



1910

MEMORANDUM

From:

Convening Authority

To:

Board President

Subj: ASB-3: CONVENING ORDER – INVOLUNTARY SEPARATION

Ref: (a) Enlisted Personnel Administrative Boards Manual, PSCINST M1910.1 (series)
(b) Military Separations, COMDTINST 1000.4 (series)

1. Appointment of Administrative Separation Board: You are designated as the board president for an administrative separation board convened under references (a) and (b). The other members of the board appointed by this convening order are:

a. _____.

b. _____.

See Article 3.A. of reference (a) for information about the board members' duties.

2. Purpose: The board shall conduct a hearing to gather relevant evidence, both in favor of and adverse to the following respondent:

_____.

I am providing you, as enclosure (1), the notice the command gave the respondent explaining the conduct and/or performance of duty that I believe may constitute a basis for the proposed administrative action.

Enclosure (2) is the respondent's exercise of rights related to this administrative proceeding; it contains information you need to know to prepare for your hearing.

3. Warning: *Except for reviewing enclosures (1) and (2) and Coast Guard policy on administrative boards contained in references (a) and (b), you shall refrain from examining or discussing any substantive matters about this case prior to the hearing unless required by your*

regular duties. In addition, you shall refrain from speculation and shall not form opinions about matters that may arise at the hearing.

4. Date/Time: The board's hearing is scheduled for _____. If conditions change, it is in your discretion to reschedule the board date and time as necessary in collaboration with the recorder and the respondent's counsel.

5. Location: The hearing shall be conducted at the following location:

6. Notifying the Respondent: You shall notify the respondent of the date, time, and location of the hearing. See Article 4.C.1.a. of reference (a) for guidance on notifying a respondent about those matters along with other important facts about the hearing and a respondent's rights during and after the hearing.

Appendix 4-1 of reference (a) contains an example of the notice you must give the respondent. You may create your own notice following the example, or a fillable template of the notice can be downloaded from the CG PSC-PSD website: <https://www.dcms.uscg.mil/psd/fs>

7. Recorder: The *recorder* for this administrative board is:

See Article 3.B. of reference (a) for information about the recorder's duties.

8. Reporter: The *reporter* for this administrative board is:

See Article 3.D. of reference (a) for information about the reporter's duties.

9. Respondent's Counsel: (*select one*)

_____ The respondent elected to be represented by the following lawyer:

Unit Name (*or, if a civilian lawyer, the mailing address*):

Telephone:

See Article 3.C. of reference (a) for information about the Counsel's responsibilities.

_____ The respondent *declined* and *waived* his or her right to be represented by a military or civilian lawyer.

10. Legal Advisor: (*select one*)

_____ I have appointed the following Coast Guard lawyer to be the legal advisor for resolving evidential issues/ objections **before the hearing** is convened. The legal advisor is assigned to make rulings on evidence and carry out the procedural duties.

_____.

Unit:

Telephone:

_____ The Staff Judge Advocate (SJA) has assigned the following Coast Guard lawyer to be the legal advisor assigned **during the hearing**, once convened. The legal advisor is not ordinarily present during the hearing. You may request the legal advisor's presence at the hearing if you deem it necessary.

_____.

Unit:

Telephone:

See Article 3.E.1. of reference (a) for information about the duties of a legal advisor assigned by the SJA.

_____ I have appointed the following Coast Guard lawyer to be the legal advisor as a non-voting member of the board. The legal advisor shall make rulings on evidence and carry out the procedural duties, **before the hearing, and be present during the board proceedings**. The legal advisor is a non-voting member of the board.

_____.

Unit:

Telephone:

See Article 3.E.2. of reference (a) for information about the duties of a legal advisor appointed by the convening authority to be a non-voting member of the board.

Contact the Legal Advisor: You shall contact the legal advisor as soon as possible; the legal advisor shall provide guidance to you before the hearing on board procedures, and throughout the board proceedings as you deem appropriate.

11. Hearing:

a. Procedure/Rights: The hearing procedures shall be conducted in accordance with reference (a); the respondent's rights before the board are explained in Articles 1.C. and 1.K. of reference (a).

See Chapters 5 and 6 of reference (a) for guidance on how to conduct your hearing.

b. Witness Statements: Testimony of witnesses heard by the board shall be under oath or affirmation. Witness testimony shall be summarized and made a part of the hearing record in accordance with reference (a).

See Article 6.D.2. and Appendix 3-1 of reference (a) for information on how to summarize witness statements.

Appendix 6-2 of reference (a) is a sample witness testimony summary sheet. You may create your own witness testimony summary sheet, or a fillable template for a witness testimony summary sheet can be downloaded from the CG PSC-PSD website:

<https://www.dcms.uscg.mil/PSD/fs/Admin-Sep-Boards/>. In addition, you may use Microsoft Teams' transcription function to create a summary.

c. Electronic Recording / Verbatim Transcript: Video recording of board proceedings is prohibited; audio recording may be used by the board to assist in fulfilling its documentation requirements.

(select if applicable)

You shall ensure that: _____ an audio recording of the board proceedings is performed.

_____ a verbatim transcript is produced and attached to the record.

See Articles 5.B.2. and 5.B.3. of reference (a).

d. If You Suspect Criminal Conduct: If, at any time during the proceedings, you become aware of the respondent's involvement in criminal activity, you shall halt the proceedings and advise the respondent of his or her 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 custodial interrogation as provided by Article 31, UCMJ. If, at any time during the proceedings, you become aware of any witness' involvement in criminal activity, see Article 1.C.5.k., Article 6.D.12, and Appendix 1-2 of reference (a).

e. Inquiry into Medical Records: If your hearing requires the use of medical records or other protected health information of the respondent or any other military member of the Coast Guard, you are authorized to receive and appropriately use the medical records or other

protected health information as necessary to achieve the purposes of the board's investigation. This authorization is pursuant to 45 C.F.R. § 164.512(k)(1), as implemented by Coast Guard Notice USCG-2003-15026 (See 68 Fed. Reg. 81, 22408 (April 28, 2003)).

All board members are responsible for complying with the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Privacy Act of 1974.

See Article 6.B.1.b. of reference (a) for information on how to comply with HIPAA and the Privacy Act.

f. Summarizing the Hearing: You shall prepare a summarized record of the hearing in accordance with Article 6.G. of reference (a).

Appendix 5-2 of reference (a) is a sample summarized hearing record. You may create your own summarized hearing record following the example, or, a fillable template of a summarized record can be downloaded from the CG PSC-PSD website: <https://www.dcms.uscg.mil/psd/fs>.

12. Board Report: The board shall prepare a report and submit it in accordance with Chapters 7 and 8 of reference (a).

Appendix 7-1 of reference (a) contains an example of a board report. You may create your own board report following the example, or, a fillable template of a board report can be downloaded from the CG PSC-PSD website: <https://www.dcms.uscg.mil/psd/fs>.

a. You shall provide the following information in the board report:

- (1) Findings of Fact: The board shall render findings of fact that are proved by a preponderance of the evidence presented and considered at the hearing. See Article 7.B.6.c. of reference (a) for information about writing findings of fact.
- (2) Opinions: The board shall render opinions based on its findings of fact and the evidence presented and considered at the hearing. See Article 7.B.6.d. of reference (a) for information about developing opinions.
- (3) Bases for Separation: The board shall identify any bases for separating the respondent that are authorized by reference (b) and are proved by a preponderance of the evidence presented and considered at the hearing;
- (4) Retain/Separate: The board shall recommend either that the respondent be retained in or separated from the Coast Guard;
- (5) Service Characterization and Type of Discharge: The board shall recommend the appropriate characterization of the respondent's service, and corresponding type of discharge the respondent should receive, as required by Article 1.B.2. of reference (b) and Article 1.G.1.c. of reference (a) if CG PSC determines that the respondent should be administratively separated;

(6) Probation: The board shall recommend whether the respondent should be placed on probation instead of being involuntarily separated immediately if CG PSC determines that the respondent should be administratively separated.

(7) Conditional Retirement: If the respondent has 18 or more years of creditable active service (or 20 or more years of satisfactory federal service for a Reserve member), the board shall recommend whether he or she should have their discharge suspended until the member is eligible to retire after reaching 20 years of creditable service instead of immediate administrative separation.

b. Time Goal for the Board Report: Whereas you should take as much time as is necessary to complete the hearing, the board report shall be completed within 1-3 business days of the conclusion of the hearing. Therefore, after the hearing is closed, you should begin deliberations and the writing of the board report. In accordance with reference (a), the board report shall be completed before you resume your normal duties. If you are unable to complete your board report within **three business days** of the date the hearing concludes, you shall promptly report the reasons to me and include an explanation of the delay in the report of the proceedings of the board. See Articles 1.I.2. and 3.A.2. of reference (a).

13. Policy and Deviations: Refer to references (a) and (b) for policy and guidance. Any authorized deviations from the requirements of these references shall be identified in the Board Report.

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Encl: (1) ASB-1 Notice to Respondent - Involuntary Separation – w/ respondent's acknowledgement and initial elections
(2) ASB-2 Respondent's Exercise of Rights memorandum dated

Copy: