

MILPERSMAN 1160-050

VOLUNTARY OR INVOLUNTARY EXTENSION OF ENLISTED PERSONNEL BEYOND EXPIRATION OF ENLISTMENT, FULFILLMENT OF SERVICE OBLIGATION, OR EXPIRATION OF TOUR OF ACTIVE SERVICE

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References	(a) 10 United States Code (U.S.C.) (b) SECNAVINST 5820.4G
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1. **Policy**. Under certain conditions members may legally be retained beyond the date of expiration of enlistment or other period of obligated service (OBLISERV), either voluntarily or involuntarily until discharged, released to inactive duty, or transferred to the Navy Reserve and released to inactive duty. When a member is retained in service beyond expiration of enlistment, or other period of OBLISERV, entry as to reason and authority for retention shall be made on the appropriate page of member's service record and signed per this manual.

2. **Voluntary Extension**. Enlisted members may volunteer to be held beyond expiration of their enlistment or active duty obligation, or other period of OBLISERV. Refer to MILPERSMAN 1160-040.

3. **Extension of Members Serving Aboard Ship in Foreign Waters**

a. The normal date of expiration of enlistment or extension of enlistment of a member serving aboard a ship in foreign waters may be extended until return of the ship to a continental port of the United States (U.S.) or until transfer of member concerned to the separation activity nearest port of debarkation. Retention for return to the U.S. may be effected by the senior officer present afloat if, in their opinion, retention is essential to public interests. Members so retained shall be separated not later than 30 days after arrival in the U.S. In order to be entitled to the increase of 25 percent in basic pay for the period of retention, per article 5540 of

reference (a), member shall have been retained after expiration of enlistment or extension of enlistment because their services were considered essential to public interests as differentiated from desirability of continuance of their services or some measure of benefit to be derived therefrom.

b. Specifically excluded from this provision are enlisted members who are retained beyond terms of their enlistments at shore stations, on ships on duty in waters in or around possessions and territories of the U.S., or on ships on duty in ports or waters within the sovereign jurisdiction of the U.S. Also excluded are members of the Navy Reserve who are retained on active service as distinguished from the normal date of expiration of enlistment.

c. Entry should be made on NAVPERS 1070/613 (Rev. 7-06), Administrative Remarks of member's service record, concerning whether retention was essential to public interests and location of the ship at the time of expiration of their term of enlistment.

d. For a normal deployment, it is imperative that it will be a part of pre-deployment preparations that members with expiring enlistments be identified and appropriate planning is executed, either extending or leaving them behind for separation/further transfer.

4. **Extension Pending Receipt of Records.** Members whose records and accounts are not received by the activity to which transferred for separation may be retained in service, with their consent, pending receipt of their records and accounts. Commanding officers (COs) shall take immediate steps to obtain records and accounts by communicating with the ship or station from and via which member was transferred for separation. A duplicate service record may be requested from Navy Personnel Command (NAVPERSCOM), NAVPERSCOM Records Unit (PERS-312) in order to expedite separation.

5. **Extension for Temporary Officer Appointment.** Enlistments are extended automatically in the case of members whose normal date of expiration of enlistment occurs while they are serving in a temporary officer appointment.

6. **Extension for Medical Care.** Members in the Regular Navy, Navy Reserve, and Fleet Reserve on active duty other than training duty of less than 30 days, who are in need of medical

care or hospitalization as a result of disease or injury incident to service and not due to their own misconduct, may be retained with their consent beyond the date of their normal expiration of active OBLISERV. Such consent shall be entered on NAVPERS 1070/613, and signed by member concerned. Tacit consent to retention may be assumed in cases of mental incompetency or physical incapacity where member is unable affirmatively to indicate member's desires, pending notification of and authorization for retention from member's next of kin. Members retained for medical care or hospitalization under this article may be retained until they have recovered to the extent that would enable them to meet physical requirements for discharge and reenlistment, or until it shall have been ascertained the disease or injury is of a character that recovery to that extent is impossible. Members for whom tacit consent to retention is assumed ordinarily will not be retained in excess of 6 months beyond the date of their normal expiration of active obligated service (EAOS). Further retention may be authorized in meritorious cases upon proper recommendation accompanied by the supporting facts.

7. **Member Refusal of Extension for Medical Care.** If members persist in their desire to be separated, effect their separation provided they sign the following entry on NAVPERS 1070/613 of their service record and on DD-2808 (Rev. 10-05), Report of Medical Examination, witnessed by an officer, at the time examined for separation:

"I, (fill in name), desire to be separated from Naval Service on my normal expiration of active obligated service date. I understand that I will not be eligible for further follow-up studies or treatment at an Armed Forces medical facility, that I will be ineligible for disability benefits under law administered by Navy, and that any further treatment and/or benefits will be under jurisdiction of Department of Veterans' Affairs."

(Signature of member)

(Signature of witnessing officer)
(Grade, name, title)"

8. Extension to Accommodate Physical Evaluation Board (PEB) Proceeding

a. Members being processed before a PEB shall not be released from active duty or discharged until the Secretary of the Navy (SECNAV) has completed the final action on their cases and instructions received from NAVPERSCOM, Retirements Branch, (PERS-482). Untimely separation of a member who is the subject of a PEB proceeding may prejudice their case since the law requires SECNAV make necessary physical disability determinations while the member is entitled to receive basic pay, except in cases of Reservists on training duty of 30 days or less. This should be explained to any member whose enlistment or term of active service is about to expire and who requests discharge or release from active duty prior to the time such determinations are made. Any request for separation that is not withdrawn following such explanation shall be entered on NAVPERS 1070/613 of the service record as follows:

"I, (fill in name), desire to be separated from Naval Service notwithstanding the fact such separation may prejudice any rights or benefits to which I may be entitled as a result of physical evaluation board hearings under 10 U.S.C., Chapter 61. I have been fully advised of my rights in this matter and request I be discharged from Naval Service as soon as possible without further hearing and without disability retirement pay or severance pay or any compensation whatsoever. I understand I am not required, and am under no obligation, to give this certificate and I hereby certify I give this certificate voluntarily."

(Signature of member)

(Signature of witnessing officer)

(Grade, name, title)"

b. The foregoing statement shall be signed by member and witnessed by an officer. In all cases where the above statement is executed, notify NAVPERSCOM (PERS-482) by message with information copy to Physical Review Council and convening authority of PEB. Procedures for members on inactive duty are found in MILPERSMAN 1910-168.

9. **Policy for Disability Incurred not in the Line of Duty**

a. Records and accounts of members in the following categories shall not be closed until discharge is effected. Member's service record shall bear appropriate entry regarding member's status.

b. The term of service of a member undergoing hospitalization for injury, sickness, or disease, incurred not in line of duty or due to their own misconduct, will not be extended under provisions of "Extension to Accommodate Physical Evaluation Board Proceeding," above. Unless the term of service is extended by some other provision of this article, a member in this status should be brought before a medical board at a time that will permit action to be taken on a recommendation for disposition prior to expiration of term of service. If proceeding per law and regulations result in determination the member is not physically fit for service or reenlistment and is to be discharged, discharge normally will be effected because of disability rather than expiration of enlistment or fulfillment of service obligation.

c. The term of service of a member undergoing hospitalization for injury, sickness, or disease, which is the result of their own misconduct, is extended by such lost time. If there is reasonable belief such member will be unable to return to full duty, full circumstances of the case as then known, including prognosis, shall be forwarded to NAVPERSCOM (PERS-482) for advice. Members in this status should be brought before a medical board at a time that will permit action to be taken prior to date the term of service normally would expire if member were not in a misconduct status. If it is determined per law and regulations the member is not physically fit for service or reenlistment, and proper authority approves recommendation for discharge, member shall be awarded the type and character of discharge considered proper based on their medical and military records.

10. **Notification Procedure for Disability Extension.** If a member is hospitalized because of injuries or disease under all conditions listed below, COs of the medical facility concerned shall forward all known facts concerning member's injuries or disease to the Judge Advocate General (JAG) for final determination of member's status, and a copy to NAVPERSCOM

(PERS-482). Such notification shall, if at all possible, occur prior to member's expiration of term of service when

a. it appears the injury or disease might have been incurred not in the line of duty and as a result of member's own misconduct.

b. there is a reasonable possibility member will not return to full duty prior to expiration of their term of service.

c. it is not reasonably possible to conduct an investigation prior to expiration of member's term of service to determine whether the injury or disease was incurred in the line of duty and not as a result of member's own misconduct.

11. **Extension for War or National Emergency.** Enlistments and periods of OBLISERV of enlisted personnel in Naval Service are extended, or may be extended, in time of war or national emergency per articles 506, 12103, 671, and 671b of reference (a).

12. **Involuntary Extension due to Criminal Proceedings.** Members may be extended involuntarily beyond their EAOS as a result of apprehension, arrest, confinement, investigation, or filing of charges that may result in a trial by court-martial, and execution of any sentence thereof. If such action is initiated with a view to trial because of an offense under reference (b) committed by a member prior to their official discharge or separation, even though the term of enlistment or OBLISERV may have expired, they may be retained in service for trial and punishment after their period of service would otherwise have expired.

13. **Extension for Disposition of Criminal Proceedings by a Foreign Jurisdiction.** Members of Naval Service awaiting disposition of criminal proceedings by a foreign jurisdiction are afforded statutory and regulatory protection and benefits attendant to their status as members of the Armed Forces. Policy of Navy is to insure both the member is afforded the fullest possible protection, and Navy meets its international obligations. In implementing this policy the following procedures will be applied in all cases where foreign criminal jurisdiction is being, or may be, exercised over a member of Naval Service by action such as apprehension, arrest, investigation, or a filing of charges that may result in trial, and where foreign criminal proceedings are not likely to be

completed prior to date of member's release from service because of expiration of their term of service:

a. At least 1 month before EAOS, member will be offered opportunity to extend member's enlistment voluntarily for the duration of legal proceedings and any subsequent punishment. Member will be informed of protection and benefits member will receive as a member of Navy during the foreign criminal proceedings. For example: counsel may be provided at Navy expense, court costs (but not fines) paid, and an interpreter made available; and in most countries, member will remain in U.S., vice foreign, custody at least during trial proceedings. Member will also be informed that member will remain subject to reference (b) and may be subject to processing for administrative discharge. In some situations, advice of Article 27b of reference (b), counsel will be provided when exposure to military criminal charges is possible. Additionally, member will be advised that an election not to extend voluntarily member's enlistment shall result in the following:

(1) Foreign authorities will be advised of the impending EAOS and inability of Navy to guarantee member's presence after discharge;

(2) Foreign authorities will be offered custody of member immediately prior to EAOS; and

(3) Assuming custody is accepted by foreign authorities, member will be discharged from Naval Service as soon thereafter as is practicable, thereby terminating any special considerations member would be entitled to were they still a member of the Armed Forces.

b. If member elects to extend voluntarily his/her enlistment, then such request will be honored, and an appropriate NAVPERS 1070/613 entry will be made in member's service record and acknowledged by member.

14. Procedure for Member not Electing to Extend while Awaiting Disposition of Criminal Proceedings by a Foreign Jurisdiction

a. Should member elect not to extend voluntarily, foreign authorities will be notified of the inability of Navy to guarantee presence of member after discharge due to member's impending EAOS. The foreign authorities will then be afforded

opportunity to take custody of member at a mutually agreed upon time immediately prior to EAOS. If the foreign authorities desire custody, member will be transferred to the foreign authorities at the agreed upon time. After such transfer of custody, member's CO will, at EAOS, discharge member and so notify Navy JAG, NAVPERSCOM, Conduct and Separations Branch (PERS-483), and the U.S. Embassy or Consul.

b. Should the foreign authorities, upon being notified of member's impending EAOS and inability of Navy to maintain custody after discharge, state member need not be present within the jurisdiction and is not required nor desired to be available for any further criminal proceedings, member should be returned to the continental United States (CONUS) for separation or discharge. In such case, foreign authorities have in effect released Navy from any obligation to keep member within the foreign jurisdiction or to make member available for foreign criminal proceedings. This communication from appropriate foreign authorities should be in writing, if possible; if not, a memorandum for the record should be made to memorialize the agreement.

c. The foregoing policy does not apply to a member who has been in custody or confinement of foreign authorities as a result of apprehension by foreign authorities. In such a situation, provisions of Chapter 3 of reference (b) would continue to apply, and, except under extraordinary circumstances approved by Secretary of the Navy (SECNAV), member would not be discharged while in custody or confinement of the foreign authorities.

15. Extension for Completion of U.S. Civilian Criminal Proceedings.

a. Members of Naval Service who are not in confinement and those in confinement **as a result of delivery by military officials**, and

b. those members in confinement **as a result of apprehension by civil authorities**,

shall not be extended involuntarily beyond EAOS solely for purpose of completion of civilian criminal proceedings in Federal, State, and local courts of the U.S., its territories, commonwealths, and possessions **without NAVPERSCOM (PERS-483) approval**. Requests to involuntarily extend members beyond EAOS

must include whether member was delivered by military officials or apprehended by civil authorities, date of delivery or apprehension, pending charges, anticipated date of trial, and member's EAOS.

16. **Extension to Await Appellate Review of Court-Martial.**

Except as otherwise provided in this paragraph, an enlisted member sentenced to punitive discharge shall be retained in service to await completion of appellate review of their court-martial case, even though the period of confinement, if any, adjudged under the sentence has been served and member's enlistment or other period of active OBLISERV has expired. Unless member is confined, service record entry prepared to reflect such retention beyond expiration of enlistment or other obligated active service should state the nature of duties performed by member and average number of hours daily member's services are utilized while being so retained. Nothing stated in this paragraph is to be construed as precluding administrative separation of member when directed by NAVPERSCOM (PERS-483) or granting of leave to member awaiting completion of appellate review of member's case.

17. **Extension for Indebtedness.** A member who is otherwise eligible for separation will not be retained beyond normal expiration of obligated service date to satisfy an indebtedness to the Government or an individual, or for the purpose of obtaining remission of indebtedness.