

MILPERSMAN 1050-340

MANDATORY APPELLATE LEAVE

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References	(a) Uniform Code of Military Justice (UCMJ) (b) OPNAVINST 5800.9 (c) NAVMED P-117, Manual of the Medical Department (d) NAVSO P-6034, Joint Federal Travel Regulations, Volume I (e) SECNAV M-5510.30, Department of the Navy Personnel Security Program (f) NAVSUP P-1, Volume II, Naval Supply Systems Command Manual, Supply Ashore (g) BUPERSINST 1750.10C (h) Defense Joint Military System Procedures Training Guide (DJMS PTG)
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1. **Discussion.** Once the convening authority (CA) has approved an unsuspended punitive discharge or dismissal and all confinement (if any) has been completed, the member may be placed on mandatory appellate leave by the officer exercising court-martial jurisdiction over the member. In a majority of circumstances, appellate leave is appropriate; however, the following factors should be considered prior to directing mandatory appellate leave:

- a. The quality of the member's service record;
- b. The type and severity of offense(s);
- c. The commanding officer's recommendation (if applicable);
- d. The staff judge advocate's and legal officer's recommendations;

e. Whether the member has demonstrated a likelihood of productive and beneficial service to the Navy by remaining on active duty pending appellate review;

f. Any hardship or other adverse consequences which the member may experience, if required to take mandatory appellate leave;

g. Any other pertinent information that the member considers appropriate; and

h. The best interest of the service.

2. **Procedures**. Follow the steps below if mandatory appellate leave is directed:

Step	Action
1	A member may not be placed on appellate leave until deoxyribonucleic acid (DNA) is obtained, forwarded, and accepted by U.S. Army Criminal Investigation Laboratory (USACIL). If convicted of a qualifying military offense or any offense under reference (a) punishable by a sentence with confinement of more than 1 year (regardless of sentence imposed), ensure a DNA sample is collected, forwarded to, and accepted by USACIL per reference (b).
2	Complete separation physical (including human immunodeficiency virus (HIV) test) prior to commencement of appellate leave. See MILPERSMAN 1900-808 and reference (c).
3	Offer member formal inpatient treatment prior to separation if diagnosed as drug and or alcohol dependent. See MILPERSMAN 1910-800. NOTE: If member accepts treatment, appellate leave cannot commence until treatment is completed or terminated. Ensure member's acceptance or nonacceptance is documented in the service record.

Step	Action
4	<p>Counsel member on right to petition the Naval Clemency and Parole Board using NAVSO 5815/4 Waiver of Clemency Review or NAVSO 5815/2 Request for Restoration/Clemency. NAVSO 5815/4 and NAVSO 5815/2 can be accessed via the following link: https://navalforms.documentservices.dla.mil/web/public/forms?p_p_id=eFormsPublicSearchPortlet_WAR_eformsportlets&p_p_action=1&p_p_state=normal&p_p_mode=view&p_p_col_id=column_1&p_p_col_count=2&eFormsPublicSearchPortlet_WAR_eformsportlets_action=search. A copy of the document must be filed in the service record.</p> <p>NOTE: NAVSO 5815/4 is not required for personnel with sentence adjudged on or after 5 November 1993 if approved confinement is less than 12 months.</p>
5	<p>Counsel member regarding shipment of personal property and or household goods (HHG). Eligible members must submit a written request to the general court martial convening authority (GCMA) or special court martial convening authority (SCMA) for approval per reference (d). Property should not be transferred to a Navy storage facility.</p> <p>For members stationed in continental United States (CONUS) without family members, HHG shipment is not authorized under reference (d), paragraph U5317.</p> <p>For members with family members stationed in CONUS, travel and HHG shipment may be authorized at the discretion of the CA if deemed in the best interest of the member, or the member's family, and the United States. See reference (d), paragraph U5370-H.</p> <p>For members stationed outside CONUS, family members' travel and HHG shipment will be authorized or approved to the home of record when the GCMA determines such to be in the best interest of the Government (see reference (d), paragraphs U5370-B2 and U5240-F).</p>
6	<p>Revoke member's security clearance per reference (e).</p>
7	<p>Revoke member's private vehicle base decal.</p>

Step	Action
8	Confiscate all Government-issued clothing (uniform or civilian) and all property of the Government, except one overcoat (if needed) as provided in reference (f), paragraph 25940.
9	Confiscate identification (ID) card(s) of member and dependents.
10	Issue new ID cards to member and dependents with an expiration date of 6 months from date of issue. Successive cards may be reissued for up to 3 months until discharge is affected. Contact Navy and Marine Corps Appellate Leave Activity (NAMALA) per reference (g).
11	Have member read, initial, and sign NAVPERS 1050/3 Appellate Leave Statement of Understanding. NAVPERS 1050/3 can be accessed via the following link: http://www.public.navy.mil/BUPERS-NPC/REFERENCE/FORMS/NAVPERS/Pages/default.aspx . File original in service record and provide a copy to the member.
12	Verify service record pages for completeness and accuracy to include verification of DD 93 Record of Emergency Data and witnessed Servicemembers' Group Life Insurance (SGLI) updates (if necessary). Enter appropriate entry to document action.
13	Provide member with copy of NAVCOMPT 3065 Leave Request Authorization. File a copy in the service record.
14	Per reference (a), ensure that appropriate reduction in rank entries are entered in Navy Standard Integrated Personnel System (NSIPS). If member is awarded reduction in rank to E-1 at court-martial, utilize reference (a), article 57. If member is not awarded reduction in rank at court-martial or is reduced, but to a rank higher than that of E-1, utilize reference (a), article 58(a).
15	Update NSIPS transient tracking on member (as applicable). This may include: <ul style="list-style-type: none"> • Transient - General (accounting category code (ACC), ACC effective date, transient tracking code, etc.); • Legal Information (disciplinary action, confinement, appellate leave information); and • Remarks (as appropriate).

Step	Action
16	<p>Change ACC to 393.</p> <p>NSIPS activities use transient tracking to change ACC to 393.</p>
17	<p>Change duty status code (DSC) to 136, submit NSIPS leave transaction.</p> <p>NSIPS activities use "Leave," "Leave Create," "Absence Type R (Start Appellate Leave)," with days granted 300, as per reference (h), paragraph 10255. If the member requests to be paid for all accrued leave, terminate all pay and allowances including selected reenlistment payments. Refer to reference (h), paragraph 10255.</p>
18	<p>Drop member from strength. All personnel placed on appellate leave (mandatory or voluntary) will be administratively dropped from Navy strength at the time appellate leave is executed without regard to status CA's action.</p> <p>NSIPS activities use "Losses," "Admin Loss," "Use," "Admin Loss - Create." After this is released, DSC will change from 136 to 143 (active duty, admin punitive discharge, drop from strength).</p>