

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

APPENDIX L

INVOLUNTARY ADMINISTRATIVE DISCHARGE OUTLINE, CHECKLIST AND FORMS
(citations to paragraphs in MARCORSEPMAN)

STEP 1: DO LIMITATIONS ON SEPARATION PREVENT PROCESSING (6106)

1. Civilian or military acquittal
2. Previous separation proceedings

STEP 2: IDENTIFY THE STATUS OF THE RESPONDENT

1. Active or Reserve (IRR or SMCR; obligor or non-obligor)
2. Amount of active and inactive service
3. Proximity to EAS, EOS, ECC, or retirement/FMCR

STEP 3: IDENTIFY THE SEPARATION AUTHORITY (6307)

1. General rule: General court-martial convening authority
2. Exceptions:
 - a. SECNAV
 - b. CMC
 - c. Delegated authority

STEP 4: IDENTIFY THE BASIS OR BASES FOR DISCHARGE

1. General basis
 - a. Misconduct (6210)
 - b. Unsatisfactory performance (6206)
 - c. Weight control failure (6215)
 - d. Unsatisfactory Reserve participation (6213)
2. Specific basis (most frequently used)
 - a. Misconduct
 - (1) Minor disciplinary infractions
 - (2) Pattern of misconduct
 - (3) Drug abuse
 - (4) Commission of a serious offense
 - b. Unsatisfactory Reserve participation (missed drills)
 - c. Unsatisfactory performance
 - (1) PFT failure
 - (2) Other
 - d. Weight control failure (failure to meet standards of MCO 6100.10)

STEP 5: READ THE MARCORSEPMAN TO DETERMINE WHAT DOCUMENTATION IS NEEDED

1. Misconduct
 - a. Minor disciplinary infractions
 - (1) At least 3 instances in current enlistment
 - (2) Page 11 counseling
 - b. Pattern of misconduct
 - (1) At least 2 instances in current enlistment
 - (2) Page 11 counseling
 - c. Commission of a serious offense

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- (1) Punitive discharge authorized under UCMJ
 - (2) Separation warranted
2. Unsatisfactory performance (PFT failure)
 - a. PFT score sheet
 - b. Page 11 counseling
 3. Weight control failure
 - a. Endorsement required by MCO 6100.10
 - b. Page 11 counseling
 - c. Weigh-in sheets

STEP 6: PREPARE NOTIFICATION AND ACKNOWLEDGMENT OF RIGHTS.

1. Contents of notification [Fig 6-2 (no board) or 6-3 (board)]
 - a. General basis
 - b. Specific basis
 - c. Factual basis
 - d. Characterization (**See limitations at 1004**)
 - (1) Recommended
 - (2) Least favorable
 - e. Rights
 - (1) Board
 - (2) No board
 - f. Additional rights if confinement (IHCA, 6303.4a)
 - g. Time limit for Marine to return AOR
 - h. Signatures
 - i. Enclosures to notification letter
 - (1) is BCNR/NDRB form
 - (2) is acknowledgment of rights
2. Contents of acknowledgment of rights [Fig 6-2 (no board) or 6-3 (board)]
 - a. General basis
 - b. Specific basis
 - c. Factual basis
 - d. Characterization (**MATCHES NOTIFICATION**)
 - (1) Recommended
 - (2) Least favorable
 - e. Rights (**MATCHES NOTIFICATION**)
 - (1) Board
 - (2) No board
 - f. Additional rights if confined (IHCA, 6304.4a)
 - g. Time limit for Marine to return AOR

STEP 7: SERVE NOTIFICATION, ACKNOWLEDGMENT OF RIGHTS, AND BCNR/NDRB SHEET.

1. Active duty (or Reservist on active duty): Serve in person at command
2. Reservist not on active duty: use mail or service in person as indicated in MARFORRES Legal SOP
3. IHCA: Serve in person or by mail.
4. UA: Serve by mail.

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STEP 8: ACTION AFTER SERVICE

1. Prepare affidavit of service if required. (figure L-1).
2. WAIT THE PROPER LENGTH OF TIME BEFORE FORWARDING THE COMMAND RECOMMENDATION TO THE GCMA. (figure L-2).
 - a. Forward after whichever of the following occurs first:
 - (1) AOR returned before time expires; or
 - (2) Package is returned unclaimed; or
 - (3) Time for responding expires.
 - b. Time limits for returning the AOR:
 - (1) **Personal service (USMC or USMCR on active duty):** 2 days.
 - (2) **Personal or mail service (USMCR not on active duty):** 20 days
 - (3) **Personal or mail service for a Marine IHCA or UA (USMC or USMCR):** 30 days from date the Marine signed a receipt (if service in person) or from the date of signature on the green card (if service was by mail).
3. ANNOTATE THE AOR IF:
 - a. Service was by mail and the Marine received the package but did not return or acknowledge receipt, or
 - b. The Marine did not sign the AOR or made an incomplete or no selection of rights on the AOR.
3. IF THE RESPONDENT REQUESTS A BOARD, CONVENE A BOARD IF THE COMMAND HAS CONVENING AUTHORITY; IF IT DOES NOT, FORWARD THE PACKAGE TO THE CONVENING AUTHORITY.

STEP 9: PREPARING FOR A BOARD. (If no board, skip to 10)

1. Prepare appointing order. (figure L-3).
 - a. Name members (6315.1)
 - b. Marine's commander is NOT a member of the board
 - c. Name recorder/defense counsel
 - d. Personal signature of convening authority or officer "acting"
2. Notify members, respondent, and defense counsel of date, time, and place of board; notify respondent or counsel. (figure L-4).
3. Recorder preparation:
 - a. Copies of exhibits for each member and counsel for respondent
 - b. Witness request (figure L-5)
 - c. Guide for members to use (figure L-6)
 - d. Report/findings and recommendations worksheet (figure L-9 or L-10)
 - e. Tape recorder or someone to take notes during hearing
 - f. Order OMPF from CMC (MMSB) if respondent is E-5 or above
4. Hold board: Use figure L-6 as a guide
5. Prepare REPORT of the board (figure L-9 or L-10)
6. Prepare RECORD of the board [record = transcript + exhibits(6325)]
 - a. Prepare transcript (figure L-8)
 - b. Include all exhibits (CLEAR COPIES, PROPERLY MARKED and include original or copy of appointing order)

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STEP 10: PREPARE THE COMMAND LETTER OF RECOMMENDATION

I. CASES WITHOUT BOARDS (figure L-2)

1. Enclosures
 - a. Required enclosures included
 - b. Marked and in order
2. Bases (general, specific, factual) and characterization
 - a. Match those in notification
 - b. Match those in acknowledgment of rights
 - c. Correct MARCORSEPMAN paragraph numbers cited
3. Facts and circumstances surrounding discharge
4. Address false/inaccurate assertions or allegations Marine makes in statement or rebuttal.
5. Explain service in person or by mail
6. Miscellaneous matters
7. Mobilization potential/security clearance
8. Personal signature of convening authority or officer "acting"

II. CASES WITH BOARDS (See figure L-11)

1. Enclosures
 - a. Board report and its enclosures
 - b. Other enclosures NOT already included with board report
2. Comments
3. Personal signature of convening authority or officer "acting"

STEP 11: MAIL OR DELIVER PACKAGE TO GCMA

1. Original to GCMA
2. Command retains a copy

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Figure L-1. Affidavit of Service

AFFIDAVIT OF SERVICE BY MAIL

I certify that attempts to serve the Notification (dated _____) with enclosures (Grade) _____ (Name) _____ USMC/USMCR were made as follows:

SECTION I. REASON FOR SERVICE BY MAIL

___ Individual was in the Delayed Entry Program.

___ Marine was absent without authority before notification.

___ Marine is in civilian confinement and refused to acknowledge receipt of notification delivered in person or by mail.

___ Marine is a reservist not on active duty and personal service was (1) not required or (2) was required but Marine refused to acknowledge receipt.

SECTION II. SERVICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED:

Date mailed: _____ Certified number: _____

Mailed from: _____

Mailed by: _____

Address mailed to: _____

This address was: ___The last known address//___The next of kin

IF DELIVERED, ATTACH ORIGINAL PS FORM 3800 (WHITE RECEIPT) AND PS FORM 3811 (GREEN CARD) SHOWING DELIVERY; IF NOT DELIVERED, ATTACH PS FORM 3800 AND ENVELOPE SHOWING POSTAL STAMPS AND MARKINGS INDICATING REASON FOR NO DELIVERY.

SECTION III. CERTIFICATION SIGNED/SWORN BEFORE COMMISSIONED OFFICER

Signature of person certifying information: _____

Grade: _____

Command: _____ Billet: _____

SWORN AND SUBSCRIBED before me on _____ 20__.

Signature of commissioned officer: _____

Grade: _____

Command: _____ Billet: _____

Figure L-1. Affidavit of Service

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Figure L-2. Command Letter of Recommendation for Administrative Discharge **(WITHOUT BOARD)** .

SSIC
Code
Date

From: Commanding Officer
To: Separation Authority
[Via: Chain of Command]

Subj: RECOMMENDATION FOR ADMINISTRATIVE DISCHARGE OF (GRADE, FULL NAME, SSN/MOS, COMPONENT)

Ref: (a) MCO P1900.16F (MARCORSEPMAN)
(b)

Encl: (1) Letter of Notification
(2) Acknowledgment of Rights
(3) BCNR/NDRB information sheet
() Standard Page Side of SRB
() Statement from respondent **(if any)**
[ENCLOSURES FOR SPECIFIC CASES]
() Page(s) from command ledger **(urinalysis case)**
() Chain of custody (DD Form 2624) **(urinalysis case)**
() Message from drug lab **(urinalysis case)**
() PFT score sheets **(PFT failure)**
() Weigh-in sheets **(weight control failure)**
() CO letter requesting weight evaluation **(weight control failure)**
() First through fifth endorsements **(weight control failure)**

1. **Recommendation.** I recommend that _____ be discharged from the U.S. Marine Corps (Reserve) with a [(honorable) (general (under honorable conditions)) (other than honorable)] discharge under paragraph _____ of reference (a).

2. **Documentation.** The facts and circumstances supporting the basis for discharge and the recommended characterization are in enclosures () through (). [other comments]. Relevant items from the SRB are at enclosures () and ().

3. **Service of notification.** The notification package (enclosures (1), (2), and (3)) was [choose appropriate language from a paragraph below]:

[Delivered in person to the Marine. (A receipt of notification was required and obtained; see enclosure ().) (The Marine (did) (did not) return the acknowledgment of rights.)]

[Sent certified mail because (the Marine is a reservist and personal service was required but unsuccessful) (the Marine is a reservist who refused to sign

Figure L-2. Command Letter of Recommendation for Administrative Discharge **(WITHOUT BOARD)** .

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Figure L-2. Command Letter of Recommendation for Administrative Discharge
(WITHOUT BOARD)—Continued

Subj: RECOMMENDATION FOR ADMINISTRATIVE DISCHARGE OF (GRADE, FULL NAME,
SSN/MOS, COMPONENT)

a receipt for personal service) (the Marine was IHCA and refused to acknowledge receipt for service (in person) (by mail)) (the Marine was UA) (the member was in the DEP). See affidavit of service at enclosure (). (The Marine (did) (did not) return the acknowledgment of rights.) (The package was undeliverable.) See Postal Forms 3800 and 3811 (and undeliverable envelope) at enclosures () and []).

4. **Statement by respondent.** (The respondent did not submit a statement.) (The respondent's statement is at enclosure []). (Note: Rebut any false or inaccurate assertions the Marine makes in his rebuttal if he choose to make one. Comment if the Marine said he wanted to submit a rebuttal or statement but never did so)

5. **Miscellaneous matters.** For example, comment if respondent is eligible for retirement or transfer to the FMCR, especially if grade reduction is an issue. If suspension of separation is possible, comment if suspension is or is not recommended.

6. **Clearance.** The Marine (has) (does not have) a security clearance.

7. **Mobilization potential.** The Marine (has) (does not have) mobilization potential.

8. **Point of contact.** If you have any questions, please call my administrative (officer) (chief), _____, at (commercial) (DSN) _____.

SIGNATURE

Figure L-2. Command Letter of Recommendation for Administrative Discharge
(WITHOUT BOARD)--Continued

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Figure L-3. Administrative Discharge Board Appointing Order

SSIC
Code
Date

From: Commanding Officer
To: (Grade, Name, Component, President
Subj: APPOINTMENT OF ADMINISTRATIVE DISCHARGE BOARD IN THE CASE
OF (Grade, Name, SSN/MOS, Component)
Ref: (a) MARCORSEPMAN

1. Under the reference, you are appointed as president of an administrative discharge board to consider the case of the Respondent.

2. The following are detailed as members of the Board: (list by grade, name, and component).

~~3.~~ ~~a.~~ (Grade, name, component) is detailed as the non-voting recorder for the Board and is so notified by separate copy hereof.

~~4.~~ ~~b.~~ (Grade, name, component) a lawyer certified under Article 27(b), UCMJ, is detailed as counsel for respondent and is so notified by separate copy hereof.

~~5.4.~~ Consult the reference for guidance in conducting the board. All personnel named in this appointing order must attend the board hearing.

~~6.5.~~ You will determine the date, time, and location of the hearing after consulting the recorder and the counsel for the respondent.

~~7.6.~~ The board's report and record will be prepared according to the references and forwarded to me within 30 days after the Board has adjourned. Extensions of this due date must be requested in writing.

SIGNATURE

Copy to:

Recorder
Counsel for Respondent
Each Board Member
Respondent

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Figure L-3. Administrative Discharge Board Appointing Order

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Figure L-4. Notice to Respondent of Date, Time, and Place of Board Hearing

SSIC
Code
Date

CERTIFIED MAIL NUMBER _____

From: Commanding Officer

To: (Grade, Name, SSN/MOS, Component)

Subj: NOTIFICATION OF DATE, TIME, AND PLACE OF ADMINISTRATIVE
DISCHARGE BOARD HEARING

Encl: (1) Appointing order

1. Per your request for a hearing before an administrative discharge board, the board will convene as follows:

a. Date:

b. Time:

c. Place:

2. You will report to the board in the _____ uniform with a proper Marine Corps regulation haircut. You will be excused from your regular duties to the extent needed to attend the board.

3. If you have questions about the board, contact this command or your defense counsel, Name/Grade , at (phone number).

4. Inform this command if you decide not to attend the board hearing. If you do not attend the board hearing, it will proceed in your absence and your counsel will represent you.

5. THE BOARD PROCEEDINGS DO NOT RELIEVE YOU FROM YOUR OBLIGATION TO SERVE ON ACTIVE AND/OR INACTIVE DUTY (INCLUDING ATTENDING RESERVE DRILLS) PENDING FINAL DECISION ON YOUR DISCHARGE. YOU MUST CONTINUE YOUR NORMAL ACTIVE AND/OR INACTIVE DUTY UNLESS AND UNTIL YOUR COMMAND INFORMS YOU IN WRITING THAT (1) YOU ARE EXCUSED FROM ACTIVE AND/OR INACTIVE DUTY OR (2) YOU ARE SEPARATED.

SIGNATURE

Copy to:
Counsel for respondent

Figure L-4. Notice to Respondent of Date, Time, and Place of Board Hearing

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Figure L-5: Witness Request

1910
XXX

From: Counsel for the Respondent
To: Convening Authority
Via: (1) Recorder Staff Judge Advocate
(2) Staff Judge Advocate

Subj: WITNESS REQUEST: ADMINISTRATIVE SEPARATION BOARD OF INQUIRY IN THE
CASE OF XXXXXXXX

Ref: (a) MARCORSEPMAN

1. In accordance with reference (a), the respondent requests that the convening authority fund the appearance of the following witness at the respondent's board hearing:

Name of witness:
SSN:
Grade/title:
Billet/job:
Work address:
Work phone:
Work fax:

2. In accordance with the reference, the following is provided:

a. The relevance of the testimony to issues of separation or characterization;

b. Why the personal appearance of the witness is essential to a fair hearing on those issues;

c. Why an unsworn written statement, affidavit, conference call, or videotaped testimony are inadequate substitutes for personal testimony at the hearing;

d. Why the significance of personal appearance outweighs the practical difficulties in producing the witness, including cost, travel distance, and delay in convening the hearing;

e. Whether the witness is "reasonably available."

3. Counsel requesting the witness has contacted the witness in person, by telephone, or by electronic means and has ascertained that (1) the witness understands that the witness is being asked to testify before a board of inquiry and (2) the witness agrees to appear before the board at government expense to testify.

XXXXXXX
Counsel for the Respondent

Figure L-5: Witness Request

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Figure L-6. Administrative Discharge Board Hearing Guide

ADMINISTRATIVE SEPARATION BOARD HEARING GUIDE
IN THE CASE OF

PRELIMINARY NOTES

1. Attendance at the board hearing is the primary duty for members, the recorder, and counsel for the respondent. All must attend board sessions unless ill, ordered away, or excused IN WRITING by a written modification to the convening order signed by the convening authority. All participants should read the provisions of the MARCORSEPMAN concerning administrative discharge boards and the basis or bases for discharge.
2. If the respondent will testify, the recorder must provide him a written Privacy Act (figure L-7) statement before he testifies. Other witnesses need not be given Privacy Act statements.
3. **Note that SECTION VII governs homosexual conduct cases.**
4. The following abbreviations are used throughout this Guide:

SRMBR: Senior Member
COUNSEL: Counsel for the respondent
REC: Recorder for the board
RESP: Respondent
BOARD: Administrative Discharge Board
UCMJ: Uniform Code of Military Justice

SECTION I. PRELIMINARIES

SRMBR: This administrative discharge board will come to order. The recorder will note the time and date for the record.

REC: The (Commanding Officer) (Inspector-Instructor), (Organization), has convened this board by his appointing order, dated _____, (with no modifications) (as modified by the modification dated _____). The following members named in the appointing order(s) are present: _____, SENIOR MEMBER, and _____ and _____, MEMBERS.

REC: The respondent (is a member of the regular component) (is a member of the reserve component and the following members are members of the reserve component: _____).

REC: (No) (The following member(s) listed in the appointing order(s) (is) (are) absent (with the express consent of the convening authority):
_____.

Figure L-6. Administrative Discharge Board Hearing Guide

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Figure L-6. Administrative Discharge Board Hearing Guide - Continued

REC: _____, is appointed recorder for the board and is present. He is (not) a lawyer certified under Article 27(b) (1), UCMJ.

REC: _____, a lawyer certified under Article 27(b) (1), UCMJ, is appointed counsel for the respondent and is present.

REC: (The respondent has no individual military counsel) (_____, a lawyer certified under Article 27(b) (1), UCMJ, is appointed as individual military counsel for the respondent and is present.

REC: (The respondent has no civilian counsel) (_____, a member of the _____ state bar, is the civilian counsel for the respondent and is present).

SRMBR: The record will reflect that this board is properly convened and constituted. The purpose of this board is to consider relevant facts in the case of _____, who has been recommended for administrative discharge from the naval service for (unsatisfactory participation) (misconduct) (unsatisfactory performance) (_____).

SRMBR: The respondent is present. [The respondent is absent because (he is confined by civil authorities) (he waived personal appearance by stating that he does not want to appear) (he received notification of the date, time, and place of this hearing but did not appear)].

SECTION II. RIGHT TO COUNSEL

SRMBR: I will now advise the respondent of his right to counsel before the board. These rights were listed in the notification and the acknowledgment of rights. Does counsel desire that I explain these rights to the respondent?

COUNSEL: The respondent (desires explanation) (fully understands his rights and does not desire further explanation).

NOTE: RESPONDENT DESIRES TO REPRESENT HIMSELF. If respondent desires to represent himself, the senior member should still review the rights in Section III below.

SECTION III. EXPLANATION OF RIGHT TO COUNSEL (OMIT & GO TO SECTION IV IF RESPONDENT WAIVES EXPLANATION)

SRMBR: I will now advise the respondent of his rights before this board. If you have any questions about these rights, you should direct them to me, or, in private, to your counsel. You have the following rights:

1. To have military counsel, that is, a lawyer within the meaning of Article 27(b) (1), UCMJ, appointed by the Convening Authority to represent your interests before this board.

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

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Figure L-6. Administrative Discharge Board Hearing Guide - Continued

2. To request individual military counsel of your own choice, if reasonably available; however, you do not have the right to be represented by both detailed counsel and the requested individual military counsel.

3. To retain civilian counsel at no expense to the Government.

SRMBR: Do you understand your right to counsel before this administrative discharge board?

RESP: (Yes) (No) sir/ma'am.

SRMBR: By whom do you wish to be represented?

RESP: _____.

NOTE: The respondent may elect to represent himself at the board, but his detailed defense counsel should still be present. If he desires to represent himself, he must so state on the record and sign a written waiver of counsel which will be included as a government exhibit. The senior member, after inquiring to ensure that the respondent is knowingly and voluntarily waiving his right to counsel, should state, "I find your waiver of counsel to be knowing and voluntary."

SECTION IV. ADDITIONAL RIGHTS

SRMBR: In addition to your right to counsel, you have many other rights at this board. These were listed in the notification and the acknowledgment of rights. Does counsel desire that I explain these additional rights to the respondent?

COUNSEL: The respondent (desires explanation) (fully understands his rights and does not desire further explanation).

SECTION V. EXPLANATION OF ADDITIONAL RIGHTS (OMIT AND GO TO SECTION VI IF RESPONDENT WAIVES EXPLANATION)

SRMBR: I will now advise the respondent of his rights before this board. If you have any questions about these rights, you should direct them to me, or, in private, to your counsel. You have the following rights:

1. To present matters on your own behalf.
2. To have full access to, and be provided with, copies of all records relevant to your case.
3. To be provided with the names of all witnesses expected to be called by the government.
4. To challenge any member of the board for cause.

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

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Figure L-6. Administrative Discharge Board Hearing Guide - Continued

5. To request from the convening authority, or this board, the appearance before the board of any witness whose testimony you consider to be pertinent to your case.
6. To submit for the board's consideration any matters from your service record; letters, answers, sworn or unsworn statements; and/or affidavits, certificates, stipulations, or depositions. You also have the right to submit real and/or documentary evidence.
7. You may also testify under oath. If you testify under oath, the board and the recorder may cross-examine you about your testimony. In the alternative, you may make an unsworn statement, either personally or through counsel. You may not be cross-examined if you make an unsworn statement; however, the recorder may introduce evidence to rebut anything contained in your statement. Also, you may, if you wish, remain silent and such silence cannot be considered against you.
8. To appear in person, with or without counsel, at all open sessions of the board.
9. To question all witnesses appearing before the board.
10. To examine all documents, reports, statements and evidence presented for the board's consideration.
11. To present argument on any matter offered for the board's consideration.

SRMBR: Do you have any questions concerning your rights at this administrative discharge board?

RESP: (Yes) (No), sir/ma'am.

SECTION VI: GENERAL INSTRUCTIONS

SRMBR: The purpose of this administrative discharge board is to give the respondent a full and impartial hearing and an opportunity to respond to and rebut the allegations which form the basis for recommending the respondent's discharge from the naval service.

SRMBR: After hearing evidence from both sides, the board will determine whether the preponderance of the evidence proves the allegations which form the basis for the recommendation for discharge. If a preponderance of the evidence does not support the allegations, the board will so find. If a preponderance of the evidence supports the allegations, the board will so find and then recommend whether the respondent should be discharged. If the board recommends discharge, it will also recommend the characterization of the discharge. Depending on the board's findings and recommendations, final action on the case may be taken by the separation authority, who is _____; the Commandant of the Marine Corps; or the Secretary of the Navy.

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

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Figure L-6. Administrative Discharge Board Hearing Guide - Continued

SRMBR: This board functions as an administrative rather than a judicial body. The strict rules of evidence applicable in judicial hearings are, therefore, not applicable here. However, Article 31(b), UCMJ, does apply.

SRMBR: The following will occur during the hearing: presentation of the government's case; presentation of the respondent's case; rebuttal; closing arguments from counsel; instructions for the members; and deliberation by the members. The members are cautioned not to make any decisions until after hearing all the evidence; final argument of counsel; and instructions on deliberation. All board proceedings will be conducted in this room while the board is in session.

SRMBR: This board will consider any matter presented which is relevant to the issues before the board, whether written or oral, sworn or unsworn. Real evidence--as distinguished from testimonial or documentary evidence--may be shown and admitted to the board and should be accurately described or reproduced for the record. The board may refuse to consider any oral or written matter presented if it is irrelevant or unnecessarily repetitive or cumulative. However, evidence will not be excluded merely because it would be inadmissible in a court. If evidence is classified, the provisions of the Department of the Navy information security regulations will be observed.

SRMBR: The burden of proof is on the government, and it never shifts unless I instruct the board otherwise. Board decisions are made by majority vote based on the preponderance of the evidence, which is the standard of proof. A preponderance, which is the same standard for nonjudicial punishment hearings, is less than beyond reasonable doubt, which is the standard at a court-martial. A preponderance of the evidence proves a fact if the greater weight of evidence, i.e., 51% or more of the evidence, supports the fact. The weight of the evidence is not determined by the sheer number of witnesses or volume of evidentiary matter; it is determined by the evidence which best accords with reason and probability. The board members will rely on their individual judgment and experience in determining the weight and credibility to be given matters received in evidence.

SRMBR: The senior member need not rule on objections; he may merely note them for the record. If the senior member does rule on objections, a majority of the board may overrule the senior member's ruling.

SRMBR: Since the procedures used at this hearing may be unfamiliar to the board members, the members are encouraged to ask questions during the hearing about those procedures.

SECTION VII: SPECIAL INSTRUCTIONS: HOMOSEXUAL CONDUCT CASES
(OMIT AND GO TO SECTION VIII IF THE CASE DOES NOT INVOLVE HOMOSEXUAL CONDUCT)

SRMBR: Because the recommended basis for discharge is homosexual conduct, additional procedures apply to this board.

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

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Figure L-6. Administrative Discharge Board Hearing Guide - Continued

1. A statement by a Marine that he is a homosexual, or words to that effect, creates a rebuttable presumption that he engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

2. I must advise you of this presumption and give you the opportunity to rebut it. While in most cases, as indicated above, the burden of proof never shifts from the government, in cases of homosexual conduct the Marine has the burden of rebutting this presumption. This means he must prove by a preponderance of the evidence that he does not engage in, attempt to engage in, have a propensity to engage in, or intend to engage in homosexual acts. If the government proves that the statements were made and the Respondent does not rebut the presumption, then the board must recommend discharge.

3. Does the respondent have a question about this?

RESP: _____

REC: I will note for the record that the MARCORSEPMAN requires the board to be informed of the Congressional findings found in paragraph 6207 of the MARCORSEPMAN. The recorder is directed to ensure that a copy of these findings are made available for the board to review during deliberations, and the copy will be made a government exhibit.

VIII. CHALLENGES TO BOARD MEMBERS

SRMBR: Does the recorder or counsel for respondent wish to question any member of the board concerning a possible grounds for challenge for cause?

REC: The recorder has (no) questions.

COUNSEL: The respondent has (no) questions.

SRMBR: Does either side wish to challenge a member for cause?

REC: The recorder (does not) (has the following challenges: _____).

COUNSEL: The respondent (does not) (has the following challenges: _____).

SRMBR: [Recess to decide any challenges. Announce decisions on challenges.]

SRMBR: Are both sides ready to proceed?

REC: The recorder is.

COUNSEL: Counsel for the respondent is.

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

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Figure L-6. Administrative Discharge Board Hearing Guide - Continued

SECTION IX: MOTIONS AND OPENING STATEMENTS

SRMBR: Does either side have any motions?

REC: The recorder (has no motions) (has the following motions:
_____).

COUNSEL: Counsel for the respondent (has no motions) (has the following motions: _____).

SRMBR: The recorder may make an opening statement.

REC: The recorder (waives opening statement) (_____).

SRMBR: Counsel for the respondent may present an opening statement.

COUNSEL: The recorder (waives opening statement) (_____).

SECTION X: PRESENTATION OF EXHIBITS

SRMBR: Unless counsel object, I will ask that each side submit its exhibits now before the board hears testimony from any of the witnesses. This will facilitate the board's questioning of all witnesses. Does either counsel object to the board receiving all exhibits now?

REC: The recorder does not object (objects).

COUNSEL: Counsel for the respondent does not object (objects).

SRMBR: Is the recorder ready to proceed?

REC: Yes, sir/ma'am.

SRMBR: You may proceed.

REC: I will hand to the senior member the original government exhibits offered to the board. They are marked as "GE" and numbered as follows:

- GE-__: Appointing order (original or authenticated copy).
- GE-__: Modification to appointing order (if any).
- GE-__: Notification package: notice, AOR, BCNR/NDRB.
- GE-__: [If respondent is absent: notice of hearing (see figure 6-11); include receipt for notice if delivered in person; include PS Form 3811 (green card) if notice was mailed]
- GE-__: Standard pages from SRB (including DD Form 4)
- GE-__: Paragraph 62____, MARCORSEPMAN (basis for discharge)
- GE-__: Paragraph 1004, MARCORSEPMAN (characterization)
- GE-__: Paragraph _____, Manual for Courts-Martial (use for 6210.6 to show punitive discharge is authorized)

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

GE-__ : _____
GE-__ : _____
GE-__ : Privacy Act statement (if respondent testifies)

REC: I also have copies of the exhibits for each member; please write on them but not on the originals. Included in a separate folder with the original exhibits is the original findings and recommendations worksheet the members will use to record findings and recommendations. It will also be used as the board report.

SRMBR: Does counsel for the respondent object to any of these exhibits or to the findings and recommendation worksheet?

COUNSEL: Counsel for the respondent (does not object) (objects for the following reasons: _____).

SRMBR: All government exhibits (are admitted) (are admitted except for numbers _____.) (The following objections are (noted) (decided as follows:)). The recorder may substitute in the record certified true copies of the documents which are admitted. Does the respondent have any exhibits?

COUNSEL: The respondent offers the following exhibits. They are marked as "RE" and lettered:

RE A: _____
RE B: _____
RE C: _____

SRMBR: Does the recorder object to any of these exhibits?

REC: The recorder (does not object) (objects for the following reasons: _____).

SMBR: All respondent exhibits (are admitted) (are admitted except for numbers _____.) (The following objections are (noted) (decided as follows:)). The recorder may substitute in the record certified true copies of the documents which are admitted.

SRMBR: The board will be in recess to review these documents. The recorder will note the time and date in the record of proceedings.

SECTION XI: WITNESSES

SRMBR: The board will come to order. All persons who were present when the board recessed are again present. The recorder will note the time and date in the record of proceedings. Does the recorder have any witnesses?

REC: The recorder (calls _____ as a witness) (has nothing further).

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

NOTE: The recorder may call witnesses. All witnesses will be sworn. **OATH: Do you swear or affirm that the evidence you shall provide at this hearing shall be the truth, the whole truth and nothing but the truth?** The order of questioning (see paragraph 6316.8b, MARCORSEPMAN): direct examination by recorder; cross-examination by respondent's counsel; redirect; re-cross; examination by the board. **After they testify, the president may direct witnesses not to discuss their testimony with anyone other than the recorder or the counsel for the respondent until after the hearing has ended.**

SRMBR: Does the recorder have any further evidence or witnesses?

REC: (Yes)(No), sir/ma'am.

SRMBR: Does the respondent have any witnesses?

COUNSEL: The respondent (calls _____ as a witness) (has nothing further).

NOTE: The respondent may call witnesses. All witnesses will be sworn (only the respondent may give unsworn testimony). **OATH: Do you swear or affirm that the evidence you shall provide at this hearing shall be the truth, the whole truth and nothing but the truth?** The order of questioning: direct examination by respondent's counsel; cross-examination by recorder; redirect; re-cross; examination by the board. If the respondent testifies, he will sign and date a Privacy Act statement to be attached to the record as a government exhibit. **After they testify, the president may direct witnesses not to discuss their testimony with anyone other than the recorder or the counsel for the respondent until after the hearing has ended.**

SRMBR: Does the respondent have any other evidence?

COUNSEL: (Yes)(No), sir/ma'am.

XII. REBUTTAL

SRMBR: Does the recorder have any matters in rebuttal?

REC: The recorder has (nothing further) (calls the following witnesses: _____) (submits the following exhibits: GE- _____).

SRMBR: (The following government exhibits are admitted: GE- _____).

SRMBR: Does counsel for the respondent have any more evidence?

COUNSEL: Counsel for the respondent has (nothing further) (calls the following witnesses: _____) (submits the following exhibits: RE- _____).

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

SRMBR: (The following respondent exhibits are admitted:
RE-_____).

SRMBR: Does any member of the board want to recall a witness, call an additional witness, or obtain any further evidence?

SRMBR: The members have indicated they (do)(do not) want to recall a witness, call an additional witness, or obtain any further evidence.

XIII. CLOSING ARGUMENTS

SRMBR: Are both sides prepared for argument?

REC: The recorder is.

COUNSEL: Counsel for the respondent is.

SRMBR: The recorder may proceed with closing argument.

REC: _____.

SRMBR: Counsel for the respondent may proceed with closing argument.

COUNSEL: _____.

SRMBR: Does the recorder have any final argument?

REC: (Yes)(no), sir/ma'am.

SRMBR: Does either side have anything further to present?

REC: The government has _____ (nothing further).

COUNSEL: The respondent has _____ (nothing further).

XIV: INSTRUCTIONS ON DELIBERATION

SRMBR: The board deliberation includes a full and free discussion of all matters presented to the board. In determining retention or separation, the board will consider the guidelines at paragraph 6309. In determining characterization, the board will consider the guidelines in paragraph 1004. In determining retention in the IRR, the board will consider the guidelines in paragraph 6311.3.

SRMBR: The board will decide its findings and recommendations by majority vote, and the senior member will record them by placing his or her initials in the blank beside any finding or recommendation decided by majority vote. Does either side object to the worksheet?

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

REC: The recorder does not.

COUNSEL: Counsel for the respondent does not.

XV: SPECIAL INSTRUCTIONS

SRMBR: **(Read if the respondent is an inactive reservist being processed for discharge based on conduct in the civilian community committed while the respondent was not on active duty or active duty for training)**. The board is advised that it cannot recommend a general or other than honorable characterization for a discharge in this case unless the evidence meets the criteria in paragraph 1004.4 of the MARCORSEPMAN, which the board will review during deliberation.

SRMBR: **(Read if evidence of prior or preservice activities has been introduced)**. The board is advised that paragraph 1004.4 of the MARCORSEPMAN impose limitations on considering evidence of prior service or preservice activities. The board will review those paragraphs during deliberation.]

SRMBR: **(Read if the basis for processing includes homosexual conduct)**. Since the basis for discharge is homosexual conduct, the following instructions apply:

1. If the board finds that the evidence proves one or more of the circumstances authorizing separation as described in paragraph 6207 of the MARCORSEPMAN, the board shall recommend separation unless it finds that retention is warranted under the limited circumstances described in paragraph 6207. "Limited circumstances" requiring retention means that the Marine rebutted the presumption that he engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. The member has the burden of proving those limited circumstances; in other words, the member has the burden of rebutting the presumption.

2. If the board finds the evidence does not prove that one or more of the circumstances authorizing separation has occurred, the board shall recommend retention unless the case involves another basis for separation of which the member has been duly notified.

3. In cases of homosexual conduct the MARCORSEPMAN does not authorize the board to recommend transfer to the IRR or to recommend suspension of a discharge.

PART XVII: CLOSING FOR DELIBERATION

SRMBR: Does either side have any questions or anything further?

REC: The government has (none).

COUNSEL: The respondent has (none).

Figure L-6. Administrative Discharge Board Hearing Guide- Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-6. Administrative Discharge Board Hearing Guide - Continued

SRMBR: The board closed for deliberation at _____ hours, on _____ 20__.
All parties, except board members, will leave the hearing room.

PART XVII: ANNOUNCEMENT OF FINDINGS AND RECOMMENDATIONS

SRMBR: The board opened at _____ hours _____ 20__. I will announce the findings and recommendations of the board by reading from the worksheet (read findings and recommendations). This worksheet will also be the board's report; enclosure (1) to the report will be the record of the hearing.

SRMBR: (We have no minority report) (One of the board members, _____, will be submitting a minority report which will be included as an enclosure to the board's report).

SRMBR: Does anyone have any other business to bring before the board? If not, the board is adjourned.

Figure L-6. Administrative Discharge Board Hearing Guide -Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-8. Summarized Record of Board Hearing

SUMMARIZED RECORD OF BOARD HEARING

Respondent's Name)	(SSN)	(Grade)
(Organization)		(Component)

The board met at (location) at (time) hours, (date), pursuant to the appointing order(s) of (title and command of convening authority).

The following persons named in the appointing order(s) were present:

Board members: (indicate grade, name, service, and component (USMR or USMCR)) (identify senior member)

Recorder (name, grade, service, and legal qualifications)

Counsel for respondent: (name, grade, service and legal qualifications of military counsel) (civilian counsel name and qualifications) [NOTE: If respondent waived representation by counsel, state as follows: The respondent stated a desire to represent himself without counsel. The senior member inquired and was satisfied that the respondent's waiver of representation by counsel was knowing and voluntary.]

(No) (The following) person(s) named in the appointing order(s) (was) (were) (absent) (absent with the express consent of the convening authority): (Indicate grade, name, and armed force of each board member absent).

The respondent was (absent) (present). (NOTE: If respondent was absent, indicate specific reason, e.g., waived personal appearance in writing; absent after notification; confined, etc).

The senior member determined that the respondent had been properly advised of administrative discharge board rights and procedures. The respondent (waived) (requested) the reading of rights before the Board. The senior member (accepted the respondent's waiver of explanation of rights) (explained the rights).

The senior member advised the board members of their duties, the applicability of Article 31(b), UCMJ, to the proceedings, and the procedures to be followed as outlined in Section 3 of Part C of Chapter 6 of the MARCORSEPMAN. (ADD IF APPLICABLE). The senior member advised the board of the special rules for cases involving homosexual conduct, including reference to Congressional findings.

The recorder and respondent were given the opportunity to challenge any member of the board for cause. (Neither challenged any member for cause.) [The (recorder) (respondent) (challenged the following member(s) for cause:_____.) (The challenges were (granted) (denied)].

Figure L-8. Summarized Record of Board Hearing

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-8. Summarized Record of Board Hearing - Continued

The recorder and respondent were permitted to make motions and opening statements. (No motions were made.) (Motions were made and decided as follows:) (Both recorder and counsel for the respondent made opening statements)(The recorder waived opening statement.)

The recorder offered the following government exhibits (marked "GE"):

- GE-__ : Appointing order.
- GE-__ : Modification to appointing order (if any).
- GE-__ : Notification package: notice, AOR, BCNR/NDRB.
- GE-__ : [If respondent is absent: written notice of hearing and include receipt for notice if delivered in person; include PS Form 3811 (green card) if notice was mailed]
- GE-__ : Standard pages from SRB (including DD Form 4)
- GE-__ :
- GE-__ : Privacy Act statement (if respondent testifies)

The exhibits were admitted with (without objection) (with objection(s) as follows:

<u>NUMBER</u>	<u>REASON FOR OBJECTION</u>	<u>DECISION BY BOARD</u>	
GE-xx	xxx	(Admitted)	(Excluded)

The Senior member authorized certified true copies of the exhibits to be included in the record in lieu of the originals.

The respondent offered the following respondent's exhibits (marked "RE"):

- RE A: xxx
- RE B: xxx

The exhibits were admitted (with) (without objection) (with objection(s) as follows:)

<u>NUMBER</u>	<u>REASON FOR OBJECTION</u>	<u>DECISION BY BOARD</u>	
RE-xx	xxx	(Admitted)	(Excluded)

The senior member authorized certified copies of the exhibits to be included in the record in lieu of the originals.

The government called (no) (the following) witness(es), who (was) (were) sworn and testified as follows:

SUMMARY OF WITNESS TESTIMONY

The respondent called (no) (the following) witness(es), who (was) (were) sworn and testified as follows:

Figure L-8. Summarized Record of Board Hearing - Continued

Figure L-8. Summarized Record of Board Hearing - Continued

SUMMARY OF WITNESS TESTIMONY

The respondent [(did not testify or submit a statement) (testified under oath)(made an unsworn oral statement)(submitted a (sworn) (unsworn) written statement)].

The recorder presented no rebuttal evidence (presented the following rebuttal evidence:). The counsel for the respondent presented no further evidence (presented the following evidence:). The board (called no witnesses and presented no evidence)(called the following witnesses)(presented the following evidence:).

The recorder and counsel for respondent made closing argument. Counsel for the respondent (did)(did not) make a closing argument. The recorder (did)(did not) make rebuttal argument.

The senior member instructed the members concerning voting procedures.

(ADD IF APPLICABLE. The senior member advised the board concerning the restrictions imposed by paragraph 1004.4 of the MARCORSEPMAN concerning prior and preservice matters.)

(ADD IF APPLICABLE. The senior member advised the board concerning the restrictions imposed by paragraph 1004 of the MARCORSEPMAN concerning misconduct by a reservist not on active duty or active duty for training at the time of the misconduct.)

(ADD IF APPLICABLE. The senior member advised the board of the special rules for cases involving homosexual conduct.)

Neither party had anything further to offer. The board closed at _____ hours, _____ 20__. The board opened at _____ hours, _____ 20__. The senior member announced the findings and recommendations of the board by reading from the findings and recommendations worksheet. The worksheet will also be the board's report. The board adjourned at _____ hours, (date).

AUTHENTICATION OF RECORD. This is a substantially accurate record of the board hearing.

Senior Member Date

Recorder Date

Figure L-8. Summarized Record of Board Hearing - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-9. Administrative Discharge Board Report and Findings and Recommendations Worksheet

SSIC
Originator Code
Date

From: Senior Member
To: Convening Authority

Subj: ADMINISTRATIVE DISCHARGE BOARD REPORT: FINDINGS AND
RECOMMENDATIONS IN THE CASE OF (Respondent's Grade, Name,
SSN/MOS, Component)

Ref: (a) MCO P1900.16F (MARCORSEPMAN)

Encl: (1) Record of board hearing
(2) Minority report (**if any**)

1. As directed, an administrative discharge board convened in this case to hear allegations against the respondent and to make findings and recommendations.

2. The facts and circumstances and supporting documents which are the basis for the board's findings and recommendations are in the record (enclosure (1)).

3. The senior member initialed the following findings and recommendations, all reached in closed sessions of the board, and announced the findings and recommendations at the hearing as follows:

a. FINDINGS: PREPONDERANCE OF THE EVIDENCE.

(1) _____ The board determined by majority vote that the preponderance of the evidence--

(a) _____ **DOES NOT** prove any of the acts or omissions alleged in the notification. (Senior member must check B1 below).

(b) _____ **PROVES ALL** acts or omissions alleged in the notification

(c) _____ **PROVES ONLY** the following act(s) or omission(s) alleged in the notification: _____

b. RECOMMENDATIONS. By majority vote, the Board recommends:

(1) _____ **RETENTION** in the Marine Corps (Marine Corps Reserve).

(2) _____ **SEPARATION** from the Marine Corps (Marine Corps Reserve).

Figure L-9. Administrative Discharge Board Report and Findings and Recommendations Worksheet

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-9. Administrative Discharge Board Report and Findings and Recommendations Worksheet - Continued

Subj: ADMINISTRATIVE DISCHARGE BOARD REPORT: FINDINGS AND RECOMMENDATIONS IN THE CASE OF (Respondent's Grade, Name, SSN/MOS, Component)

(3) _____ If the board recommends **SEPARATION**, it recommends the following CHARACTERIZATION:

- (a) _____ honorable.
- (b) _____ general (under honorable conditions).
- (c) _____ other than honorable.

(4) _____ If the board recommends **SEPARATION**, it recommends the separation:

- (a) _____ **SHOULD BE** suspended.
- (b) _____ **SHOULD NOT BE** suspended.
- (c) _____ suspension not authorized.

See MARCORSEPMAN, paragraph 6310 concerning suspension.

(5) _____ If the board recommends **SEPARATION**, the board recommends that the respondent:

- (a) _____ **SHOULD BE** retained in the IRR (Individual Ready Reserve).
- (b) _____ **SHOULD NOT BE** retained in the IRR.

See MARCORSEPMAN, paragraph 6311 concerning retention in the IRR.

4. PRESERVICE OR PRIOR SERVICE MATTERS: (MARCORSEPMAN, paragraph 1004)

- a. _____ The board did **NOT** consider such matters.
- b. _____ The board **DID** consider such matters but only on the issue of retention and NOT considered on characterization.

5. RESERVE RESPONDENT ONLY. If the board recommends general (under honorable conditions or other than honorable characterization for conduct in the civilian community by a Marine who, at the time of the conduct, was a member of the inactive reserve and was not on active duty or active duty for training, the senior member initials one of the following:

Figure L-9. Administrative Discharge Board Report and Findings and Recommendations Worksheet - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-9. Administrative Discharge Board Report and Findings and Recommendations Worksheet - Continued

Subj: ADMINISTRATIVE DISCHARGE BOARD REPORT: FINDINGS AND RECOMMENDATIONS IN THE CASE OF (Respondent's Grade, Name, SSN/MOS, Component)

_____The board recommends a **general (under honorable conditions) characterization** under MARCORSEPMAN paragraph 1004 based on the following evidence that the conduct adversely affected overall effectiveness of the Marine Corps, including military morale and efficiency:

_____The board recommends an **other than honorable characterization** under MARCORSEPMAN paragraph 1004 based on the following evidence that the conduct is "service related," i.e., directly affected performance of military duties:

6. MINORITY REPORT. ___NONE//___SEE ENCLOSURE TO BOARD'S REPORT.

7. SIGNATURES. All members sign below.

Signature of Senior Member Date

Signature of Member Date

Signature of Member Date

Figure L-9. Administrative Discharge Board Report and Findings and Recommendations Worksheet - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-10. Administrative Discharge Board Report and Findings and Recommendations Worksheet: HOMOMOSEXUAL CONDUCT

SSIC
Originator Code
Date

From: Senior Member
To: Convening Authority

Subj: ADMINISTRATIVE DISCHARGE BOARD REPORT: FINDINGS AND RECOMMENDATIONS IN THE CASE OF (Grade, Name, SSN/MOS, Component)

Ref: (a) MCO P1900.16F (MARCORSEPMAN)

Encl: (1) Record of board hearing
(2) Minority report **(if any)**

1. As directed, an administrative discharge board convened in this case to hear allegations against the respondent and to make findings and recommendations.
2. The facts and circumstances and supporting documents which are the basis for the board's findings and recommendations are in the record (enclosure 1).
3. The senior member initialed the following findings and recommendations, all reached in closed sessions of the board, and announced the findings and recommendations at the hearing as follows:

a. FINDINGS: PREPONDERANCE OF THE EVIDENCE.

(1) _____ The board determined by majority vote that the preponderance of the evidence:

(a) _____ **DOES NOT** prove any of the homosexual acts or statements alleged in the notification. (Senior member must check B1(a) below).

(b) _____ **PROVES ALL** acts or omissions alleged in the notification.

(c) _____ **PROVES ONLY** the following act(s) or omission(s) alleged in the notification:

_____ (1) _____.

_____ (2) _____.

b. RECOMMENDATIONS. By majority vote, the Board recommends:

(1) _____ **RETENTION** in the Marine Corps (Marine Corps Reserve) **for the following reason:**

Figure L-10. Administrative Discharge Board Report and Findings and Recommendations Worksheet: HOMOMOSEXUAL CONDUCT

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-10. Administrative Discharge Board Report and Findings and Recommendations Worksheet: HOMOSEXUAL CONDUCT - Continued

Subj: ADMINISTRATIVE DISCHARGE BOARD REPORT: FINDINGS AND RECOMMENDATIONS IN THE CASE OF (Grade, Name, SSN/MOS, Component)

(a) _____ the evidence does not prove the statements were made or that the acts occurred, OR

(b) _____ the evidence proves the statements were made or the acts occurred but the Respondent rebutted the presumption that he engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

(2) _____ **SEPARATION** from the Marine Corps (Marine Corps Reserve) since the board finds that the evidence proves one or more of the statements were made or acts occurred AND that the respondent did not rebut the presumption that the respondent engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

(3) _____ If the board recommends **SEPARATION**, it recommends the following CHARACTERIZATION:

(a) _____ honorable.

(b) _____ general (under honorable conditions).

(c) _____ other than honorable, only if the respondent committed, attempted, or solicited a homosexual act:

_____ by force, coercion, or intimidation;
_____ with a person under age 16 years;
_____ with a subordinate in circumstances that violate customary military superior/subordinate relationships;
_____ openly in public view;
_____ for compensation;
_____ aboard a military vessel or aircraft;
_____ in a location subject to military control under aggravating circumstances, noted in the finding, that adversely affect discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft.

4. PRESERVICE OR PRIOR SERVICE MATTERS: (MARCORSEPMAN, paragraph 1004.4)

a. _____ The board did **NOT** consider such matters.

b. _____ The board **DID** consider such matters but only on the issue of retention and NOT considered on characterization.

5. RESERVE RESPONDENT ONLY. If the board recommends general or OTH characterization for conduct in the civilian community by a Marine who, at

Figure L-10. Administrative Discharge Board Report and Findings and Recommendations Worksheet: HOMOSEXUAL CONDUCT - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-10. Administrative Discharge Board Report and Findings and Recommendations Worksheet: HOMOMOSEXUAL CONDUCT - Continued

Subj: ADMINISTRATIVE DISCHARGE BOARD REPORT: FINDINGS AND RECOMMENDATIONS IN THE CASE OF (Grade, Name, SSN/MOS, Component)

the time of the conduct, was a member of the inactive reserve and was not on active duty or active duty for training, the senior member initials one of the following:

_____The board recommends a **general (under honorable conditions) characterization** under MARCORSEPMAN paragraph 1004 based on the following evidence that the conduct adversely affected overall effectiveness of the Marine Corps, including military morale and efficiency:
_____.

_____The board recommends an **other than honorable characterization** under MARCORSEPMAN paragraph 1004 based on the following evidence that the conduct is "service related," i.e., directly affected performance of military duties:
_____.

6. MINORITY REPORT. ___NONE//___SEE ENCLOSURE TO BOARD'S REPORT.

7. SIGNATURES. Only members concurring in all board findings and recommendations sign below. Other members sign a minority report.

Signature of Senior Member Date

Signature of Member Date

Signature of Member Date

Figure L-10. Administrative Discharge Board Report and Findings and Recommendations Worksheet: HOMOMOSEXUAL CONDUCT - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure L-11. Command Letter of Endorsement for Administrative Discharge

SSIC
Code
Date

FIRST ENDORSEMENT on ADMINISTRATIVE DISCHARGE BOARD REPORT dtd _____

From: Commanding officer (Convening Authority)
To: Separation Authority
[Via: Chain of Command]

Subj: RECOMMENDATION FOR ADMINISTRATIVE DISCHARGE OF (GRADE, FULL
NAME, SSN/MOS, COMPONENT)

Encl: (1) Report of board
(2) Defense counsel comment on board (if any)
(3) Recorder's response to defense counsel's comment
(4) (Other enclosures included by convening authority)

1. As indicated by enclosure (1), an administrative discharge board convened to hear this case. The board found that the preponderance of the evidence (proved) (did not prove) the allegations and recommended (retention) [(honorable) (general (under honorable conditions)) (other than honorable)] discharge.

2. I (agree) (disagree) with the board's findings and recommendations. [Comments if any. Before disagreeing with a board's findings and recommendations, see MARCORSEPMAN, paragraph 6309, concerning the separation authority's actions in board cases].

3. Counsel for the respondent submitted comment on the board; see enclosure (2). Enclosure (3) is the recorder's response to enclosure (2).

4. Explain other enclosures included by the convening authority.

SIGNATURE

Figure L-11. Command Letter of Endorsement for Administrative Discharge

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

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