

## **Chapter 7 - Entry Level Performance and Conduct**

The military is a way of life, with its own standards of conduct, unique customs and traditions, and different pressures and expectations. New recruits must learn to think differently about themselves and others. They face difficult training programs, an abundance of rules and regulations, and lose many of the freedoms they enjoyed as civilians. Some do not adapt to the military world and demonstrate that they are not succeeding within it. An entry level performance and conduct discharge is an involuntary discharge for servicemembers in entry level status. The separation, which can be a discharge or transfer to the Individual Ready Reserve, must be initiated while the member is still in entry level status, and results in an uncharacterized, Entry Level Separation (ELS).

Entry level performance and conduct should be considered for any servicemember seeking discharge who is still in entry level status. Inaptitude, failure to adapt to the military environment, failure to progress satisfactorily in a required training program, lack of effort, psychological or stress-related symptoms, lack of self-discipline, or minor disciplinary infractions are all examples of grounds for this separation. If the member is requesting separation for dependency/hardship or conscientious objection, the member may receive an entry level separation if the application or request is submitted while the member is in entry level status.

### **Criteria**

When a command determines that a member in entry level status is unqualified for further military service by reason of unsatisfactory performance or conduct, the command may initiate separation proceedings. (Members who are no longer in entry level status are processed for an unsatisfactory performance separation.) To grant an entry level separation, the command must view the servicemember's problems with military duty as unintentional. A member will not be processed for this separation if the command believes that a member's problems are manufactured, or that his or her behavior is consciously undertaken to avoid military service. Commanders are also instructed that nothing should preclude separation for another (possibly more punitive) discharge if warranted by the member's actions.

The criteria for this separation vary slightly for each Service.

### **Army**

In the Army, "unsatisfactory performance or conduct" may be shown by inability, lack of reasonable effort, or failure to adapt to the military environment. The Army may determine that members are not qualified for retention when the members:

"cannot or will not adapt socially or emotionally to military life;"

"cannot meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation, or self-discipline;"

"have demonstrated character and behavior characteristics not compatible with satisfactory continued service;"

"have failed to respond to counseling."

The Army also has a provision for discharging pregnant servicemembers for unsatisfactory performance and conduct. (See “Pregnancy” on page 7.4.)

### **Navy and Marine Corps**

Both the Navy and Marine Corps may determine that a member is unqualified for further service by reason of unsatisfactory performance or conduct, or both, as evidenced by incapability, lack of reasonable effort, failure to adapt to the [Naval or Marine Corps] environment, or minor disciplinary infractions.

### **Air Force**

In the Air Force, “unsatisfactory performance or conduct” may be shown by:

“lack of aptitude for military service;”

“failure to adapt to the military environment;”

“failure to make satisfactory progress in a required training program;”

“reluctance to make the effort necessary to meet Air Force standards of conduct and duty performance;”

“lack of self-discipline;”

“minor disciplinary infractions;” or

“exceeding body fat or failure to meet fitness standards.”

### **Counseling**

While this separation exists for military convenience, it presents an opportunity for recruits who want to seek discharge. Even a command that has not taken steps to separate someone who is not adjusting well to military life might be convinced to do so. The object is to convince the military that it is a waste to continue to pay or train the servicemember.

Be creative with the various criteria listed in the regulations. Some are so broad and vague that any number of circumstances could come under them. For example, “failure to adapt to the military environment” or “cannot adapt socially or emotionally to military life” could cover anything from a budding conscientious objection to a strong aversion to military life. Other criteria are more specific, such as “failure to make satisfactory progress in a required training program,” exceeding body fat standards, pregnancy, and minor disciplinary infractions.

Identify problems as specifically as possible. The more problems, the more convincing a case for separation will be to the command. However, caution the member not to fabricate problems that do not exist. Sometimes, a very distraught member will offer to mess up on purpose, by deliberately failing tests, performing sluggishly, or even misbehaving. Warn clients that any deliberate acts of unsatisfactory performance or misconduct could lead to nonjudicial punishment, court-martial, or an unfavorable characterization of service.

The military grants a great number of ELS discharges during basic and advanced training. Therefore, this discharge is more likely to be granted before training is completed — when commanders are less likely to be penalized for “losing” a soldier. When members arrive at their duty station, the military has a great deal more invested in them and new commanders are less likely to grant, or even to be familiar with, an entry level performance and conduct discharge.

## **Pregnancy**

If the member is pregnant, consider requesting discharge under the specific regulations for pregnancy separation. The separation may be easier to obtain and the reason for separation appearing on the discharge papers will be “pregnancy,” rather than “entry level performance and conduct.” In the Army, women who become pregnant while still in a training status will be separated involuntarily if they cannot fully participate in the training required for their Military Occupational Specialty (MOS) “because of their physical condition.”

## **Documentation**

When documenting unsatisfactory performance be careful not to provide the command with evidence of misconduct. If a servicemember is performing poorly in his or her training program, obtain records of the member’s low test scores, evaluations, administrative remarks, and any other notations of problems contained in the military record. If there are minor disciplinary infractions, gather any record of disciplinary action (including nonjudicial punishment), counseling by members of the command, and attempts at rehabilitation.

Nonmilitary evidence of poor performance or inability may also be helpful to demonstrate that the member has dubious potential for success in the military. Gather evidence of low high school grades or difficulties in a civilian job. Evidence of disciplinary problems before joining the military might be useful. However, be careful about providing evidence of fraudulent enlistment. (See Chapter 16, Erroneous, Defective, and Fraudulent Enlistment.)

Inability to adapt socially or emotionally to military life, or lack of motivation and self-discipline, can best be documented by a report or letter from a health care provider, mental health professional, or other counselor (such as a clergy member or social worker). A strong evaluation finding a member unfit for military service and recommending a discharge can be very effective if combined with some evidence of a lack of adaptability in the member’s record.

## **Approaching the Command**

There are two methods for seeking an entry level separation:

The member does not request discharge but presents his or her problems to the command and, if necessary, the counselor contacts the command to suggest discharge.

The member submits a written request for discharge, including any supporting documentation.

The client may have some idea of which approach will work best. As a general rule of thumb, a direct request for discharge is often most effective when the recruit is still in basic or advanced training. However, a written request for discharge risks antagonizing the command — making it more difficult to obtain discharge.

Regardless of the method used, a first step in approaching the command can be for the member to tell his or her problems to a chaplain and get a referral to the base

counseling center. The member can also request a meeting with the commanding officer to discuss his or her difficulties. Encourage others familiar with the situation (such as a clergy member or chaplain, lawyer, doctor, or social worker) to approach the command. If possible, find a friendly military psychiatrist, medical officer, or chaplain to help bring the case to the command's attention. It is ideal when such military professionals recommend discharge to the command.

When contacting the command, stress specific problems and suggest how discharge would be beneficial to the command, not just the member. The member can approach the command in the role of a patient presenting his or her problems. The counselor can follow-up in the role of an outside authority recommending discharge in the best interests of the military and the client.

### **Official Process**

Before any discharge processing can begin, the command must follow the standard counseling procedure and provide an opportunity for rehabilitation to the member. (See Chapter 3, Understanding the Discharge Process, under "Official Process" on page 3.7.) All of the regulations for this particular separation stress the importance of rehabilitation efforts "[b]ecause military service is a calling different from any civilian occupation." The Air Force regulation is the most emphatic and concerned: Counseling and rehabilitation efforts are most necessary for airmen [sic] new to the service. Military service is a calling and is not like any civilian occupation. It is a way of life to be taught young airmen [sic]. When unsatisfactory performance or conduct is the sole reason for discharge, they may not be separated until there have been efforts to help them meet Air Force standards.

### **Notification**

The command must follow the standard notification procedure to give notice of discharge proceedings to the member. (See Chapter 3, Understanding the Discharge Process under "Notification" on page 3.7.)

### **Type of Separation**

Members will be fully discharged, or separated to the Individual Ready Reserve if the command feels that the member may still have potential for service in the event of a full mobilization. If a member has not completed basic or advanced training, a strong argument can be made that the member has no potential for service in the future. (See Chapter 2, Overview of Military Discharges under "Discharge or Separation?" on page 2.4.)

An entry level performance and conduct discharge will result in an uncharacterized Entry Level Separation. While it is not likely to have a negative impact on future employment, some employers may not want to hire someone who could not adapt to the military. Members given an ELS are not eligible for veterans' benefits or, under most circumstances, medical benefits.

### **Appeals Fighting Separation**

Members may wish to fight separation to stay in the military, to obtain a different type of discharge, or to resist discrimination and harassment. For example, a member with a service-connected medical problem may want to fight separation to receive disability benefits.

Poor performance may be the result of sexual or racial harassment or discrimination that can break down a member's morale. Some superiors are not above changing evaluations of members they do not like or making life so miserable for members that they will perform badly. Commands who want to discharge a member for some reason they cannot prove, such as drug abuse or homosexual conduct, may use entry level performance and conduct as a convenient alternative.

Members separated for entry level performance and conduct do not have a right to an administrative board hearing. The written notification informs the member that he or she may submit a statement in rebuttal. The member should write a thorough statement expressing why he or she wishes to remain in the military, how any alleged problems are not due to inability to perform, and how he or she has excellent potential for further military service. The member's own statement should be a personal communication in his or her own words, while the counselor can write a statement that is more objective or legalistic in style or tone and include legal errors in the counseling process.

Supporting letters or evaluations from civilians, doctors, military coworkers, or superiors are helpful. Supporting letters can document:

improvement in performance;  
treatable or service-connected medical or psychological problems;  
harassment or other command improprieties; and  
command errors in assessing the actual quality of performance.

### **Reservists**

To determine if a reservist is still in entry level status, see "Entry Level Status" on page 7.3.

As of 1997, Army reservists who fail to report for Initial Active Duty for Training (IADT), including the second part of split training, will be given an Entry Level Separation. (See Chapter 20, Unauthorized Absence, under "Reservists" on page 20.16.)

### **Definition of Terms**

*Entry Level Separation-* The description of this discharge will be "Entry Level Separation." Rather than bearing a characterization such as Honorable, General (under Honorable Conditions), or Other Than Honorable Conditions, a discharge for entry level performance and conduct is "uncharacterized."

*Entry Level Status-* An entry level separation is available only if discharge processing is initiated by the command while the member is in entry level status. Active duty servicemembers are in entry level status during the first 180 days of continuous active military service.

Members of a reserve component who are not on active duty, and have not completed 180 days of continuous active military service, begin entry level status upon enlistment in the reserves. Entry level status for these members terminates:

180 days after beginning training if the member is ordered to active duty for one continuous period of training; or

90 days after the beginning of a second period of active duty training if the member is ordered to a training that is split into separate periods of active duty.

### **Counseling Tips**

Find out ASAP how long a client has been in since reporting for active duty. Was training split into two segments? For reservists, ask the dates and length of all training.

Advertise your services at training bases.

The earlier you reach your client, the more time you have before entry level status expires to seek discharge.

Ask the servicemember if he or she is having trouble eating or sleeping, is crying, or having other physical problems and use any difficulties to document the claim.

Make sure that letters of support stress the military's interest in discharging the client.

### **Case Study: “Jimmy”**

Jimmy was sitting on his bunk at Fort Jackson, SC, during Advanced Infantry Training “going out of my mind” when a buddy showed him an advertisement for the GI Rights Hotline.

Desperate to get out of the military, Jimmy, 23, called Quaker House of Fayetteville, NC. He told the staff there that he had enlisted in the Army in February, 1996 and completed boot camp. Now, in May, he was a wreck. Racked with anxiety attacks and nightmares, he wasn't eating or sleeping. He was so desperate to get out, he said, that he might force the issue by going AWOL or even hurting himself.

Concerned about Jimmy's threats against himself, Quaker House staff suggested that he see a military psychological counselor ASAP. The counselor also gave him a civilian 24-hour crisis line phone number in his area, explained in detail the process for applying for an entry level separation, and promised to express mail discharge information to him immediately. The staff also gave him the number of local Quaker House supporters in Columbia and promised to call them to arrange a visit to his barracks.

Soon after Jimmy's call, his mother in Ohio called Quaker House frantic about the threats against himself that her son had confessed to her. She also revealed that Jimmy had been treated by a psychologist for anxiety before enlisting.

To reassure her, Quaker House staff gave her the phone number of its Columbia contacts and also sent her discharge information. The staff also directed her to arrange for the family doctor to write a letter of support, which would include references to his previous counseling history. At the same time, Jimmy called the local Quaker House contacts and made arrangements for a visit at the end of the week.

Jimmy was skeptical that his NCO would allow him to see a military psychological counselor. So the day after calling Quaker House he got himself referred to the base hospital by complaining of shortness of breath and chest pains. When doctors initially diagnosed him with strained chest muscles, Jimmy insisted otherwise and explained his emotional problems to the medical staff, including his previous treatment for depression.

The strategy worked: referrals to a psychologist and psychiatrist followed the same day. By the time Quaker House's local supporters arrived for their visit with him, Jimmy had received notice from his command that he would be granted an Entry Level Separation. He was discharged late the following week.

After Jimmy's discharge, Quaker House staff found out that he had never received the express mail package they sent him — it had been hung up in the military mail. Nor had Jimmy been able to receive the letter from his family doctor.

What he did receive, as he told Quaker House later, was enough information and support to start the discharge process. "What Quaker House did was to empower me to do it on my own," Jimmy explained.

### **Counseling Tips**

If using a civilian doctor or other health professional to document an ELS claim, try to find one with military experience and provide him or her with tips on phrasing. (See Appendix 8, Supporting Statements from Medical Professionals.)

If the person is considering going AWOL, see Chapter 20, Unauthorized Absence, and contact CCCO for the latest information about entry level status AWOL/UA policies at area bases.

Find out if the servicemember has had poor ratings, failed physicals, or had other problems that would reflect a failure to adjust.

If a direct request for discharge is made, consider making it in writing.

If the client gets a medical/psychological evaluation from a military health worker, don't make a written discharge request before the evaluation is done — the military evaluation may be enough.

### **References**

Department of Defense

DoD Directive 1332.14 Part 1 §F., Enlisted Administrative Separations [December 21, 1993]

Army

AR 635-200 Chapter 11, Personnel Separations; Enlisted Personnel [October 17, 1990]

Navy

MILPERSMAN (NAVPERS 15560 C) §3630200., Naval Military Personnel Manual [Through Change 15, February 28, 1997]

Marine Corps

MARCORSEPMAN (MCO P1900.16 E) §6205. and §6311., Marine Corps Separation and Retirement Manual [August 18, 1995]

Air Force

AFI 36-3208 §5.22., Administrative Separation of Airmen [October 14, 1994]

To find out about revisions to regulations, see Appendix 1, Regulations, for instructions.