

Positive Drug Test May Not Lead to Separation

Q:

My drug test came back positive and showed traces of cocaine in my urine. Does this mean my military career is over?

A:

Not necessarily. The armed forces do not require mandatory separation when you test positive for illegal drugs. However, commanders generally are required to initiate separation procedures when there is evidence that a service member has used illegal drugs. That usually means that a commander must make a decision to separate or retain based on the member's individual circumstances.

Between 2001 and 2009, some 6 percent of the 22,200 soldiers who tested positive two or more times for illicit drugs continued to serve in the Army. Eight percent were allowed to reach their regular separation dates, according to the Army's 2010 Health Promotion, Risk Reduction and Suicide Prevention Report.

If a urinalysis comes back positive, or even if there are suspicions of drug or alcohol abuse, a commanding officer should refer a service member to the local substance abuse program for screening and enrollment.

This is not to say the military takes its zero-tolerance position on drug abuse lightly. Navy policy, for example, states that sailors who use, possess, promote, manufacture or distribute illegal drugs and drug paraphernalia "shall be disciplined as appropriate and processed for [administrative separation] as required."

Marine Corps regulations similarly warn that a Marine "confirmed for illegal involvement shall be processed for administrative separation."

But the services do allow some waivers. Enlisted Navy personnel with confirmed positive tests for illicit drugs can avoid separation if a chief medical officer or command master chief grants a waiver after assessing an individual's case.

Air Force commanders also may grant a waiver for airmen facing discharge for drug abuse, but only if they meet certain retention criteria.

Under Army regulations, commanders must initiate administrative separation when a soldier tests positive for the first time. After a second positive urinalysis, the soldier must again be processed for separation. Only this time, the first general officer in the chain must make the decision to separate or retain - and it cannot be delegated.

Service members facing an other-than-honorable discharge for illicit drugs usually get a hearing before an administrative separation board, which also could move to retain them.

Service members should explore their rights to see if there's a way to prevent a positive urinalysis from compromising their careers. There can be a broad array of successful

defenses: Improperly handled urine samples or a lab using improper testing methods.

Depending on the circumstances, service members also can show that there was no probable cause for a command-directed urinalysis.

Another potential defense involves showing that military personnel acting in an official disciplinary or law enforcement capacity violated a member's due-process rights by trying to interrogate him without first informing him of his rights.

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