



Uniformed Services University Brigade INSTRUCTION

NUMBER 1326.02
March 29, 2012

BDE

SUBJECT: Navy Enlisted Disciplinary Review Board (EDRB) Policy

Reference: (a) UCMJ, Article 15
(b) JAGINST 5800.7E, "Manual of the Judge Advocate General," dated 20 June 2007, Chapter I, Part B

1. PURPOSE. To establish procedures for the implementation of Enlisted Disciplinary Review Boards (EDRB) at the Uniformed Services University of the Health Sciences (USU) and promulgate guidance under which it will be conducted in order to maintain good order and discipline, per references (a) and (b).

2. DISCUSSION. The smooth and efficient operation of non-judicial punishments is necessary to provide members with swift and unbiased actions in this area. The EDRB will determine the appropriate course of action for enlisted personnel in paygrades E-1 through E-6 who display substandard military behavior and/or unsatisfactory performance in their duties. Intent of this board is to ensure the development and maintenance of a highly professional enlisted force at the University. This board may also be convened to review substandard performance of a Chief Petty Officer (CPO) if the Brigade Commander or Brigade Executive Officer directs.

3. SCOPE OF AUTHORITY. The EDRB will make recommendations to the Brigade Commander via the Brigade Executive Officer and Brigade Senior Enlisted Leader as such:

(a) Dismiss the case at the Executive Officer Inquiry, by recommending the case be handled at the Departmental level, refer the case back to the chain of command for further disposition, or appropriate counseling.

(b) Forward for disposition at Captain's Mast. Individuals wishing to report an offense will complete Enclosure (1) and provide to the accused's respective Leading Petty Officer. The Leading Petty Officer will then complete Enclosure (2) and forward both Enclosure (1) and (2) to the Navy Division Leading Chief Petty Officer with copies of any counseling sheets maintained by the member's division. Witnesses may be interviewed by the board, but not at the expense of time or funds to the command. Results/findings of the board will be forwarded to the Brigade Commander via the Brigade Executive Officer and Brigade Senior Enlisted Leader within three working days. In the case of Uniformed Code of Military Justice (UCMJ)

(2) Forward results/findings to the Brigade Commander via the Brigade Executive Officer and Brigade Senior Enlisted Leader within three working days. For UCMJ violations, will ensure entire board process, from member being put on report to board adjourning, does not exceed seven days.

(3) Collect all documents (service records, etc.) relative to the case prior to convening of the board.

(4) Ensure prior to any questioning by the EDRB, member is properly advised of their rights per enclosure (1).

(c) ENLISTED DISCIPLINARY REVIEW BOARD. Responsible for the following items:

(1) Interviewing the member.

(2) Review of the member's service record.

(3) Review all inputs and recommendations submitted by the member's chain of command and may request witnesses the board deems material and necessary.

(4) Make written recommendations utilizing Enclosure (3) to the Brigade Commander. The recommendation will include comment on the member's innocence or guilt and recommend an appropriate punishment or nonpunitive corrective measures. The EDRB's recommendation will be attached to the left side of the mast package.

(5) If determination is made that the member's chain of command could have alleviated problems prior to the member being placed on report, written recommendations for the chain of command may be made to Commander, Navy Personnel Command (NAVPERSCOM) via the Brigade Commander.

(d) BRIGADE JUDGE ADVOCATE. Shall:

(1) Provide technical guidance and review to ensure individual rights are protected as provided in Enclosure (1).

(2) Ensure that necessary witnesses are identified to properly represent evidence at each review board.

(3) Ensure the Brigade's Enlisted Disciplinary Review Board policy procedures are correct.

6. PROCEDURES. See Enclosure 4

7. EFFECTIVE DATE. This policy is effective immediately.



Tanis M. Batsel Stewart
CAPT, MC, USN
Brigade Commander

Enclosures:

1. NAVPERS 1626/7
2. Chain of Command Comment Sheet
3. Enlisted Disciplinary Review Board Recommendation/Findings
4. Enlisted Disciplinary Review Board Guide

REPORT AND DISPOSITION OF OFFENSE(S)

To: Commanding Officer, _____			Date of Report: _____		
1. I hereby report the following named person for the offense(s) noted:					
NAME OF ACCUSED		SERIAL NO. N/A	SOCIAL SECURITY NO.	RATE/GRADE	BR. & CLAS
PLACE OF OFFENSE(S)		DATE OF OFFENSE(S)			
DETAILS OF OFFENSE(S) (Refer by article of UCMJ, if known. If unauthorized absence, give following info: time and date of commencement, whether over leave or liberty, time and date of apprehension or surrender and arrival on board, loss of ID card and/or liberty card, etc.):					
NAME OF WITNESS		RATE/GRADE	DIV/DEPT	NAME OF WITNESS	
_____ (Rate/Grade/Title of person submitting report)			_____ (Signature of person submitting report)		
I have been informed of the nature of the accusation(s) against me. I understand I do not have to answer any questions or make any statement regarding the offense(s) of which I am accused or suspected. However, I understand any statement made or questions answered by me maybe used as evidence in the event of trial by court-martial (Article 31, UCMJ).					
Witness: _____ (Signature)			Acknowledged: _____ (Signature of Accused)		
PREL ST PESTP IIT	<input type="checkbox"/> PRE TRIAL CONFINEMENT		RESTRICTED: You are restricted to the limits of _____ in lieu of arrest by order of the CO. Until your status as a restricted person is terminated by the CO, you may not leave the restricted limits Except with the express permission of the CO or XO. You have been informed of the times and places which you are required to muster.		
	<input type="checkbox"/> NO RESTRICTION				
_____ (Signature and title of person imposing restraint)			_____ (Signature of Accused)		
INFORMATION CONCERNING ACCUSED					
CURRENT ENL. DATE	EXPIRATION CURRENT ENL.	TOTAL ACTIVE NAVAL SERVICE	TOTAL SERVICE ONBOARD	EDUCATION	AFQT
MARITAL STATUS	NO. DEPENDENTS	CONTRIBUTION TO FAMILY OR QTRS ALLOWANCE (Amount required by law)		PAY PER MONTH (including sea or foreign pay if any.)	
RECORD OF PREVIOUS OFFENSE(S) (Date, type, action taken, etc Non-judicial punishment incidents are to be included.)					

PRELIMINARY INQUIRY REPORT

From: Commanding Officer _____ Date: _____

To: _____

1. Transmitted herewith for preliminary inquiry and report by you, including, if appropriate in the interest of justice and discipline, the preferring of such charges as appear to you to be expected evidence.

REMARKS OF DIVISION OFFICER (Performance of duty, etc.)

NAME OF WITNESS	RATE/GRADE	DIV/DEPT	NAME OF WITNESS	RATE/GRADE	DIV/DEPT

RECOMMENDATION AS TO DISPOSITION: REFER TO COURT MARTIAL FOR TRIAL OF ATTACHED CHARGES
(Complete Charge Sheet (DD Form 458) through Page 2)

DISPOSE OF CASE AT MAST NO PUNITIVE ACTION NECESSARY OR DESIRABLE OTHER

COMMENT (Include data regarding availability of witnesses, summary of expected evidence, conflicts in evidence, if expected. Attach statements of witnesses, documentary evidence such as service record entries in UA cases, items of real evidence, etc.)

(Signature of Investigation Officer.)

ACTION OF EXECUTIVE OFFICER

DISMISSED REFERRED TO CAPTAIN'S MAST

SIGNATURE OF EXECUTIVE OFFICER _____

RIGHT TO DEMAND TRIAL BY COURT-MARTIAL
(Not applicable to persons attached to or embarked in a vessel)

I understand that nonjudicial punishment may not be imposed on me if, before the imposition of such punishment, I demand in lieu thereof trial by court-martial. I therefore (do) (do not) demand trial by court-martial.

WITNESS _____ SIGNATURE OF ACCUSED _____

ACTION OF COMMANDING OFFICER

<input type="checkbox"/> DISMISSED	<input type="checkbox"/> CONF. ON _____ 1, 2, 3 DAYS
<input type="checkbox"/> DISMISSED WITH WARNING (Not considered NJP)	<input type="checkbox"/> CORRECTIONAL CUSTODY FOR ____ DAYS
<input type="checkbox"/> ADMONITION: ORAL/IN WRITING	<input type="checkbox"/> REDUCTION TO NEXT INFERIOR PAY GRADE
<input type="checkbox"/> REPRIMAND: ORAL/IN WRITING	<input type="checkbox"/> REDUCTION TO PAY GRADE OF _____
<input type="checkbox"/> REST. TO _____ FOR _____ DAYS	<input type="checkbox"/> EXTRA DUTIES FOR _____ DAYS
<input type="checkbox"/> REST. TO _____ FOR _____ DAYS WITH SUSP. FROM DUTY	<input type="checkbox"/> PUNISHMENT SUSPENDED FOR _____
<input type="checkbox"/> FORFEITURE: TO FORFEIT \$ _____ PAY PER MO. FOR ____ MO(S)	<input type="checkbox"/> ART. 32 INVESTIGATION
<input type="checkbox"/> DETENTION: TO HAVE \$ _____ PAY PER MO. FOR _____ MO(S) DETAINED FOR ____ MO(S)	<input type="checkbox"/> RECOMMENDED FOR TRIAL BY GCM
	<input type="checkbox"/> AWARDED SPCM <input type="checkbox"/> AWARDED SCM

DATE OF MAST _____ DATE ACCUSED INFORMED OF ABOVE ACTION: _____ SIGNATURE OF COMMANDING OFFICER _____

It has been explained to me and I understand that if I feel this imposition of non-judicial punishment to be unjust or disproportionate to the offenses charged against me. I have the right to immediately appeal my conviction to the next higher authority within 5 days.

SIGNATURE OF ACCUSED _____ DATE _____ I have explained the above rights of appeal to the accused.

SIGNATURE OF WITNESS _____ DATE _____

FINAL ADMINISTRATIVE ACTION

APPEAL SUBMITTED BY ACCUSED _____ FINAL RESULT OF APPEAL: _____

DATE: _____

FORWARDED FOR DECISION ON: _____

APPROPRIATE ENTRIES MADE IN SERVICE RECORD AND PAY ACCOUNT ADJUSTED WHERE REQUIRED _____ FILED IN UNIT PUNISHMENT BOOK: _____

DATE: _____ (Initials) _____ DATE: _____ (Initials) _____

ENCLOSURE 2

CHAIN OF COMMAND COMMENT SHEET

THIS FORM IS TO BE USED BY THE MEMBER'S CHAIN OF COMMAND IN CONJUNCTION WITH NAVPERS 1626/7, REPORT AND DISPOSITION OF OFFENSE(S). FILL IN ALL APPLICABLE INFORMATION AND RECOMMENDATIONS ON THIS FORM.

MEMBER: _____ SSN: _____
(LAST, FIRST MI) (RATE)

DIVISION: _____ DATE: _____

ALLEGED OFFENSE(S): _____

SEABAG INSPECTION COMPLETED: _____
(UPON COMPLETION OF XO1) (WHEN AND BY WHOM)

1. COMMENTS AND RECOMMENDATIONS. Comments should include service member's job description, performance, initiative, reliability, and any unauthorized absences from work, etc.

a. Leading Petty Officer: _____
(FULL NAME, RATE, PHONE NUMBER)

- Recommended Punishment:
- () Resolve at XO1
 - () Restriction (Number of days awarded _____)
 - () Extra Duty (Number of days awarded _____)
 - () Reduction in grade
 - () Suspension (_____)
 - () Forfeiture of Pay (\$_____ for _____ Months)

b. Departmental Leading Chief Petty Officer: _____
(FULL NAME, RATE, PHONE NUMBER)

- Recommended Punishment:
- Resolve at XOJ
 - Restriction (Number of days awarded____)
 - Extra Duty (Number of days awarded____)
 - Reduction in grade
 - Suspension (_____)
 - Forfeiture of Pay (\$_____ for _____ Months)



c. Leading Chief Petty Officer: _____
(FULL NAME, RATE, PHONE NUMBER)

- Recommended Punishment:
- Resolve at XOJ
 - Restriction (Number of days awarded____)
 - Extra Duty (Number of days awarded____)
 - Reduction in grade
 - Suspension (_____)
 - Forfeiture of Pay (\$_____ for _____ Months)

ENCLOSURE 3

ENLISTED DISCIPLINARY REVIEW BOARD RECOMMENDATION/FINDINGS

1. NAME/RATE: _____ SSN: _____

2. BOARD RECOMMENDATIONS:

() Dismiss/Resolve at XOI

() Forward to Captain's Mast

3. BOARD MEMBERS:

a. _____

b. _____

c. _____

d. _____

4. DISCIPLINARY REVIEW BOARD CHAIR COMMENTS:

BOARD CHAIR

DATE

ENCLOSURE 4

ENLISTED DISCIPLINARY REVIEW BOARD GUIDE

1. Accused will be inspected in Service Dress Uniform by chain of command prior to board and will be placed at attention outside of room where board will convene.
2. Chain of command and witnesses will remain outside the room until requested for interview.
3. Chair will brief the board and present preliminary inquiry package and accused's records for review by board members.
4. Chair will determine when to interview the Chain of Command and witnesses.
5. When appropriate, the Chair will direct the accused to enter the room. The accused will properly enter the space and report to the board.

(The following will be read verbatim)

Chair: *HN Sailor, the purpose of this Disciplinary Review Board is to review the alleged charge(s) in your case, and make a recommendation to the Chain of Command as to the disposition of the charge(s). We can recommend that the charges be dismissed, that you receive counseling or Extra Military Instruction, or that the charges be forwarded to the Brigade Executive Officer or Brigade Commander for disposition.*

You are suspected of violating the following Articles of the UCMJ:

Charge I: Violation of the UCMJ, Article ###

Specification of violation. Example: In that Hospitalman IAM Sailor, U.S. Navy, on active duty, Uniformed Services University of the Health Sciences Bethesda Maryland, did, at or near Uniformed Services University of the Health Sciences Bethesda Maryland, on or about DD Month YYYY, with intent to deceive, sign an official record, to wit: Military Suspect's Acknowledgement and Waiver of Rights Form, which record was totally false, and was then known by the said Hospitalman Joe Sailor, U.S. Navy, to be so false.

Charge II: Violation of the UCMJ, Article ###

Specification of violation.

Previously, you were read your Article 31(b) rights. Those rights are still in affect. That means you still have the right to remain silent, and if you choose to give up that right, your answers may later be used against you at any disciplinary hearing, including a trial by courts martial. I have here a copy of those rights, signed by you. Do you understand these rights?

Accused: HN Sailor

(Note: If the accused does not remember being read his/her rights, show the accused the rights from and the signature and ask the accused if the signature is, in fact, his/hers.)

Chair: *I have before me the following documents which this DRB will consider: All documentary evidence, Division Officer File, Service Record.*

Have you been given the opportunity to examine these documents?

Accused: HN Sailor

(Note: If the accused has not examined the evidence, permit the accused to do so at this time.)

Instruction for conducting the DRB: At this point, the Chair may:

- Ask the accused to explain the circumstances of the alleged offense(s).
- Open up the hearing to the members to allow them to ask questions of the accused.
- May call any witnesses relevant to the alleged offense(s), including the accused's Chain of Command.
- May excuse the accused from the room if the board members wish to speak among themselves in private.

(At completion of questioning of witnesses and accused)

Chair: *Is there anything that you would like to offer that could lessen the seriousness or mitigate the offense?*

Accused: HN Sailor

Chair: *Is there anything that you would like to say, any other information you would like to provide, or other witnesses you would like us to call?*

Accused: HN Sailor

Chair: *You will be informed of the results of this board by your Chain of Command. You are dismissed.*

(The Chair should now discuss the case with the other members. The members shall decide on a recommendation to the Chain of Command.)

9. After the board has conducted a reasonable review, the Chair will dismiss the accused, the witnesses and the chain of command.

10. Board members will make disciplinary recommendations to the Chair. Board members may recommend:

1. Dismissal of all or some of the charges.
2. Administrative measures in lieu of non-judicial punishment (NJP).

3. NJP, with specific punishment(s) recommended.
4. Courts martial as a more appropriate forum vice NJP.
5. Whether administrative separation action is consistent with offense.

The Chair will provide the board's consensus to the Command Senior Enlisted Leader via a recommendation letter along with all material reviewed by the board.