

## MILPERSMAN 1910-220

### LIMITATIONS ON SEPARATION ACTIONS

<b>Responsible Office</b>	NAVPERSCOM (PERS-832)	Phone:	DSN	882-4433
			COM	(901) 874-4433
			FAX	882-2624

1. **Limitations.** A member may not be separated on the basis of:

CONDUCT that has been...	EXCEPT WHEN...
<p>the subject of judicial proceedings resulting in an acquittal or action having the effect thereof,</p>	<ul style="list-style-type: none"> <li>• such action is based upon a judicial determination not addressing the guilt or innocence of the respondent (nolo contendere, deferred prosecution, etc.).</li>   <li>• the judicial proceeding was conducted in a State or foreign court and the separation is approved by the Secretary of the Navy (SECNAV) in the Best Interest of the Service (BIOTS),</li> </ul> <p style="text-align: center;">or</p> <ul style="list-style-type: none"> <li>• the acquittal from the judicial proceedings was based on a finding of not guilty only by reason of lack of mental responsibility. Members in this category normally shall be separated under BIOTS (see MILPERSMAN 1910-164) unless separation for disability (see MILPERSMAN 1910-168) is appropriate.</li> </ul>
<p>the subject of an administrative separation (ADSEP) proceeding resulting in a final determination by a separation authority (SA) that the member should be retained,</p>	<ul style="list-style-type: none"> <li>• there is subsequent conduct or performance forming the basis, in whole or in part, for a new proceeding,</li> </ul> <p style="text-align: center;">or</p> <ul style="list-style-type: none"> <li>• there is newly discovered evidence that was not reasonably available at the time of the prior proceeding.</li> </ul>
<p>subject to a prior administrative board in which the board found that the evidence did not sustain the allegations (finding of no misconduct or other reason),</p>	<ul style="list-style-type: none"> <li>• the conduct is the subject of a rehearing ordered on the basis of fraud or collusion by the respondent.</li> </ul>