

## What You Need to Know About AWOL

Q:

I am being charged with AWOL even though I never got the word about a mandatory formation for all personnel. Can my unit do that?

A:

It depends. There are several types of absence without leave under Article 86 of the Uniform Code of Military Justice. The most common types of AWOL are failing to go to your appointed place of duty, going from your appointed place of duty, and absence from your unit or place of duty. They are all similar, but somewhat different.

The first two forms of AWOL are almost identical except for one requirement. For both "failing to go" and "going from" an appointed place of duty, a proper authority must appoint a certain time and place of duty for a service member. A proper authority can be almost anyone in the service member's chain of command. Additionally, the service member must actually know of that appointed time and place of duty. Finally, if the service member does not go or reports but then leaves, he or she has committed the offense of AWOL.

As an example, assume that petty officer third class reports for work at 0730. At some point during the morning, the commander decides to have a mandatory formation at 1630 before letting everyone go home for the day. The commander directs all of his senior enlisted personnel to make sure everyone in the unit gets the word. However, the PO3 got permission to go to sick call after noon chow and his chain of command forgets to get him the word. The PO3 returns to his unit after sick call at approximately 1700 and everyone is gone for the day. So the PO3 goes home. In this case, the unit could not charge the PO3 with AWOL because he did not have actual knowledge of the 1630 formation.

A third form of AWOL is being absent from your unit or place of duty. This offense requires a service member to absent himself from his unit or appointed place of duty, without permission, and remain absent for a certain period of time. There is no actual knowledge requirement with this form of AWOL. The service member is expected to be with his assigned unit or at his regular place of duty.

In the example above, if the PO3 went to sick call and then went home at 1500 without getting permission, the PO3 can be guilty of AWOL. However, it is not necessarily related to the mandatory formation of which the PO3 was unaware. In this case, the PO3's normal working hours were 0730 to 1630 everyday. The PO3 is expected to know that he should be at his unit or regular place of duty between those hours. Because the PO3 made the decision to leave early, without getting permission first, he could be charged with AWOL.

Absence from your unit or place of duty can occur with even the smallest lengths of time. Technically, a service member could be AWOL for 15 minutes. Therefore, it is important to understand the different types of AWOL. Service members being charged, or who may be charged, with AWOL should contact a military law attorney to seek advice.

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