, lack of timeliness in submitting the witness request may be considered along with other factors in deciding whether to provide the witness. If the requested witness is not physically located at the command, the respondent may request TAD or invitational travel orders. Civilian witnesses whose attendance is required shall be issued invitational travel orders.

a. If production of a witness will require expenditure of funds by the convening authority, the written request for attendance of the witness shall also contain the following:

(1) A synopsis of the testimony that the witness is expected to give.

(2) An explanation of the relevance of such testimony to the issues of separation or characterization.

(3) An explanation as to why written or recorded testimony would not be sufficient to provide for a fair determination.

b. The convening authority may authorize expenditure of funds for production of witnesses only if the president (after consultation with a judge advocate) or the legal advisor (if appointed) determines that:

(1) The testimony of a witness is not cumulative;

(2) The personal appearance of the witness is essential to a fair determination on the issues of separation or characterization;

(3) Written or recorded testimony will not accomplish adequately the same objectives;

(4) The need for live testimony is substantial, material, and necessary for proper disposition of the case; and

(5) The significance of the personal appearance of the witness, when balanced against the practical difficulties in producing the witness, favors

6317

production of the witness. Factors to be considered in relation to the balancing test include, but are not limited to, the cost of producing the witness, the timing of the request for production of the witness, the potential delay in the proceedings that may be caused by producing the witness, or the likelihood of significant interference with military operational deployment, mission accomplishment, or essential training.

c. If the convening authority determines that the personal testimony of a witness is required, the hearing will be postponed or continued if necessary to permit the attendance of the witness.

d. The hearing shall be continued or postponed to provide the respondent with a reasonable opportunity to obtain a written statement from the witness if a witness requested by the respondent is unavailable in the following circumstances:

(1) When the president determines that the testimony of the witness is not required;

(2) When the commanding officer of a military witness determines that the military necessity precludes the witness' attendance at the hearing; or

(3) When a civilian witness declines to attend the hearing.

e. Any expense incident to the appearance of material witnesses on active duty with any of the Armed Forces before an administrative separation board will be charged to the operation and maintenance allotment of the convening authority of the board.

f. Paragraph 6317.1d(3) does not authorize a Federal employee to decline to appear as a witness if directed to do so in accordance with applicable procedures of the employing agency.

2. Testimony. The respondent, the respondent's counsel, and the recorder shall be afforded a reasonable opportunity to interview a witness before calling the witness to testify before the administrative board.

a. The testimony of all witnesses appearing in person before the board, at the discretion of the president may be taken under oath or affirmation, except that the respondent may make an unsworn statement. A respondent's unsworn statement may include matters concerning the acts or omissions which form the basis for discharge, matters in extenuation or mitigation, or any other relevant matter. The respondent shall not be cross-examined by the recorder and/or board member on such an unsworn statement. Evidence may be introduced by the recorder to rebut any statements of fact contained in it. The respondent's unsworn statement may be oral, in writing, or both and may be made by the respondent or the counsel, or by both of them. The respondent's statement should be factual and not argumentative in nature.

b. No witness, including the respondent, appearing before the board shall be compelled to incriminate themselves or to answer any questions the answer to which may tend to incriminate them. Nor shall they be compelled to make any statement or produce evidence if the statement or evidence is not material to any matter under investigation and may tend to degrade them. Other than the respondent, any person, may be called as a witness before the

6319

board, whether or not they request to be a witness. If a witness, including the respondent, is accused of, suspected of, or charged with an offense under the UCMJ, the president shall inform the witness of the nature of the offense and the service member's Article 31, UCMJ, rights. If the witness is not subject to the UCMJ, the witness should be provided an appropriate, lawful advisement of rights. If a witness exercises the right to refrain from testifying regarding matters related to an offense of which they are accused, suspected, or charged, the witness may be questioned on other matters. The question of whether a witness is suspected of an offense is one for decision by the board and will depend upon the nature of the matter being considered by the board, the reasonable probability that an offense has been committed, and the reasonable probability that the witness committed the offense. The board shall resolve all reasonable doubt in favor of the witness. Each witness appearing before the board should be advised of the subject matter of the administrative separation board.

c. Unless otherwise authorized by the president, all witnesses, other than the respondent, shall be excluded from the room where the board is meeting except when they are testifying.

d. The president, may direct witnesses not to discuss their testimony with other witnesses or persons who have no official interest in the matter until the board's proceedings are completed. This warning is given to ensure that the matters before the board can be fairly heard and to eliminate the possibility that disclosures of the substance of the witness' testimony may influence the testimony of a witness still to be heard.

6318. OATHS. The oath or affirmation will be administered by the recorder. The following oath is recommended "Do you swear or affirm that the testimony you are about to provide in this proceeding will be truthful (so help you God)?"

6319. FINDINGS AND RECOMMENDATIONS

1. The board shall determine its findings and recommendations in closed session. Only voting members of the board shall be present. All findings and recommendations shall be determined by a majority of the voting board members. A tie vote shall be resolved in favor of the position more favorable to the respondent. All voting members shall sign the appropriate board report, majority or minority.

2. The board shall determine whether each allegation in the notice of proposed separation is supported by a preponderance of the evidence.

3. If the board finds that one or more of the allegations are supported by the evidence, it shall then determine whether the findings warrant separation for the reason(s) stated in the notice. If more than one reason was stated in the notice, there shall be a separate determination for each reason.

4. Findings. The board shall state:

a. The specific evidence it considered relating to each act, omission, or circumstance alleged in the notice;

6320

b. Its determination for each alleged act, omission, or circumstance, that the preponderance of evidence does or does not support that act, omission, or circumstance;

c. The specific reason for separation defined in the notification letter and chapter 6 of this Manual to which each act, omission, or circumstance supported by a preponderance of the evidence applies.

5. The board shall make recommendations on the following:

a. Retention or Separation. The board shall recommend retention or separation.

b. Suspension of Separation. If the board recommends separation, it may recommend that the separation be suspended under paragraph 6310.

c. Characterization of Service or Description of Separation. If separation or suspended separation is recommended, the board shall recommend a characterization of service or description of separation as authorized per paragraph 6107.

d. Transfer to the Individual Ready Reserve. The board shall make a recommendation as to whether the respondent should be retained in the IRR as a mobilization asset to fulfill the respondent's total service obligation except when the board has recommended separation on the basis of misconduct, drug trafficking, defective enlistment or induction, when there are medical reasons why the respondent would not be available to meet mobilization requirements, or where the board has recommended characterization of service under other than honorable conditions. In making a recommendation for retention in the IRR, the board should consider how the respondent's performance, training, and availability affects the respondent's potential for useful service under conditions of full mobilization. The option of transfer to the IRR applies to cases involving separation from active duty or from the Selected Marine Corps Reserve.

*e. FMCR/Retired List Eligible Marines. When applicable (see paragraph 6106.4), the board shall make a recommendation as to whether or not the respondent should be transferred to the FMCR/Retired List; a recommendation as to whether the respondent be transferred in the grade presently held or one inferior pay grade, and a recommendation as to characterization of service at transfer.

6. Minority Report. If a member does not concur in the findings, opinions, or recommendations of the majority of the board, the member shall prepare a minority report stating explicitly the reason(s) for disagreeing with the majority report. The minority report may also include additional findings of fact, opinions, and recommendations. All members concurring in the minority report shall sign the report.

*6320. RECORD OF PROCEEDINGS AND REPORT OF THE BOARD. In cases where the board recommends separation, the record of the proceedings shall normally be kept in summarized form unless a verbatim record is required by the separation authority or authorized by the convening authority. In cases where the board recommends retention, a record of the proceedings is optional unless required by the separation authority. However, a summarized or

6320

verbatim record shall be prepared in any case in which the CMC is the separation authority, and in any case in which the board recommends retention and the separation authority elects to forward the matter to the Secretary of the Navy under paragraph 6309.2. The board reporter shall retain all materials necessary to prepare a transcript should the separation authority elect to forward the case to the Secretary. The record of proceedings shall otherwise be prepared as directed by the convening authority and shall be authenticated by the signatures of the president and the recorder or, in the absence of either or both, by a member in lieu of the president or by a member in lieu of the recorder. Whether or not a written transcription is ultimately required, at a minimum, the proceedings shall be recorded using audio tapes, a digital audio recording device, or a court reporter if available. The recorder will determine the availability of court reporters after consulting with the the OIC of the supporting Legal Services Support Section (LSSS) or Legal Services Support Team (LSST).

1. When a record of proceedings is required, it shall contain, as a minimum:

a. An authenticated copy of the appointing order and any other communication from the convening authority.

b. A summary of the testimony of all witnesses, including the respondent, appearing in person before the board.

c. A summary of the sworn or unsworn statements of all absent witnesses considered by the board.

d. Acknowledgment that the respondent was advised of and fully understands all of the rights of the respondent before the board.

e. The identity of the counsel for the respondent and the non-voting recorder, and their respective legal qualifications.

f. Copies of the letter of notification to the respondent, advisement of rights, and acknowledgment of rights.

g. If a discharge is recommended, a complete statement of the facts and circumstances, accompanied by appropriate supporting documents, upon which the recommendation is based.

h. A summary of any unsworn statements submitted by the respondent or their counsel.

i. All exhibits accepted by the board for consideration with Recorder and Respondent exhibits marked in such a manner to differentiate between them. Each exhibit will be clearly and individually identified within the record of proceedings, and each exhibit shall be clearly marked and sequentially numbered or lettered, e.g., "Govt Exhibit 1," "Respondent Exhibit A," "Board Exhibit I," etc.

j. A majority board report signed by all concurring voting members.

k. A minority board report, if applicable, signed by all concurring voting members.

6321

2. In all cases, the findings and recommendations of the board shall be in verbatim form.

3. The convening authority shall forward to the separation authority, via the chain of command, the findings and recommendations of the board, the record of proceedings, and the recommendations of subordinate commanders, if applicable, and shall make a recommendation with specific rationale on each of the board's findings and recommendations.

6321. SUBSEQUENT ADMINISTRATIVE SEPARATION BOARD PROCEEDINGS

1. No Marine will be subjected to administrative separation board action based upon conduct which has previously been the subject of administrative discharge board proceedings when the evidence before the subsequent board would be the same as the evidence before the previous board, except in those cases where the findings of the previous board favorable to the respondent are determined by the discharge authority to have been obtained by fraud or collusion, or where the discharge authority finds legal prejudice to the substantial rights of the respondent, or where the previous administrative separation board recommended separation but the proceedings were determined to be null and void (i.e., the board was improperly convened or constituted). Evidence before a subsequent board is not the same as evidence before a previous board when subsequent conduct or performance forms the basis, in whole or in part, for a new proceeding, or when there is new or newly discovered evidence that was not reasonably available at the time of the prior proceeding.

2. Except when the previous board results were obtained by fraud or collusion, a subsequent board considering the same evidence may not return a recommendation less favorable to the respondent than that returned by the previous board.

3. Conduct is considered to have previously been the subject of administrative separation board proceedings when the previous board has submitted the record of its proceedings to the convening authority and when the board's record include one of the recommendations prescribed in paragraph 6319.

4. When a subsequent board is convened, no voting Marine of the subsequent board shall have served on a previous board as a voting member and no voting Marine of the subsequent board may have been the recorder or assistant recorder of a previous board which considered the same matter. However, the recorder and/or the assistant recorder of the previous board may serve as the recorder and/or the assistant recorder of the subsequent board.

5. The record of the proceedings of the previous board may be furnished to the subsequent board. However, the subsequent board will not be furnished the findings, opinions, or recommendations of the previous board, nor the specific comments of the convening or separation authority concerning the previous board. Additionally, any evidence considered by the separation authority to have been prejudicial to the substantial rights of the respondent, or to have been obtained by fraud or collusion, will not be provided to the subsequent board. Such excluded matter, however, should be furnished to the recorder of the subsequent board in order that the member