BOARD GUIDE (SCRIPT)

(For an Administrative Separation Board)

General Guidance:

The Board President and the Recorder help direct the proceedings by giving verbal signals at certain times during the administrative board hearing. These signals not only maintain order within the hearing venue, but also assist the Reporter and the Board in developing an accurate summarized record of the hearing. This is of importance to future reviewers of the board report, who do not have the benefit of having been present at the hearing. Basic signals are discussed below.

Opening/Reconvening a Hearing:

To signal the start (opening) or resumption (reconvening) of a hearing, the Board President should make the following announcement before the hearing proceeds:

This administrative board hearing will now come to order. Please be seated. The "If f'O o o '{{{{_"and is being held at 'INQECVKOP_"."

If you have not done so already, please turn off all pagers and cell phones or set them to silent mode at this time. I would also like to remind you that, pursuant to Articles 5.B.2. and 5.B.3. of the Enlisted Personnel Administrative Boards Manual, the video recording of board proceedings is strictly prohibited, and audio recording by the Board or Respondent is not permitted during any recess or adjournment in the proceedings or during the closed deliberations of the Board.

Recessing/Adjourning a Hearing:

A board takes a "recess" when it stops its proceedings for a period of time and will reconvene the same day in the same location. A board "adjourns" when it stops its proceedings for a period of time and will reconvene in a different location or on a later date. To signal a recess or adjournment, the Board President should make the following announcement, indicating when the board will reconvene:

The time is now 'JVKO G_''' hours. This administrative board will

_____(recess) ______(adjourn) until 'JVKO G.'FCVG.'cpf'[GCT_''.' (If at a different location, add the location ''JRNCEGITQQO_.)

(If applicable – Any audio recording of the proceedings shall cease at this time.)

Persons not Present:

The Recorder shall assist the Board President in tracking the participants involved with the hearing by confirming that they are all in the proper place when a board is opened or reconvened. When all hearing participants are in their proper place upon reconvening, the Recorder should state the following for the record:

All persons who were present when the hearing ____(recessed) ____(adjourned) are present. No person required to be present is absent.

If any person required to be present is absent, his or her absence and the reason for it should be noted by the Reporter in the Summarized Hearing Record, an example of which is included as Appendix 5-2 in the Enlisted Personnel Administrative Boards Manual.

Absence/Substitution of a Board Member: Unless a majority of the board members is present, no business other than a recess or adjournment shall be conducted. In the absence of a board member, the Board may proceed with its investigation only if authorized and directed to do so by the Convening Authority. If it appears that a board member(s) will be absent for more than a short period of time and/or the absence reduces the Board to less than a majority of the total membership, the Board President shall notify the Convening Authority who may appoint a substitute board member(s). Any substitute board members appointed shall examine the record of the proceedings conducted prior to sitting as a board member, and accomplishment of that review shall be noted in the Summarized Hearing Record. After reviewing the record, each substituted board member shall participate fully in the subsequent proceedings of the Board, its deliberations, and its findings of fact, opinions, and recommendations. (See Article 5.B.6. of the Enlisted Personnel Administrative Boards Manual.)

Script:

Discussion

The text in the "Discussion" boxes in this Board Guide is provided to aid the user and should not be read aloud during a hearing.

Unless otherwise specified, citations to articles and appendices within this Board Guide are to the Enlisted Personnel Administrative Boards Manual, PSCINST M1910.1 (series).

In this script, the Board President indicates that he/she makes all rulings on any objections. If the Convening Authority has appointed a Legal Advisor as a non-voting member of the Board, those rulings shall be made by the Legal Advisor. (See Articles 3.E.2.c. and 6.B.4.)

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PHASE ONE – THE HEARING (GETTING STARTED)



STEP 1 OPENING THE BOARD (See Article 5.B.)

BOARD PRESIDENT	This administrative board hearing will now come to order. Please be seated. The record will show that the hearing was called to order at """ hours on and is being held at """ If you have not done so already, please turn off all pagers and cell phones or set them to silent mode at this time. I would also like to remind you all that, pursuant to Articles 5.B.2. and 5.B.3. of the Enlisted Personnel Administrative Boards Manual, video recording of board proceedings is strictly prohibited, and audio			
	recording by the Board of the Respondent is not permitted during any recess or			
	adjournment in the proceedings or during the closed deliberations of the Board.			
	This Board is convened by order of the (Commanding Officer)			
	(Commander) of	***************************************		
	, (if applicable, as amended on """", which			
	has been provided to each board member, the Respondent, and (if applicable)			
	Counsel for the Respondent.			
	The Respondent, , and the following			
RECORDER	persons named in the convening order are present:			
	Board President:			
	Member of the Board:			
	Member of the Board:			
	Recorder:			
	(If applicable)			

Counsel for the Respondent :

	Discussion Do not identify the Reporter unless he/she has been appointed by the Convening Authority, or the Legal Advisor unless he/she has been appointed by the Convening Authority as a non-voting member of the Board.
RECORDER	Reporter: Legal Advisor:
	Discussion Missing Persons: The Recorder should identify anyone named in the convening order that is not present and explain for the record whether that person was excused and, if known, why he/she is missing.
RECORDER	No person named in the convening order is absent. Or The following "person(s) named in the convening order "%is)"(are) cdugpv. (having "been "excused) "(not "having "been "excused) "by "the Convening Authority: [PROVIDE EXPLANATION FOR ABSENCES].

	This administrative board is convened to consider the case of
	, who is being considered for involuntary
BOARD	separation from the Coast Guard for the following reason(s):
PRESIDENT	"
	"
	due to:
	···
	···
	Discussion
	The Board President should pause to ensure that the applicable portions, generally paragraphs 1 and 2, of the Summarized Hearing Record have been completed. See Article 2.C. for more information regarding the Convening Authority's Notice to Respondent of Intent to Take Administrative Action.
BOARD	All persons expecting to be called as witnesses in this hearing shall withdraw from
PRESIDENT	the hearing room.
	Discussion
	The Board President should pause until all witnesses have withdrawn from the hearing room before proceeding with Step 2.

STEP 2 MEMBERS' OATHS and PRELIMINARY INSTRUCTIONS (See Article 5.C.)

	Discussion The Recorder should swear-in the members of the Board. Persons being sworn should stand and raise their right hand. Oaths
RECORDER	has been appointed and designated as the Board President in this proceeding and will now be sworn-in. Do you swear or affirm that you will faithfully perform the duties of Board President
	to this Board?
BOARD PRESIDENT	I do.
	" and """"""""""""""""""""""""""""""""""
RECORDER	have been appointed members of the Board in this proceeding and will now be sworn-in. Do you swear or affirm that you will faithfully perform the duties of members to this Board?
MEMBERS	I do.

Preliminary Instructions

I will now read aloud the preliminary instructions for this hearing so that every participant at this hearing will understand the purpose of the hearing, the duties of this Board, and the way I will direct these proceedings.
There are(four)(five, if the Respondent is eligible to request voluntary retirement) questions that the Board shall answer and, regarding which, must formulate opinions and recommendations.
First, the purpose of this hearing and this Board's duty is to consider the evidence presented at this hearing, and to determine whether the preponderance of that evidence proves that there is a basis, or possibly more than one basis, for involuntarily separating the Respondent before us from the Coast Guard.
The term "preponderance of the evidence" means that the evidence offered by the Recorder must "more likely than not" support the basis or bases for separation from the Coast Guard. It is less strict than the "beyond a reasonable doubt" standard applied in criminal proceedings.
Second, the purpose of this hearing and this Board's duty is to consider the evidence presented and to recommend whether "should or should not be separated. We must make this recommendation even if we, the Board, conclude that there is no basis to separate from the Coast Guard.
Third, the purpose of this hearing and this Board's duty is to consider the evidence presented and recommend how 's service should be characterized if(he)(she) is separated from the Coast Guard.

BOARD PRESIDENT

We must also make this recommendation even if we, the Board, recommend that

be retained in the Service.

BOARD PRESIDENT

Fourth, the purpose of this hearing and this Board's duty is to consider the evidence presented and to recommend, in the event that the discharge authority's determination is that shall be involuntarily separated from the Coast Guard, whether _____(he) _____(she) should be placed on probation instead of immediate separation. Probation is a consideration if the Board believes that there is a reasonable prospect for rehabilitation. In this circumstance, the Board will make recommendations regarding the duration and conditions for satisfactory completion of the period of probation. Again, we must make this recommendation even if we, the Board, recommend that be retained in the Service.

Discussion

The Board has a fifth purpose and corresponding recommendation to make if the Respondent is eligible to request voluntary retirement. Eligibility is established by having completed 18 or more years of creditable active service or, for a Reserve member, 20 or more years of satisfactory federal service. If the Respondent is not eligible, skip the following final purpose and continue with the preliminary instructions.

BOARD PRESIDENT

Finally, the purpose of this hearing and this Board's duty is to consider the evidence presented and to recommend, in the event that the discharge authority's determination is that """ shall be administratively separated from the Coast Guard, whether (he) (she) should be permitted to voluntarily retire, if ____(he) ____(she) was to so request, instead of immediate involuntary separation. Again, we must make this recommendation even if the Board. recommend that we, ""be retained in the Service.

You might wonder why this Board is required to make certain recommendations even when we either conclude that there is no basis for taking adverse action or have recommended that the Respondent be retained. The reason is that while a board's report, along with its Findings of Fact, Opinions, and Recommendations, is an important part of the Coast Guard's process for deciding whether to retain or to separate a member, the Board is not the only decision-maker in that process. The discharge authority in these matters is the Commander of the Coast Guard Personnel Service Center (CG PSC), located in Arlington, Virginia. CG PSC is responsible for enforcing policy that is in the best interests of the entire Coast Guard and for ensuring the consistent application of military personnel policy across the Service. Consequently, CG PSC is authorized to make independent findings based on the evidence contained in the record compiled at this hearing. While a board may reach its own conclusions, it must be mindful that the discharge authority may reach different conclusions. After reviewing this Board's report, the discharge authority may agree in whole, in part, or not at all with our Findings of Fact, Opinions, and Recommendations.

BOARD PRESIDENT

Thus, as with every board, we have two important responsibilities today – first, to develop a thorough record of the evidence presented at this hearing, and, second, to analyze that evidence and make a complete set of recommendations on all of the matters that will be considered by the discharge authority.

The fact that an administrative board has been convened, and has been referred to this Board, does not permit any inference that one or more bases to involuntarily separate ____(him) ____(her) exists.

This Board will base its conclusions and make its recommendations solely on the evidence and testimony presented during this hearing, an administrative board's guiding principles, and other applicable Coast Guard policy and U.S. law.

Our conclusions and recommendations must be made based on a review of all of the evidence and testimony. Therefore, we will refrain from considering or discussing this case among ourselves outside of the Board's formal deliberations, and we will keep open minds until all of the evidence has been presented, we have reviewed applicable Coast Guard policy and U.S. law, and the hearing has closed for our private deliberations.

BOARD PRESIDENT

The final determination as to the weight of the evidence and the credibility of the witnesses in this hearing rests upon the Board members. It is our responsibility to determine the believability of the witnesses brought before this Board. In performing this duty, we will consider each witness's ability to observe and accurately remember relevant facts; we also will consider each witness's sincerity and conduct before this Board and his or her friendships, prejudices, and character for truthfulness.

The Recorder and the Respondent will each have an opportunity to question all of the witnesses. When they have finished questioning a witness, the Board may ask questions if one or more of its members feels there are additional substantial questions that should be asked. The Board members shall bear in mind that their questions cannot attempt to aid either the Recorder's or the Respondent's case. Both the Recorder and the Respondent, or Respondent's counsel, are entitled to object to any question posed to a witness. I, the Board President, have final authority to rule on any objection.

STEP 3 RIGHTS ADVISEMENT (See Article 5.D.)

BOARD PRESIDENT	Authority by memo dated """ of the matters that caused the Convening Authority to initiate administrative action to involuntarily separate you from the Coast Guard. You acknowledged the Convening Authority's notice by endorsement on """. On """", you chose to appear before an administrative board, in addition to notifying the Convening Authority of your other elections concerning your rights as a respondent. Upon being appointed as Board President, I informed you of the date, time, and location of this hearing by memo dated """, in which I also encouraged you to become thoroughly familiar with your rights as explained in the Enlisted Personnel Administrative Boards Manual. One of those rights is the right to be represented by counsel.
BOARD	Among the rights previously exercised by the Respondent was the right to be represented, if at all, by either a military or civilian lawyer. At this point in the hearing, it should be apparent whether the Respondent has counsel present. If it appears that the Respondent is not represented by counsel, skip ahead in this Board Guide to the next "Discussion" box. Who is representing the Respondent at this hearing?
PRESIDENT	who is representing the respondent at this hearing.
ESPONDENT'S COUNSEL	(Sir)(Ma'am), I represent the Respondent. My name is qualified under Article 27(b) of the <u>UCMJ</u> .

	Discussion	

If the Respondent is represented by civilian counsel: The Board President should inquire into the counsel's qualifications, *e.g.*, where the counsel is a member of the bar, whether the counsel is licensed to practice law in that state, and what is the highest court of that state to which the counsel has been admitted to practice.

If the Respondent is represented by counsel, whether military or civilian, skip ahead in this Board Guide to the next "Discussion" box.

BOARD PRESIDENT It appears that you are not represented by counsel. Do you plan to be represented by counsel at this hearing?

RESPONDENT

____(Yes) ____(No), ____(Sir) ____(Ma'am).

You previously were informed about, and acknowledged and made an election concerning, the following rights to representation:

- You have the right to be represented by a lawyer.
- If you choose to be represented by a military lawyer, the Coast Guard will appoint one for you who is qualified under Article 27(b) of the UCMJ at no expense to you.
- BOARD PRESIDENT
- You also may retain a civilian lawyer at your own expense.
- If you elect to be represented by a civilian lawyer, then you are not entitled to also be represented by a military lawyer.
- If you choose to be represented by a lawyer, he or she will be presumed to act and speak for you, and you will be bound by the actions of that person.

BOARD
PRESIDENT

Did you understand those rights and do you still want to waive your right to a lawyer at this hearing?

R	ES	P(M	DF	NT

(Yes)	_(No),	_(Sir)	(l	Ma'a	m). I u	inders	tand my	rights	to
representation,	including	my	right	to	civilian	or	military	couns	el,
and I(do) _	(do not)	waive	my rig	ht to	counsel at	this l	nearing.		

Discussion

<u>Board President Responsibilities</u>: If the Respondent waived his/her right to military counsel, or hired civilian counsel not qualified under Article 27(b) of the <u>UCMJ</u>, the Board President should engage in a discussion with the Respondent and his/her counsel to ensure that he/she understands his/her right to have military counsel and that he/she has knowingly waived that right. This discussion should be noted in the Summarized Hearing Record.

If the Respondent is not represented by counsel, but indicates that he/she does not waive the right to counsel, the Board President shall consult with the Legal Advisor, and the Convening Authority if necessary, recessing the hearing as appropriate, before proceeding further.

In my notice scheduling this hearing, I encouraged you to become familiar with your rights as detailed in the Enlisted Personnel Administrative Boards Manual. Those rights include:

• During this hearing, you may question and challenge for cause the members of this Board.

BOARD PRESIDENT

- During this hearing, you may examine and object to evidence before it is considered by this Board.
- During this hearing, you may object to the testimony of witnesses, and you may cross-examine witnesses.
- During this hearing, you may introduce material and non-cumulative evidence, including witnesses whom you produce at your own expense.
- You have the right to be present at this hearing, but:
 - Your right to be present during board proceedings does not apply if you knowingly absent yourself from these proceedings at any time, or if you are unable to be present because you are confined by civilian or military authorities.
 - If you knowingly absent yourself from this hearing, this board may proceed without you, but with your counsel acting on your behalf.

- If you are confined by civilian or military authorities, you have no right to attend this hearing or appear personally before the Board, but you may exercise all of your other rights through your lawyer.
- Also, if your conduct during this hearing becomes disruptive to the proceedings, you will forfeit your right to continue to be present, and this Board may proceed without you, but with your counsel acting on your behalf.
- You have the right to testify or refuse to testify under oath as a witness.

BOARD PRESIDENT

- If you choose to testify under oath, you will be subject to questioning by the Recorder and the Board on all matters within the board's scope of inquiry.
- You have the right to make an unsworn statement, either in writing or
 by speaking directly to the Board, to not be subject to questioning by
 the Recorder or the Board about your unsworn statement, and to have
 your unsworn statement included in the record of the proceedings.
- You have the right to make an opening statement and an argument at the conclusion of the presentation of evidence.
- You have the right to be advised of your rights under the Privacy Act of 1974.

•You have the right to be advised of your right against self-incrimination, the right to make no statement regarding a charged or suspected offense, and the right to warnings regarding these matters prior to interrogation as provided by Article 31, <u>UCMJ</u>.

Your previous acknowledgements of your rights and exercise of your rights will formally be introduced into the record of this hearing and will be used in the completion of the Board's report.

, there are some additional procedural rules in connection with this hearing that I will explain to you now.

BOARD PRESIDENT

First, these proceedings are administrative in nature, and the Board is not bound by formal rules of evidence. The Board may consider information that might not be admissible at a court-martial. Also, you should be aware that the Board's decisions will be based upon a preponderance of the evidence.

Second, if you or your counsel has any objection to any matters introduced at this hearing, or to any part of this hearing including procedural matters, you or your counsel may state your objection and the reasons for it. I shall make final rulings on all matters of procedure and evidence. If you are dissatisfied with the Board's action on your objection and if you wish to maintain an objection after I have ruled on it, then at the conclusion of this hearing you may put your objection in writing and submit it as an exhibit for the record.

Finally, I remind you that in order to protect your rights, you or your counsel must object promptly so that we can correct errors without unduly disrupting the proceedings.

BOARD PRESIDENT	, do you have any questions concerning your rights or the procedures before this Board?
RESPONDENT	(Yes)(No),(Sir)(Ma'am). [Questions, if any.]
BOARD PRESIDENT	" , do you understand your rights and the procedures before this Board?
RESPONDENT	(Yes)(No),(Sir)(Ma'am).
	Discussion
	If the Respondent indicates that he/she understands the rights, then proceed. If not, address the Respondent's questions and make sure that this discussion is noted in the Summarized Hearing Record.
	The Board President should pause to ensure that the applicable portions, generally paragraphs 3 and 4, of the Summarized Hearing Record have been completed.

STEP 4 RECORDER / REPORTER OATHS (See Article 5.E.)

	Discussion
	The Board President swears-in the Recorder, Reporter, and, if assigned, Interpreter. Persons being sworn should stand and raise their right hand.

BOARD	has been named as the Recorder for this
PRESIDENT	proceeding and will now be sworn-in. Do you swear or affirm that you will
	faithfully perform the duties of Recorder to this Board?
RECORDER	I do.
BOARD	has been named Reporter for this
PRESIDENT	proceeding and will now be sworn-in. Do you swear or affirm that you will
	faithfully perform the duties of Reporter to this Board?
REPORTER	I do.
	(If applicable)
BOARD	has been named Interpreter to this proceeding and will now be sworn-in. Do you
PRESIDENT	
	affirm that you will faithfully perform the duties of Interpreter to this Board?
NTERPRETER	I do.
RECORDER	Let the record reflect that this Board is properly convened and constituted.
	Fropens, som men construction.
DECORDER	I have been detailed to the Doord on the new veting December to the Doord
RECORDER	I have been detailed to the Board as the non-voting Recorder to the Board. I
	(am)(am not) a law specialist qualified under Article 27(b), <u>UCMJ</u> .

STEP 5 VOIR DIRE and CHALLENGES TO BOARD MEMBERS [Optional] (See Article 5.F.)

Discussion

Step 5 is optional in that the Recorder and the Respondent, or his/her Counsel, may choose to not question or challenge any members of the Board (i.e., waive voir dire). The questions below will determine whether voir dire is varied; if it is varied, the Record President should

whether voir dire is waived; if it is waived, the Board President should pause to ensure that the applicable portions, generally paragraphs 5 through 7, of the Summarized Hearing Record have been completed and then skip ahead in this Board Guide to Step 6.

Does the Respondent or the Recorder wish to question any member of this Board **BOARD PRESIDENT** in relation to any matter which may constitute a ground for challenge for cause? RESPONDENT The Respondent (has) (has no) questions. (If applicable, the Respondent or COUNSEL or his/her Counsel asks questions.) The Recorder (has) (has no) questions. (If applicable, the Recorder RECORDER asks questions.) Does the Respondent or the Recorder have a challenge for cause against any voting **BOARD PRESIDENT** member of this Board? The Respondent ____(does) _ (does not). (See the following "Discussion" RESPONDENT or COUNSEL box.) RECORDER The Recorder ____(does) ____(does not). (See the following "Discussion" box.)

Discussion

Grounds for challenge must show that a challenged member cannot render a fair and impartial decision. Either party may present evidence to show why a board member should not sit on the Board, and may examine a member about his/her fitness for the position of Board President or Board Member. Such examination may be under oath at the Respondent's discretion. If requested, the Recorder shall administer the following oath:

"Do you swear or affirm that the evidence you shall give in the matter now under investigation shall be the truth, the whole truth, and nothing but the truth?"

Challenges should be in writing. The Board does not decide the issue; instead, it reports the facts to the Convening Authority who must determine if the member should continue to sit on the Board. The Convening Authority, upon being informed of the circumstances of the challenge and the recommendation of the other members, may appoint a substitute for the challenged member. The new member becomes subject to voir dire in the same manner as the earlier members.

Written challenges and the Convening Authority's responses shall be included as exhibits in the Summarized Hearing Record. At this point, the Board President should pause to ensure that the applicable portions, generally paragraphs 5 through 7, of the Summarized Hearing Record have been completed.

PHASE TWO – THE HEARING (PRESENTING THE CASE)

STEP 6 - INTRODUCING DOCUMENTS AND PHYSICAL EVIDENCE INTO THE RECORD (Article 6.B.)

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STEP 7 - OPENING STATEMENTS [Optional] (Article 6.C.)

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STEP 8 - PRESENTING WITNESSES [Optional] (Article 6.D.)



STEP 9 – RESPONDENT'S UNSWORN STATEMENT [Optional] (Article 6.E.)

STEP 10 – CLOSING ARGUMENTS [Optional] (Article 6.F.)

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STEP 11 – COMPLETING THE SUMMARIZED HEARING RECORD (Article 6.G.)

STEP 6 INTRODUCING DOCUMENTS AND PHYSICAL EVIDENCE INTO THE RECORD (See Article 6.B.)

	(200 111 11010 0.20)
	Discussion
	The Board President, Recorder, and Respondent (or Counsel) should read aloud a description of each item of evidence being submitted into the record for consideration by the Board.
	The Reporter and Recorder should assist all parties in the assignment of exhibit numbers to the evidence presented. The Reporter should complete paragraph 8 (Exhibits) of the Summarized Hearing Record as each item of evidence is entered into the record, including the Board President's rulings on objections to the consideration of any evidence.
	Pre-hearing matters are those matters decided by the Convening Authority or members of the Board prior to the hearing. At a minimum, these include the documents listed in Article 6.B.2.b. The Board President enters these documents into the record, as well as any documentation of explanations provided, objections made, and rulings rendered since the hearing was opened and called to order.
BOARD PRESIDENT	The following pre-hearing matters (if applicable – and documents created since this hearing was called to order) shall be made a part of the record at this time:
BOARD PRESIDENT	[NAME, TITLE, and/or DESCRIPTION OF DOCUMENT], consisting of [#'thirci gul pages, is entered into the record as Exhibit # [Gzj klk'#]. Does the Respondent or the Recorder have any objection to this exhibit or it being considered by the Board?
RESPONDENT or COUNSEL	(No.)(Yes, I object to Exhibit # [Ezj klk/#] because [REASON].)
RECORDER	(No.) (Yes, I object to Exhibit # [Ezj klk/#] because [REASON].)

BOARD PRESIDENT

(After asking questions, if necessary, in order to fully understand the objection(s), and considering the objection(s)):

I "have "'considered "'your "'objection(s), "'and "''your "'objection(s) "''(is) "(are) (sustained) "(overruled). "'The "'exhibit "'(will) "(will not) 'be "eqpulf gtgf "'d{ "'yjg" Board. "Your "objection(s) 'and "my ruling will be noted for the tgeqtf 0Fq"yjg" other board members wish to discuss the ruling further?

Discussion

If any board member indicates an interest in discussing the ruling, the Board shall recess for deliberations on the issue. Board deliberations shall be conducted away from the presence of the other hearing participants. At the conclusion of the deliberations, the Board will reconvene, and the Board President shall state for the record any change in his/her ruling.

Repeat the above sequence as needed for each additional item of prehearing matter entered into the record.

BOARD PRESIDENT

There are no additional pre-hearing matters to be entered into the record.

Does the Recorder have any relevant evidence to submit for consideration by this Board?

RECORDER

____(No.) ____(Yes, I would like to enter]PCO G.'VWNG.'cpf lqt'FGUETHRVKQP
OF DOCUMENT, PHOTOGRAPH, qt'RTIP VGF'KO CI G'QH'RJ [UKECN
EVIDENCE], consisting of]%qh'r ci gu_'pages, into the record as Exhibit #]Gzj kdk'%
for the Board's consideration. A copy of this evidence has been previously provided or
made available to the Respondent. I again show the exhibit to the Respondent for
___(his) ____(her) inspection.

BOARD PRESIDENT

, do you have any objection to this exhibit or it being considered by the Board?

RES	SPONDENT
or	COUNSEL

(No.) (Yes, I object to Exhibit # [Ezj klk/#] because [REASON].)

BOARD **PRESIDENT**

(After asking questions, if necessary, in order to fully understand the objection, and considering the objection):

I have considered your objection, and your objection is (sustained) (overruled). The exhibit (will) (will not) be considered by the Board. Your objection and my ruling will be noted for the record. Do the other board members wish to discuss the ruling further?

Discussion

If any board member indicates an interest in discussing the ruling, the Board shall recess for deliberations on the issue. Board deliberations shall be conducted away from the presence of the other hearing participants. At the conclusion of the deliberations, the Board will reconvene, and the Board President shall state for the record any change in his/her ruling.

Repeat the above sequence as needed for each additional item of evidence presented by the Recorder.

RECORDER

I have no further evidence to present.

The following witness(es) will be called to testify before this Board. The witness(es) was (were) previously disclosed to the Respondent along with a brief summary of the expected testimony.

Discussion

The Recorder may verbally list the witness(es). If the witness(es) and their order of appearance are on a written list, that document may be made an exhibit in the same manner as done above for the presentation of evidence in lieu of verbally listing the witness(es).

Whether done verbally by the Recorder or through the submission of a written list, the Reporter should also document all proposed witnesses in paragraph 9 (Witnesses) of the Summarized Hearing Record.

BOARD PRESIDENT

Does the Respondent have any objections to the witness(es) who will testify before this Board (*if applicable*, or their order of presentation)?

RESPONDENT or COUNSEL

____(No.) ____(Yes, I object to [WITNESS NAME(S) and, if military, RATE/RANK] testifying before the Board because [REASON].)

BOARD PRESIDENT

(After asking questions, if necessary, in order to fully understand the objection(s), and considering the objection(s)):

I have considered your objection(s), and your objection(s) is (are) (sustained) (overruled). The following witness(es), [WITNESS NAME(S) and, if military, RATE/RANK], (will) (will not) be allowed to testify before the Board. (If any witnesses will not be allowed to testify – However, a summary of expected testimony for a witness who will not be heard by the Board, or a written statement from that witness, may be submitted and shall be made a part of the record. The summary or written statement shall be submitted before the close of the hearing.) Your objection(s) and my ruling will be noted for the record. Do the other board members wish to discuss the ruling further?

Discussion

If any board member indicates an interest in discussing the ruling, the Board shall recess for deliberations on the issue. Board deliberations shall be conducted away from the presence of the other hearing participants. At the conclusion of the deliberations, the Board will reconvene, and the Board President shall state for the record any change in his/her ruling.

RECORDER

I have no further witnesses to present.

BOARD PRESIDENT

" , do you have any relevant evidence to submit for consideration by this Board?

	(No.)(Yes, I would like to enter
	[NAME, TITLE, and/or DESCRIPTION OF DOCUMENT, PHOTOGRAPH,
RESPONDENT or COUNSEL	or PRINTED IMAGE OF PHYSICAL EVIDENCE], consisting of [#PGS]
	pages, into the record as Exhibit # [EXBt#] for the Board's consideration. A copy
	of this evidence has been previously provided or made available to the Recorder. I
	again show the exhibit to the Recorder for(his)(her) inspection.
BOARD	, do you have any objection to this exhibit
PRESIDENT	or it being considered by the Board?
	of it being considered by the Bourd.
RECORDER	(No.)(Yes, I object to Exhibit # [Ezj klk/#] because [REASON].)
RECORDER	(100, 100, 100, 100, 100, 100, 100, 100,
	(After asking questions, if necessary, in order to fully understand the objection,
	and considering the objection):
BOARD PRESIDENT	I have considered your objection, and your objection is
PRESIDENT	(sustained) (overruled). "The "exhibit "(will) (will not) "be eqpulf gtgf "d{"yjg"
	Board. "Your" objection "and "my "ruling "will be noted for the "tgeqtf 0Fq" y g"
	other board members wish to discuss the ruling further?
	Discussion
	If any board member indicates an interest in discussing the ruling, the Board shall recess for deliberations on the issue. Board deliberations shall be conducted away from the presence of the other hearing participants. At the conclusion of the deliberations, the Board will reconvene, and the Board President shall state for the record any change in his/her ruling.

Repeat the above sequence as needed for each additional item of evidence presented by the Respondent.

RESPONDENT or COUNSEL

I have no further evidence to present.

RESPONDENT or COUNSEL

The following witness(es) will be called to testify before this Board. The witness(es) (was) (were) previously disclosed to the Recorder along'y ky "c"dtkgh summary of the expected testimony.

Discussion

The Respondent may verbally list the witness(es). If the witness(es) and their order of appearance are on a written list, that document may be made an exhibit in the same manner as done above for the presentation of evidence in lieu of verbally listing the witness(es).

Whether done verbally by the Respondent or through the submission of a written list, the Reporter should also document all proposed witnesses in paragraph 9 (Witnesses) of the Summarized Hearing Record.

BOARD PRESIDENT Does the Recorder have any objections to the witness(es) who will testify before this Board (*if applicable*, or their order of presentation)?

RECORDER

____(No.) ____(Yes, I object to [WITNESS NAME(S) and, if military, RATE/RANK] testifying before the Board because [REASON].)

BOARD PRESIDENT (After asking questions, if necessary, in order to fully understand the objection(s), and considering the objection(s)):

Discussion

If any board member indicates an interest in discussing the ruling, the Board shall recess for deliberations on the issue. Board deliberations shall be conducted away from the presence of the other hearing participants. At the conclusion of the deliberations, the Board will reconvene, and the Board President shall state for the record any change in his/her ruling.

or COUNSEL

RESPONDENT I have no further witnesses to present.

BOARD PRESIDENT Does the Recorder have any comments or additions to any of the foregoing matters?

RECORDER

(No.) (Yes – [COMMENTS/ADDITIONS].)

BOARD PRESIDENT Does the Respondent have any comments or additions to any of the foregoing matters?

RESPONDENT or COUNSEL

(No.) (Yes – [COMMENTS/ADDITIONS].)

Discussion

Recess/Adjournment: At this point, after all evidence has been submitted, and before opening statements have begun, it is an opportune time for the Board to take a recess, or to adjourn as appropriate, in order to review the exhibits. If the Board does so, the Board members should not discuss the evidence or deliberate with each other during the recess/adjournment.

At a minimum, the Board President should pause to ensure that the applicable portions, generally paragraph 8 and the applicable portions of paragraph 9, of the Summarized Hearing Record have been completed.

STEP 7 OPENING STATEMENTS [Optional] (See Article 6.C.)

	Discussion
	Step 7 is optional in that the Recorder and Respondent are not required to make opening statements.
	The Respondent, or his/her Counsel, may make an opening statement immediately following the Recorder's opening statement or defer exercising this right until after the Recorder has finished presenting witnesses and prior to presenting his/her own witnesses.
	If written copies of opening statements are submitted, they shall be made a part of the record.
BOARD PRESIDENT	Is the Recorder ready to present(his)(her) case in this matter?
RECORDER	The Recorder is ready to proceed.
BOARD PRESIDENT	, you have already indicated an understanding of your rights at these proceedings. Are you (<i>if applicable</i> - and your counsel) ready to proceed?
RESPONDENT or COUNSEL	Yes,(Sir)(Ma'am).
BOARD PRESIDENT	The Board will now permit opening statements. Does the Recorder wish to make an opening statement?
RECORDER	(Yes.)(No.)
BOARD PRESIDENT	(If the Recorder does wish to make an opening statement): , please proceed with your opening
	statement.

RECORDER	[OPENING STATEMENT].
BOARD PRESIDENT	Does the Respondent wish to make an opening statement at this time or reserve it until later?
RESPONDENT or COUNSEL	 (The Respondent will make an opening statement at this time.) (The Respondent reserves the right to make an opening statement until after the Recorder has presented witnesses.) (The Respondent will not make an opening statement.)
BOARD PRESIDENT	(If the Respondent does wish to make an opening statement at this time): , please proceed with your opening statement.
RESPONDENT or COUNSEL	[OPENING STATEMENT].

STEP 8 PRESENTING WITNESSES [Optional] (See Article 6.D.)

Discussion

Step 8 is optional in that the Recorder and Respondent are not required to present witnesses.

Remote Witness Testimony: Before permitting the questioning of a witness giving testimony by telephone or video conference, the Board President should inquire to ensure that the witness is in a place appropriate to give testimony, free from distraction and without the influence of others.

Witness Testimony Summary Memorandum: In accordance with Article 6.D.2., prior to dismissing a witness the Board President shall ensure that the witness's testimony has been summarized and certified as accurate. This shall be done on a Witness Testimony Summary Memorandum (See Appendix 6-2), or similar document that includes the same information, that shall be made a part of the record.

<u>Article 31(b), UCMJ</u>: If, before or during the examination of a witness subject to the <u>UCMJ</u>, the witness is suspected of committing an offense under the <u>UCMJ</u>, the Board President shall give the rights warning to that witness after first consulting with the Legal Advisor.

The rights warning is:

BOARD PRESIDENT: [WITNESS'S NAME and RANK/RATE], (the evidence) (your statement) (testimony) creates a suspicion that you may have committed the following offense(s): ______. I will now advise you of your rights before you are asked any (more) questions.

You have the right to remain silent. You do not have to answer any questions at all.

Before you decide whether or not to answer questions, you may consult with a lawyer.

If you decide to consult with a lawyer, I will stop this questioning until you have been able to do so. You may consult with a military lawyer without cost to you, or you may consult with a civilian lawyer at your own expense.

If you decide to answer questions, anything you say may be used as evidence against you in any court-martial, non-judicial proceeding, administrative proceeding, or civilian court.

If the questioning continues, you may stop it at any time by refusing to answer further questions or by requesting to consult with a lawyer.

You have the right to have a retained civilian lawyer (at your own expense), an appointed military lawyer, or both present during any further questioning. Do you understand these rights as I have read them to you?

WITNESS: (Yes.) (No. - [rights are explained as necessary])

BOARD PRESIDENT: Do you wish to speak with counsel?

WITNESS: (Yes. – [arrangements are made by and/or for the witness to speak with counsel]) (No.)

BOARD PRESIDENT: Do you want to continue questioning?

WITNESS: (Yes.) (No.)

BOARD PRESIDENT The Recorder may call the first witness.

RECORDER

The first witness is [WITNESS'S NAME and, if military, RANK/RATE].

RECORDER

[WITNESS'S NAME and, if military, RANK/RATE], do you swear or affirm that the testimony you shall give in the matter now under investigation shall be the truth, the whole truth, and nothing but the truth?

WITNESS

I do.

RECORDER

Please be seated. Would you please state for the record your name and

_*iki'o kıkıct{'ő'tcpmitcvg.'f wv{'Uncvkqp.'cpf'dtcpej'qhi'vjg'ctogf'hqtegu+

__*kh'ekxkrkcp'/'cfftguu+?

Discussion

<u>Civilian Witnesses</u>: The address of the witness should be omitted in appropriate cases, as when it might endanger the witness.

RECORDER

[Continues with Questions].

RECORDER	I have no further questions at this time.
BOARD PRESIDENT	Does the Respondent have any questions for this witness?
RESPONDENT or COUNSEL	(No.)(Yes [Continues with Questions])
BOARD PRESIDENT	[Continues with Questions]
BOARD PRESIDENT	Does any other member of the Board have any questions?
BOARD MEMBER(S)	(No.)(Yes [Continues with Questions])
BOARD	Does the witness have any comments or additions to make relating to this
PRESIDENT	investigation or your own testimony?
WITNESS	(No.)(Yes [Comments or Additions])
	Discussion
	Discussion The Board President should pause to ensure that the witness's testimony has been summarized and certified as accurate for entry into the record.
	The Board President should pause to ensure that the witness's testimony has been summarized and certified as accurate for entry into the record.
	The Board President should pause to ensure that the witness's testimony has been summarized and certified as accurate for entry into the record. [WITNESS'S NAME and, if military, RANK/RATE], thank you. You are
BOARD PRESIDENT	The Board President should pause to ensure that the witness's testimony has been summarized and certified as accurate for entry into the record. [WITNESS'S NAME and, if military, RANK/RATE], thank you. You are (temporarily) excused. As long as this hearing continues, do not discuss your
BOARD PRESIDENT	The Board President should pause to ensure that the witness's testimony has been summarized and certified as accurate for entry into the record. [WITNESS'S NAME and, if military, RANK/RATE], thank you. You are (temporarily) excused. As long as this hearing continues, do not discuss your testimony or your knowledge of this proceeding with anyone except the Recorder
	The Board President should pause to ensure that the witness's testimony has been summarized and certified as accurate for entry into the record. [WITNESS'S NAME and, if military, RANK/RATE], thank you. You are (temporarily) excused. As long as this hearing continues, do not discuss your
	The Board President should pause to ensure that the witness's testimony has been summarized and certified as accurate for entry into the record. [WITNESS'S NAME and, if military, RANK/RATE], thank you. You are (temporarily) excused. As long as this hearing continues, do not discuss your testimony or your knowledge of this proceeding with anyone except the Recorder or the Respondent (<i>if applicable</i> - or the Counsel for the Respondent). If anyone
	The Board President should pause to ensure that the witness's testimony has been summarized and certified as accurate for entry into the record. [WITNESS'S NAME and, if military, RANK/RATE], thank you. You are (temporarily) excused. As long as this hearing continues, do not discuss your testimony or your knowledge of this proceeding with anyone except the Recorder or the Respondent (<i>if applicable</i> - or the Counsel for the Respondent). If anyone else tries to talk to you about the case, stop their questioning and report the matter
	The Board President should pause to ensure that the witness's testimony has been summarized and certified as accurate for entry into the record. [WITNESS'S NAME and, if military, RANK/RATE], thank you. You are (temporarily) excused. As long as this hearing continues, do not discuss your testimony or your knowledge of this proceeding with anyone except the Recorder or the Respondent (<i>if applicable</i> - or the Counsel for the Respondent). If anyone else tries to talk to you about the case, stop their questioning and report the matter to one of the persons I just mentioned or to me. Do you understand these

BOARD PRESIDENT	The Recorder may call the next witness.
	Discussion
	Repeat the above procedures for each witness.
RECORDER	I have no further witnesses to present at this time.
	·
	Discussion
	The Respondent or his/her Counsel may make an opening statement at this point if one was not made previously.
BOARD PRESIDENT	The Respondent may call the first witness.
	Discussion

The Respondent is not required to testify under oath and submit to questions from the Recorder and the Board. However, if the Respondent elects to testify and/or is called as a witness by his/her Counsel, the Board President shall first remind the Respondent of his/her rights.

Skip ahead to the next "Discussion" box for all other witnesses called by the Respondent.

, you have already indicated your understanding of your rights in this proceeding, but I would like to reiterate your right to testify or refuse to testify under oath.

matter considered relevant to these proceedings, regardless of whether or not you testify to these matters when questioned by your Counsel. You cannot, however, be compelled to answer questions concerning an offense of which you are a suspect or with which you are charged, and you may refuse to answer any question by invoking your Article 31 rights of the UCMJ.

If you elect to testify, you may be examined by the Recorder and this Board on any

BOARD PRESIDENT

Your decision not to testify under oath and submit to questioning will not be considered in any manner against you. Whether you testify under oath or not, you will later be given the opportunity to make an unsworn statement, and to submit a written copy of an unsworn statement. Your decision not to testify or make an unsworn statement will also not be considered against you by the Board.

Do you understand these rights?

RESPONDENT	(Yes.) _	(No. – [rights	s are explained	as necessary])
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BOARD PRESIDENT

, do you wish to testify under oath?

RESPONDENT ___(Yes.) ___(No.)

Discussion

The presentation of, and questioning of, a witness for the Respondent – including the Respondent if he/she elects to testify after the rights advisement above – is done as follows.

RESPONDENT or COUNSEL

The first witness is [WITNESS'S NAME and, if military, RANK/RATE].

RECORDER	[WITNESS'S NAME and, if military, RANK/RATE], do you swear or affirm that the testimony you shall give in the matter now under investigation shall be the truth, the whole truth, and nothing but the truth?
WITNESS	I do.
RECORDER	Please be seated. Would you please state for the record your name and *\h'o \k\k'\o'\tcpm\tcvg.'\f w\{'\i\k\k\qp.'\cpf'\d\tcpej'\q\h'\y\ g'\cto gf'\qtegu+ *\h'\e\k\k\cp''\cf f t gun+?
	Discussion Civilian Witnesses: The address of the witness should be omitted in appropriate cases, as when it might endanger the witness.
RESPONDENT or COUNSEL	[Continues with Questions].
RESPONDENT or COUNSEL	I have no further questions at this time.
BOARD PRESIDENT	Does the Recorder have any questions for this witness?
RECORDER	(No.)(Yes [Continues with Questions])
BOARD PRESIDENT	[Continues with Questions]
BOARD PRESIDENT	Does any other member of the Board have any questions?
BOARD MEMBER(S)	(No.)(Yes [Continues with Questions])
BOARD PRESIDENT	Does the witness have any comments or additions to make relating to this investigation or your own testimony?

WITNESS	(No.)(Yes [Comments or Additions])
	Discussion
	The Board President should pause to ensure that the witness's testimony has been summarized and certified as accurate for entry into the record.
	[WITNESS'S NAME and, if military, RANK/RATE], thank you. You are
BOARD	(temporarily) excused. As long as this hearing continues, do not discuss your
PRESIDENT	testimony or your knowledge of this proceeding with anyone except the Recorder
	or the Respondent (or the Counsel for the Respondent). If anyone else tries to talk to you about the case, stop their questioning and report the matter to one of the
	persons I just mentioned or to me. Do you understand these instructions?
WITNESS	(Yes.)(No. – [instructions are explained as necessary])
BOARD PRESIDENT	You may be excused.
BOARD PRESIDENT	The Respondent may call the next witness.
	Discussion
	Repeat the above procedures for each witness.
RESPONDENT	I have no further witnesses to present at this time.

or COUNSEL

Discussion

The Board President may direct the Recorder to recall any witness who has previously testified for further questioning, or to secure additional witnesses (See Article 6.D.11.). If a witness who has previously testified under oath is recalled, the Board President shall remind the witness that he or she is still under oath. The procedures above should be repeated for any witness called or recalled by the Board.

When there are no further witnesses to be examined, the Recorder may introduce evidence to rebut the matters brought out in the Respondent's case. The Respondent may then introduce evidence in sur-rebuttal to the Recorder's rebuttal evidence.

BOARD Does the Recorder have any evidence to present in rebuttal? **PRESIDENT** ____(No.) ____(Yes. - [**Rebuttal**]) RECORDER **BOARD** (If the Recorder presented evidence in rebuttal:) Does the Respondent have any evidence to present in sur-rebuttal? **PRESIDENT** (No.) (Yes. - [Sur-rebuttal]) RESPONDENT or COUNSEL Does the Respondent or Recorder have anything further to present to this Board? BOARD **PRESIDENT** (No.) (Yes. – [presents further evidence]) RECORDER ____(No.) ____(Yes. – [presents further evidence]) RESPONDENT or COUNSEL

STEP 9 RESPONDENT'S UNSWORN STATEMENT [Optional] (See Article 6.E.)

Discussion

Step 9 is optional in that the Respondent is not required to make an unsworn statement, just as he/she was not required to testify in Step 8. The Respondent may, however, make an unsworn statement even if he/she did previously testify under oath.

If the Respondent submits a written copy of the unsworn statement, it shall be made a part of the record.

					, you	nave	already	indica	tea	your
understanding	of	your	rights	in	this	proce	eeding,	and	ele	cted
(to testify)		not to	testify) u	nder o	oath. I w	vould r	now like 1	to remir	nd yo	ou of
your rights to 1	nake	an uns	worn stat	temen	nt and to	o subn	nit a wri	tten co	ру о	f an
unsworn stateme	ent.									

BOARD PRESIDENT

You may make an unsworn statement, oral or written, to the Board (*if represented by Counsel* - either personally or through your Counsel). You may or may not submit to questioning on your unsworn statement. Unless you state that you submit to questioning on your unsworn statement, no questions will be asked. If you do submit to questioning, the questions shall be directly related to your unsworn statement. Whether you consent to be questioned or not, evidence may be introduced to rebut anything contained in your statement.

Also, you may choose not to give an unsworn statement. If you so choose, the Board will not consider it against you in any way.

Do you understand these rights?

RESPONDENT	(Yes.)(No. – [rights are explained as necessary])
BOARD PRESIDENT	, do you wish to make an unsworn statement?
RESPONDENT	(Yes.)(No.) (If "no", skip ahead to the "Discussion" box at the end of Step 9.)
BOARD PRESIDENT	, you may begin.
RESPONDENT or COUNSEL	[Makes unsworn statement and/or submits written copy of unsworn statement.]
BOARD PRESIDENT	, do you waive your right to not be cross-examined on your unsworn statement? In other words, do you consent to having the Recorder and the Board ask you questions directly related to your unsworn statement?
RESPONDENT	(Yes.)(No.) (If "no", skip ahead to the next "Discussion" box.)
RECORDER	[Asks questions.]
BOARD PRESIDENT	[Asks questions.]
BOARD MEMBERS	[Ask questions.]
	Discussion
	The Recorder is permitted to introduce evidence to rebut anything in the Respondent's unsworn statement.
BOARD PRESIDENT	Does the Recorder wish to introduce any evidence to rebut the Respondent's unsworn statement?

RECORDER	(No.)(Yes. – [presents evidence])

Discussion

Stop and Assess: Before moving to Step 10, the Board, the Recorder, and the Respondent and/or Respondent's Counsel should stop and assess how the hearing has progressed. These participants should determine whether all appropriate evidence (documents, physical evidence [if any], and witnesses) needed for a full and fair hearing have been presented, and all relevant statements and arguments have been made.

The Board President should also pause to ensure that the applicable portions, generally paragraphs 9 and 10 and any additions to the listing of exhibits in paragraph 8, of the Summarized Hearing Record have been completed.

If the Board President determines that it may be necessary, he/she should consider a brief recess to allow the Recorder and Respondent to prepare for closing arguments.

Only then should the Board proceed to Step 10.

STEP 10 CLOSING ARGUMENTS [Optional] (See Article 6.F.)

 	 	 _

Discussion

Step 10 is optional in that the Recorder and Respondent are not required to make closing arguments.

If written copies of closing arguments are submitted, they shall be made a part of the record.

BOARD PRESIDENT There being no other evidence to present, you may make your closing arguments. In addition, if you submit a written copy of your closing argument, it shall be made a part of the record. If either the Respondent or the Recorder has proposed findings for this Board to consider, you may submit them at this time.

BOARD PRESIDENT	, if you are prepared to do so, do you wish to make a closing argument?
	William to manie a croping angument.
RESPONDENT or COUNSEL	Thank you(No.)(Yes. – [CLOSING ARGUMENT])
BOARD	if you are propored to do so do you wish
PRESIDENT	, if you are prepared to do so, do you wish to make a closing argument?
RECORDER	Thank you(No.)(Yes. – [CLOSING ARGUMENT])

BOARD PRESIDENT Are there any further matters for this Board? (*If the Recorder and/or Respondent indicate "yes"*, Please advise me what matters still need to be resolved.)

Discussion

Unresolved matters, particularly those pertaining to evidence or witness testimony, should be resolved at this time.

STEP 11 COMPLETING THE SUMMARIZED HEARING RECORD (See Article 6.G.)

Discussion

The Board President shall recess the hearing at this point to ensure that the Summarized Hearing Record is complete. This is accomplished with the assistance of the other Board members, the Recorder, and the Reporter, and in consultation with the Respondent and/or Counsel.

This process shall involve verifying that all exhibits – including the evidence presented, certified summaries of witness testimony, and any other matter that the Enlisted Personnel Administrative Boards Manual or this Board Guide indicates shall be made a part of the record – are properly marked and have been listed in the Summarized Hearing Record as exhibits. The Board should be confident that the record is sufficiently accurate to be useful and informative to any reviewer.

If the Board President paused throughout the hearing to ensure that applicable portions of the Summarized Hearing Record had been completed, as discussed in previous "Discussion" boxes, this should not be a very time-consuming step.

When this has been accomplished, with the exception of noting the date and time that the hearing is closed at the end of this Step 11, the Summarized Hearing Record is ready for signature by the Board. The Board President should then reconvene the hearing.

, the Board has ensured that the Summarized Hearing Record is complete, and we will sign the record to certify it as complete immediately after I close this hearing. I will soon close the hearing, and the proceedings of the Board will continue in private deliberations. Only the three voting members of the Board will be present and will participate in the deliberations. However, at my discretion, the Reporter, , may be present to assist in the

preparation of our report.

BOARD PRESIDENT

As we deliberate, the Board will consider the evidence, including relevant arguments, presented at this hearing in light of the preliminary instructions that were read aloud at the beginning of the hearing. Those instructions described the Board's essential duties which, to summarize, are to do the following:

First, to consider the evidence presented and determine whether the preponderance of that evidence proves that there is a basis or bases for involuntarily separating from the Coast Guard.

Second, to consider the evidence presented and recommend whether should -- or should not -- be separated.

The Board must make this recommendation for consideration by the discharge authority even if we conclude that there is no basis to separate from the Coast Guard.

Third, to consider the evidence presented and recommend how 's service should be characterized <u>if</u>
____(he) ____(she) is separated from the Coast Guard. The Board must make this recommendation for consideration by the discharge authority even if we recommend that be retained in the Service.

BOARD PRESIDENT

Fourth, to consider the evidence presented and recommend, in the event that the discharge authority's determination is that

shall be involuntarily separated from the Coast Guard, whether (she) should be placed on probation instead of immediate (he) separation. Probation is a consideration if the Board believes that there is a reasonable prospect for rehabilitation. In this circumstance, the Board will make recommendations regarding the duration and conditions for satisfactory completion of the period of probation. Again, the Board must make this recommendation if even recommend that we be retained in the Service.

Discussion

If the Respondent is not eligible to request voluntary retirement, skip the following paragraph that includes a final purpose and continue with the closing instructions.

BOARD PRESIDENT

Finally, to consider the evidence presented and to recommend, in the event that the discharge authority's determination is that shall be administratively separated from the Coast Guard, whether ____(he) ____(she) should be permitted to voluntarily retire, if ____(he) ____(she) was to so request, instead of immediate involuntary separation. Again, the Board must make this recommendation even if we recommend that ______ be retained in the Service.

The Board is also mindful that the fact an administrative board was convened in the case of does not permit us to automatically conclude that one or more bases to involuntarily separate ____(him) ____(her) exists.

recommendations solely on the evidence, testimony, and arguments presented during this hearing, on the guiding principles for administrative boards, and on other applicable policy and law. The Board understands the importance of its obligation to confine ourselves to the facts made part of the record of the hearing.

The Board's responsibility is to base its conclusions and make its

BOARD PRESIDENT

The following procedural rules apply to the Board's deliberations and must be observed. The influence of superiority in rank shall not be employed in any manner in an attempt to control the independence of Board members in the exercise of each member's personal judgment. The Board's deliberations should include a full and free discussion of all of the relevant evidence and arguments that have been presented. In addition to being a participant, I will also act as the moderator during the Board's discussions. I will establish an outline for the discussions, which may be organized based on the order of evidence presented, a chronological timeline of findings of fact, or any other method that best suits the characteristics of the matter before the Board.

BOARD PRESIDENT

After the Board has completed its deliberations, the members will vote on our findings of fact, opinions, and recommendations, and the Board will prepare its written report. I will organize and lead the voting process, choosing the method in which voting is conducted – for example, show-of-hands or written ballot. In instances where a Board member disagrees with the majority – for example, a 2-to-1 vote – that Board member shall append a minority report to the record. The minority report shall identify the part or parts of the majority report with which the non-concurring member disagrees, as well as the basis for his or her disagreement. The minority report may also include additional findings of fact, opinions, or recommendations.

Discussion

The Board's report, including any minority report, will be written and signed by the Board at the end of its deliberations. The Board President will then notify the Respondent and/or Respondent's Counsel and the Recorder of the results of the administrative board as reflected in the Board's report, and will provide a copy of the complete report, which includes the Summarized Hearing Record, to the Respondent and/or Counsel. At this point of the hearing, the Board President should explain this process and arrange the method(s) by which the notification will be made and the copy of the report will be delivered.

available.

I will notify the Respondent, (if applicable, Respondent's Counsel), and the Recorder of the results of this administrative board proceeding when they have been determined by the Board. I expect that deliberations and the completion of the Board's report, including any minority report, will require no more than three calendar days to accomplish. While I do not expect that it will be necessary, if, for some reason, additional time will be needed, I am required to report the circumstances to the Convening Authority and provide an explanation for the delay in the report.

BOARD PRESIDENT

, I will contact you to inform you of the board results by the most convenient and reliable method, which may be in person, by telephone, or via email. (If the Respondent is represented by Counsel – I will notify the Respondent and (his) (her) Counsel at the same time and by the same means.) Therefore, please ensure that the Board has your updated contact information before departing at the end of the hearing, and indicate any preferred

Discussion

The Board President may indicate in the script above the method, if known, that he/she intends to use for the notification. He/she may also choose to engage the Recorder and Respondent in a "negotiation" over how and when the notification will be made.

method of notification as well as any days and times when you may not be

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I will also provide the Respondent (*if applicable*, and Respondent's Counsel) with a copy of the Board's completed report, which includes the Summarized Hearing Record. Please let me know whether you prefer a paper copy or an electronic copy of the report.

Before I submit the report to the Convening Authority, you may take up to seven calendar days to review and comment on the report. I may grant additional time for good cause. You may use the review and comment period to do any of the following:

1. <u>To preserve any objections</u> you made before or during the hearing. Any objections you wish to preserve should be made in writing.

BOARD PRESIDENT

- 2. <u>To submit written rebuttal comments</u> refuting any of the Board's report, including its findings of fact, opinions, and/or recommendations. Any rebuttal comments must be made in writing.
- 3. <u>To submit a statement of no objection</u>. If you have <u>no</u> corrections to note, objections to preserve, or rebuttal comments to make, you are required to submit a short statement to that effect.

(If applicable, i.e., if the Respondent has been recording the audio of the proceedings –

4. <u>To submit a complete, verbatim, and unedited transcript</u> of the board proceedings.)

Any written objections, rebuttal comments, or statement of no objection that you submit will be appended to the report as a post-hearing exhibit when I forward the report to the Convening Authority.

BOARD PRESIDENT

The failure to provide any of the items just mentioned within the review and comment period will be considered as a waiver of your right to object or comment on the results of your administrative board hearing. I will note the failure in my memo forwarding the report to the Convening Authority.

Do you have any questions?

RESPONDENT or COUNSEL

____(No) ____(Yes), ____(Sir) ___(Ma'am). [RESOLVE ANY QUESTIONS.]

BOARD PRESIDENT

Are there any other matters that should be considered before I close this proceeding?

RECORDER

____(No) ____(Yes), ____(Sir) ____(Ma'am). [RESOLVE ANY QUESTIONS.]

RESPONDENT or COUNSEL

____(No) ____(Yes), ____(Sir) ____(Ma'am). [RESOLVE ANY QUESTIONS.]

BOARD PRESIDENT

, there being no other issues to resolve,

this administrative board hearing is closed at hours on . The Board will now adjourn to deliberate and write its report. You and all other participants, including the witnesses, are directed to return to your normal duties.

(If applicable – Any audio recording of the proceedings shall cease at this time.)

Discussion

The Board President should ensure that the date/time the hearing was closed is noted in <u>paragraph 12</u> of the Summarized Hearing Record. This should complete the Summarized Hearing Record which shall then be signed by all members of the Board.

The Board should either withdraw to a separate, closed (private) space for deliberations, or remain in the hearing room if suitable and available. It is advisable that the Board review Article 7.B. together prior to beginning its deliberations.

Only voting members of the Board may be present during and participate in the Board's deliberations. However, at the discretion of the Board President, the Reporter may be present to assist the Board as a scrivener in the preparation of its report.

A Legal Advisor assigned by the Staff Judge Advocate is not a member of the Board, and consequently shall not be present during or participate in deliberations. A Legal Advisor appointed by the Convening Authority is a non-voting member of the Board, and similarly shall not be present during or participate in deliberations. However, the Board may consult with the Legal Advisor regarding procedural issues.

In accordance with Articles 1.I.2.c. and 3.A.2., the primary duty of the Board members remains to complete the Board report within three calendar days and prior to resuming their normal duties.

In notifying the Respondent and/or Counsel and the Recorder of the board results, the Board President need not announce all of the Board's findings of fact, opinions, and recommendations, or what may be included in a minority report. Rather, the Board President must only announce the results relative to the questions the Board was required to answer.

Even though the Board members may return to their normal duties after the report is completed, and the proceedings of the Board essentially conclude when the Board President delivers the record of the proceeding to the Convening Authority (See Article 8.B.1.), the Board remains in effect until the board proceedings are terminated by proper authority or until CG PSC takes final action on the case (See Article 7.D.).